SENATE—*Tuesday, September 11, 1984*

(Legislative day of Wednesday, September 5, 1984)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL J. EVANS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we pray for the 28 Senators up for reelection, over whom hangs the heavy responsibility for their campaigns while the Senate continues in session. They do not campaign because it is fun—they campaign because they must—our political system requires it. You know their hearts Lord, how difficult it must be to concentrate on Senate business when circumstances at home compete for their attention. You know how great the temptation Lord, to abdicate responsibility in the Senate and concentrate on the constituency. Thank you, gracious God, for public servants who refuse to yield to such temptation and at some political risk fulfill the obligation for which the people sent them to Washington.

Sovereign Lord, help the people to understand the dilemma which our system imposes upon incumbent Senators at such a time as this. May the electorate be reminded that though our system has many problems it is still the best in the world. We pray in the name of Him in whom is all power in Heaven and on Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 11, 1984.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL J. EVANS, a Senator from the State of Washington, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. EVANS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader is recognized.

SENATE SCHEDULE

Mr. WARNER. Mr. President, the majority leader, Mr. BAKER, is at this time at the White House conferring with the President and others.

The calendar for this morning's activities provides leadership time of 10 minutes each, followed by a special order for Mr. PROXMIRE, the Senator from Wisconsin, of 15 minutes; thereafter, morning business until 10 a.m. with 2 minutes to each Member of the Senate seeking such recognition. At 10 o'clock we will resume the pending business, which is the Baker motion to proceed to consideration of S. 2851 under cloture. From 10 a.m. to 11 a.m. the time will be controlled by the Senator from New York [Mr. D'AMATO]. From 11 a.m. until 11:30, the time will be under the control of Senators GARN and PROXMIRE. At 11:30 a.m., there will be a vote on the motion to proceed with S. 2851, the yeas and nays having been ordered.

The leadership has yet to obtain unanimous consent to recess from 12 noon to 2 p.m. today, but I anticipate that that will be done as is the custom. At 2 o'clock we will go back to the banking bill, S. 2851.

I am told should this matter not be considered by the Senate today further, that the majority leader has in mind television in the Senate, or several appropriation bills.

I am informed that the Labor-HHS and the Interior matters are available for floor consideration.

Mr. President, at this time I yield to the acting minority leader.

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, will the distinguished Senator from Virginia yield for a question?

Did the Senator indicate that we would move to another bill? I think he specified television in the Senate in the event we finish the banking bill or that we would move off the banking bill at some time.

Mr. WARNER. Mr. President, I was simply informed by the majority leader's office that in the event it is the decision of the leadership for some reason unknown to me that the banking bill would be taken down today, that these are alternatives.

Mr. PROXMIRE. I thank the Senator.

Mr. WARNER. But I would not in any way suggest that I know of a reason or the majority leader knows of a reason why we should not proceed in an orderly course to the consideration of S. 2851.

Mr. PROXMIRE. Mr. President, I thank my good friend from Virginia, and as a member of the Banking Committee, and as one managing the bill on the minority side, I earnestly hope that the Senate will stay with the banking bill. It is a very important bill. Senator GARN has put a tremendous amount of work into it. I have some very serious reservations about parts of the bill, and I hope we can change it. But it is a bill that is absolutely vital to our financial community if we are going to get it passed, and I think most Senators, whether they are on the Banking Committee or not, are aware of the very great importance of that bill.

Mr. WARNER. Mr. President, if the distinguished Senator from Wisconsin will yield for a moment, prior to the convening of the Senate this morning I was privileged to hear the senior Senator from Wisconsin [Mr. PROXMIRE] mention his observation with respect to the vote yesterday. I wonder if the Senator would be willing to share that with our colleagues. I was very much impressed by the Senator's observations.

Mr. PROXMIRE. Mr. President, I have been in the Senate a long time. I cannot recall a time when the Senate so decisively invoked cloture. Usually it is fairly close, and most of the time when we invoke cloture we do not get it on the first vote. But yesterday, as I recall, there were I think 3 votes against cloture. Perhaps the people who keep the records can cite an instance in the last 27 years when we have had that small of a number. But I cannot remember it. I think what that means—I hope it means—is that the Senate is determined to go ahead with this bill right or wrong recognizing that many Senators will vote against the bill, and many Senators will vote for major changes in the bill, but that the Senators as a whole recognize this is a bill that we should not permit to be delayed indefinitely. We only have a few days left, as the Senator from Virginia knows. It is a time that invites delay and filibusters for

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

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those who would kill legislation. But I earnestly hope it means that the Senate really means business on this one.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Wisconsin. I think those observations will be of value.

Mr. President, I yield back the balance of my time reserved for the majority leader.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time allocated to the minority leader under the standing order be reserved for his use if he chooses to use it later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CASTRO'S BROKEN PROMISE

Mr. PROXMIRE. Mr. President, since Fidel Castro led a successful revolutionary movement to overthrow the repressive Batista regime in 1959, Cuba has played a major, controversial role in international affairs. Whether it is assisting guerrilla insurgencies in Central America or sponsoring 25,000 Cuban troops to support a Marxist regime in Angola, the government of Fidel Castro contends that it is promoting justice and freedom for oppressed people throughout the world.

But in putting Cuba's global activities into proper perspective, it is important to understand to what extent, if any, Fidel Castro's government has effectuated meaningful democratic and social reforms in Cuba and adhered to internationally recognized principles of human rights. The evidence shows that the promises made to the Cuban people by the Castro government have not been realized. Moreover, in order to maintain its control and power over the Cuban people, the Castro government actively engages in acts of torture and harassment as well as other drastic steps to suppress any activity that might be construed as threatening the established regime.

Executions to discourage political dissent, for example, which began when Castro seized power in 1959, continue throughout 1984. There are credible reports of summary executions following secret trials of civilians for alleged political offenses by military tribunals. A member of Jehovah's Witnesses, for example was reported to have been executed in August 1983 for allegedly spreading propaganda to incite armed rebellion.

Religious activities seem especially threatening to the Castro regime; thus, the government enforces an active antireligious policy.

Among the restrictions on religious practice enforced by the Cuban Government are discrimination against religious believers in educational and employment opportunities, prohibition on religious media, and restriction on the construction of new churches. Political meetings and work obligations are regularly scheduled to conflict with religious observances. The July 26 national holiday, commemorating the attack on Batista's Moncada barracks in 1953, has been promoted as a replacement for Christmas, and the availability of toys for children has been limited to the 26th of July period to the exclusion of Christmas. Similarly, Holy Week observances are preempted by the weeklong celebration of the battle of the Bay of Pigs.

For whatever reason, the Castro regime does feel threatened by religious expression. This is a similar fear that was no less real to Hitler's regime concerning Jews, or Pol Pot's regime in Cambodia concerning the urban masses, or the Turks' fear concerning the Armenians during World War I.

I am not suggesting that Castro's policies constitute genocide, but they may create an environment that is conducive to the crime of genocide. That is why I urge the Senate to ratify the longstanding Genocide Convention. This will show our resolve against any future genocide. And the United States will send a clear message abroad that we will not tolerate, from anyone, the act of genocide against a whole national, racial, ethnic or religious group.

HOW STAR WARS THREATENS NUCLEAR ARMS CONTROL

Mr. PROXMIRE. Mr. President, this Congress has advanced the President's Strategic Defense Initiative or Star Wars proposals by providing about two-thirds of the funds he requested in the armed services authorization bill. Later this year, before we go out, presumably, we will have another shot at "Star Wars." That will come when we vote on the defense appropriations bill if we do, and I hope we can. A great deal will be at stake on this "Star Wars" antimissile vote. The ultimate cost of this system will certainly be in the hundreds of billions and very possibly more than $1 trillion. This comes at a time when Federal spending and colossal Federal deficits constitute the single most serious threat to our economic health. This SDI program carries far and away the single biggest and most explosive challenge we will face to fiscal responsibility.

Think of it: The strongest advocates of this program will not even give us an outside, ball-park estimate of the ultimate cost. They tell us they will ask for $25 billion over the next 5 years, not to build or deploy a defensive system but—just to make a beginning estimate of the costs. We will spend more than $50 billion before we buy a single item of hardware for deployment, let alone deploy even a fraction of the system. We do know the ultimate cost of going ahead with the full program will be immense. It will be continuing. It will grow very rapidly each year. And that growth will be hard, maybe impossible, to resist. As U.S. News & World Report said, the main persuaders for the Congress to continue to spend money on the program will not be the defense experts. It will be the firms that would receive hundreds of billions of dollars in contracts, the unions whose members will have hundreds of thousands of jobs, and the Members of the House and Senate who represent these workers. Star Wars, once we start it, will become the next thing to an irresistible force. For every big spending program the Congress has started and ended when it turned out to be wasteful, at least a hundred have continued on their wasteful way. But there is another reason far more important than its cost that represents the prime reason why we should not fund it: It will kill any real prospect for arms control.

On June 20, the Washington Post reported that an organization of security and arms control experts have started a national campaign to save arms control and specifically the antiballistic missile treaty by stopping funding for Star Wars. Mr. President, the competence of this panel should lead every Senator to question the wisdom of proceeding with the beginning of these colossal appropriations for carrying the nuclear war into space. The supporters of the antiballistic missile treaty on this panel include two former Directors of the Central Intelligence Agency: Stansfield Turner and William Colby.

I think all of us have recognized that the people who direct the CIA have the clearest kind of understanding of the real threat the Soviet Union represents to this country.

Colby and Turner are hardheaded, realistic experts on the Soviet Union, its strength, and its potential. Both have had the unparalleled advantage of directing this country's Central Intelligence Agency whose principal task is to develop a thorough understanding of the Soviet security threat to this country and every deep and devious aspect of that threat. The panel also includes retired Army Gen. Maxwell Taylor and former Defense Secretary Robert McNamara, two veteran experts with as profound an under-

standing of defense requirements as we have in this country.

The ABM treaty supporters also include Gerard Smith, who served President Nixon as his principal arms control expert and was the chief arms negotiator at the time President Nixon signed the ABM treaty. This country has no more seasoned or respected arms control expert than Gerard Smith. And what does Smith say about the "Star Wars" missile defense system? The Post reports that Smith is convinced that funding this system will "destroy arms control efforts." The Post quotes Smith as saying: "It seems we are on a slippery slope. We are already in an anticipatory breach of contract." Smith would not kill all research on advanced ABM systems. He and the rest of the group that would preserve the ABM treaty favor such research. They oppose the actual development and deployment of a space-based ABM system. Obviously, such a "breakout" would clearly violate the 1972 ABM treaty.

As a matter of fact, anyone who had the chance to watch the Star Wars program on NBC on Saturday night heard the Secretary of Defense concede as much. Secretary of Defense Weinberger conceded, in a discussion with former Secretary of Defense McNamara, that the ABM treaty would undoubtedly be violated. But he said the conditions have changed, as if that was the reason to do so.

So the Congress must handle this research very carefully and with scrupulous regard for the terms of the ABM treaty. We must also find the strength to resist the immense pressures that the hundreds of millions we spend on research will put on the Congress to move to the first development that would put this country in violation of the antiballistic missile treaty. We are a few inches from the "slippery slope" to which Gerard Smith referred. Once we slip over the slope and begin to develop antimissiles, the antiballistic missile treaty will be dead. And effective arms control with the Soviet Union will be a terminal case.

Mr. President, I ask unanimous consent that the article from the Washington Post of June 20, headlined: "U.S. Close to Violating ABM Treaty, Panel of Security Specialists Says," be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 20, 1984]

U.S. CLOSE TO VIOLATING ABM TREATY, PANEL OF SECURITY SPECIALISTS SAYS

By pushing development of its "Star Wars" missile defense system, the Reagan administration is close to a clear U.S. violation of the 1972 anti-ballistic missile (ABM) treaty, a panel of security and arms control specialists said yesterday.

The panel is beginning what it calls a "national campaign to save the ABM treaty" by attempting to persuade Congress to refuse to provide funds for the new defensive system that would be partly based in space.

The campaign's 46 sponsors include former President Carter, former secretary of state Dean Rusk, former defense secretary Robert S. McNamara, retired Army Gen. Maxwell D. Taylor and former CIA directors Stansfield Turner and William E. Colby.

If the new strategic defensive system is deployed, it will intensify the nuclear arms race with the Soviet Union and lead to decades of nuclear instability, the group contends.

Signed by President Richard M. Nixon and the late Soviet President Leonid I. Brezhnev, the 1972 ABM treaty bans all space-based ABM systems or any nationwide defense against missile attack. The theory is that the best preventive against nuclear war is the knowledge that it would be mutually destructive.

The treaty's supporters say its ratification paved the way for all subsequent negotiations aimed at reducing U.S. and Soviet nuclear arsenals.

Gerard C. Smith, the chief U.S. arms negotiator at the time the ABM treaty was signed, said at a news conference at the Carnegie Endowment for International Peace that he believes—as he did in 1972—that the deployment of an effective, nationwide ABM system by one superpower would produce irresistible pressure on the other to deploy enough missiles to penetrate it.

That would lead to a tremendously increased arms race that would destroy arms control efforts, Smith said. "It seems to me we are on a slippery slope," he said. "We are already in an anticipatory breach of contract."

Smith, a former director of the Arms Control and Disarmament Agency, said the group leading the new campaign favors continuing research on advanced ABM systems as a hedge against a possible Soviet "breakout" from the terms of the 1972 accord.

"What we are objecting to is an American breakout," by the actual development and deployment of a space-based ABM system, he said.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with statements limited therein to 2 minutes each.

OPERATION PAR, INC.

Mrs. HAWKINS. Mr. President, a very impressive, thorough, and disturbing, research study was recently released by an organization in my home State of Florida known as Operation PAR, Inc.

In "Substance Abuse Among Pinellas County Youth: A Summary of Findings," Operation PAR, Inc., reveals simply, clearly, and shockingly, the amount of substance abuse which occurs in the middle and high schools of a typical American school system. This is the second of two surveys of drug use among Pinellas County youths, the first having been conducted in June 1980. Over 1,500 students comprised the sample group, and represented 12 percent of eighth-grade students and 10.5 percent of the high school seniors.

Mr. President, the results of this survey are disturbing, at the very least. For example, the majority of eighth-graders, 67 percent, indicated that they had used alcohol at some time in their lifetime; 1 out of 4 reported having used marijuana at some time. Almost 3 out of every 10 respondents indicated that they had tried dangerous inhalants; and half the students surveyed said they had smoked cigarettes. It was estimated that as many as 208 eighth-graders were in need of intensive treatment for problems related to daily use of alcohol and/or marijuana, and another 504 may be "problem drinkers" or "smokers" in need of professional help.

In describing the amount of usage of inhalants by the students, it was stressed that studies show that sniffing such substances as gasoline, glue, or industrial solvents can cause irreversible brain, liver, and kidney damage even after a single use. It was estimated that about 7 million individuals have experimented with inhalants, most being under 20 years of age; 27 percent of the students surveyed in this Pinellas County study reported having used inhalants at some time, and an additional 15 percent said they expected to use inhalants within the next year.

Study of the attitude of these students toward substance abuse revealed a liberality indicating an astounding ignorance of the dangers of drugs and alcohol; 8 out of every 10 students indicated approval of alcohol use; over half the students reported that they approved of marijuana use; and 4 out of 10 students cited approval of having five or more drinks on the weekend. It was found that as many as 8 percent of the students used marijuana on a daily or weekly basis; and almost 13 percent of the students surveyed indicated they had been drunk more than three times in the 2 weeks prior to the survey.

Mr. President, these and the other statistics provided in this study are, as I said, disturbing, but it becomes even more upsetting with the final conclusion of the study. And this is that the Pinellas County youth observed in this study are statistically less approving of substance use than the national average, and less exposed than the national average.

Mr. President, we must continue in our efforts to educate our young people to the dangers of drug and alcohol abuse. Our children are beginning to experiment with drugs at a younger age, are using drugs more often, and are ingesting a wider variety of drugs. We must continue to do

all we can to prevent our young people from becoming victims of our Nation's No. 1 problem, substance abuse. And I would like to commend Operation PAR, Inc., for this fine study which will contribute much to these efforts.

PRAYER BREAKFAST WITH ALABAMA BAPTIST MINISTERS AND LAYPERSONS, U.S.A.

Mr. HEFLIN. Mr. President, I rise today to praise the Alabama delegates—ministers and laypersons—attending the 104th annual session of the National Baptist Convention, U.S.A., Inc., held in Washington, DC, September 4-9, 1984.

The National Baptist Convention, U.S.A., Inc., is the largest and oldest black organization in the world. It was organized in 1880 and incorporated in 1915. Its stated purpose was to expand the Christian ministry in the areas of missions, evangelism, and education. This national organization is comprised of 59 State conventions, 40,000 churches, 50,000 clergymen, and approximately 7 million members. It is active in 49 States and the Bahamas. Dr. T.J. Jemison, national president, is a native of Selma, Ala., and a graduate of Selma University. He currently resides, however, in Baton Rouge, LA.

On Thursday morning, September 6, 1984, at 7:30 a.m., I was very pleased to cohost with Selma University, Selma, AL, a prayer breakfast for those members of the Alabama Baptist State Convention and the Alabama Baptist State Women's Convention who journeyed to the Nation's Capital for the National Baptist Convention. Dr. W.F. Alford is president of the State convention comprised of more than 2,500 churches. Mrs. A.M. Wilson is president of the latter.

Close to 250 persons attended the prayer breakfast here on Capitol Hill. It was a wonderful Christian fellowship and spiritual renewal for all of us. I wish to commend Dr. Wilson Fallin, Jr., president of Selma University, for his tremendous energy, diligence, and untiring efforts in helping coordinate the prayer breakfast. Dr. Charles Tunstall, chairman of the board of trustees, Selma University, assisted him. Many of the ministers from the Montgomery and Birmingham, AL, areas assisted by providing mass transportation for their church members and delegates to attend the prayer breakfast.

Mr. President, everyone who attended this prayer breakfast was so inspired and spiritually uplifted that it was unanimously agreed that it would henceforth become an annual event at every National Baptist Convention.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HECHT). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The PRESIDING OFFICER. The question is on the motion to proceed.

Who yields time?

Mr. D'AMATO. Mr. President, I thank my distinguished colleagues, the Senators from Wisconsin and Utah, for their patience during the past 4 days. They have both worked and labored in the Banking Committee on this bill. Although we may disagree with respect to certain aspects of this bill, I would like to say that 98 percent is good and should be enacted. However, the remaining 2 percent compels me to rise and fight the bill.

I have some prepared remarks, but let me depart from them. Let me simply suggest that it seems rather difficult to me that the Senate can approve legislation that is so grossly unfair and unjust. Let me borrow some terminology from my good friend, Senator GARN, and say that it is nothing less than greed on the part of some of the bankers who demanded title X. They only want to protect their own interests. Title 10 was given very little thought and consideration in committee. There were no substantive hearings with respect to the impact of title 10 on New York.

No one has answered to my satisfaction the question as to why New York has been deliberately excluded from title 10 and why Congress should support economic balkanization.

Back home, most of New England got together and formed a regional compact. Then New Jersey and Pennsylvania did the same. In both cases New York was excluded. Connecticut has about 40,000 of its residents who work in New York. New Jersey has something like 200,000 of its citizens who work in New York. Yet they go ahead and they enter into regional compacts, and New York is deliberately excluded. This is not States exercising their rights. It is law discrimination.

But for us to ratify the gross injustice flies in the face of the integrity of the Senate. It is not banking deregulation. It is more regulation. We should consider how to proceed to interstate banking.

Are we really going to make New York stand for badness through legislation? We should not. How can Senators do this and still say they protect the Constitution. But while doing this we will give banks new extraordinary powers that they never had before. There were extensive hearings that looked into this issue. But not on title 10. In spite of all those hearings no one has really successfully come up with a means to deal with the problem of illegal tie-ins. We have not done a thorough job.

What about banks pressuring customers into using all their services before a loan is granted. We have not addressed this. This is an important subject. We are making banks very powerful.

That has not been answered. You might say that is something for us to debate. I do not think that the Senate floor is the place to take care of those concerns.

Can banks afford to get into new risky areas. Their capital ratios are today too low. They must raise new capital just to cover their bad loans. Now we want them to spend capital on other areas that are risky. But we have not addressed how to protect banks' financial integrity from bad loans.

I do not think this is the time to give banks expanded power. I am not even suggesting we should study it. I do not say that. This is not a Senator who says well, let us study the subject again and talk about it next year. I am suggesting this is not the time for banks to move into new areas.

What we should be discussing is how to get interstate banking. This is the issue. Instead we move in the opposite direction.

We should have a phase-in of interstate banking. Nobody has suggested a compromise on title 10. Just push it through. Forget that it is discriminatory. If you do not talk about it, maybe it will go away.

I have yet to have been approached with that kind of compromise that would provide that New York would have an opportunity to participate in interstate banking.

Now, that is the kind of approach that we need. But we have not discussed this. It has been ignored, let's just pick on bad old New York. Well, it is my responsibility to talk about it. What other course of action does this Senator have when legislation is aimed at my State.

I wonder what my colleagues would say or do were this type of bill directed against their State. Would Senators sit back and let that take place, because, after all, the States have permitted it and we are going to let that take place. I think not.

I understand, by the way, it is easy to be against big banks. It is easy to be

against them particularly when they are from New York. They are going to swallow up all the little banks. It is really easy politics to do that. While doing this you give your regional banks a pat on the back. But this is in the worst interests of consumers. And so when we set up these regional compacts what we are really doing is hurting the consumer. What we are doing is saying that we are going to give you a turf and that is your turf. That is your turf in New England and your turf in Middle Atlantic and your turf out in the Far West. But New York, they are not going to be allowed to come in for any reason. That makes good politics when you go back because your State legislators all like it and they are connected to the banking lobbies. That is wonderful; you talk about greed. They keep their little area sacrosanct. No competition.

What about the stockholders of those little banking institutions? Have we protected them? What about the consumers? Has this legislation enhanced their ability to get more competition? Well, you could say, "It is a first step." I do not think it is a first step except one backward.

Should this Congress of the United States be moving in this manner when we read the Constitution and see that this legislation really flies in the face of the commerce clause and the equal protection clause? Could you say under the States rights doctrine, somehow what we are doing is ratifying the rights of the States to undertake this in spite of the fact it flies in the face of other parts of the Constitution? I do not believe even under the most ardent believers of States rights would ever suggest that is correct.

Now you might say, "Well, maybe the Congress has the right to adopt this legislation and when this matter goes before the Supreme Court of the United States maybe they will ratify it; maybe they will find it unconstitutional."

Who is there to talk about fairness? I hear a lot about fairness. I read about it every day—the fairness issue. Well, just because you are big does not mean that you should be discriminated against. My banks are not perfect. But that does not mean Congress should discriminate against them. They have at least the same right as anyone else. Because you are big does not mean you can go ahead and discriminate against them.

And for the life of me I wonder why we would permit foreign banks to enter the country but not New York banks. No one has really addressed that question suitably. And the administration, notwithstanding the letters that were circulated yesterday, they have not really supported S. 2351. They have come onboard because they have a different agenda. They want the banking institutions to get expanded powers. So they will worry about title X at a different point in time.

Do you really think that Paul Volcker is in favor of title X? I do not think so. Has he written anything in support of title X? No. I do not believe that he would seriously say or the members of the Federal Reserve Board would say that they are in favor of this legislation. It has no redeeming features whatsoever. The only thing people can say is, "Oh, we are beginning to break down the Douglas amendment. We are beginning; it is a step forward."

Well, if it is a step forward, then everyone should be entitled to the same rights. No one should be excluded. And, therefore, we really duck the underlying issue of interstate banking.

So I do feel strongly about this. It may be perceived that my opposition may be unreasonable as it relates to the length of time that I have spoken. I make no pretense about it. The bill in its form should be killed. I do not make any apology for that. That is why I was elected, to come here and to fight for. To see to it that the State of New York is not discriminated against. This is a discriminatory bill as it relates to the banking institutions of New York.

If you are a bank in London, you may be able to get permission to go into any other State in this Nation. An Italian bank can come in, go into Connecticut. You can go into New Jersey or go into Pennsylvania. But a bank from New York will not be permitted to do that. That is absurd.

I do not know. Are any foreign banks less fearsome in their competition, less aggressive in their management?

I do not know eventually what the Supreme Court of the United States is going to say about title X. I do not really believe they can allow those regional compacts to stand.

I imagine some great legal scholars will be arguing those cases, and the great law firms of our Nation will be putting together the various attacks and defenses on that statute. They will have different interpretations. But certainly as I see it, this flies in the face of the Constitution. Our actions at the very least indirectly attempt to ratify that which our forefathers and the Framers of the Constitution would have been shocked about. Indeed, they took great time and were careful in spelling out that they did not and would not countenance. But no. We go and interfere with free commerce.

We do it in such a manner that we can say, oh, well, we are helping the States, and we are saying that those States who want to join these compacts can do it. And New York, if you get into one, that is fine. That is OK. But, of course, we understand the nature of the political realities and the greed system—I have heard that word "greed." Title X is raw greed.

So when we say that those who oppose it oppose it for greed, I would suggest a lot of things that are in this bill that people want, if you want to characterize it as the greed factor, is because they are seeking an edge. I think maybe we ought to get away from the use of that term "greed." We want to say people are looking for an advantage. They are looking to protect their position.

What is the ABA doing? Are they really advancing sound banking by supporting title X? I do not think so. How is that? Why would you not want to discourage the largest banks in this Nation from participating interstate. Why? What attempt has been made to see to it that they are reasonably regulated as opposed to being discriminated and excluded against? None.

I have not seen any legislative endeavors, any actions, nor any hearings looking at title X to say that we will attempt to fashion a bill that will protect legitimately the rights of the small banks, the rights of a region not to be inundated, and to see to it that we have a diversity in the system that everyone wants to see.

If you ask the Treasury people whether title X should stand, they would tell you were it not for the fact that they are looking for the total bill that it should not. If you were to ask the Federal Reserve and the regulators whether or not this makes good sense, they would tell you it does not. It is political expedience.

Why do I say that? I am not suggesting to you, by the way, that there may not be good parts of this bill that most of us can agree upon and there are those who say let us close the South Dakota loophole. We can all agree upon it. Well, should passage of this entire bill or title X really be a requirement for dealing with the obvious failures of current regulation? I do not want to be accused of failure to address the nonbank bank loophole.

So I am going to put forth a disclaimer. I am not going to take responsibility for defeating these provisions. They are sound provisions. But title 10 taints an otherwise sound bill. Title 10 has destroyed the consensus.

So there are areas that just about every Member in this Chamber can agree upon should be dealt with. Let us deal with them. Let us deal with them.

So I say here and now that this is a Senator who is willing to compromise, who is willing to examine the problem with title X. I believe we should look at how to proceed to deal with interstate banking. I might add that interstate banking is happening. Why stop the process? We should continue it.

It would seem to me that, before the hour gets late and tempers begin to get frayed, an examination of how to not discriminate against the banks of California and New York would be appropriate.

I would not attempt to filibuster those provisions dealing with securities powers. Let's vote on those provisions. Let the bill of the Senate prevail.

However, having said that, I will try and kill the bill because of title 10. Any Senator would do the same if it discriminates against New York.

I would hope that maybe at this time that we might be able to fashion a vehicle that would permit this Senator simply to allow the bill to pass. To do this, let's strike title 10.

I have not undertaken a filibuster in the past. I hope that the necessity for me doing it in the future would be nonexistent and at the very least limited. I do look forward to filibustering. But I have an obligation to my people.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. D'AMATO. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. GARN. Mr. President, last evening, the Senate overwhelmingly voted, 89 to 3, to limit debate on the motion to consider the so-called banking bill. In about 20 minutes, we shall vote on the motion to proceed. I hope that the result will be the same, that the Senate will conclude that it is at least fair to have a bill before the Senate so that we can consider it.

Before I speak any more about the bill, Mr. President, I should like to correct a statement that concerns some people. It was in a UPI story. I quote one paragraph.

> Even so, he said, lobbyists for the American Banking Association and New York's biggest banking firms—Citicorp and Chase Manhattan—are out to kill it rather than seek changes.

The correction I would like to see made for the record is to say that the American Banking Association supports the bill. How that got in the story—I thought I was very clear about meaning two banking firms who had decided to try to kill the entire bill.

As I read the list of all the organizations that support the bill, even though they may disagree with some parts of it and wish to change it, the American Banking Association was one of those that should not have been included in the position with Citicorp and Chase Manhattan.

Let me just say once again what has been repeated several times on this floor, and very eloquently by my colleague from Wisconsin yesterday, about a major part of this bill and why I guess I am surprised that a couple of banks and the securities industry would say, "If we cannot be guaranteed that we have our way on the provisions we do not like, we will kill the entire bill." I think it might be useful to point out what some of those other parts are and what they are doing. When I called them greedy, I meant it—I repeat it again today—because of their willingness to come out on the floor and have those who favor their position argue in favor of that position. In the case of title X, I understand why the Senator from New York does not like title X. I understand why those banks do not like title X. But we can certainly resolve that issue on the floor by debating the substance of that title and having an up or down vote by the Senate.

But there are 11 titles to this bill. We have not discussed any of them. All we have talked about is title X primarily. But we have amendments to the Federal Reserve Act that are not controversial, amendments to the National Housing Act that are not controversial, amendments to the Homeowners' Loan Act of 1933, amendments to the Federal Home Loan Bank Act, leasing authority of the national banks; we also have a title of credit union amendments, credit union loans to homeowners, faithful performance, membership officers, powers of the board of directors, nonparticipation in the credit union, change in insurance status, sunset of credit union conservatorship authority. These are not controversial but important, very important to the credit unions of this country. So here we have two New York banks who say, "We don't care about all the credit unions in this country and all of the millions of people who have deposits in them. We are not going to allow you to consider those changes because we don't like title X."

We have title III on bankers' banks that are not controversial, helpful to the whole banking industry if those are passed. We have consumer leases and lease-purchase agreements. There has been some controversy about that, so we have some amendments to the Consumer Credit Protection Act. So they are saying, "We don't care about the consumers in this country involved in leases. We are going to kill that section, too."

We also have a deposit availability title, disclosure of fund availability policies, interest on deposits, improved clearing procedures. There has been a lot of talk about banks delaying clearing of checks for a couple of weeks and what that does to depositors and the availability of their funds. We are correcting some problems there as well. But the securities industry and big banks in New York say, "We don't care about that, we don't care about consumer protection." They do not care about all these other titles that have been referred to by both the ranking minority Member and I as noncontroversial. I just thought it might be useful to my colleagues before we vote to proceed with this bill to know if we do not get it up and pass it, regardless of how we resolve the four controversial issues by a vote of the Senate, what is going to be tossed out and why I have continually said that if we could not have a comprehensive bill, there would be no bill. Never have I said it had to be my bill exactly intact but a comprehensive bill and not simply a loophole closer, because the House bill is not even addressing many of these things. I do not know why. There has been a lot of rhetoric that we ought to do something about check-cashing policies and so on. In the same section we have civil liability, effect on check acceptance policies and other laws. Most people probably do not know this is all in here. All we have been talking about is regional banking and municipal revenue bonds, mortgage bank securities and the South Dakota loophole—a small part of the bill.

We also have credit deregulation and availability on business and agricultural credit, Federal credit unions. We also are dealing with a highly important situation of broker deposits. If you look into many of the banks that have failed in this country the last couple of years, you are going to find that they had abnormally high percentages of their deposit base in broker deposits, some of them more than 70 percent. That is hardly the way to build a bank. So everybody has agreed we ought to do something about the misuse of broker deposits, and we are doing something about it in title VIII.

We have amendments to the National Housing Act, amendments to the Federal Deposit Insurance Act.

Title IX deals with fraudulent use of credit cards and debit cards. That has been a concern to both the House and the Senate and certainly to the consumers of this country. The House is anxious to have a bill on credit card fraud. We are anxious to have that title passed. But again we are being told by a couple New York banks and the securities industry, "We don't really care about that title. We will worry about credit-card fraud some other day."

I do not want to extend this too far and have anybody from what I have said think the implications are that

they are not concerned about credit-card fraud. What I am saying, I want to make it very clear so nobody misunderstands, indirectly they are saying at this time, "Because we don't like title X, we are willing to kill every other title of the bill. We will worry about credit-card fraud and leasing arrangements and deposit availability and check-cashing privileges at some other time." As we get into this, what I said about the greed involved ought to be evident. They are saying, "My way or no other way," like when we were little kids; if we did not like the way the game was going and owned the ball, we would take the ball and go home. The big money center banks are saying, "We want to take the ball and go home. We don't want to play. We don't want to play out on the Senate floor and have these amendments brought up and let the Senate work its will. We simply don't like title X." The securities industry does not like banks to even consider the thought of having competitive municipal revenue bonds. They do not care that the National League of Citizens and the U.S. Conference of Mayors, representing all the mayors and city councils in this country, more than 15,000 units of local government, think that their taxpayers would benefit by having better rates on the bonds that they sell. As a former mayor, I will guarantee you that when I used to float bond issues, if there had been more competition for the issuance of those bonds, the people of Salt Lake City would have paid less taxes to retire those bonds. The securities industry does not want competition. They like it the way it is; they make more money that way. So I think that my comment about greed is rather well-founded as we look at the rest of the bill and see what they are willing to defeat because they do not like a particular title. And I guess they do not have the courage to face the vote of the Senate because they do not know how it is going to turn out.

Well, I do not either. I do not know how the Senate would vote on these controversial issues, but I am willing to accept what a majority of this Senate says. I wish the securities industry and Chase and Citicorp were as well, but they are not. I do not know, maybe that should be an indication to me that I have the votes to keep those sections, but I do not really know that. I am willing to take the chance, but they obviously are not.

We also have other amendments to the Truth-In-Lending Act, model form amendments, amendments to the Fair Debt Collection Practices Act, payment system amendments, NOW account amendments, amendments to the Securities and Exchange Act of 1934.

So here we are, title X is not liked by a couple of banks, a couple of new provisions opposed by the securities industry, so their attitude is "Let's kill the whole bill." I wish I understood that kind of attitude. I wish I understood why people are not willing to let the judgment of 100 elected Representatives of the people of this country decide an issue. I suppose that is unfair in a way. I filibustered a bill back in 1975 when I was a freshman, but I did not like the whole bill. I was opposed to the whole bill. That I could understand. If they were telling me, "We don't like any of this bill, we are opposed to the whole thing," I understand filibusters on that concept. But I fail to understand, when only about 5 percent of it is controversial, why you are going to attempt to kill 95 percent to get at the 5 percent.

We have now been on this bill since last Wednesday. This is the 5th day—no, I take that back. We have not been on the bill since last Wednesday. We have been talking about taking up the bill since last Wednesday. I suggest that in those 5 days we could have adequately, on the merits and the substance, discussed all of the controversial issues and let the Senate decide who they think is right and who is wrong as to what should be in this bill.

But I hope my colleagues will not throw the baby out with the bath water; that because we have some who do not want to face those issues on the floor, we throw out all these sections about which I have talked.

Before we vote, let me remind my colleagues once again that although there are a lot of people who have disagreements with various parts of this bill and would like to see it changed—among the list I am once again going to put in the RECORD—nevertheless, they think it is important that we have a bill. They feel that they have been treated fairly through the thousands of pages of testimony, the multiplicity of hearings over not just 2 years but over the last 4 and even beyond that. Many of these issues were discussed when Senator PROXMIRE was chairman of the committee. Many of them have been discussed during the entire decade I have been in the Senate. They feel that they have been treated fairly. They have had their day in court and would like to change some aspects of the bill, but they are willing to accept what the Senate does and not block the whole bill. I understand and appreciate that kind of attitude.

People will come to me and say, "Hey, JAKE GARN, we're going to do everything we can on the floor to amend your bill or to take something out of it, be we are willing to allow the bill to go forth and be passed, whether we get our way or not on an individual item."

So there are groups that do support passage and have some reservations about particular sections, as I have said, to be fair to them, such as the U.S. League, the National Council of Savings Institutions, the American Bankers Association, the Independent Bankers Association, the Dealer Bankers Association, the Independent Insurance Agents of America, the Professional Insurance Agents Association, the National Association of Life Underwriters, the National Association of Casualty and Surety Agents, the National Association of Surety Bond Producers, the American Council of Life Insurors, the Mortgage Bankers Association, the National Association of Homebuilders, the National Association of Realtors, the Western Independent Bankers, the Association of Bank Holding Companies, the Treasury Department, the administration, the Federal Reserve, and many other affected agencies.

In addition, as I have already alluded to, the Government Finance Officers Association favors the adoption of municipal revenue bonds, as do the National League of Cities, the National Conference of State Legislators, the National Governors Association, the National Association of Counties, and the U.S. Conference of Mayors. That just about includes everybody, everybody who is interested in this bill, except two New York banks and some New York banks which do not have the courage to be public—but they hope Chase and Citicorp succeed—and the securities industry.

Once again, we have two groups, relatively small compared to all the other groups which think we should have a bill, and they are willing to try to modify it in one way or another.

I think that fits my definition of selfishness and greed, that these two set themselves up as the judge, to block many titles of this bill in order to get their own way, compared to all these others.

I think it is important that we note the importance of some of them, such as the National Association of Homebuilders. No industry has been harder hit than they have in the last few years. Many of them have gone out of business, and one of the primary reasons for that is the availability of mortgage credit. There is not a lack of people who want to buy homes in this country. There is a lack of people who can qualify for those loans because of the high interest rates and the unavailability of mortgage money. So the National Association of Homebuilders support mortgage-backed securities, hoping to develop a secondary market and make more money available for people in this country at more reasonable rates.

The same situation applies with respect to the Mortgage Bankers Association.

So there is overwhelming support across this country for a bill—not in exactly the form that has been pre-

sented to the Senate, but that is what the process is all about.

We have gone through the initial stages—the hearings, the markup, all the committee work—and now we are on the floor of the Senate, through the legislative process, expecting amendments to this bill, willing to consider them, and to allow the Senate to vote. I hope we will do that.

I expect the Senate to decide that we will take up the bill later this afternoon and finally get some opening statements and start discussing the substance of the bill and many of its provisions, but I fully expect a further filibuster and a cloture motion to be filed, now that we have crossed one bridge and have others to follow in this process.

I also hope that, as a result of this discussion, those people who feel it is important to kill the entire bill, with all these important consumer issues and other needed provisions that are contained in this bill, might reconsider their position and decide that, rather than kill the entire bill, they are willing to fight for or against the provisions they do or do not like within the bill and accept the will of the Senate. They might be surprised. They might win. I do not know. It would be a much nicer and cleaner way to fight the bill, without having to attack all these other provisions indirectly about which they are not necessarily concerned.

Mr. PROXMIRE. Mr. President, I spoke yesterday on this issue that is before us now, whether we should take up the bill, and I will not repeat myself, except to say that I think the committee has done a whale of a lot of work on this bill. Most of it is noncontroversial. It does have the great approval of the people the Senator from Utah so clearly and persuasively argued support it, including the banks, the savings and loan institutions, the credit unions, the Governors, the regulators, the administration. He is right. The only real opposition to this bill is very limited, and I think they have a strong case for their position.

Certainly, this Senator does not approve every part of this bill. I have several amendments I intend to offer, and I hope I can win support for them.

This certainly is not the kind of bill that should be killed outright. If it were killed outright, I think the financial situation of this country would be in very serious straits. We need strong financial institutions, independent financial institutions, locally owned financial institutions. We need institutions that are not involved in a whole series of conflicting areas.

I think this bill does a reasonable job of trying to prevent the most serious problems that have developed in recent years. This year, with only two-thirds of the year gone, we have already had more bank failures than any year in the last 5 years. Of course, we had a huge bank, the Continental Illinois Bank, which would have failed had it not been for the involvement of the Federal Government. So we do have work to do.

This bill, among other things, will make our banking system safer and sounder and will provide for greater certainty on the part of American business and therefore help our economy significantly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATTINGLY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the time of 11:30 a.m. having arrived, the question is on agreeing to the motion to proceed to the consideration of S. 2851.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Mexico [Mr. DOMENICI] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina [Mr. THURMOND] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Michigan [Mr. LEVIN] is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan [Mr. LEVIN] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—95

Andrews	Durenberger	Johnston
Armstrong	Eagleton	Kassebaum
Baker	East	Kasten
Baucus	Evans	Kennedy
Bentsen	Exon	Lautenberg
Biden	Ford	Laxalt
Bingaman	Garn	Leahy
Boren	Glenn	Long
Boschwitz	Goldwater	Lugar
Bradley	Gorton	Mathias
Bumpers	Grassley	Matsunaga
Burdick	Hart	Mattingly
Byrd	Hatch	McClure
Chafee	Hatfield	Melcher
Chiles	Hawkins	Metzenbaum
Cochran	Hecht	Mitchell
Cohen	Heflin	Moynihan
Cranston	Heinz	Murkowski
Danforth	Helms	Nickles
DeConcini	Hollings	Nunn
Denton	Huddleston	Packwood
Dixon	Humphrey	Pell
Dodd	Inouye	Percy
Dole	Jepsen	Pressler
Proxmire	Sasser	Trible
Pryor	Simpson	Tsongas
Quayle	Specter	Wallop
Randolph	Stafford	Warner
Riegle	Stennis	Weicker
Roth	Stevens	Wilson
Rudman	Symms	Zorinsky
Sarbanes	Tower	

NAYS—2

Abdnor	D'Amato

NOT VOTING—3

Domenici	Levin	Thurmond

So the motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I would like the clerk to report.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2851) to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

The Senate proceeded to consider the bill.

RECESS UNTIL 2 P.M.

Mr. BAKER. Mr. President, today is Tuesday. There are caucuses of both parties away from the floor of the Senate. I ask unanimous consent that the Senate now stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12 noon, recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GORTON].

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

The Senate resumed consideration of the bill.

Mr. GARN. Mr. President, I thank my colleagues for allowing us to finally get this bill up for consideration

after 5 days of discussing it but not actually having it before the Senate.

Mr. President, the financial services sector of our economy is in the midst of rapid evolution.

The phasing-out of Regulation Q controls is benefiting consumers, but it is also raising the costs of doing business for depository institutions. To cover those higher costs, depository institutions need new products to offer their customers.

At the same time that our traditional depository institutions are facing higher costs, they are also facing new competition from diversified providers of financial services.

The last decade has brought enormous changes in the financial services industry, largely because of improvements in the technology of delivering services and imaginative new financing techniques. Throughout this period, banks and thrifts alone, among all the providers of financial services, have been subject to a regulatory structure created 50 years ago.

Companies like Sears, Roebuck are in the forefront of this new competition. Sears combines investment banking services—including deposit-like mutual fund services—with insurance services, real estate services, and Sears Savings Bank.

Most importantly consumers are voting with their dollars in favor of the convenience offered by these new diversified competitors.

These new competitors have capitalized on the limitations to which traditional depository institutions are subject. For the first time, we have institutions which operate as banks, but eschew the label of "bank," principally to avoid statutory restrictions on their activities. It is time that banks and thrifts be brought into the 1980's to compete with these new competitors, through a few modest changes in the regulatory limits on their activities.

The financial services sector of our economy also is being reshaped by market evolution. A major change has occurred in the municipal finance market where revenue bonds have replaced general obligation bonds as the most important term-financing instrument for States and localities.

An equally significant change is occurring in the mortgage finance market where the secondary mortgage market is rapidly growing in importance.

Government at the State level is responding to this rapid evolution in the financial markets. State legislatures are acting on expanded powers for depository institutions and on expanded geographical markets for depository institutions.

It is now time for Congress to address the issues.

To ensure that the issues facing our financial system and the legislation dealing with such matters would be examined fully, the Banking Committee, during this Congress, has held 34 days of hearings and received testimony from 248 witnesses representing regulatory agencies, consumer and labor groups, trade associations, and other interested persons. The Banking Committee's printed hearing record on these matters is 8,060 pages long.

S. 2851, the product of these extensive hearings, exhaustive analysis, and a thorough markup session, represents the appropriate legislative response to the issues raised by the rapidly changing financial services marketplace.

To give Congress time to study the issues raised by financial marketplace developments and time to develop responsible legislation, the Comptroller of the Currency first imposed a moratorium on granting charters for nonbank banks on April 5, 1983—17 months ago.

That first moratorium was scheduled to expire on December 31, 1983, but it was extended to March 31, 1984. I, among others, requested the Comptroller of the Currency to do that. To give Congress even more time to act, the Comptroller imposed a new moratorium on May 9 retroactive to March 31. Again, I requested that he do that. The new moratorium runs until the end of this Congress.

Surely, Congress has been given adequate time to develop an appropriate legislative response to the issues raised by the evolution of our financial services marketplace.

As a matter of fact, at each time we have had these moratoriums, I have received promises from many of my colleagues in the Senate that, by the end of the moratoriums, they would be willing, able and ready to make decisions. So I am a little bit surprised when these 6-, 8-, and 10-month periods roll on and on. It is always just "give us another 6 months." It seems to me that then it becomes a stall and the promises of being willing to make decisions on these issues, regardless of what those decisions finally turn out to be, were not as sincere as I had hoped at the time they were given.

S. 2851 is an appropriate legislative response. The legislation does not address all of the issues that I had hoped to address, but it does take modest steps forward that are significant.

It is a limited and modest proposal to give depository institution holding companies a few of the abilities of their powerful competitors in the financial services marketplace. These additional services are extremely narrow expansions of the authority of banks, and will promote competition, to the benefit of consumers, State and local governments, and small businesses, as well as banks.

S. 2851 redefines the word "bank" in the Bank Holding Company Act, thereby closing the nonbank bank loophole. S. 2851 also closes the South Dakota insurance loophole. It authorizes depository institution organizations, through separate nondepository affiliates, to engage in conservative, safe and sound securities activities which are closely related to the traditional business of depository institutions, specifically, authority to underwrite mortgage-backed securities, commerical paper, and all types of municipal revenue bonds. In addition, the bill reaffirms existing securities authority such as discount brokerage services and investment advisory services. It allows a State to open its banking market to institutions from other States in a particular region or, if the State so chooses, to all other States. It establishes rules for the regulation of brokered deposits. It tightens Federal law concerning credit card fraud and consumer leasing. It provides for the payment of interest to depository institutions on reserves held only against money market deposit accounts and super NOW accounts. It requires depository institutions to disclose the waiting period before customers have access to funds deposited by check, and it seeks to expedite the check-clearing process. It reinstates a Federal usury preemption to assure a continued availability of credit for the business and agricultural sectors of our economy.

Now, let me summarize what the bill does not do. It does not expand the insurance or real estate activities of bank holding companies or other depository institution organizations. Statements regarding this point have been very misleading around the country. As a matter of fact, those authorities were deleted from the bill before we even went to markup. S. 2851 does not permit depository institution organizations to underwrite corporate stocks or bonds. We are not proposing a return to the combining of commercial banking and investment banking, and therefore, the bill certainly does not undo the Glass-Steagall Act. With regard to expanded activities, we are proposing a few, simple, straightforward amendments to depository institution statutes to benefit consumers, businesses, and local governments through increased competition in the markets for municipal revenue bonds, mortgage backed securities, and commercial paper, while reaffirming existing securities authority such as discount brokerage services.

Mr. President, these securities activities reflect the need to accommodate change in the financial marketplace. They are consistent with the purposes of the Glass-Steagall Act and with the original exceptions to and periodic revisions of that act.

S. 2851 authorizes depository institutions to form securities affiliates that can underwrite municipal revenue bonds and deal in such bonds. This au-

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thority for depository institutions will bring new competition to this highly concentrated market and, thereby, lower financing costs for States and local governments.

I repeat what I said earlier today: the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties, all the local municipal and county governments of the country support these new authority for depository institutions because they believe the result will be lower cost of government in their local jurisdictions.

This is accomplished through a very modest expansion of the activities that depository institutions are permitted to engage in. Banks already underwrite and deal in general obligation bonds. Thus, they already have the in-house expertise to perform the same activities in the closely related revenue bond marketplace. Equally important, underwriting and dealing in revenue bonds will not expose depository institutions to any new type of risk.

At the time of passage of the Glass-Steagall Act, municipal revenue bonds were virtually unknown. Yet, because of this accident of history, banks presently are prohibited from dealing in these bonds, although they are just as safe as general obligation bonds, and today constitute three-quarters of the total tax-exempt bond market. It is no coincidence that the industries that have opposed expanded bank powers are the same people who today control this market. They do not want the competition.

Who are the people who would really be helped by giving banks this authority? Municipal revenue bond authority for bank securities affiliates has been endorsed by the National Governors Association, the Municipal Finance Officers Association, the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the American Public Power Association, and many other municipal and State associations—virtually everyone who has an interest in low-cost finance. Only those who have a corner on the market—three-fourths of the bond market of this country—are opposed to granting this new authority.

Congress already has approved bank underwriting of certain municipal revenue bonds, such as those issued by TVA, the Asian Development Bank, the Washington Metropolitan Area Transportation Authority, and various housing, health care, university, and dormitory projects.

This was not because those issues were safer, but because Congress was especially aware of the need to hold down underwriters' fees on those projects. The same analysis applies to all municipal revenue bonds, and S. 2851 merely fixes the historical anomaly which has prevented banks from underwriting municipal revenue bonds. The support of the Board of Governors of the Federal Reserve, the Comptroller of the Currency, and FDIC for this power further evidence that this is not a safety and soundness issue.

Allowing depository institution securities affiliates to underwrite all types of revenue bonds will save millions of dollars for cities and States and, most important, users of airports, highways, and other public facilities. The municipal bond underwriting market is heavily concentrated. In 1982, the top 10 revenue bond underwriters, all of which were securities broker/dealers, controlled nearly 50 percent of the market.

We constantly hear about the fear of concentrations, that we cannot allow the 10 biggest banks in this country to control whatever they are supposed to control. But we fail to recognize that the concentrations can occur in other parts of the financial services industry as well.

So, I repeat: The municipal bond underwriting market is heavily concentrated. In 1982, the top 10 revenue bond underwriters, all of which were securities broker/dealers, controlled nearly 50 percent of the market. In comparison, the top 10 general obligation underwriters, both banks and securities firms, controlled only 29 percent of that underwriting market—a great deal more competition. Moreover, the trend is toward more concentration in the revenue bond market, while the general obligation market is becoming less concentrated. Increased competition in the revenue bond market would result in reduced underwriting fees and improved services for public issuers.

As a former mayor, I am especially aware of local financing needs and operations. After having served on the Banking Committee for almost 10 years, I am more convinced than ever that Congress should authorize depository institution securities affiliates to underwrite and deal in all types of municipal revenue bonds.

MORTGAGE BACKED SECURITIES

One of the clearest and most important needs that faces our Nation in the next decade and beyond is meeting the huge demand for mortgage capital that all experts project. Estimates are that we will need $1.5 trillion to finance housing in the next decade and up to $4 trillion by the end of the century, and that one-half to three-fourths of those mortgages will be financed through securities backed by pools of mortgages. Presently, three federally chartered entities—FNMA, GNMA, and FHLMC—issue 95 percent of the mortgage-backed securities in the secondary market. That ratio, however, very likely will be changed by the end of this decade as the recently developed, privately-issued mortgage backed securities market expands. We must permit depository institution securities affiliates to engage in this vital activity which will do so much to generate more mortgage capital in the coming years of high demand.

COMMERCIAL PAPER

Commercial paper is a term which describes the short-term debt obligations corporations issue to generate operating cash. It is functionally identical to a commercial bank loan, but the default rate has historically been only a small percentage of that for commercial loans. Underwriting and distributing such instruments involves minimal risks.

The commercial paper underwriting market is very concentrated among securities broker/dealers: Seven investment banking firms currently act as agents for over 85 percent of the corporations which issue commercial paper through an agent. Permitting depository institution securities affiliates to compete in this vital part of our capital market, which is increasing more rapidly than the commercial loan market, is an effective manner of ensuring the continued participation of depository institution organizations in serving the short-term credit needs of American businesses.

AMENDMENTS

During the Banking Committee's markup, two amendments were adopted dealing with mutual fund authority and insurance authority.

The mutual fund amendment deleted authority for depository institution securities affiliates to operate mutual funds.

The insurance amendment applied title VI of the Garn-St Germain Financial Institutions Act of 1982 to all subsidiaries of bank holding companies. I remain concerned over the impact of this amendment on States rights and the dual banking system.

NONBANK BANKS

S. 2851 preserves the coverage of the Bank Holding Company Act by redefining the term "bank" under the act to cover all FDIC-insured institutions. By grandfathering "nonbank bank" acquisitions occurring before July 1, 1983, the bill recognizes that these early acquisitions were made in good faith before Congress expressed a clear intention to redefine the term "bank."

This liberal grandfathering is possible because there have been no examples of the misuse of "nonbank banks." Liberal grandfathering also is possible only because the modest expanison of permissible activities for depository institutions in S. 2851 moves in the direction of lessening their competitive disadvantages vis-a-vis the diversified providers of financial services.

CONCLUSION

Mr. President, I repeat that our financial system is going through a transition, that measured changes in our national policy on financial services are needed, and that S. 2851 is the appropriate legislative response to the most pressing issues confronting our depository institutions.

The few, limited expansions of activities authorized by the bill are a measured, but essential, step toward competitive equity and better, more efficient financial services for consumers and businesses.

Mr. PROXMIRE. Mr. President, the Financial Services Competitive Equity Act, S. 2851, is a constructive attempt by the committee to close some of the more gaping loopholes in our banking laws while providing bank institutions with limited new securities powers. The most damaging loophole closed is the so-called nonbank bank loophole which has undermined the separation of banking from other businesses while paving the way for unrestricted interstate banking. The bill also plugs the so-called South Dakota loophole by restricting the ability of States to authorize insurance powers for bank holding companies beyond those available in the Bank Holding Company Act. Finally, the bill closes the loophole in the Glass-Steagall Act which allows State chartered banks not members of the Federal Reserve System to engage in the securities business.

Incidentally, so much of the protest against this bill centered on the securities people. That particular provision, it seems to me, should be more important to them than the new powers that we have which they are so vigorously protesting.

Most banking bills are the product of compromise, and S. 2851 is no exception. The committee had to balance the drive for further banking deregulation against the need to maintain a safe and sound banking system. The benefits of more deregulation had to be weighed against the potential costs of undue concentration or conflicts of interest. Difficult choices had to be made on what services were to be allowed bank holding companies and in some cases decisions were reached only by a close vote.

By and large, the bill reported by the committee is a conservative approach to financial restructuring. The committee rejected the sweeping deregulation proposals of the Reagan administration which would have allowed bank holding companies to engage in a wide variety of real estate, insurance, and other financial services. Instead, the committee essentially reaffirmed the major objectives of our current banking laws as embodied in the Bank Holding Company Act and the Glass-Steagall Act. These laws seek to enforce a separation between the business of banking and other lines of commercial and financial endeavor. They were enacted in previous Congresses in order to promote safe banking, prevent conflicts of interest and unfair competition, and avoid an undue concentration of economic power. These objectives were valid when they were first enacted into law and they remain valid today.

Mr. President, I think that very few Senators and very few people reflect on the fact that we have a unique banking system in this country. Almost every other country in the world has a concentration of banking in very few institutions, whether it is Canada or England or France or Italy or Japan. These countries will have five, six, or seven banks that do about 90 percent of the business. That is not true in this country. We have 15,000 banks. While our big banks do a big share of business, the fact is that the 10 biggest banks do not do the 90 percent as they do in other countries or 95 percent; they do only 30 percent of the business.

We have a really diversified locally owned financial system. The great advantage of that, of course, is that people who live in a community know the community, go to school with the people who are their customers, understand their character, understand much more than you get in any kind of a system where you rely simply on the numbers, run our financial system, and I think that is a big reason why the U.S. economy over the years has been so productive and so efficient and has been ahead of the economies in other countries.

That is one of the elements that has been overlooked but I think that this bill tries very, very hard to preserve.

There has been a tendency for the very big banks to move into other areas to get much bigger, swallow up other banks, and this is an attempt on the part of the committee to provide the kind of diversification, the kind of widespread ownership, and to prevent the kind of concentration and conflict of interest which threatens and could threaten our banking system.

In establishing our financial framework, Congress has traditionally looked upon banks as unique institutions broadly affected with a public purpose. This is because banks are the dominant supplier of short-term business credit, the major source of backup liquidity for our economy, the custodians of the Nation's payment system, and the principal transmission belt for our Nation's monetary policy.

Because of the unique and crucial role played by banks in our economy, Congress has sought to limit their activities so that they can carry on their important functions with objectivity and impartiality and thus ensure safe and sound banking practices. Of course, the corollary of a policy of keeping banks in banking is to keep other businesses out of banking. Separation of function is a two-way street. It makes no sense to confine banks to a limited range of activities while permitting unregulated entities to offer products and services unique to banking. For that reason, Congress has also made it illegal for nonbanking firms to own banks or to offer products unique to banking such as checking accounts.

Many people wonder why we should have this separation. But I think if you reflect on it a minute, consider for instance a firm in the business of leasing automobiles. For that firm the most important single ingredient is access to credit. If it can get credit at good terms, it can beat the competition. Suppose the bank comes along and gets in the business through a holding company and buys a competitive auto leaser. How would you like to be in business against a competitor who had all the capital they want and had it, furthermore, on the basis where it was a competitor who gets the capital at more favorable terms than you could? Obviously it would be a very unfair situation, and the bank would be able to run out of business any competitor who wanted to get into the field.

This is true of almost any business which relies heavily on credit. And, of course, many of our businesses do, and that is why we would have a much less fairer system, much less competitive system if we permitted banks to get into real estate and get into some of these other areas that they are so anxious to get into.

In addition to limiting the activities of banks, Congress has also limited the ability of banks to branch across State lines. The Bank Holding Company Act prohibits the ownership of banks outside the State where the holding company is based unless specifically permitted under the law of the targeted State. As a result of these prohibitions, the banking system of the United States is more decentralized than any major country, and I already indicated the statistics on that. In most advanced industrial countries, the top 10 banks have upward of 90 percent of banking deposits; in the United States, the top 10 banks have less than 30 percent of bank deposits.

A decentralized banking system promotes not only greater competition but also more local control over local credit decisions. With over 14,000 banks in our country, most borrowers can have access to a locally owned and controlled bank to meet their credit needs. If we were to convert to a highly concentrated European banking structure, most of the credit decisions affecting our local economies would be made in New York, Chicago, and a few other financial money centers.

The congressional policy of maintaining a separate and decentralized banking system has come under attack from three fronts. First, attorneys have shown remarkable ingenuity in discovering and expanding upon loopholes in our present banking laws in order to circumvent existing legal restrictions. The "nonbank bank" is a classic example. Under the Bank Holding Company Act, an institution is not a bank unless it both makes commercial loans and accepts demand deposits. If it forgoes one of these two services, it is not a bank for Bank Holding Company Act purposes even though it may have been chartered as a bank under State or Federal law.

If a bank wants to avoid the restrictions of the Bank Holding Company Act, it can simply convert all of its demand deposits to NOW accounts and turn itself into a "nonbank bank." It can then be owned by any company no matter how far removed its business may be from banking. Similarly, existing bank holding companies can evade restrictions on interstate banking by purchasing or establishing nonbank banks across State lines irrespective of State law. Or a bank that wants to get into exotic new activities not permitted to banks or bank holding companies can turn itself into a nonbank, form a holding company, and engage in the forbidden activities through a separate subsidiary of the holding company.

In short, the nonbank bank loophole makes a shambles of the Bank Holding Company Act. There are now hundreds of applications for nonbank banks awaiting approval by the Federal bank regulators. Most of these are from giant, money center banks seeking to establish nonbank banks in other States. The Comptroller of the Currency, an ardent proponent of interstate banking, has vowed he will approve most of these applications unless Congress acts to prevent it. Thus, if Congress does not close the nonbank bank loophole, our decentralized banking system can be radically transformed almost overnight.

A second challenge to congressional banking policy has come from the Federal bank regulators themselves. One of the shortcomings of our bank regulatory system stems from the fact that the regulators are often drawn from and return to the banking community. As a result, regulators tend to view restrictions on banks more from the perspective of bankers—that is, as obstacles to "progress" where progress is defined as an ever expanding empire for the banking business. Efforts to restrict banks are not seen as legitimate objectives of public policy but rather as the efforts of selfish industries to protect themselves from bank competition.

Given this mindset, bank regulators have often ignored the statutory framework regulating banking established by Congress in favor of their own views on how the financial services industry should be structured. For example, the FDIC recently declared that the 50-year-old Glass-Steagall Act prohibition separating banking from the securities business should no longer apply to State-chartered banks that are not members of the Federal Reserve System. The Comptroller of the Currency aided and abetted the development of the nonbank bank loophole through "creative" interpretations of Federal law. The Federal Reserve, whose members are generally not bankers, has been the only agency that seems to give any deference to the laws passed by the Congress.

The third challenge to congressional banking policy has come from some States which have come to look upon their banking laws as instruments of economic development to be redesigned simply to lure a few hundred clerical jobs into a State. For example, in early 1983, South Dakota amended its banking laws to permit its State-chartered banks to engage in virtually any kind of insurance activity. In doing so it carefully provided that these insurance activities could not be performed inside the State if they would adversely affect insurance companies or agents operating within the State. But no such restrictions are applied to operations outside the State.

Shortly after the South Dakota law was passed, Citicorp, the Nation's largest bank holding company, applied to buy a South Dakota bank with the intent of using that bank to engage in a nationwide insurance business. While South Dakota may gain a few hundred banking jobs, the congressional policy of keeping banking and insurance separate was undermined. In effect, South Dakota determined banking policy for the other 49 States while insulating itself from the consequences of its own actions.

While S. 2851 reaffirms current banking policy as established by Congress, it nonetheless does provide bank holding companies with limited new securities powers. In particular, it would allow bank holding companies to underwrite and deal in municipal revenue bonds and mortgage backed securities. There is no credible evidence that the basic objectives of the Bank Holding Company Act or the Glass-Steagall Act would be threatened if bank holding companies were authorized to exercise these two limited powers.

With respect to underwriting municipal revenue bonds, it should be noted that when Congress passed the original Glass-Steagall Act in 1933, it specifically allowed banks to continue underwriting general obligation bonds of State and local governments. The Congress determined that the abuses involved in underwriting corporate securities did not extend to underwriting municipal bonds. As a result, banks have continued to underwrite general obligation bonds of State and local governments during the last 50 years with no documented instances of abuse.

Unfortunately, in providing an exception for general obligation bonds, the Congress failed to distinguish between these bonds and municipal revenue bonds which, in 1933, were a seldom used means of municipal finance. A general obligation bond is backed by the full faith and credit of the State whereas a revenue bond is backed by the revenues from a specific project such as bridge tolls. Today, revenue bonds account for more than half the volume of municipal financing although banks by law are precluded from competing. Studies over the years have indicated that the cost of issuing municipal revenue bonds could be reduced if banks were allowed to compete directly with investment banking firms as they do in the general obligation bond market.

Because investment banking firms have a monopoly on revenue bond underwriting, there is considerable economic concentration in this market which translates into less competition and higher borrowing costs for State and local governments. The 10 leading underwriters of revenue bonds—all of which are investment banking firms—accounted for 49 percent of the market in 1982. By way of contrast, the 10 leading underwriters of general obligation bonds—where commercial banks can compete—accounted for only 29 percent of the market. Moreover, the revenue bond market is becoming more concentrated over time whereas just the opposite is true of the general obligation bond market.

Since bank underwriting of revenue bonds will lower State and local borrowing costs, State and local organizations strongly support the committee's action. These include the Government Finance Officers Association, the National League of Cities, the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, and the U.S. Conference of Mayors.

The other new power authorized for bank holding companies is to underwrite and deal in mortgage backed securities. A mortgage backed security is a bond-type instrument secured by a pool of conventional mortgage loans. These new instruments have been developed in the private sector as a way of enhancing the flow of funds into residential mortgage investments. While banks can issue mortgage backed securities as originating mortgage lenders, they are precluded by law from selling them to the ultimate investor.

As in the case of revenue bonds, the market for mortgage backed securities will be strengthened if banks are allowed to compete with investment banking firms. The ultimate beneficiary will be the American home buyer whose borrowing costs will be reduced. For these reasons, this provision of the bill is supported by the National Association of Homebuilders and the National Association of Realtors.

Mr. President, notwithstanding the substantial benefits of S. 2851, in my view it must still be regarded as a flawed product. It encourages the merging of bank and thrift industries that may not be in the best interests of a strong home-financing system. I think that is unfortunate because the thrift industries have their function and if we are going to be able to finance homebuilding and individual home purchases we found that in the past it is necessary to have strong independent home financing industries and the thrift industry has had that function. And this bill unfortunately, as I say, encourages a merging of the banking and thrift industries and in that sense may threaten the ability of homebuilders and home buyers generally to get the kind of financing they need in the future.

Also it promotes regional interstate banking in a way that sacrifices local control over banking without maximizing competition.

I think that is an important matter that I hope we can amend and change because, as I say, the unique distinctive element of American banking is its local control, and I come at this regional problem from the opposite way that the distinguished Senator from New York has. Whereas he favors, as I understand it, nationwide branching, I feel that we should confine branching to, as we have in the past, by and large, to individual States so that we encourage individual local ownership.

Finally, Mr. President, the most serious weakness in the bill and one that I do hope that the Senate will reform is it hands large banks a $4 billion bonanza, $4 billion over 6 years at the expense of the U.S. Treasury.

I think that is a serious, serious mistake, particularly at a time when we have a very unfortunate problem. I think the most damaging problem with respect to our economy is the size of the deficit and the size of the national debt and the growing size of the debt and this, of course, would increase the debt at a rate of $4 billion over 6 years and at an increasing rate as time goes on.

So I am hopeful some of these flaws can be corrected as the Senate proceeds to debate the legislation.

Mr. President, in closing, I would like to commend our chairman's leadership. I did that the other day, but I think it is well worth while emphasizing once again. As I say, I have been in the Senate a long time—27 years. I have been on the Banking Committee every 1 of those 27 years. I have served as chairman of that committee for 6 years and as ranking member for 4 years. I do not think I have ever seen a more diligent or nearly as diligent a chairman as we have now. He has worked extraordinarily hard, has broken all records as far as the committee is concerned in the time that he has devoted to this bill—endless days of hearings over a period of 15 months, 4,500 pages of testimony, 72 witnesses. As we all know, we have a complicated as well as a diversified financial system, and the chairman of the committee, I think, has done a superlative job under tough circumstances.

Although, as I have indicated, I do disagree with him on many of the important issues, nevertheless he has put together a bill which I will enthusiastically support and which I think merits the support of the Senate.

I think we should be very sensitive to the fact that our economic system and our banking system could get into difficulty. The fact is that we have had failures over the past few years and the failures of this past year, as I indicated yesterday, are greater than they have been at any time in the last 50 years. We have to be very careful about ensuring the safety and soundness of our banks. This legislation will help greatly in moving, in my judgment, in this direction and away from a very dangerous tendency for our banks to get into difficulty.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, first let me thank my distinguished colleague from Wisconsin for his overly generous remarks. I will read them to my children tonight and make them feel very proud. They are not deserved, but I appreciate them anyway.

I would add that I had 6 years to watch the former chairman at work, so I tried to listen and observe during those years and learn from his example.

● Mr. LAUTENBERG. Mr. President, I rise in support of the pending bill. The Financial Services Competitive Equity Act, S. 2851, is the product of 2 years of hard work, extensive hearings, and vigorous debate in the Senate Banking, Housing, and Urban Affairs Committee.

On balance, I believe the result is a reasonably balanced measure that will promote greater rationality and consistency in the regulation of the financial sector. In a larger sense, of course, it is the latest installment in the continuing effort to adjust financial policy to a rapidly changing environment.

S. 2851, Mr. President, is a complicated piece of legislation. It deals with a broad range of complex and even arcane subjects, from nonbank banks to qualified thrift leaders to golden parachutes. But its core provisions, in my view, are the ones aimed at restoring the integrity of our financial policy framework.

Banks and other depository institutions play a unique and critical role in our economic system. They provide a reliable payments system. They furnish a secure repository for liquid savings. They aggregate funds and serve as impartial allocators of credit. And they operate as the transmission belt for monetary policy, linking actions by the central bank to the real economic factors they are intended to influence.

For this reason, changes affecting the function of these institutions and their relationships to the broader financial and economic system raise fundamental public policy issues. They are not merely matters of private interest to the financial service industry per se.

Established policy in this area has, for more than half a century, drawn certain distinctions among different types of financial institutions and between the financial sector and the larger economy. If these boundaries are to be altered, the change should come as a result of a conscious policy decision by the Congress. We should not stand by and allow existing policy to be rewritten willy-nilly by clever lawyers, novel technologies, and complaisant regulators. If the structure of our financial system needs to be realigned, then it is up to the Congress, which is collectively supposed to represent the public, to decide what new arrangements will better serve our needs as a nation. The near collapse of Continental Illinois and the trouble surrounding the Financial Corporation of America suggest a cautious approach in this regard.

This bill, Mr. President, may not be perfect. Products of the give-and-take of the legislative mill seldom are. And it is admittedly controversial in some respects. But it is, in my judgment, a necessary step in the right direction. Its central provisions begin the task of reestablishing a stable and consistent statutory framework for the regulation of the core institutions of our financial system.

It significantly narrows, if it does not absolutely close, the nonbank bank loophole which has been exploited to evade the restriction on both activities and branching in the Bank Holding Company Act.

It closes the "South Dakota" loophole through which bank holding companies have sought to exploit State regulatory laxity to acquire powers denied them under Federal law.

It closes the "nonmember bank" loophole which would have permitted State banks not belonging to the Federal Reserve to engage in investment

banking contrary to long established policy principles.

It imposes a residential lending test on unitary thrift holding companies, which helps to assure that thrifts owned by nonfinancial parents continue to maintain their commitment to housing finance.

It expands the securities activities permissible to bank holding companies to include municipal revenue bonds, mortgage backed securities, commercial paper, and discount brokerage. The latter two have already been approved by regulation. It authorizes regional interstate banking agreements for an experimental 5-year period.

Taken together, these reforms go a long way toward addressing the imbalances, inequities, and uncertainties that have developed in the financial sector over the past several years.

To be sure, S. 2851 is no panacea for all the strains and problems in our financial system. But it is sound legislation that is responsive to some of the more serious problems we face in financial policy and I hope my colleagues will support it.

In conclusion, Mr. President, I would be remiss if I did not acknowledge the hard work and effective leadership of both the distinguished chairman, Senator GARN, and the able ranking member, Senator PROXMIRE. Both have exhibited that rare blend of perseverance, tact, and flexibility which is indispensable to legislative success.

They are to be commended for moving a bill which is so complicated and touches on so many contentious issues. The Senate owes them a debt of gratitude.●

TITLE X OF S. 285

Mr. MATTINGLY. Mr. President, I wish to commend my colleagues and chairman of the Committee on Banking, Housing, and Urban Affairs, the Honorable JAKE GARN, for including title X in S. 2851. Title X was introduced in the Senate by me originally as S. 2113, and was incorporated into Chairman GARN's deregulation package which is now being considered by this body.

I introduced S. 2213 in order to clarify the intent of Congress when it enacted section 3(d) of the Bank Holding Company Act of 1956. Popularly known as the Douglas amendment, this provision of Federal banking law provides that bank holding companies headquartered in one State may not cross the borders of another State unless specifically authorized to do so by that State.

To date, nine States (including my home State of Georgia) have acted to allow banks from other States in legislatively-defined regions to cross State borders for banking purposes, provided the States granted such a privilege provide reciprocal treatment to banks from the granting State. Another State provides reciprocal treatment to banks in other States on a nationwide basis. Two other States allow their banks to be purchased without restriction.

Such actions represent the healthy diversity found in our dual banking system. Unfortunately, the basic right of each State to determine the nature of the banking system within its borders is being challenged by a few large banks in a single State which would impose their will on the entire banking system. Already, these banking giants, with their vast resources, have waged a titantic struggle.

They have sought to have the Federal Reserve Board deny mergers based on the regionally reciprocal State banking statutes which these banks oppose. The Federal Reserve Board has found the laws on which such mergers are based are indeed compatible with the Douglas amendment; four such mergers have been approved in New England. A few banking giants have sought to have Federal district and circuit courts find that regionally reciprocal State banking statutes are unconstitutional; however, these statutes have been upheld at every level.

But still the bank giants continue their struggle. They are now appealing their case to the Supreme Court, an action sorely testing the limited resources of the regional banks against whom the action is being brought. Why then should Congress become involved in this process?

Congress has become involved in order to clarify the intent of the legislation it passed nearly 30 years ago and to prevent further disruption to the banking system being caused by this unnecessary litigation. Four bank mergers are pending in New England, having been stayed pending the outcome of the ongoing litigation. Another merger has been announced between a Florida and a Georgia bank holding company. These and other strategic plans have been put on hold indefinitely causing needless uncertainty in the quickly changing financial services industry.

By acting now to approve a banking bill containing title X, this body would be alleviating the uncertainty in future planning now present in the 40 States which have or are considering regionally reciprocal banking legislation. Without action now, in this session, we will be allowing a few banks with the most resources to dictate the nature of the banking system in 49 other States. This should not be allowed to happen.

The clarification of Federal banking law brought by the enactment of title X would be to the benefit of the economies and residents of each of the regions in which regionally banking statutes are enacted.

BENEFITS OF REGIONALLY RECIPROCAL BANKING STATUTES

Those States enacting and considering regional banking laws are acting on the conviction that the regionally reciprocal banking statute option serves important economic development and policy concerns. These States anticipate benefits to consumers, to businesses, and to bank shareholders. These benefits are to be achieved within the context of the Nation's historic policy supporting State control of banking resources. Regional banking is expected to act as an engine for regional economic development, with stronger regional financial institutions providing an inducement for growth and relocation, for jobs and development.

This is an experiment. The results are not yet in, nor will they be for some time. The various State laws enacted so far are different in many ways—in the method of entry permitted, in the timeframe under which the law is effective, and even in the State's definition of a "region." One would not expect less in an experiment.

STATE CONTROL OF BANKING RESOURCES

The United States has a history of two centuries of populist concern about large financial institutions. Over the years, people have worried about how interstate banking might affect the concentration of political and economic power, the distribution of credit, the capital adequacy, safety, and soundness of our financial structure, and the role of the dual banking system.

The bedrock of our diverse regional structure, our banking system that conforms to that structure, and our desire to minimize centralized control over the Nation's financial resources is American policy maintaining State control of banking structure. The principles embodied in current Federal banking law recognize that the individual States can best decide such constructive issues. States continually have liberalized limitations on geographic expansion by commercial banks and bank holding companies, even across State lines, and they will continue to do so. But each one acts when it is in the best interest of its citizens to do so. To imply that one approach is optimal for all 50 States is to ignore the existence of our decentralized economic and political heritage.

Regional banking maintains the fundamental public policy of State control of banking structure. Enactment of a congressional sanction for the option to enact regionally reciprocal banking statutes reaffirms the Congress support for this policy.

CONSUMER BENEFITS

Research evidence has indicated that the quality and quantities of services provided by banks are enhanced whenever banking expansion is per-

mitted. The availability of credit to locally limited consumers is also increased due to the entry of banks with more funds available for lending.

With greater resources available to them, banks can capitalize on their size by achieving economics of scale in the money markets, thereby reducing the banks' cost of funds. As deregulation of interest rates paid to consumers continues, this will become increasingly important in order to provide consumers with the highest return possible on their savings. Greater size also permits regional banks to more easily and efficiently add new products from which consumers will benefit. Thus, regional banking will bring benefits to consumers in the form of more, better, and competitively priced banking products and services. Additionally, regional banking gives consumers peace of mind, knowing that their deposits are remaining in the region, to help foster the region's development.

BENEFITS TO BUSINESS

The regional banking option will provide economic benefits to business firms, particularly small businesses. Basic economic similarities among groups of States could provide economic efficiencies from limited interstate banking. The bank serving manufacturers in Georgia, for instance, can bring experience and expertise to similar customers in the Carolinas that a Minneapolis bank cannot. Lending to wheat growers in Kansas is similar to lending to wheat growers in South Dakota; oil drilling in Wyoming is similar to drilling in Colorado.

In particular, smaller firms may benefit from increased competition that can result from regional interstate banking. The small furniture manufacturer in Virginia may not be a customer sought by a money center bank moving into that State, but may be desirable to the North Carolina bank already familiar with the business.

COMPETITION

Regional banking statutes improve the level of competition among banks in those States where they are enacted by automatically increasing the number potential entrants to banking markets in the State. For local banking markets, this means the improvement of the level of competition in these markets when a local organization is merged with or acquired by an out-of-State organization.

For example, management and the range of services of the merged/acquired bank can be significantly enhanced by the new parent organization, enabling the bank to compete more vigorously with local banks. In those States where de novo entry is permitted, the entry of a new bank into the market directly increases competition.

CONCENTRATION

Whereas competition is generally evaluated on the local level, concentration is generally looked at from both a local and national perspective. On the national level, numerous factors are at work ensuring that regionally reciprocal State banking statutes do not lead to undesired amounts of concentration in the banking industry. Three of these factors are:

First, bank holding companies expand with a particular local market in mind. However, there are only a limited number of potentially attractive banking markets—markets in which the expanding bank can operate profitably. If all of those banks considering expansion aim at the same attractive markets, many banks will be priced out of the market. Making a profit when paying a substantial premium for a bank would be difficult. In the same way, a rash of de novo entry would increase competition and reduce profitability.

Second, bank holding companies are constrained as well by their own internal limitations. De novo banks require significant new capital, and acquisitions based on stock exchanges are based on the capital markets valuation of the stock involved. When coupled with a limited supply of the management talent needed when forming a new bank or acquiring an existing talent needed when forming a new bank or acquiring an existing one, it becomes obvious that banks simply cannot expand without limit.

A third consideration is the regulatory delay involved in banking expansion. At least one regulatory approval is needed when forming a subsidiary or acquiring a bank. The enactment of regional banking statutes in New England and the Southeast has demonstrated how banks respond to these laws, and has highlighted the regulatory delays possible. An increased flow of applications to regulators, especially those involving new policy questions, slows the pace of regulatory decisionmaking and of banking consolidation.

On the local level, the concentration issue centers on the acquisition of one bank in a local market by another in the same market. All holding company acquisitions, though approved by the State and the Federal Reserve Board, remain subject to the administration of the Sherman and Clayton Acts by the Department of Justice. Ample and dependable machinery for judging the competitive impact of any and all proposed interstate banking consolidations is already in place. Clear standards have been consistently applied by the banking agencies, and have been understood by banks and their counsel, so that mergers that would be prohibited by these guidelines are rarely ever proposed.

Thus, current law and basic banking practicalities help to ensure that, even under regional banking, the U.S. banking system will remain the least concentrated of any major nation.

There are over 14,000 banks in this country; some 90 percent of these are community banks with assets of less than $100 million. California provides a good example of very large banks sharing a market with many small banks and thrifts. This coexistence of many small banks with larger regional and money center banks confirms the ability of these small firms to exist in highly competitive markets.

According to a Federal Reserve Board study published in the Federal Reserve Bulletin in February 1982, concentration of banking resources declined between 1969 and 1980. At the national level, for example, the proportion of domestic deposits held by the 10 largest banking organizations fell from 20.2 percent in December 1969 to 17.9 percent in December 1980. The same trend of decreasing concentration was found using Standard Metropolitan Statistical Areas to approximate local banking markets.

Other financial industries are considerably more concentrated than commercial banking. For example, in the securities brokerage industry, 16 percent of the firms account for 92 percent of total industry assets. By contrast, it would take 35 percent of the Nation's banking organizations to account for 92 percent of domestic banking assets. The top 10 life insurance companies account for 51.5 percent of the total assets of the industry, vis-a-vis 21.7 percent for the 10 largest banking organizations. Continued State control over banking expansion will help to ensure that banking continues to be a relatively unconcentrated industry. And to the extent that regional banking creates strong and more stable banks, State regional banking statutes will promote safety and soundness in the American banking system.

SMALL BANKS

Notwithstanding the fears of smaller banking organizations, regional bank holding company expansion appears to pose no threat to the viability of small banks. The continued presence of small banks in competitive major markets is a tribute to these banks' strength.

Evidence suggests that small firms prefer to deal with smaller banks, and small banks have long operated profitably in this competitive environment. Thus, de novo interstate banking or bank holding company expansion is unlikely to represent a significant change in the competitive structure of small banks. And if a large local competitor is acquired by an out-of-State institution, the small local bank's competitive position is probably improved.

The bank in a smaller city or town may be affected significantly by entry of a large out-of-State bank, but such banks are unlikely to enter de novo into smaller cities. There are limits to the pace at which even the most aggressive bank can expand following a change in the law. The small-city bank is most likely to find itself in direct competition with an out-of-State institution if that institution acquires an existing bank competitor or its parent. But experience has shown that the local bank's ability to compete with the larger bank for small business customers is at least as good as its ability to handle existing competition.

In addition, many small independent banks would have the option under State regional banking statutes to form regional networks of independent banks. In such a framework, these banks could pool resources, such as loan participations and technology, to achieve greater efficiency. Often individual States do not provide large enough settings for sufficient economies of scale—but regions do.

QUALITY OF SERVICE

The level and quality of banking services provided by expanding banks in a regional banking environment are generally enhanced by regional expansion. The availability of credit to locally limited consumers and businesses generally is increased. More importantly, regional banks can be expected to keep and lend funds in the local community. Almost every regional and local banker can tell you of at least one special loan he made in a local community—one of the type that a money center banker would never have considered. Regional bankers have their roots in the local communities within the region. And it is in these communities where regional bankers will direct their resources for regional growth.

PROTECTIONISM

It has been argued by some that State regional banking statutes are an act of economic protectionism, leading to the balkanization of States into banking regions. This turns one of the primary arguments for regional banking on its head, since regional banking actually removes barriers around each of the 50 States. Instead of establishing new barriers, regional banking statutes widen opportunities for broad-based banking with the regions.

Regional banks are economically viable because they are sensitive to the unique needs, attitudes, business practices, and commitments of business and commerce within the region. By expanding with a region, these institutions can develop the financial and managerial resources they need to compete effectively and in a safe and sound manner, while at the same time enhancing competition within the region. Having better capitalized regional banks is an inducement for commercial and industrial growth and relocation, thereby promoting regional development. Other realities are at work in addition to economic ones. Regions share common sociocultural interests, and regional residents will support regional banking growth that leads to greater regional benefits.

CONSTITUTIONALITY

The Federal Reserve Board, after finding that regionally reciprocal State banking statutes are not clearly inconsistent with the U.S. Constitution, has approved four mergers/acquisitions based on such State statutes. However, opponents of these State laws continue to contest the statutes' constitutionality in cases before Federal courts. It has been noted by many observers that a strong case has been made for the constitutionality of these statutes.

The Douglas amendment, section 3(d) of the Bank Holding Company Act, prohibits out-of-State bank acquisitions unless such acquisitions are "specifically" authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by "implication." Congress has exercised its power to regulate interstate commerce by prohibiting interstate banking in the absence of State laws to the contrary. The commerce clause appears in no way to be violated by the affirmation use by the States of rights granted to them by Congress.

For an agreement between States to be unconstitutional, it must encroach upon Federal sovereignty or increase the political power of a State in a manner inconsistent with the Federal system. As the States which enact regionally reciprocal banking statutes act unilaterally and are free to change the laws when and if they choose to do so, no compact requiring congressional approval is created.

Regional banking statutes are economic regulations rationally related to a legitimate State purpose—that is, the preservation of a banking industry that is responsive to local needs. As such, these statutes do not violate the Constitution's equal protection clause. Divestiture provisions contained in such statutes in order to prevent "leapfrogging," and other undesired entry into a State by banks from another State, again are rationally related to the legitimate State purpose these statutes are designed to accomplish. Because of this, and because no extraterritorial application of State law is involved, the due process clause of the Constitution is not violated. Finally, as Congress, through the Douglas amendment, has delegated to the States significant authority to regulate banking, State statutes permitting regionally reciprocal banking are now invalidated by the supremacy clause of the Constitution.

SUPPORT FOR REGIONAL BANKING AND TITLE X

Large numbers of banks support regionally reciprocal State banking statutes as a viable alternative to maintaining the status quo or leaping to nationwide interstate banking. Some of these banks have already acted where regional banking is permitted; others are waiting for their State to act.

The Senate Banking Committee has voted overwhelmingly to support title X and the notion of continuing the policy of permitting States to decide their own banking future. Our 12-to-5 vote underscores the wide popularity of title X and of maintaining the centuries-old policy of decentralized bank control.

Federal and State bank regulators have recognized the need for action such as that found in title X. For example, I would note the following statements:

Comptroller of the Currency: "While we would prefer more extensive geographic deregulation, we welcome any—even partial—relaxation of the current restrictions. For instance authorizing reciprocal or regional expansion may be a reasonable first step in the direction of nationwide interstate banking." (Excerpted from the Comptroller's testimony before the Senate Banking Committee, March 21, 1984.)

Federal Deposit Insurance Corporation: "Assuming Congress is not able to address the McFadden and Douglas restraints at this time, we would support legislation to sanction reciprocal interstate banking pacts entered into by the states, and we would not 'sunset' this provision." (Excerpted from the FDIC Chairman's testimony before the Senate Banking Committee, March 21, 1984.)

Conference of State Bank Supervisors: "We applaud the Chairman and Senator Mattingly afor seeking to remove any questions now hanging over state authority in this critical area (geographic expansion). CSBS questions the need for the Sunset provision contained in S. 2181. We are concerned that the sunset provision might be intended or understood to cast current state law as an 'experiment' rather than as the body of pertinent law, and that, insofar as the provisions of this section are a clarification of the degree of delegation under Douglas, if they are allowed to sunset it would signal open season for lawsuits on the meaning of Douglas." (Excerpted from CSBS testimony before the Senate Banking Committee, February 29, 1984.)

Federal Reserve Board: "The Board will not deny this application (that of Bank of New England Corp. to merge with CBT Bancorp) on the grounds . . . that the Connecticut Interstate Banking Act is unconstitutional. . . . The Board believes the policy issues that are raised by the regional approach are inherently national and would best be resolved by Congressional action." (Bank of New England Corporation, supra, 70 Federal Reserve Bulletin 377-379.)

In the House of Representatives, legislation to sanction the State option to enact regionally reciprocal banking laws has been introduced by Representative DOUG BARNARD of Georgia and has attracted nearly 50 cospon-

sors. The bipartisan support for the right of States to pass regional banking statutes received from both Houses of Congress is indicative of the widespread national support that exists for regional banking.

INAPPROPRIATE ALTERNATIVES TO TITLE X

First, currently, title X contains a 5-year "sunset" provision. Five years subsequent to the title's enactment, the congressional sanction for regional banking would expire.

Many assume that, at the end of 5 years, Congress will act to eliminate the McFadden/Douglas protections for State banking systems. This is an unfair assumption. Moreover, money center banks favor an even shorter sunset, anticipating an ever-quicker route to nationwide interstate banking.

Reducing the sunset would ignore the State political, as well as the practical and regulatory, realities involved in States enacting regional banking statutes and banks planning and executing mergers under them. Many States have not yet passed regional laws, but are actively considering them. Legislatures in these States may not meet until 1985, or even 1986. Added to the time needed for State action is that needed for individual banks to plan merger and acquisition strategy once State plans are known.

On top of this, add the time for approval by regulators and a possible backup of applications when regional banking laws are passed, and it is easy to see why a 5-year sunset should be the minimum considered. A minimum 5-year sunset would also help to underscore the experimental nature of regional banking and provide adequate time for the evaluation of that experiment. Otherwise, the experiment would have to be reviewed with incomplete results.

Second, a Federal determination of banking regions would destroy the inherently State-directed nature of the regional banking option. The whole purpose of State regionally reciprocal banking statutes is to provide an experiment in regional banking that retains for each State its historical options as far as directing that State's banking structure. Most importantly, Federal determination of banking regions overturns the McFadden Act and the Douglas amendment, an action that would not square with political reality. Title X is overwhelmingly supported because it leaves to each State the right to decide its banking future.

By taking away options from the States to associate with other States for banking purposes, the experiment is soured. Each State should be able to determine for itself which regional alignment is best. Perhaps contiguous States. Perhaps a region of its own design. Perhaps even Federal Reserve districts. So long as it is a State's choice, the particular configuration is relatively unimportant. The Federal Government has long delegated significant authority to the States in banking affairs. Now is not the time to begin Federal intrusion into a matter which should be left to the States.

Third, by adding a "trigger" to title X calling for the elimination of the McFadden Act and the Douglas amendment, the Congress would be reversing a two-centuries-old national policy of State determination of banking structure. There is no reasonable justification for such an action.

Imposing a trigger on title X destroys the notion of gradual, evolutionary change in State banking systems found in the regional banking concept. A trigger reduces State options. It disregards the actions and intent of State legislatures. And it assures that title X would not be passed by this body.

THE TIME TO ACT IS NOW

It is important that the Congress act now to ensure that States continue to have the right to determine their banking future through methods such as regional banking. Not to act is to allow the continued chipping away at States' banking rights through the actions of the money center banks. And it would send improper signals to the Federal courts, courts which could use congressional guidance on this most important matter.

Mr. President, with your permission, I wish to have introduced into the RECORD today several documents of relevance to the matter before us now. The first is the Federal Reserve Board's announcement approving the first of four New England regional bank mergers; the second is the decision of the U.S. Court of Appeals for the Second Circuit affirming the Federal Reserve Board's decision; and finally, a State-by-State review of State statutes, legislation, and action concerning bank expansion across State lines.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Federal Reserve Press Release]

MARCH 26, 1984.

The Federal Reserve Board today announced its approval of the application of Bank of New England Corporation, Boston, Massachusetts, to merge with CBT Corporation, Hartford, Connecticut.

Attached is the Board's Order relating to this action.

Attachment.

FEDERAL RESERVE SYSTEM

Bank of New England Corporation, Boston, Massachusetts

Order Approving Merger of Bank Holding Companies and Acquisition of Companies Engaged in Commercial Finance, Leasing, Real Estate Lending, Factoring and General Trust Company Activities

Bank of New England Corporation, Boston Massachusetts ("BNE"), a bank holding company within the meaning of the Bank Holding Company Act of 1956, as amended (12 U.S.C. § 1841 *et seq.*) ("BHC Act"), has applied for the Board's approval under section 3(a)(5) of the Act (12 U.S.C. § 1842(a)(5)), to merge with CBT Corporation, Hartford, Connecticut ("CBT"), also a bank holding company, and thereby to acquire indirectly The Connecticut Bank and Trust Company, N.A., Hartford, Connecticut. In addition, BNE has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)) and section 225.23(a)(2) of the Board's Regulation Y (12 U.S.C. § 225.23(a)(2)) to acquire CBT's nonbanking subsidiaries: CBT Trust Company of Florida, N.A., West Palm Beach, Florida ("CBT Trust"); Lazere Financial Corporation, New York, New York ("Lazere"); CBT Business Credit Corporation, Hartford, Connecticut ("BCC"); CBT Factors Corporation, New York, New York ("Factors"); CBT Realty Corporation, Hartford, Connecticut ("Realty"); and General Discount Corporation, Boston Massachusetts ("GDC"). These companies, with the exception of CBT Trust, are subsidiaries of CBT Financial Corporation, Hartford Connecticut, a company organized as a holding company for CBT's nonbanking subsidiaries. CBT Trust engages in general trust company activities in Florida. Lazere and BCC offer accounts receivable, inventory and equipment financing. Factors engages in "advance" and "maturity" factoring, and Realty in real estate lending. GDC, with subsidiaries in Maine, Massachusetts and Canada, engages in capital equipment financing through lending and leasing, and its Canadian subsidiary, CBT Leasing Limited, conducts such lending and leasing activities outside the United States pursuant to section 4(c)(13) of the Act (12 U.S.C. § 1843(c)(13)). All of these activities have been determined by the Board to be closely related to banking under sections 225.25(b) (1), (3) and (5) of Regulation Y (12 C.F.R. § 225.25(B) (1), (3) and (5)).

Notice of these applications, affording an opportunity for interested persons to submit comments, has been given in accordance with sections 3 and 4 of the Act (48 *Federal Register* 41524). The time for filing comments has expired and the Board has considered the applications and all comments received in light of the factors set forth in section 3(c) (12 U.S.C. § 1842(c)) and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. § 1843(c)(8)). In particular, the Board has considered the comments of Citicorp, New York, New York, and Northeast Bancorp, Inc., New Haven, Connecticut, as well as the comments of several community groups located in Hartford, Connecticut.

BNE, with twelve bank subsidiaries, has consolidated assets of $5.9 billion and deposits of $3.7 billion, representing 13.3 percent of the total deposits in commercial banks in Massachusetts.[1] BNE is the fourth largest commercial banking organization in Massa-

Footnotes at end of article.

chusetts. CBT, which has total assets of $5.9 billion and total deposits of $3.4 billion, is the largest bank holding company in Connecticut. CBT holds 24.8 percent of all deposits in commercial banks in Connecticut. Upon consummation of the proposed merger, BNE would become the second largest bank holding company in New England in terms of assets and the largest in terms of domestic deposits.

Section 3(d) of the Act (12 U.S.C. 1842(d)), the Douglas Amendment, prohibits the Board from approving any application by a bank holding company to acquire any bank located outside of the State in which the operations of the bank holding company's banking subsidiaries are principally conducted, unless such acquisition is "specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication." The statute laws of Connecticut authorize the acquisition of a banking institution in Connecticut by a bank holding company that controls a bank located in another New England State, if that other New England State authorizes on a reciprocal basis the acquisition of a bank in that State by a Connecticut bank holding company.[2] Massachusetts has passed a reciprocal statute that authorizes such an acquisition.[3]

The Banking Commissioner of Connecticut and the Massachusetts Board of Bank Incorporation have approved this proposed merger pursuant to these reciprocal Interstate Banking Acts, thus finding that the transaction satisfies the requirements of the respective statutes authorizing the interstate acquisition of banks. Based upon its review of the Connecticut Interstate Banking Act ("CIBA"), the Board concludes that Connecticut has by statute expressly authorized a Massachusetts bank holding company, such as BNE, to acquire a Connecticut bank or a Connecticut bank holding company, such as CBT. Thus, the Connecticut Act meets the requirement of express authorization for interstate bank acquisitions imposed by sections 3(d) of the Bank Holding Company Act.

The Connecticut and Massachusetts statutes are the first to be enacted that provide explicitly for limited interstate banking on a regional basis. Rhode Island has also enacted regional interstate banking legislation that limits entry into Rhode Island to bank holding companies located in New England.[4] The restriction in the Rhode Island statute, however, is of limited duration. After two years the Rhode Island statute provides for national reciprocity, permitting entry of bank holding companies from any state that will admit Rhode Island bank holding companies.

The regional interstate banking system developing in New England raises issues of considerable importance because no fewer than 15 state legislatures are considering proposals that, if enacted, would create regional banking systems in every part of the country. The Georgia legislature has already passed a regional interstate banking statute, and there are proposals for regional banking systems in the Southeast (Florida and Georgia and a combination of other states as far north as Virginia), the Northwest (Washington, Oregon and Idaho), the Mid-Atlantic (New Jersey, Pennsylvania and several other states as far south as Virginia) and the Mid-West (several different regional groupings under discussion). Both the increasing number of states considering such proposals and the progress of the proposed legislation toward enactment suggest that, should the New England interstate banking zone be upheld, a system of regional zones may develop involving major areas of the nation.[5]

THE CONSTITUTIONALITY OF THE CONNECTICUT STATUTE

Protestants, Citicorp and Northeast Bancorp, Inc., have challenged the constitutionality of the Connecticut Interstate Banking Act[6] and, in particular, the provisions of CIBA that allows only New England bank holding companies[7] to acquire banks or bank holding companies located in Connecticut. The Protestants assert that such discriminatory legislation is unconstitutional under the provisions of the Compact Clause,[8] the Equal Protection Clause[9] and the Commerce Clause[10] of the United States Constitution.

The requirement that the Board address these issues derives from a series of judicial decisions beginning with *Whitney National Bank in Jefferson Parish* v. *Bank of New Orleans and Trust Company*, 379 U.S. 411 (1965), which required that the Board make a finding in the first instance on the applicability and validity of state laws that purport to authorize the particular transaction before the Board.[11] The United States Court of Appeals for the District of Columbia Circuit confirmed that this requirement applied to constitutional issues when it stated in *Iowa Independent Bankers Association* v. *Board of Governors of the Federal Reserve System*, 511 F.2d 1288, 1293 n.4 (1975), that it felt constrained "to register . . . substantial doubt that the Board can continue to presume conclusively the constitutional validity of state or federal laws in light of the Supreme Court's opinion in [*Whitney*] . . . ."

While in cases prior to *Iowa Independent Bankers, supra*, the Board declined to consider constitutional issues, *NCNB Corp.* 59 Fed. Res. Bull. 305, 307 (1973),[12] the reservations about this course of action expressed by the D.C. Circuit in that case has led the Board to review the constitutionality of state statutes, although the Board has decided that it will not "hold a state statute to be unconstitutional without clear and unequivocal evidence of the inconsistency of the state law with the federal Constitution." *NCNB Corp.* 68 Fed. Res. Bull. 54, 56 (1982).[13] The Board believes this standard to be consistent with the principle of statutory construction that legislatures are presumed to have acted within constitutional limits,[14] as well as with the historic role of the judicial branch of government in balancing state and federal interests in construing the scope of the constitutional powers of the states. This approach is also consistent with the Board's primary expertise and delegated responsibility under the Act—to review bank holding company expansion proposals for compliance with the public benefits test of section 4(c)(8) of the Act, including financial, competitive and community convenience and needs criteria.

Thus, the Board will require evidence of a clear conflict with the United States Constitution before the Board will find that CIBA constitutes an invalid authorization for the interstate merger of bank holding companies proposed in this case.

The Board has examined carefully the arguments advanced by Protestants and the unique and fundamental constitutional issues presented by CIBA in the context of the extensive record before the Board. After review of the record, the Board concludes that, while the issue is not free from doubt, there is no clear and unequivocal basis for a determination that CIBA is inconsistent with the Commerce Clause, Compact Clause or Equal Protection Clause of the United States Constitution.[15] Accordingly, the Board will not deny this application on the grounds urged by Protestants that CIBA is unconstitutional. The analysis of this proposal under sections 3 and 4 of the Bank Holding Company Act is based upon this finding.

CONSIDERATIONS UNDER SECTIONS 3 AND 4 OF THE BANK HOLDING COMPANY ACT

In addition to determining that the merger of BNE and CBT is expressly authorized by a valid statute as required by section 3(d) of the BHC Act, the Board must decide whether this acquisition is consistent with the standards of sections 3 and 4 of the Act.

Section 3 Considerations. BNE's twelve banking subsidiaries operate in nine of the fourteen Massachusetts banking markets,[16] while CBT's single bank subsidiary operates in each of the ten Connecticut banking markets.[17] Since BNE's banking subsidiaries do not operate in Connecticut and CBT's banking subsidiary does not operate in Massachusetts, the proposed transaction would not eliminate any significant existing competition in any relevant banking market.

The Board also has considered the effects of this proposal on probable future competition in light of its proposed guidelines for assessing the competitive effects of market-extension mergers or acquisitions.[18] In evaluating the effects of a proposal on probable future competition, the Board considers market concentration, the number of probable future entrants into the market, the size of the bank to be acquired, and the attractiveness of the market for entry on a *de novo* or foothold basis absent approval of the acquisition.

With respect to the ten banking markets in Connecticut in which CBT operates, the record shows that either the markets are not highly concentrated or there are numerous other probable future entrants into the markets. Connecticut permits the acquisition of banks in Connecticut by bank holding companies located in other New England states, and there are a number of commercial banking organizations, including five in Massachusetts (other than BNE) and three in Rhode Island, with assets over $1 billion each that can be identified as probable future entrants into the Connecticut banking markets. Moreover, the Board notes that market concentration ratios and CBT's rank and market share drop significantly in each Connecticut market when deposits of thrift institutions are considered. In view of these considerations and other facts of record, the Board concludes that elimination of BNE as a probable future entrant into markets served by CBT would not have a substantial anticompetitive effect in those markets.

With respect to the nine Massachusetts[19] banking markets in which BNE operates, the record shows that there are a number of commercial banking organizations, including three commercial banking organizations in Connecticut (other than CBT) and three in Rhode Island with assets over $1 billion each, that can be identified as probable future entrants into each of the nine relevant markets. The markets with the fewest number of potential entrants, Boston and Cape Cod, are also not concentrated. Moreover, BNE is not a market leader in several markets, particularly when the deposits of thrift institutions are considered. On the

basis of these and other facts of record, the Board concludes that the elimination of CBT as a probable future entrant would not have a substantial anticompetitive effect in the nine markets served by BNE.

The financial and managerial resources of BNE, CBT, and their subsidiaries are considered satisfactory and their prospects appear favorable. This finding is based, in part, on the fact that BNE has committed to a program to raise additional capital through a common stock offering and, in particular, to improve the capital position of its lead bank, Bank of New England, N.A., Boston, Massachusetts.

The Board has considered the convenience and needs of the communities to be served. Although both BNE and CBT offer a complete range of banking services, consummation of this merger would provide more favorable access to the capital markets and thereby permit BNE to provide expanded access to consumer banking services in Connecticut and Massachusetts, additional credit capacity for growing commercial customers and the presence of a substantial New England based competitor to meet growing competition from nonbanking financial conglomerates in the financial services industry.

In considering the convenience and needs of the communities to be served, the Board has also examined the record of BNE and CBT and their banking subsidiaries in meeting the credit needs of their communities, as provided in the Community Reinvestment Act of 1977 (12 U.S.C. §§ 2901-05) ("CRA") and the Board's Regulation BB (12 C.F.R. § 228). The CRA and Regulation BB require the Board to assess the record of the banking subsidiaries of any applicant in meeting the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Although the Board does not ordinarily consider the CRA record of the acquiree, the Board, for purposes of this case, has considered the CRA records not only of BNE's banking subsidiaries but also that of CBT because this merger involves two bank holding companies of approximately equal size.

Three Hartford, Connecticut, neighborhood citizens associations, Frog Hollow Residents Coalition, Concerned Citizens of Southwest and Behind the Rocks Neighborhood Association, have protested this application on the basis of an alleged failure of CBT to meet the housing financing needs of the low- and moderate-income neighborhoods of Hartford.[20] In addition, the Frog Hollow Residents Coalition alleged that CBT has failed to honor a commitment made in July 1982 to provide a special fund for mortgage, home improvement and housing rehabilitation loans to owner-occupants of the Frog Hollow community.

The community group Protestants have failed to present any substantial evidence to support their position. Nevertheless, the Board has considered the issues raised by Protestants and the extensive response CBT has provided with respect to its lending history and practices in Protestants' neighborhoods. The record demonstrates that, pursuant to a July 1982 commitment, CBT has established a special housing-related lending program for the Frog Hollow community and has made a significant commitment of funds at favorable rates and without ancillary costs. CBT has also documented its commitment to meet the housing needs of low- and moderate-income neighborhoods through housing ventures with other companies and neighborhood groups.

In the neighborhoods of the other two Protestants, Behind the Rocks and Southwest, CBT has a strong record of home improvement loans and it ranks among the leading lending institutions in those areas in terms of the number of home improvement loans. CBT has also documented a low demand for first mortgages in these two areas. CBT has made a commitment to increase its efforts to make residents of Protestants' communities aware of its loan programs. Based on the foregoing and other facts in the record, the Board concludes that CBT and BNE have satisfactory records of compliance with the CRA. The considerations relating to the convenience and needs of the communities to be served weigh in favor of approval.

Section 4(c)(8) Considerations. BNE has also applied under section 4(c)(8) of the BHC Act to acquire the nonbanking subsidiaries of CBT, including Lazere, BCC, Factors, GDC and Realty, which are all organized as subsidiaries of CBT Financial.[21] BNE has only one active nonbanking subsidiary operating pursuant to section 4(c)(8).[22] CBT's only nonbanking subsidiary that operates in Massachusetts in GDC, which is engaged in leasing and lending activities. GDC derives approximately $14 million in commercial loans and leasing activities from the entire state of Massachusetts.

This proposal would have only minimal impact on actual competition among nonbanking subsidiaries of BNE and CBT. Moreover, this proposal will have no significant impact on existing competition between BNE's subsidiary banks and GDC. Given the size of CBT's equipment financing subsidiary and the limited scope of its activities in Massachusetts, the Board does not believe this transaction will result in any significant decreased competition.

There is no evidence in the record that this transaction will result in any undue concentration of resources, unfair competition, unsound banking practices, conflicts of interest or other adverse effects. Based upon these and other considerations reflected in the record, the Board has determined that the balance of public interest factors that it is required to consider under section 4(c)(8) of the Act is favorable.

Based on the foregoing and other facts of record, the Board has determined that the applications under sections 3 and 4 of the Act should be and hereby are approved for the reasons set forth above.

In approving this application the Board does not intend to express any conclusion concerning the desirability, as a matter of national policy, of the regional arrangements provided for by CIBA. The Board recognizes that interstate banking is a highly complex issue that unavoidably involves the balancing of a number of different considerations. However, if the New England regional approach to interstate banking is emulated in other parts of the country, there is a potential danger that the result could be to divide the country into a number of banking regions. The Board believes that the public policy issues that are raised by the regional approach are inherently national and would be best resolved by Congressional action.

The acquisition of CBT's banking subsidiaries pursuant to section 3 of the Act shall not be made before the thirtieth calendar day following the effective date of this Order or later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston, pursuant to delegated authority.

The approval of BNE's proposal to acquire CBT's nonbank subsidiaries and to engage in equipment financing, leasing, real estate lending, factoring, and accounts receivable financing is subject to all the conditions set forth in Regulation Y, including section 225.4(d) and section 225.23(b), and to the Board's authority to require modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[23] effective March 26, 1984.

JAMES MCAFEE,
Associate Secretary of the Board.

FOOTNOTES

[1] Banking data are as of June 30, 1983.

[2] 1983 Conn. Acts 411 (Reg. Sess.) entitled "An Act Concerning Interstate Banking" ("Connecticut Interstate Banking Act" or "CIBA"), § 2.

[3] Mass. Ann. Laws ch. 167A ("Massachusetts Interstate Banking Act"), § 2.

[4] R.I. Gen. Laws §§ 19-30-1, 19-30-2 (Supp. 1983).

[5] To date, only Maine (Me. Rev. Stat. Ann. tit. 9-B, § 1013 (as amended February 7, 1984)) and Alaska (Alaska Stat. § 06.05.235 (Supp. 1983)) permit interstate banking without restriction, although New York permits entry of bank holding companies from any state on a reciprocal basis (N.Y. Banking Law § 142-b (McKinney Supp. 1983)).

[6] By letter of November 16, 1983, counsel for BNE asserts that Citicorp is not a party in interest to this proceeding with standing to raise issues concerning the constitutionality of CIBA. Pursuant to section 105 of the BHC Act, 12 U.S.C. § 1850, Northeast clearly will become a competitor to BNE upon consummation of this acquisition. Moreover, the Board believes that Citicorp, too, is a party in interest for purposes of this proceeding before the Board since Citicorp competes in Connecticut and Massachusetts with BNE and CBT, although on a somewhat limited basis, and, except for the restrictions contained in the very statute it challenges, it has the potential to become a more substantial competitor.

[7] New England bank holding companies include those with their principal place of business in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The Connecticut statute further restricts the definition of "New England bank holding company" to exclude bank holding companies directly or indirectly controlled by bank holding companies outside of New England. CIBA thus prohibits non-New England bank holding companies from "leapfrogging" into the Connecticut market through Maine or other New England states that may enact interstate banking statutes without regional restrictions.

[8] U.S. Const., Article I, section 10, clause 3.

[9] U.S. Const., Amendment XIV, Section 1.

[10] U.S. Const., Article I, section 8, clause 3.

[11] Justice Douglas in his dissent in *Whitney* noted that the specific issue with respect to the Louisiana statute at issue in that case would require the Board to decide a "bare, bald question of . . . constitutionality." 379 U.S. at 431. See also *First State Bank of Clute* v. *Board of Governors*, 553 F.2d 950 (5th Cir. 1977), and *Gravois Bank* v. *Board of Governors* 478 F.2d 546 (8th Cir. 1973), which do not deal with constitutional issues but require a decision by the Board as to the applicability of state laws to bank holding company acquisitions.

[12] See also *Bankers Trust New York Corp.*, 59 Fed. Res. Bull. 364 (1973) and *Northwest Bancorporation*, 38 Fed. Reg. 21,530 (1973).

[13] See also *Florida Coast Banks, Inc.*, 68 Fed. Res. Bull. 781 (1982); *Florida Coast Banks, Inc.* 69 Fed. Res. Bull. 454 (1983). Moreover, the Board has indicated on one occasion that were it to follow the interpretation of a state statute urged by a party to an application it would be compelled to declare the statute to be unconstitutional. *KSAD, Inc.*, 70 Federal Reserve Bulletin 44 (1984).

[14] See *Clements* v. *Fashing*, 102 S. Ct. 2836, 2843 (1982); *South Carolina State Highway Department* v. *Barnwell Bros., Inc.*, 303 U.S. 177, 195 (1938); *Atchison, Topeka & Sante Fe Ry. Co.* v. *Matthews*, 174 U.S. 96 (1899).

[15] The staff analysis of the constitutional issues raised by Protestants is contained in an appendix to this Order and is made a part of the Board's findings in this case.

[16] These Massachusetts banking markets include Boston, Springfield, Cape Cod, Fall River, New Bedford, Amherst-Northhampton, Greenfield, North Adams-Williamstown and Athol. BNE also operates in the Massachusetts portion of the Providence, Rhode Island, banking market.

[17] These Connecticut banking markets include Hartford, New Haven, Bridgeport, Waterbury, New London, Danbury, Torrington, Danielson, Willimantic and Old Saybrook. CBT also operates in the Connecticut portion of the New York market.

[18] "Proposed Policy Statement of the Board of Governors of the Federal Reserve System for Assessing Competitive Factors under the Bank Merger Act and the Bank Holding Act," 47 *Federal Register* 9017 (March 3, 1982). Although the proposed policy statement has not been adopted by the Board, the Board is using the policy guidelines in its analysis of the effects of a proposal on probable future competition.

[19] BNE has less than a one percent market share in the Providence, Rhode Island, banking market and CBT has less than a one percent market share in the New York, New York, banking market. As a result, only Massachusetts and Connecticut markets are discussed in this Order.

[20] The Small Business Association of New England requested a hearing on the application to explore a concern that the merger of major New England banks would result in larger institutions that might not be responsive to the credit needs of small business enterprises. After a meeting with officials of CBT and BNE, the Small Business Association of New England was satisfied and it withdrew its request for a hearing.

[21] CBT's nonbanking subsidiaries will represent less than two percent of the consolidated assets of the merged corporation.

[22] BNE received approval after the filing of this application to acquire *de novo* a subsidiary to engage in leasing activities. That subsidiary, BNE Capital Corporation, Boston, Massachusetts, began operations on December 28, 1983.

[23] Voting for this action: Chairman Volcker and Governors Martin, Wallich, Partee, Teeters, Rice, and Gramley.

APPENDIX TO THE ORDER APPROVING THE APPLICATION OF BANK OF NEW ENGLAND CORP., BOSTON, MA, TO MERGE WITH CBT CORP., HARTFORD, CT

Citicorp, New York, NY, and Northeast Bancorp, Inc., New Haven CT, have protested the application of Bank of New England Corp., Boston, MA, to merge with CBT Corp., Hartford, CT. Citicorp and Northeast argue that the application should be denied because the Connecticut Interstate Banking Act ("CIBA") is unconstitutional and therefore insufficient to authorize the proposed merger. Protestants challenge the provisions of CIBA that allow only New England bank holding companies [1] to acquire banks or bank holding companies located in Connecticut. The Protestants assert that such discriminatory legislation is unconstitutional under the provisions of the Compact Clause,[2] the Equal Protection Clause [3] and the Commerce Clause [4] of the U.S. Constitution.

CIBA (and the similar statute enacted in Massachusetts) raises unique constitutional issues. There are many decided cases defining the permissible scope of state regulations favoring their own residents against those of all other states, but apparently no judicial decisions testing the constitutionality of state regulatory arrangements which discriminate in favor of residents of selected regional groupings of states and exclude residents of all other states from the benefits provided to the regional groups.[5]

Footnotes at end of article.

CONSIDERATIONS UNDER THE COMPACT CLAUSE

The Compact Clause of the United States Constitution states that "[n]o State shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign Power. . . ."[6] The Supreme Court has indicated that an interstate agreement is within the parameters of the Compact Clause and thus subject to the requirement of congressional consent only when: (1) an interstate compact or agreement exists, (2) that tends to increase the power of the compacting states in such a manner as to interfere with federal supremacy.[7]

CIBA, when considered in light of its legislative history and the actions of other New England states, is part of an effort to create a regional banking zone. The regional banking acts of Connecticut, Massachusetts and Rhode Island contain very similar provisions, and they were enacted within a six-month period between December, 1982, and June, 1983. Passage of the acts was preceded during a four-month period by a formal meeting of representatives of the New England states to discuss regional interstate banking, by the formation of a New England Committee to Study and Promote Regional Interstate Banking, by testimony of legislators at hearings on the issue before legislative committees in other New England states, and by apparent review and comments on the proposed Connecticut legislation by the Massachusetts Banking Department. The debate on the Connecticut bill refers to an "agreement" or "compact" on regional interstate banking.[8]

The Supreme Court in *Virginia* v. *Tennessee*, 148 U.S. 503, 517-518 (1893), stated that the terms "agreement" and "compact" as used in the Compact Clause are "sufficiently comprehensive to embrace all forms of stipulation, written or verbal, and relating to all kinds of subjects." In *United States Steel Corp.* v. *Multistate Tax Commission*, 434 U.S. 452, 470 (1978), the Court specifically addressed the issue of reciprocal statutes and stated that "agreements effected through reciprocal legislation may present opportunities for enhancement of state power at the expense of the federal supremacy similar to the threats inherent in a more formalized 'compact'. . ." The Court emphasized that the federal impact rather than the form of the agreement is the critical inquiry under the Compact Clause. Accordingly, while in form CIBA can be considered to be part of an implicit compact or agreement that has never been approved or authorized by Congress, as the cases cited above indicate, CIBA would violate the Compact Clause only if it constitutes an enhancement of state powers at the expense of federal supremacy.

No such claim of infringement upon federal supremacy could be maintained, however, if CIBA has been authorized by Congress in the Douglas Amendment. The compatibility of CIBA with the Compact Clause turns on whether Congress in the Douglas Amendment granted the states plenary power to regulate entry of out-of-state bank holding companies, thereby renouncing a federal interest in such regulation for purposes of the Compact Clause. The intent of Congress in enacting the Douglas Amendment is more fully discussed below, *infra* at 15-27, and, for reasons stated therein, the Douglas Amendment should be read as a renunciation of federal interest in regulating the interstate acquisition of banks by bank holding companies. As a result CIBA does not appear to violate the Compact Clause.

CONSIDERATIONS UNDER THE EQUAL PROTECTION CLAUSE

Protestants also challenge the constitutionality of CIBA as a violation of the Equal Protection Clause of the Fourteenth Amendment, which provides "[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Protestants argue that CIBA's exclusion of non-New England bank holding companies is an arbitrary restriction unrelated to any legitimate state purpose.

The Supreme Court in *New Orleans* v. *Dukes*, 427 U.S. 297, 303 (1976) (per curiam), articulated the following, frequently cited standard of judicial scrutiny under the Equal Protection Clause:[9]

"Unless a classification trammels fundamental personal rights or is drawn upon inherently suspect distinctions such as race, religion, or alienage, our decisions presume the constitutionality of the statutory distinctions and require only that the classification challenged be rationally related to a legitimate state purpose."

Application of the test of whether economic legislation is "rationally related to a legitimate state purpose" involves two inquiries: (1) whether the challenged statute has a legitimate purpose, and (2) whether it was reasonable for the legislature to believe the challenged classification would promote that purpose.[10]

In answering these inquiries, the Supreme Court has afforded great deference to a state's statements of legislative purpose and its statutory classifications to achieve those purposes. The Supreme Court has ordinarily been willing to uphold any classification based "upon a state of facts that reasonably can be conceived to constitute a distinction, or difference in state policy. . . ." *Allied Stores of Ohio, Inc.* v. *Bowers*, 358 U.S. 522, 530 (1959). The court will sustain economic legislation "if any set of facts reasonably may be conceived to justify it." *McGowan* v. *Maryland*, 366 U.S. 420, 426 (1961).

For the purpose of analysis under the Equal Protection Clause, CIBA appears to be rationally related to an attempt to maintain a banking system responsive to local needs in New England. The Hebb Report, a report prepared by a Commission appointed by the Connecticut legislature to study interstate banking, indicates that the purposes of CIBA include avoiding undue concentration of resources, maintaining the responsiveness of the banking system to local credit needs and providing an opportunity for a limited interstate banking experiment.[11] A finding of a rational basis for CIBA is consistent with the decision of the Court of Appeals for the District of Columbia Circuit in *Iowa Independent Bankers, supra*, upholding an Iowa statute against an Equal Protection Clause argument although that statute permitted only one out-of-state bank holding company to operate in Iowa. This case held that state statutes, such as CIBA, governing admission of out-of-state bank holding companies into a particular state, such as Connecticut, involve essentially economic legislation and do not raise issues of fundamental rights or draw upon suspect classifications. Since CIBA does not impinge those rights found to be fundamental by the Supreme Court or employ inherently suspect classifications, it will not be closely scrutinized by the courts under the Equal Protection Clause.

Thus, Connecticut can advance a sufficiently rational purpose in enacting CIBA to meet the less stringent scrutiny of the

courts under the "rational purpose" test. On this basis, CIBA does not appear to violate the Equal Protection Clause of the Fourteenth Amendment.

CONSIDERATIONS UNDER THE COMMERCE CLAUSE

BNE and CBT assert that Congress, in the Douglas Amendment, conferred upon each state complete authority to permit, regulate or condition the entry into the state by out-of-state bank holding companies for the purpose of engaging in banking activities. BNE and CBT argue that Congress authorized the states not only to determine whether to permit acquisitions of banks across state lines but also to determine the extent to which to permit such acquisitions. Protestants, on the other hand, assert that the Douglas Amendment does not authorize states to place discriminatory restrictions on the admission of out-of-state bank holding companies, particularly on a state-by-state basis.

1. CIBA UNDER THE COMMERCE CLAUSE.

Absent congressional authorization of CIBA in the Douglas Amendment, it appears that CIBA would be inconsistent with the standards for state action under the Commerce Clause as established by the Supreme Court. The central concern behind the Commerce Clause, according to the Court, is a desire "to avoid the tendencies toward economic Balkanization that had plagued relations between the Colonies and later among the States under the Articles of Confederation," *Hughes* v. *Oklahoma*, 441 U.S. 322, 325-326 (1978), and to create a "federal free trade unit" based on a principle that "our economic unit is the Nation" and that "the states are not separable economic units." *H. P. Hood & Sons, Inc.* v. *DuMond*, 336 U.S. 525, 537-538 (1947).

The Court has applied the Commerce Clause as granting Congress the power "[to] regulate commerce . . . among the several states",[12] and also as a limitation on the power of the states to impose barriers to or burdens on interstate commerce.[13] The basic rationale for this interpretation is both economic and political, and these concerns are particularly applicable to state statutes that selectively confer benefits on one or more other states and deny these same benefits to still other states. The Court has forcefully stated these core concerns:

"This Court has not only recognized this disability of the state to isolate its own economy as a basis for striking down parochial legislative policies designed to do so, but it has recognized the incapacity of the state to protect its own inhabitants from competition as a reason for sustaining particular exercises of the commerce power of Congress to reach matters in which states were so disabled.

The material success that has come to inhabitants of the states which make up this federal free trade unit has been the most impressive in the history of commerce, but the established interdependence of the states only emphasizes the necessity of protecting interstate movement of goods against local burdens and repressions. We need only consider the consequences if each of the few states that produce copper, lead, high-grade iron ore, timber, cotton, oil or gas should decree that industries located in that state shall have priority. What fantastic rivalries and dislocations and reprisals would ensue if such practices were begun!

Our system, fostered by the Commerce Clause, is that every farmer and every craftsman shall be encouraged to produce by the certainty that he will have free access to every market in the Nation, that no home embargoes will withhold his exports, and no foreign state will by customs duties or regulations exclude them. Likewise, every consumer may look to the free competition from every producing area in the Nation to protect him from exploitation by any. Such was the vision of the Founders; such has been the doctrine of this Court which has given it reality.

H. P. Hood & Sons, 336 U.S. at 538-39 (citations omitted).

The states retain the authority, particularly pursuant to their powers to safeguard the health and safety of their residents, to regulate matters of legitimate local concern in such a way as may impose incidental burdens on interstate commerce. However, the states may not regulate in a manner that imposes more than an incidental burden on interstate commerce [14] or that discriminates against articles of commerce from outside a given state unless there is some reason apart from their origin to treat them differently.[15]

In those instances where the states have acted to effect purposes of simple economic protectionism or in a manner that is patently discriminatory, the Supreme Court has held such state statutes to be *per se* unconstitutional.[16] In those cases where the states credibly advance a legitimate state purpose other than protection of local business, the Court has applied a balancing test, weighing whether the statute in question serves a legitimate state purpose and whether it could accomplish that purpose in a manner less burdensome to interstate commerce.[17]

Absent authorization by the Douglas Amendment, it would appear that, under the standards applied by the Court,[18] CIBA imposes a burden on interstate commerce of the type that would be found by the courts to violate the Commerce Clause. CIBA permits only bank holding companies located in New England to engage in banking activities in Connecticut while denying that right to bank holding companies located elsewhere. The discriminatory nature of CIBA is apparent from its legislative history, which demonstrates the intention of the Connecticut legislature to permit Connecticut banks and bank holding companies to develop and consolidate on a regional basis before having to compete with banks outside the region.[19]

BNE and CBT contend that CIBA does not conflict with the Commerce Clause decisions of the Supreme Court because CIBA relieves the ban or burden on interstate commerce imposed by Congress to the extent that it would replace six different banking zones in the individual New England states with a single barrier-free New England zone. They argue that Congress has imposed a restriction on interstate banking in the Doublas Amendment and that it has permitted the states to lift that ban by a specific statutory enactment.

In support of this position, BNE and CBT cite *Hughes* v. *Alexandria Scrap Corp.*, 426 U.S. 794, 815-816 (Stevens, J. —— —— concurring) (1976). In *Alexandria Scrap*, the Supreme Court upheld a Maryland statute that paid a bounty for destruction of any junked car formerly titled in Maryland despite a challenge that the statute made it easier for Maryland scrap processors to prove that a vehicle had been titled in Maryland than it did for out-of-state processors. The Court held that where a state acted as a market participant the Commerce Clause did not apply.[20] The Connecticut regional banking zone at issue in this case is clearly an example of the regulatory rather than proprietary function of the State of Connecticut, and Connecticut is not itself creating commerce by its own direct intervention in the marketplace. The reliance of BNE and CBT on the *Alexandria Scrap* rationale thus appears to be misplaced and, in fact, succeeding Supreme Court decisions seem to limit the *Alexandria Scrap* reasoning to those situations where the states are "market participants" rather than "market regulators." See *Reeves, Inc.* v. *Stake*, 447 U.S. 429, 436 (1980).[21]

Even if CIBA were not to be considered a *per se* unconstitutional burden on interstate commerce, the disparate treatment of non-New England bank holding companies does not appear to be justified "as in incidental burden necessitated by legitimate local concerns." *Lewis* v. *BT Investment Managers, supra*, 447 U.S. at 42. The Supreme Court suggested in the *Lewis* case that with respect to banking there are legitimate state interests in "discouraging undue economic concentration," "maximizing local control" and "regulating financial practices presumably to protect local residents from fraud." *Id.* at 43. The Court, however, found in that case that a complete ban on out-of-state entry into the trust business in Florida could not be justified as an incidental burden necessitated by legitimate local concerns. The Court noted that there were other regulatory techniques available to deal with local concerns that non-resident bank companies were more likely to be sources of monopoly power or fraud than local companies.

Similarly, in this case, there are less restrictive means than a discriminatory geographic restriction to accomplish the objectives of the Connecticut legislature. There is no indication that all New York or New Jersey companies, for example, raise greater problems with respect to local control and economic concentration than those of Massachusetts and Rhode Island. To accomplish the objective of avoiding concentration of resources in a non-discriminatory manner limitations could be placed on total banking assets or total deposits that a bank company may hold in order to qualify for additional acquisitions within Connecticut. These and other less discriminatory alternatives suggest that CIBA would not be viewed as an incidental burden on interstate commerce necessitated by legitimate local concerns. This conclusion is consistent with the Supreme Court's finding in the *Lewis* case that Florida's interest in local control did not justify a prohibition on entry of non-resident trust companies because of the discriminatory burden which the limitation imposed on interstate commerce. Thus, CIBA does not appear to be consistent with the prohibition in the Commerce Clause on discrimination against interstate commerce by the states.[22]

2. DISCRIMINATION AUTHORIZED BY THE DOUGLAS AMENDMENT.

BNE and CBT, however, contend that the Douglas Amendment authorizes the discrimination provided for by CIBA. The Douglas Amendment provides:

"Notwithstanding any other provision of this section, no application shall be approved under this section which will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank located outside of the State in which the operations of such bank holding

company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later, unless the acquisition of such shares or assets of a State bank by an out-of-state bank holding company is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication. For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest."

12 U.S.C. § 1842(d)(1). The Supreme Court in *Lewis, supra,* 447 U.S. at 47, described this language as establishing a general federal prohibition on acquisition or expansion of banking subsidiaries across state lines and as conferring on the states only "authority to create exceptions to this general prohibition."

It is clear that if Congress, in the Douglas Amendment, authorized discriminatory state action, CIBA would not be unconstitutional under the Commerce Clause. In the specific context of the Douglas Amendment, the Supreme Court has stated that Congress may prohibit as well as promote commerce [23] and may exercise its plenary power under the Commerce Clause "by conferring upon the State an ability to restrict the flow of interstate commerce that they would not otherwise enjoy." *Lewis* v. *RT Investment Managers, Inc.,* 447 U.S. 27, 44 (1980).[24] The issue presented by CIBA is the extent of a state's powers when it decides to lift the Douglas Amendment prohibition. Does the Douglas Amendment, which establishes a total prohibition on acquisitions by out-of-state bank companies, authorize a state to discriminate among the states when it permits entry? Does the Douglas Amendment permit Connecticut to admit bank companies from neighboring Massachusetts and other New England States meeting certain qualifications regarding reciprocity but not from other states even if they were to meet the reciprocity qualifications?

It is, therefore, necessary to determine the scope of authorization, if any, for states to discriminate among other states in lifting the Douglas Amendment's ban against interstate acquisition of banks by bank companies. This task is more difficult because, as noted above, this case involves an unusual form of discrimination. There is a long history of decisions of the Supreme Court and lower federal courts involving the application of the Commerce Clause to state laws that provide a preference for their own residents as against those of *all* other states. No case has been found under the Commerce Clause or generally in the literature on this Clause, in which a state has provided for preferential treatment of its own citizens and those of selected other states, while excluding the residents of all other states from this favored treatment.

In deciding cases where the differential treatment is applied against all other states equally, the Supreme Court requires, in order to find an authorization for discrimination in federal statutes, that such authorization be "expressly" [25] or "explicitly" [26] or "specifically" [27] stated in federal law. In *Sporhase* v. *Nebraska,* 458 U.S. 941, 960 (1982), defendants challenged a Nebraska law restricting the export of ground water as an impermissible burden on interstate commerce. Nebraska argued in defense of its statute that the congressional intent to authorize otherwise impermissible burdens on interstate commerce was demonstrated by 37 federal statutes in which Congress had indicated its intent not to preempt state water laws and by congressional authorization of certain interstate surface water compacts. The Court rejected this argument, holding that these federal statutes did not show an "expressly stated" intention to remove Commerce Clause restraints on state water laws. Similarly, in *New England Power Company* v. *New Hampshire,* 455 U.S. 331, 341 (1982), and in *Lewis, supra,* the Court held that federal statutes reserving to the state residual authority over export of electricity or over bank holding companies were in no sense affirmative grants of power to the state to impose undue burdens on interstate commerce. The Court may have relaxed this high standard somewhat in *White* v. *Massachusetts Council of Construction Employers,* 103 S. Ct. 1042 (1983), where it approved geographic restrictions on the hiring of non-resident workers for city-funded construction projects, relying upon the explicit regulations of the Department of Housing and Urban Development and a general, unspecific authorization in federal statute for such regulations.

Based on these requirements for specificity, the Douglas Amendment does not appear *on its face* to authorize discrimination by Connecticut in favor of its own residents and those of Massachusetts and other New England states having reciprocal laws, but against all other states. The Douglas Amendment's general authorization to the Board of Governors to permit interstate acquisitions if they are " . . . specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication," does not appear to meet the stringent test of explicitness laid down by the Supreme Court.

BNE and CBT argue, however, that the legislative history of the Douglas Amendment indicates the intention of the Congress to give the states complete discretion in setting the terms of entry of out-of-state bank holding companies without the limitations imposed by the Commerce Clause. While the reliance on the legislative history is a valid method of determining that Congress authorized the lifting of Commerce Clause restrictions with respect to a particular state enactment, the Supreme Court has expressed reluctance to place undue weight on this type of inquiry in an attempt to find authority from Congress for states to discriminate against the residents of other states. The Court stated:

"Reliance on . . . isolated fragments of legislative history in divining the intent of Congress is an exercise fraught with hazards and "a step to be taken cautiously."

New England Power, 455 U.S. at 341, quoting *Piper* v. *Chris-Craft Industries, Inc.,* 430 U.S. 1, 26 (1976). When Congress has not expressly stated an intent to permit state legislation otherwise inconsistent with the Commerce Clause, the Court has no authority to rewrite the legislation "based on mere speculation of what Congress probably had in mind." *Id.* at 343.[28]

The Douglas Amendment was proposed during the debate on the Senate floor and there is no committee report or other significant legislative history to clarify its meaning.[29] There was very little discussion of the power of the state to override the interstate banking ban imposed by the Douglas Amendment and no discussion of the power of the states to discriminate among potential out-of-state entrants.[30] Congress was clearly more concerned with the federal prohibition on interstate acquisitions than on terms under which the states could lift this ban.

In his remarks during the Senate debate, Senator Douglas, sponsor of the Amendment, referred to the ability of the states to permit the entry of out-of-state bank holding companies "only to the degree that state laws expressly permit them." [31] He also stated that the Amendment paralleled the McFadden Act restrictions on the power of national banks to branch intrastate and interstate "in a way contrary to State policy." [32] Thus it can be persuasively argued that Senator Douglas construed his amendment as granting plenary power to the states to set their own policies and to permit entry of out-of-state bank holding companies to the degree that they chose. However, there is also an argument that the excerpts from the Senate debate are too fragmentary and unspecific to show congressional intent to authorize discrimination otherwise contrary to the Commerce Clause, especially where the Supreme Court has required such explicit and clear authorization of discrimination by the Congress because of the fundamental implications of such discrimination for the federal union.

The Board has a limited amount of judicial guidance on this issue. The only court to consider the legislative history of the Douglas Amendment has been the U.S. Court of Appeals for the District of Columbia Circuit in *Iowa Independent Bankers Association* v. *Board of Governors,* 511 F.2d 1288, 1293 (1975). The case involved, in part, a challenge under the Equal Protection Clause of the Fourteenth Amendment to the Iowa statute that permitted, on the basis of their location in the state prior to the enactment of the Bank Holding Company Act Amendments of 1970, out-of-state bank holding companies operating two or more banks in Iowa to continue to expand and to acquire new banks in Iowa on the same basis as a local bank holding company.

A less stringent standard applies to state action under the Equal Protection Clause than under the Commerce Clause. Under the former provision a state need only show that its economic legislation, presuming it does not affect fundamental rights or create a suspect classification, bears a rational relationship to a legitimate state purpose. Under the Commerce Clause, however, discrimination is disabling *per se,* and even when a statute only imposes an incidental burden on interstate commerce it will be struck down if such burden is clearly excessive in relation to expected local benefits. The Court upheld the constitutionality of the Iowa statute under the Equal Protection Clause on the basis that it was actually a statute that conferred grandfather rights on the only out-of-state bank holding company operating in Iowa.

The Court then turned to petitioners argument that the Iowa statute conflicted with federal law, specifically with the Douglas Amendment. Petitioners in *Iowa Independent Bankers* advanced the argument that the Iowa statute conflicted with "implicit . . . prohibition against discrimination between out-of-state bank holding companies," [33] which, they asserted, was intended by Congress in the Douglas Amendment. They argued that under the Douglas Amendment states may only decide "whether to extend the right to acquire in-state banks to all out-of-state bank holding companies or to prohibit such acquisitions entirely." [34] The Court then reviewed the lim-

ited legislative history of the Douglas Amendment and these arguments, finding that Congress did not intend to bar discrimination like that embodied in the Iowa statute. The Court also stated that the Douglas Amendment conferred on the states a right to control the expansion of interstate banking "so that such expansion would not contravene state policy." [35]

The Court's review of the legislative history of the Douglas Amendment in *Iowa Independent Bankers* was not conducted for purposes of determining the validity of the Iowa statute under the Commerce Clause. Therefore, the Court did not focus on the Supreme Court's standard of review under the Clause and did not consider whether the alleged legislative authorization by the Douglas Amendment is express and unambiguous so as to sanction discrimination against interstate commerce that would otherwise run afoul of the Commerce Clause.

The actions of the states and the Board in interpreting and applying the Douglas Amendment also lend some support to the position that the Amendment authorizes the states to permit restricted or conditional entry of out-of-state bank holding companies such as sanctioned by CIBA. As early as 1972, Iowa enacted a statute that accorded certain grandfather rights to expand and to make additional acquisitions to out-of-state bank holding companies already controlling two or more banks in Iowa [36]—establishing, in fact, a preference for a particular out-of-state bank holding company against all other non-resident companies. Recently, Nebraska enacted a similar statute.[37] In addition, Delaware,[38] Maryland,[39] Virginia [40] and Nebraska [41] have permitted out-of-state bank holding companies to acquire local banks under certain conditions, including limitations on activities, number of offices and home office location, which are not imposed on in-state bank holding companies. One of the major purposes of such legislation is to gain employment for local residents and tax revenues for the state without seriously affecting competing local banking businesses; the statutes accomplish this by permitting out-of-state bank holding companies to export their credit card operations to states with less restrictive usury laws. Similary, South Dakota has recently permitted the entry of out-of-state bank holding companies on a limited basis to acquire a state bank with a broad range of insurance powers.[42] The Board has approved a number of applications by out-of-state bank holding companies to acquire local banks under the credit card or grandfather statutes [43] and, as noted above, the U.S. Court of Appeals for the District of Columbia has upheld a Board order under the Iowa statute.[44]

These statutes obviously result in some burdens on interstate commerce and appear to assume that the states have full discretion to set the terms of entry of out-of-state bank holding companies.[45] Nothing in the history of the Douglas Amendment suggests that the states were to be permitted only to choose between not allowing out-of-state bank holding companies to enter, and allowing completely free entry.[46] In approving applications under these statutes, the Board appears to have accepted at least some measure of discretion rather than requiring a simple "on and off switch." A contrary conclusion would seem to raise some questions about validity of the state statutes cited above, although it would appear that such statutes might be viewed as imposing substantially less of a burden on commerce in the furtherance of legitimate state objectives that CIBA imposes.

FOOTNOTES

[1] New England bank holding companies include those with their principal place of business in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The Connecticut statute further restricts the definition of "New England bank holding company" to exclude bank holding companies directly or indirectly controlled by bank holding companies outside of New England. CIBA thus prohibits non-New England bank holding companies from "leapfrogging" into the Connecticut market through Maine or other New England states that may enact interstate banking statutes without regional restrictions.

[2] U.S. Const., Article I, section 10, clause 3.

[3] U.S. Const., Amendment XIV, Section 1.

[4] U.S. Const., Article I, section 8, clause 3.

[5] While there are judicial decisions upholding interstate agreements, these agreements have not had the objective of discrimination but rather that of cooperation on a subject matter of exclusive interest to the states that are parties to these agreements. *See, e.g., Washington Metropolitan Area Transit Authority* v. *One Parcel of Land*, 706 F.2d 1312, 1314 (4th Cir.), *cert. denied*, 104 S. Ct. 238 (1983); *Jacobson* v. *Tahoe Regional Planning Agency*, 566 F.2d 1353, 1357 (9th Cir. 1977), *aff'd in part and rev'd in part sub nom. Lake Country Estates, Inc.* v. *Tahoe Regional Planning Agency*, 440 U.S. 391 (1979).

[6] Art. I. § 10, cl. 3. This clause has been invoked infrequently, particulary in recent years when expanded interpretation of what constitutes interstate commerce has meant that agreements among states more frequently might be invalidated as burdening interstate commerce in violation of the Commerce Clause.

[7] See *United States Steel Corporation* v. *Multistate Tax Commission*, 434 U.S. 452 (1978); *Virginia* v. *Tennessee*, 148 U.S. 503 (1893).

[8] See Transcripts of Connecticut Senate Debate, May 18, 1983 ("Conn. Sen. Debate") at 61, 96 (Sen. Sullivan); Transcripts of Connecticut House of Representatives Debate, May 26, 1983 ("Conn. House Debate") at 224, 234, 236 (Rep. Onorato) and 276, 277 (Rep. Jaekle).

[9] See also *Dandridge* v. *Williams*, 397 U.S. 471, 484-486 (1971); *Iowa Independent Bankers Association* v. *Board of Governors, supra.*

[10] See *Minnesota* v. *Clover Leaf Creamery Co.*, 449 U.S. 456, 461-463 (1981); *Western and Southern Life Insurance Co.*, 451 U.S. at 668.

[11] "The Report to the General Assembly of the State of Connecticut of The Commission to Study Legislation to Limit the Conduct of Business in Connecticut by Subsidiaries of Bank Holding Companies," January 5, 1983 ("The Hebb Report"), pp. 10, 12-13.

[12] U.S. Const., Art. I, § 8, cl. 3.

[13] *Great Atlantic and Pacific Tea Company* v. *Cottrell*, 424 U.S. 366, 370-71 (1976).

[14] *Philadelphia* v. *New Jersey*, 437 U.S. 617, 624 (1978).

[15] *Lewis* v. *BT Investment Management, Inc.*, 447 U.S. at 27, (1980). See also *Philadelphia* v. *New Jersey, supra*, at 626-627.

[16] *Philadelphia* v. *New Jersey, supra*, at 624.

[17] *Hughes* v. *Oklahoma*, 441 U.S. 322, 336 (1979); *Pike* v. *Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

[18] See *Dean Milk Co.* v. *Madison*, 340 U.S. 349 (1951) (ordinance of the City of Madison, Wisconsin, requiring all milk sold in Madison to be processed and bottled at a plant within five miles of the city); *Pennsylvania* v. *West Virginia*, 262 U.S. 553 (1923) (West Virginia requirement that all local needs for natural gas be met before natural gas could be shipped out of the state); *H.P. Hood & Sons* v. *DuMond*, 336 U.S. 525 (1949) (denial of a milk receiving plant in New York to a Massachusetts distributor because it would injure local competition); *Philadelphia* v. *New Jersey*, 437 U.S. 617 (1978) (New Jersey law prohibiting the import of liquid or solid waste which originated or was collected outside the State of New Jersey); *Lewis* v. *BT Investment Managers, Inc.*, 447 U.S. 27 (1980) (Florida law prohibiting out-of-state bank holding companies from engaging in investment advisory activities).

[19] The Hebb Report, *supra*, at 12. See also Conn. Sen. Debate, *supra*, at 60, 64, 70 (Statement of Senator Sullivan) and Conn. House Debate at 241, 258 (Statement of Representative Onorato).

[20] In his concurring opinion, Justice Stevens suggested that the decision in effect held that, since Maryland "created a market that did not previously exist," it could not be found to burden commerce. 426 U.S. at 815-816.

[21] "[T]he Commerce Clause responds principally to state taxes and regulatory measures impeding private trade in the national marketplace. . . . There is no indication of a constitutional plan to limit the ability of the States themselves to operate freely in the free market." *Id.* at 436-437 (citations omitted). See also *White* v. *Massachusetts Council of Construction Employers*, 103 S. Ct. 1042 (1983); *United Building & Construction Trades Council* v. *Mayor & Council of Camden*, 52 U.S.L.W. 4187 (U.S. Feb. 21, 1984).

[22] In *Northeast Bancorp* v. *Wolf*, (Civil Action H-83-654), the U.S. District Court for the District of Connecticut in an opinion issued December 16, 1983, dismissed a challenge to the Connecticut Act on standing grounds but it described the Act as ". . . statutory provisions that discriminate between New England and non-New England banks . . ."

[23] See *Prudential Insurance Company* v. *Benjamin*, 328 U.S. 408, 434 (1946).

[24] See also *Prudential Insurance at 423-24.*

[25] *New England Power Co.* v. *New Hampshire*, 455 U.S. 331, 340-41 (1982).

[26] *Western and Southern Life Insurance Co.* v. *State Board of Equalization*, 451 U.S. 648, 653-654 (1981).

[27] *White* v. *Massachusetts Council of Construction Employers, 103 S. Ct. 1042 (1983).*

[28] The court has allowed discrimination against other states generally based upon a clear statement of congressional intent contained in the legislative history of a federal statute. Relying on the clearly expressed intention of Congress, derived from the legislative history, to leave insurance regulation exclusively to the states, the Court has found the McCarran-Ferguson Act, 15 U.S.C. § 1011 *et seq.*, to authorize discriminatory state statutes that would otherwise offend the Commerce Clause. *Prudential Insurance Company* v. *Benjamin*, 328 U.S. 408, 427-432 (1946), and *Western and Southern Life Insurance Co., supra*, 451 U.S. at 465.

[29] The pertinent debates are found at 102 Cong. Record 6750-58 and 6854-62 (1956).

[30] See *Iowa Independent Bankers* v. *Board of Governors of the Federal Reserve System*, 511 F.2d 1288 (D.C. Cir.), *cert. denied* 423 U.S. 875 (1975).

[31] "[W]hat our amendment aims to do is to carry over into the field of holding companies the same provisions which already apply for branch banking under the McFadden Act—namely, our amendment will permit out-of-State holding companies to acquire banks in other States only to the degree that State laws expressly permit them; and that is the provision of the McFadden Act." 102 Cong. Record 6858 (1956).

[32] "[The amendment] is a logical continuation of the principles of the McFadden Act, which tried to prevent the Federal power from being used to permit national banks to expand across State lines in a way contrary to State policy and, of course, under the McFadden Act, even to expand within a State." 102 Cong. Record 6860 (1956).

[33] *Iowa Independent Bankers, supra*, 511 F.2d at 1296.

[34] *Ibid.*

[35] *Id.* at 1297. In *Conference of State Bank Supervisors* v. *Conover*, 715 F.2d 604, 615 (1983). The Court of Appeals for the D.C. Circuit restated its conclusion that the legislative history of the Douglas Amendment allowed a state "to discriminate in admitting bank holding companies."

[36] Iowa Code Ann. § 524.1805.

[37] Neb. Rev. Stat. § 8-903 (Supp. 1983).

[38] Del. Code Ann., title 5, § 803.

[39] Md. Fin. Inst. Code Ann. § 5-901.

[40] Va. Code § 6.1-390 to 6.1-397.

[41] Neb. Rev. Stat. §§ 8-905, 8-906 (Supp. 1983).

[42] S.D. Codified Laws Ann. §§ 51-16-40 to 51-16-44 (Supp. 1984).

[43] *See, e.g., Citicrop*, 67 Fed. Res. Bull. 181 (1981); *J.P. Morgan & Company, Inc.* 67 Fed. Res. Bull. 917 (1981); *Northwest Bancorporation*, 38 Fed. Reg. 21,530 (1973).

[44] *Iowa Independent Bankers Association, supra.*

[45] To a lesser degree state statutes that permit limited out-of-state acquisition only in the case of a troubled bank in need of financial assistance also allow the states to condition entry. See, for example, Wash. Rev. Code Ann. § 30.04.230.

[46] Senator Robertson, Chairman of the Senate Committee on Banking and Currency, suggested by his comments in the 1956 debate on the Bank Holding Company Act that Congress may have intended

to give the states more authority than merely to allow unrestricted entry of out-of-state bank holding companies. Senator Robertson suggested that states should be permitted to retain the authority to permit acquisitions by out-of-state bank holding companies in the limited case where a troubled bank might require financial assistance. 102 Cong. Record 6572 (1956).

[U.S. Court of Appeals for the Second Circuit Nos. 1378, 1379, 1380, August Term, 1983 (Argued May 14, 1984; Decided August 1, 1984), Docket Nos. 84-4047, 84-4051, 84-4053, 84-4081]

NORTHEAST BANCORP, INC. AND UNION TRUST COMPANY, PETITIONERS-APPELLANTS, *v.* BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, RESPONDENT-APPELLEE; CITICORP, A CORPORATION, PETITIONER *v.* THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, RESPONDENT; BEFORE: CARDAMONE AND PRATT, *Circuit Judges,* and BONSAL, *District Judge.**

Appeal from orders of the Federal Reserve Board approving mergers pursuant to Sections 3 and 4(c)(8) of the Bank Holding Company Act of 1956.

Affirmed.

George D. Reycraft, New York, N.Y. (Cadwalader, Wickersham & Taft, New York, N.Y., of counsel), *for Petitioners Northeast Bancorp, Inc. and Union Trust Company.*

James W. Quinn, New York, N.Y. (Weil, Gotshal & Manges, New York, N.Y., of counsel), *for Petitioner Citicorp.*

James E. Scott, Washington, D.C. (Richard K. Willard, Acting Asst. Attorney General, U.S. Department of Justice, Washington, D.C.; Michael Bradfield, General Counsel, Richard M. Ashton, Asst. General Counsel, Board of Governors of the Federal Reserve System, Washington, D.C., of counsel), *for Respondent Board of Governors of the Federal Reserve System.*

Bertram M. Kantor, New York, N.Y. (Michael H. Byowitz, Wachtell, Lipton, Rosen & Katz, New York, N.Y., of counsel), *for Intervenor CBT Corporation.*

(Kenneth Laurence, Choate, Hall & Stewart, Boston, Mass.; Prof. Laurence H. Tribe, Cambridge, Mass., of counsel), *for Intervenor Bank of New England Corporation.*

William Hughes Mulligan, New York, N.Y. (Douglas M. Kraus, William J. Sweet, Jr., Lawrence J. Block, Margaret Enloe, Skadden, Arps, Slate, Meagher & Flom, New York, N.Y., of counsel), *for Intervenor Hartford National Corporation.*

Jamie W. Katz, Asst. Attorney General, The Commonwealth of Massachusetts, Boston, Mass., Francis X. Bellotti, Attorney General, *for Intervenor Commonwealth of Massachusetts.*

John G. Haines, Asst. Attorney General, Hartford, Connecticut (Joseph I. Lieberman, Attorney General, of counsel), *for Intervenor State of Connecticut and Brian J. Woolf, Banking Commissioner.*

Stuart C. Stock, Washington, D.C. (Covington & Burling, Washington, D.C.), *for Intervenor Bank of Boston Corporation.*

Bonsal, *District Judge:*

Petitioners Citicorp ("Citicorp"), Northeast Bancorp, Inc. together with Northeast's subsidiary bank, Union Trust Company (collectively "Northeast"), and intervenor Bank of Boston Corporation ("BBC") petition this court to review three orders of the Board of Governors of the Federal Reserve System (the "Board") which, pursuant to Sections 3 and 4(c)(8) of the Bank Holding Company Act of 1956 (the "BHCA"), approved the applications of:

(1) Bank of New England Corporation ("BNE"), a Massachusetts bank holding company, to acquire CBT Corporation ("CBT"), a Connecticut bank holding company;

(2) Hartford National Corporation ("HNC"), a Connecticut bank holding company, to acquire Arltru Bankcorporation ("Arltru"), a Massachusetts bank holding company; and

(3) Bank of Boston Corporation ("BBC"), a Massachusetts bank holding company, to acquire Colonial Bancorp, Inc. ("Colonial"), a Connecticut bank holding company.

In enacting the BHCA, Congress established a framework for the supervision and regulation of bank holding companies, i.e., companies that control one or more banks.[1] Section 3 of the BHCA prohibits any acquisition of a bank by a bank holding company without prior approval of the Board. Section 4 of the BHCA allows bank holding companies, through "non-bank" subsidiaries, to provide financial services which the Board deems to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." 12 U.S.C. § 1843(c)(8).[2]

The BHCA, as originally passed by the House of Representatives, banned interstate acquisitions. *See* H.R. Rep. No. 609, 84th Cong., 1st Sess. 3, 15 (1955). The original version of the bill reported out by the Senate Committee contained no provision dealing with interstate acquisitions. *See* S. Rep. No. 1095, 84th Cong., 1st Sess. 10-11 (1955). However, Senator Douglas of Illinois proposed an amendment in the Senate which was adopted by both Houses as Section 3(d) of the BHCA (the Douglas Amendment). The Douglas Amendment provided that no application by a bank holding company to acquire a bank located in another state could be approved by the Board unless the state in which such bank was located had, by statute, specifically authorized such acquisition.[3]

Massachusetts, in 1982, and Connecticut, in 1983, enacted statutes (hereinafter referred to as the Massachusetts and Connecticut statutes, respectively) to permit interstate bank acquisitions. The Massachusetts statute authorized bank holding companies located in any other New England state to acquire banks located in Massachusetts, provided that the New England state in which such bank holding company was located had granted reciprocal privileges to bank holding companies located in Massachusetts. The Connecticut statute contained a similar provision.[4]

(1) THE BNE APPLICATION

On July 11, 1983 BNE entered into an agreement to acquire CBT under the authority of the Connecticut statute. On August 5, 1983, pursuant to Sections 3 and 4(c)(8) of the BHCA, BNE applied to the Board for approval of its proposed acquisition of CBT. By notice published in the *Federal Register* dated September 15, 1983, the Board invited comment on BNE's application.[5] Citicorp and Northeast opposed the application and asked the Board to defer action pending the outcome of litigation Northeast had instituted challenging the constitutionality of the Connecticut statute, which litigation was dismissed on December 16, 1983.[6] On March 26, 1984 the Board approved BNE's proposed acquisition of CBT pursuant to Sections 3 and 4(c)(8) of the BHCA.[7] The Board found that the acquisition came within the Douglas Amendment because it had been specifically authorized by the Connecticut statute. The Board found that "the Douglas Amendment should be read as a renunciation of federal interest in regulating the interstate acquisition of banks by bank holding companies." The Board also found no "clear and unequivocal" basis for finding the Connecticut statute unconstitutional

(2) THE HNC APPLICATION

On September 1, 1983 HNC entered into an agreement to acquire Arltru under the authority of the Massachusetts statute. On October 19, 1983, pursuant to Section 3 of the BHCA, HNC applied to the Board for approval of its proposed acquisition of Arltru. By notice published in the *Federal Register* dated November 25, 1983, the Board invited comment.[8] By letter dated December 16, 1983 and attachments, Citicorp opposed HNC's application. On March 26, 1984 the Board approved HNC's proposed acquisition of Arltru pursuant to Section 3 of the BHCA.[9] The Board found that the acquisition came within the Douglas Amendment because it had been specifically authorized by the Massachusetts statute. The Board found that "the Douglas Amendment should be read as a renunciation of federal interest in regulating the interstate acquisition of banks by bank holding companies." The Board also found no "clear and unequivocal" basis for finding the Massachusetts statute unconstitutional.

(3) THE BBC APPLICATION

BBC entered into an agreement to acquire Colonial under the authority of the Connecticut Statute, and pursuant to Sections 3 and 4(c)(8) of the BHCA BBC applied to the Board for approval of its proposed acquisition of Colonial. By notice published in the *Federal Register* dated February 16, 1984, the Board invited comment on BBC's application.[10] On March 8, 1984 Citicorp filed comments with the Board opposing the application. On May 18, 1984 the Board approved BBC's proposed acquisition of Colonial pursuant to Sections 3 and 4(c)(8) of the BHCA.[11] On the basis of the Board's findings with respect to the applications of BNE and HNC, the Board refused to find the Connecticut statute unconstitutional, and so approved BBC's application.

Pursuant to Section 9 of the BHCA, Citicorp and Northeast filed with this court petitions for review of the orders of the Board approving the BNE-CBT and HNC-Arltru acquisitions.[12] The petitions were consolidated and the acquisitions stayed pending review by this court of the orders of the Board. BNE, CBT, HNC, the State of Connecticut and the Commonwealth of Massachusetts were permitted to intervene. Thereafter, on May 25, 1984, pursuant to Fed. R. App. P. 15(d), BBC moved for leave to intervene, which motion was granted by this court on June 18, 1984. BBC also moved to consolidate for decision the petition for review filed in its action with the petitions pending before the court. This motion was also granted by this court on June 18, 1984.

Discussion

Petitioners Citicorp and Northeast contend that the Board erred in approving the applications of BNE, HNC, and BBC because the Massachusetts and Connecticut statutes, by limiting interstate acquisitions of Massachusetts and Connecticut banks to bank holding companies located in other New England states, impermissibly restrict interstate commerce in violation of the Commerce Clause. Petitioners argue that since the Massachusetts and Connecticut statutes violate the Commerce Clause, they

*Footnotes at end of article.

are unconstitutional, and the Douglas Amendment did not permit the Board to approve the applications. Petitioners also contend that the Massachusetts and Connecticut statutes are part of an interestate understanding which violates the Compact Clause. They charge that be discriminating against non-New England bank holding companies, the statutes also violate the Equal Protection Clause.

The intervenors, on the other hand, contend that the Massachusetts and Connecticut statutes promote interstate commerce and do not violate the Commerce Clause. The intervenors argue that even if the statutes restrict interstate commerce, they do not violate the Commerce Clause since they were enacted under the authority of the Douglas Amendment. The intervenors says that the Massachusetts and Connecticut statutes do not represent an interstate agreement or compact in violation of the Compact Clause; and finally, the intervenors argue that the statutes do not violate the Equal Protection Clause.

The contentions of the parties make it necessary for us to first consider the origin and scope of the Douglas Amendment.

THE DOUGLAS AMENDMENT

As previously stated, the BHCA, as originally passed by the House of Representatives, banned all interstate acquisitions. However, Senator Douglas of Illinois proposed the Douglas Amendment in the Senate and it was adopted by both Houses as Section 3(d) of the BHCA. The Douglas Amendment provided that no application by a bank holding company to acquire a bank located in another state could be approved by the Board unless the state in which such bank was located had specifically authorized such acquisition by statute.[13] In describing his proposed amendment, Senator Douglas stated:

"What our amendment aims to do is to carry over into the field of holding companies the same provisions which already apply for branch banking under the McFadden Act—namely, our amendment will permit out-of-State holding companies to acquire banks in other States only to the degree that State laws expressly permit them. . . ." 102 Cong. Rec. 6858 (1956).

At the time the Douglas Amendment was enacted, no state permitted interstate acquisitions by bank holding companies. Therefore, Senator Douglas observed that the immediate effect of the amendment would be "to bar the expansion of bank holding companies across State lines." 102 Cong. Rec. at 6860. "But," he added, "the amendment would leave the way open for States to make explicit provision for such purchases and acquisitions if they so decided." *id.*

The Board, after reviewing its legislative history, found the Douglas Amendment to be a "renunciation of federal interest in regulating the interstate acquisitions of banks by bank holding companies." As recently pointed out by the Supreme Court in *Securities Industry Association* v. *Board of Governors of the Federal Reserve System,* —— U.S. —— (1984), "[t]he Board is the agency responsible for federal regulation of the national banking system, and its interpretation of a federal banking statute is entitled to substantial deference."

The Douglas Amendment prohibits the Board from approving applications by bank holding companies to acquire banks located in other states unless the state in which the bank is located has enacted a statute "specifically authorizing" such acquisitions. The Massachusetts and Connecticut statutes specifically authorize acquisitions of Massachusetts and Connecticut banks by bank holding companies located in other New England states. Without these statutes no out-of-state bank holding companies could acquire Massachusetts or Connecticut banks. Therefore, in permitting interstate acquisitions (albeit limited to New England), Massachusetts and Connecticut statutes would appear to promote interstate commerce rather than restrict it.

We have considered the argument that the Massachusetts and Connecticut statutes, to avoid conflicting with federal law, must either permit all bank holding companies throughout the United States to acquire their banks or permit none. However, we find nothing in the language or history of the Douglas Amendment which supports this contention. *See Iowa Independent Bankers* v. *Board of Governors of the Federal Reserve System,* 511 F.2d 1288, 1296–97 (D.C. Cir.), *cert. denied,* 423 U.S. 875 (1975). Indeed, Section 7 of the BHCA reserves to the states the power and jurisdiction they possessed before the BHCA was enacted.[14]

COMMERCE CLAUSE

The Commerce Clause grants to Congress the power "[t]o regulate Commerce . . . among the several States . . . ." U.S. Const., Art. I, § 8, cl. 3. Congress, of course, may regulate commerce among the states as it sees fit. *Western & Southern Life Insurance Co.* v. *State Board of Equalization,* 451 U.S. 648, 658 (1981); *Prudential Insurance Co.* v. *Benjamin,* 328 U.S. 408, 434 (1946). The Commerce Clause has been interpreted to limit the power of the states to interfere with or impose burdens on interstate commerce. *Western & Southern Life Insurance Co.,* 451 U.S. at 652; *Lewis* v. *BT Investment Manager, Inc.,* 447 U.S. 27 34–36 (1980); *Great Atlantic & Pacific Tea Co.* v. *Cottrell,* 424 U.S. 366, 370–71 (1976). However, if Congress authorizes the states to regulate some aspect of interstate commerce, any action taken by a state within that authority is "invulnerable" to challenge. *Western & Southern Life Insurance Co.,* 451 U.S. at 652–53. Moreover, Congress may authorize the states to enact statutes which may interfere with interstate commerce. Such statues do not violate the Commerce Clause. *White* v. *Massachusetts Council of Construction Employers,* 460 U.S. 204 (1983). However, congressional authorization must be clear. *South Central Timber Development, Inc.* v. *Wunnicke,* —— U.S. —— (1984); *White,* 460 U.S. at —— (1983); *Western & Southern Life Insurance Co.,* 451 U.S. at 653–54. We believe that, by enacting the Douglas Amendment, Congress authorized Massachusetts and Connecticut to enact the statutes challenged here.

For the reasons above stated, we conclude that the Massachusetts and Connecticut statutes do not violate the Commerce Clause. Therefore, the Board, in approving the acquisitions, properly concluded that there was no such violation.

COMPACT CLAUSE

The Compact Clause of the Constitution provides that "[n]o State shall, without the Consent of Congress, . . . enter into any Agreement or Compact with another State, or with a foreign Power. . . ." U.S. Const., Art. I, § 10, cl. 3.

Petitioners contend that the Board's approval of the BNE-CBT, HNC-Arltru, and BBC-Colonial acquisitions should be reversed because the Massachusetts and Connecticut statutes which authorized them were enacted pursuant to an interstate compact to establish a regional banking system in the New England area. Such a compact, say petitioners, violates the Compact Clause.

In addition to the statutes enacted by Massachusetts and Connecticut, Rhode Island has enacted a statute which also limits acquisition of its banks to bank holding companies located in other New England states. However, the Rhode Island limitation will expire two years after the statute's effective date of July 1, 1984. Maine, by statute, permits the acquisition of Maine banks by out-of-state bank holding companies without limitation.[15] Vermont and New Hampshire do not have bank holding company statutes.

In view of the similarities in the Massachusetts and Connecticut statutes and the limitation to New England bank holding companies, the statutes could be considered as part of a plan or compact to create a regional banking system. Indeed, after considering the legislative history of the Massachusetts and Connecticut statutes and the fact that they were enacted within a six-month period, the Board found that the statutes indicated a plan to create a regional banking system in New England. However, such a plan, even if treated as a compact, would only violate the Compact Clause if it were a "combination tending to the increase of political power in the States, which may encroach upon or interfere with the just supremacy of the United States." *United States Steel Corp.* v. *Multistate Tax Commission,* 434 U.S. 452, 471 (1978) (quoting *Virginia* v. *Tennessee,* 148 U.S. 503, 519 (1893)); *New Hampshire* v. *Maine,* 426 U.S. 363, 369 (1976).

As a practical matter, we do not think that a New England bank holding company system would in any way increase the political power of the New England states or encroach upon or interfere with the just supremacy of the United States. However, if at any time Congress should find any encroachment, it could remove the encroachment by appropriate legislation.

EQUAL PROTECTION CLAUSE

Petitioners argued before the Board that the Massachusetts and Connecticut statutes were unconstitutional in violation of the Equal Protection Clause of the Fourteenth Amendment. The Equal Protection Clause provides: "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., Amend. XIV, § 1. Petitioners contend that by only allowing New England bank holding companies to acquire Massachusetts and Connecticut banks, the Massachusetts and Connecticut statutes discriminate against non-New England bank holding companies in violation of the Equal Protection Clause.

This type of legislation violates the Equal Protection Clause only if "the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate purposes that we can only conclude that the legislature's actions were irrational." *Barry* v. *Barchi,* 443 U.S. 55, 67 (1979) (quoting *Vance* v. *Bradley,* 440 U.S. 93, 97 (1979)). We do not believe that the Massachusetts and Connecticut statutes evidence such irrationality. Rather, because "banking and related financial activities are of profound local concern, "*Lewis,* 447 U.S. at 38, the Massachusetts and Connecticut statutes appear to be designed to foster banking and related activities in those states and in neighboring New England states. Massachusetts and Connecticut may

be concerned that their banks could be dominated by large bank holding companies located in New York or Chicago if such holding companies were allowed to acquire their banks.[16] Therefore, we find no violation of the Equal Protection Clause. *See generally Iowa Independent Bankers*, 511 F. 2d at 1294-96.

In view of the foregoing, we affirm the orders of the Board approving the applications of BNE, HNC, and BBC.

Affirmed.

FOOTNOTES

*of the Southern District of New York, sitting by designation.

[1] 12 U.S.C. § 1841(c) defines a "bank," in relevant part, as an "institution . . . which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans."

[2] Bank holding companies are generally prohibited from owning Stock in companies other than banks.

[3] Section 3(d) of the BHCA, 12 U.S.C. § 1842(d) (the Douglas Amendment) provides:

"Limitation by State boundaries. Notwithstanding any other provision of this section, no application (except an application filed as a result of a transaction authorized under section 13(f) of the Federal Deposit Insurance Act [12 U.S.C. § 1823 (f)]) shall be approved under this section which will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank located outside of the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later, *unless the acquisition of such shares or assets of a State bank by an out-of-State bank holding company is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication.* For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest." (Emphasis added.)

[4] Mass. Gen. Laws Ann. ch.167 A, § 2 (West Supp. 1982); 1983 Conn. Act 83-411 (Reg. Sess.). Rhode Island has enacted a similar statute effective July 1, 1984, which is limited to New England acquisitions for two years after its effective date. R.I. Gen. Laws §§ 19-30-1, 19-30-2 (1984).

[5] Application Notice, 48 Fed. Reg. 41,524 (1983).

[6] On July 29, 1983 Northeast filed an action in the U.S. District Court in Connecticut against the Connecticut Banking Commissioner. On December 16, 1983 Northeast's complaint was dismissed on the ground that Northeast lacked standing to challenge the constitutionality of the Connecticut statute. *Northeast Bancorp, Inc.* v. *Woolf*, 576 F. Supp. 1225 (D. Conn. 1983), *aff'd mem.*, No. 84-7003 (2d Cir. April 25, 1984).

[7] *Bank of New England Corporation*, 70 Fed. Res. Bull. 374 (1984).

[8] Application Notice, 48 Fed. Reg. 53,172 (1983).

[9] *Hartford National Corporation*, 70 Fed. Res. Bull. 353 (1984).

[10] Application Notice, 49 Fed. Reg. 6012 (1984).

[11] *Bank of Boston Corporation*, 70 Fed. Res. Bull. 524 (1984).

[12] Section 9 of the BHCA (12 U.S.C. § 1848) provides that any party aggrieved by an order of the Board may petition for a review of the order in the United States Court of Appeals and that the Court shall have jurisdiction to affirm, set aside, or modify the Board's order.

[13] Section 3(a) of the BHCA allows the Board to approve the acquisition of both banks and bank holding companies.

[14] Section 7 of the BHCA (12 U.S.C. § 1846) provides:

"Reservation of rights to States. The enactment by the Congress of this chapter shall not be construed as preventing any State from exercising such powers and jurisdiction which it now has or may hereafter have with respect to banks, bank holding companies, and subsidiaries thereof."

[15] Me. Pub. Law 1983, ch. 302, § 2, as amended (1984).

[16] According to statistics published by the Association of Bank Holding Companies, each of the four largest New York bank holding companies has greater assets than those of all the New England bank holding companies combined. Association of Bank Holding Companies, *Bank Holding Company Facts* (Spring 1983 ed.).

REVIEW OF STATE BANKING STATUTES AND LEGISLATION CONCERNED WITH EXPANSION ACROSS STATE LINES—SEPTEMBER 4, 1984

ALABAMA

A gubernatorial task force designed to study and develop interstate banking proposals has been appointed; it is likely that a regionally reciprocal banking bill will be introduced in the legislature in January, 1985.

Independent bankers have opposed bank expansion legislation, while the four major bank holding companies are split on this issue; this, combined with procedural difficulties, will make passage of such legislation in the near future difficult.

Contained in several Southeastern region statutes/proposals.

ALASKA

No restriction on the out-of-state ownership of banks or bank holding companies.

ARIZONA

Gubernatorial task force now studying interstate banking.

In the 1984 legislative session H.B. 2117 would have permitted regional banking with Colorado, New Mexico, and Utah; regional banking is again expected to be considered in 1985.

Arizona Bankers Association has suggested phased-in reciprocal interstate banking, first with the above states, then adding California, and finally nationwide.

ARKANSAS

Bank holding companies headquartered out-of-the-state are prohibited from acquiring control of an Arkansas bank under the 1983 "Bank Holding Company Act."

Arkansas bankers are studying regional banking concepts with a view toward the 1985 legislative session.

CALIFORNIA

A.J. Res. 96 would urge the repeal of the McFadden Act and Douglas Amendment; pending.

A.B. 2094, which would have permitted reciprocal nationwide interstate banking, died in Committee January 1984.

California Bankers Association favors nationwide interstate banking and opposes regionally reciprocal banking.

COLORADO

Reciprocal interstate expansion for savings and loans died in the Colorado House in 1984 by a vote of 5-4 in the Business Affairs and Labor Committee; it is expected that in 1985, a regional banking bill will be considered.

CONNECTICUT

Permits regionally (New England) reciprocal expansion.

Prohibits the establishment of limited-service banks for entities headquartered outside of the state.

DELAWARE

Permits the establishment of a single limited-service bank in the state by an out-of-state entity.

State legislature may consider bank expansion legislation in 1985.

DISTRICT OF COLUMBIA

Representative Fauntroy introduced legislation, H.R. 4008, to permit regional reciprocity for D.C., Maryland, and Virginia in the 98th Congress.

D.C. Bankers Association is expected to propose regionally reciprocal banking legislation which, if adopted by the City Council, would allow mergers with banks in the Southeast.

FLORIDA

On May 16, 1984, the Florida legislature passed a regional reciprocity bill, which Governor Bob Graham signed into law on May 22; states included are Alabama, Arkansas, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, West Virginia, and the District of Columbia; acquired banks must have been in existence at least five years; the law becomes effective July 1, 1985.

GEORGIA

Enacted a regionally reciprocal banking law on April 5, 1984, to take effect July 1, 1985 (or January 1, 1985 if two contiguous states pass regional laws before then).

Banks at least five years in existence can be purchased by a Southeastern (Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia) bank holding company headquartered in a state with reciprocal privileges.

HAWAII

Contained in Utah's Western region statute.

IDAHO

State Legislature is expected to consider a regional banking measure in early 1985; the Idaho Bankers Association supports such legislation.

Contained in Utah's Western region statute.

ILLINOIS

A meeting of Midwestern bank regulators and governors' aides to discuss regional banking for the Midwest was held in August, 1984.

H.B. 1063, which passed the House Financial Institutions Committee 10-6 in early May, would permit nationwide reciprocal banking; this legislation did not reach the House floor before the legislature adjourned; reciprocal banking action is anticipated in 1985.

Barry Sullivan, Chairman, First Chicago Corp., expressed support for regional state statutes in an April, 1984 speech.

Governor James Thompson signed legislation on June 26, 1984, which would permit the acquisition of an Illinois bank by an out-of-state organization on an emergency basis; the acquired bank must have more than $1 billion in assets, must request an out-of-state takeover, and must be certified as troubled by state and federal regulators; such a merger can only take place in the absence of an adequate in-state offer and after a two-week notice of emergency is given.

INDIANA

Reciprocal banking action expected in 1985, following the Indiana Bankers Association June, 1984 announcement that it favors contiguous state reciprocal banking.

Considered for participation in a Great Lakes or Midwestern region; would be eligible for reciprocity as a contiguous state under a proposed Ohio law.

IOWA

Grandfathers certain out-of-state bank holding companies.

Regionally reciprocal bills failed in Committee in both Houses of the State Legisla-

ture in 1984; a Midwestern region of Illinois, Kansas, Minnesota, Missouri, Nevada, North Dakota, South Dakota, and Wisconsin was proposed; action is expected again in 1985.

KANSAS

Probable candidate for a Midwestern region.

Bank expansion legislation is likely in 1985.

KENTUCKY

Permits reciprocal bank acquisition for contiguous states for two years after July 14, 1984; this is to be followed by nationwide reciprocity.

Acquisitions are limited to three banks per year for five years, provided no single bank controls in excess of 15% of the state's deposits; a bank must be five years old to be acquired.

LOUISIANA

Contained in Georgia regional statute and other Southeastern proposals.

MAINE

Non-reciprocal acquisition of Maine banks has been permitted since mid-February, 1984.

MARYLAND

Permits the control of a limited-purpose bank by out-of-state entities.

House of Delegates voted down a Citicorp-sponsored nationwide reciprocal banking bill in April, 1984.

A gubernatorial task force is studying interstate banking; it will next meet in September, 1984; regional banking legislation is expected in January, 1985.

MASSACHUSETTS

Permits New England-wide reciprocal banking.

MICHIGAN

A bill which would initially permit regional banking with states contiguous to Michigan passed the House in June and should be studied by the Senate in September, 1984; the measure contains a two year trigger for nationwide interstate banking.

MINNESOTA

Permits the out-of-state acquisition of failing savings banks.

The Senate Commerce Committee voted 9-6 in March, 1984 against a regionally reciprocal bill which would have allowed both acquisition and de novo organization of Minnesota banks; an amendment limiting the legislation to Minneapolis/St. Paul was also rejected.

Governor Rudy Perpich and Commerce Commissioner Hatch have announced intentions to introduce regional banking legislation which would include a five year trigger, a ban on de novo charters, a net new funds provision, and an antileapfrogging provision.

MISSISSIPPI

Contained in Georgia regional statute and other Southeastern proposals.

MISSOURI

A Citicorp-sponsored national reciprocity proposal was defeated in the 1984 session of the Legislature; other proposals for contiguous state and reciprocity, reciprocal acquisitions in Kansas City and St. Louis, and for nonreciprocal acquisition's also failed.

The Speaker of the House has set up a special panel to review interstate banking proposals; the panel will hold hearings in Jefferson City in August, St. Louis in September, and Kansas City in October.

The Missouri Bankers Association will recommend a bill to the state legislature in January, 1985; the regional banking measure will include Kentucky, Tennessee, Illinois, Nebraska, Iowa, Kansas, Oklahoma, and Arkansas.

MONTANA

Contained in Utah regional statute and considered in other Western/Midwestern/North Central proposals.

NEBRASKA

A bill establishing a North Central region of Iowa, Missouri, Kansas, Colorado, Wyoming, Montana, Minnesota, Wisconsin, North Dakota, and South Dakota died in Committee in February, 1984.

Permits grandfathered activities by certain out-of-state banks.

NEVADA

Senate Banking Committee has indicated a willingness to endorse a regionally following a law passed in special session on March 29.

NEW HAMPSHIRE

A study commission is currently reviewing interstate banking in preparation for the 1985 state legislative session.

Nationwide reciprocal interstate legislation is expected to be introduced in 1985.

NEW JERSEY

The New Jersey Bankers Association has requested that the State legislature consider legislation for a Central Atlantic region (New Jersey, Delaware, Pennsylvania, Maryland, Ohio, Virginia, West Virginia, and the District of Columbia).

The proposal contains two triggers for nationwide reciprocity: following adoption of nationwide reciprocal laws by 13 states, and three years following the adoption of the regional proposals by New Jersey and two other states in the region.

NEW MEXICO

Defeated a Citicorp proposal for limited purpose banking in the state in February, 1984.

Regional banking legislation is expected to be considered in 1985.

NEW YORK

Permits nationwide reciprocal bank expansion.

NORTH CAROLINA

On July 7, 1984 the state became the ninth to enact a regionally reciprocal banking law; the vote in the Senate was 37 to 1, and 83 to 2 in the House; the law, effective January 1, 1985, covers Alabama, Arizona, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia.

NORTH DAKOTA

Contained in several North Central/Midwestern regional banking proposals.

OHIO

H.B. 762, currently in House Committee, would allow nationwide reciprocal banking, with shareholder protection and deposit concentration restrictions.

A substitute bill for H.B. 762 would initially permit regional banking with states contiguous to Ohio (Pennsylvania, West Virginia, Kentucky, Indiana, and Michigan), followed in 1987 by nationwide reciprocity; it appears this legislation is more likely to pass; it is expected to be considered in November, 1984.

OKLAHOMA

Considered for legislation in a Southwestern region.

OREGON

A task force studying interstate banking will make recommendations to the legislature in 1985.

Permits the acquisition of mutual savings banks in danger of failure.

Contained in Utah's Western regional statute.

PENNSYLVANIA

Considered for participation in a Central Atlantic regional proposal; would be eligible for reciprocity as a contiguous state under a proposed Ohio law.

State bankers association task force is studying regional banking options.

RHODE ISLAND

Permits New England regionally reciprocal expansion; allows nationwide reciprocity after July 1, 1986.

SOUTH CAROLINA

The State enacted a regionally reciprocal banking statute permitting acquisition of established South Carolina banks by banks in a Southeastern region composed of Alabama, Arizona, District of Columbia, Florida, California, Kansas, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; this measure was signed by Governor Riley on May 21 and will take effect on July 1, 1986.

SOUTH DAKOTA

Considered for participation in a Midwestern/North Central region.

TENNESSEE

Contained in Georgia's Southeastern region statute and other regional proposals.

The legislature and the Governor have set up a task force to study regional banking.

TEXAS

Governor Mark White has appointed a study group to study reciprocal banking for Texas.

Leading bankers are favoring a regional banking statute for Texas and calling for the establishment of a Southern/Southwestern/Energy Belt region.

UTAH

Permits regionally reciprocal banking with Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Washington, and Wyoming.

Permits the above states to acquire failing Utah institutions on a non-reciprocal basis.

VERMONT

Bills to permit acquisition of Vermont banks on both a reciprocal and non-reciprocal basis failed in the House in 1984.

VIRGINIA

At the Governor's request, the Virginia Bankers Association appointed an interstate banking study group; this body voted in July, 1984 to support regionally reciprocal banking for Virginia.

Permits limited-purpose credit card banks.

WASHINGTON

Permits the acquisition of failing Washington banks by out-of-state institutions.

A bill permitting regionally reciprocal bank acquisitions failed in Committee in February; further action is anticipated in 1985.

WEST VIRGINIA

West Virginia Bankers Association's Committee on Reciprocal Banking adopted a resolution on August 7, 1984 recommending the WVBA's support for legislation authorizing reciprocal banking with contiguous states; it is hoped that such legislation will

be introduced in the January, 1985 legislative session.

Contained the Kentucky reciprocal statute, several Southeastern proposals, and in the Central Atlantic proposal.

WISCONSIN

House and Senate Committee bills to permit nationwide reciprocal banking failed in Committee in 1984; substitutes proposing regional reciprocity and study of the issue also failed.

The new president of the Wisconsin Bankers Association predicted in June that the association's task force on interstate banking will recommend a regionally reciprocal banking bill by late fall.

Governor Anthony Earl sponsored a meeting of bank regulators and governors' aides in Chicago in early August, 1984; representatives from Wisconsin, Ohio, Illinois, Michigan, Minnesota, Missouri, and Indiana met to discuss reciprocal banking for the Midwest.

WYOMING

Contained in the Utah regional statute and other regional proposals.

SUMMARY OF BANK EXPANSION LAWS AND ACTIONS

I. Regionally Reciprocal Laws (9 states): Connecticut, Florida, Georgia, Kentucky, Massachusetts, North Carolina, Rhode Island, South Carolina, and Utah.

II. Nationwide Reciprocal Laws (1 state): New York.

III. Nationwide Unrestricted Entry (2 states): Alaska, Maine.

IV. States Considering Reciprocal Legislation (31 states).

1. State Legislatures:

a. Past/Present: Arizona, California, District of Columbia, Illinois, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Vermont, Washington, Wisconsin.

b. 1985 Session (expected): Alabama, Arizona, Arkansas, Colorado, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Minnesota, Missouri, Nevada, New Mexico, Texas, Virginia, West Virginia, Wisconsin.

2. Study Groups:

a. Gubernatorial: Alabama, Arizona, Maryland, Tennessee, Texas.

b. State Bankers Association: New Jersey, Pennsylvania, Virginia, West Virginia, Wisconsin.

c. Legislative: New Hampshire, Oregon.

V. Grandfathered Entry (4 states): Florida, Illinois, Iowa, Nebraska.

VI. Limited Purpose Entry (6 states): Delaware, Maryland, Nebraska, Nevada, South Dakota, Virginia.

VII. Failing Institution Statutes (5 states): Illinois, Michigan, Oregon, Utah, Washington.

VIII. States Without Bank Expansion Statutes/Action (7 states): Hawaii, Louisiana, Mississippi, Montana, North Dakota, Oklahoma, Wyoming.

Mr. GARN. Mr. President, the next item of business would be to introduce the committee amendments en bloc. I will do that in a few moments before we proceed to other amendments.

However, I do believe it would be helpful at this time, for some further discussions on the progress of this bill and where we are going later in the day, to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, just a word of explanation of what has been going on all afternoon during the quorum call. Earlier in the afternoon, the Senator from New York suggested that we might come to a compromise and have a time agreement on this bill. He did offer a time agreement which I was willing to accept. However, we have spent the rest of the afternoon attempting to clear it with other Senators and have not been able to do so at this point.

I appreciate the Senator's offer very much—after the time he has spent, and as strongly as he feels about the bill—in offering a time agreement. The Senator is still willing to go forth with it. There are others who are not. So we will continue with the bill tomorrow, and continue to try to work on a time agreement that can be agreed to by unanimous consent.

Mr. BAKER. Mr. President, I commend the chairman of the Banking Committee on his statement. We have been on a 3-hour quorum which is very unusual, but it was worthwhile in the sense that the negotiations have been under way while not yet successful may still be successful. I think we have come a long way since we had a filibuster on the motion to proceed. We now have the bill before us, and I think we are within striking distance of getting a unanimous-consent agreement on, if not a time certain to pass the bill—and we may get that—at least a limitation of time on all or most of the amendments that may be offered.

Just so Senators may be up to speed on all of the negotiations that are underway, they should perhaps also know that we are in the last 3 weeks—3½ weeks—of this session. There is a possibility that some Senators will insist on the right to offer other amendments to this bill that are not related to banking. That has been part of our conversation so far. There is the possibility, for instance, that a civil rights amendment might be offered to this bill. Any amendment may be offered to this bill under the circumstances. But that has complicated the question of trying to get a unanimous-consent agreement. I am not saying that to agitate people. I simply want everyone to be aware of the situation as it exists.

Tomorrow, Mr. President, it will be the job of the leadership on this side—and I hope and expect on both sides in cooperation with the two managers of the bill—to see how we can unravel this thing, and see if we cannot get on with the business at hand. There are only two things we can do. We can go ahead, get a time agreement, and pass this bill with or without other amendments—meaning extraneous amendments—or we can not get a time agreement. But the leadership on this side does not expect to take this bill down.

So I urge Senators to consider what they have in mind, consider the time we have remaining, and to put their best efforts forward in trying to reach an arrangement that will let us dispatch this piece of legislation to get on to the next item.

I hope those words are not too harsh. But I hope that all Senators are now on notice that we have a different situation.

Mr. EXON. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. EXON. This Senator is concerned about where we are going on this bill even as it passes in some form in the U.S. Senate, given the time constraints, and the understanding that I understand has been reached with the House of Representatives to adjourn on October 5.

Mr. BAKER. October 4—it was the 5th, but I just had a meeting with the Speaker today, and we improved that by 1 day.

Mr. EXON. Congratulations. I always have great respect for the majority leader in making great progress.

My question is, assuming this bill would pass the U.S. Senate, What are the prospects that the measure would be taken up by the House of Representatives before sine dine adjournment?

Mr. BAKER. Mr. President, I do not know. I would be happy to yield to the chairman of the committee. But before I do so, however, may I say absolutely with no disrespect for the House I have never had much success over there, and I have just about stopped asking. But they operate in their way, and we do in our way. But let me yield to the Senator from Utah, who may have a better insight than my somewhat facetious remark.

Mr. GARN. I thank the distinguished majority leader.

All I can say to my colleague is 2 years ago, the so-called Garn-St Germain bill came up with 2 days left in the session. We passed it, went to conference with the House, and it became law. I was told then that there was no possibility of the bill having accommodation with the House of Representa-

tives. I am told the same thing again. I do not know that until there is a bill. I can hear all of these rumors from lobbyists, and all sorts of things.

I can tell you Congressman ST GERMAIN and I have worked out a large number of difficult problems together over the last 4 years. I would expect him to go to conference, be a tough bargainer, and there would have to be exchanges made. I certainly would not expect this bill to pass intact just because that is the way the Senate approved it, but there are many provisions that are similar.

The South Dakota loophole both sides agreed should be closed. The nonbank bank loophole there is no disagreement over. Those are two rather major decisions. People seem to concentrate on differences rather than the similarities and the desire to proceed. So I cannot give any guarantees, but I would not be out here spending this time on the floor working this hard on a bill if I did not think it had some possibility.

It is no great thrill to say, "Hey, I got a bill passed in the Senate" that never becomes law. I think there is a reasonable possibility of getting a bill after going through the normal process, as the Senator knows, of the conference with the House and the give-and-take situation.

Mr. EXON. Will the chairman of the Banking Committee yield for a further question? Is it not true that the chairman has just mentioned the two main, prominent features of the House bill, which, No. 1, has to do with closing the two loopholes that he mentioned? Is that not in essence what the House has passed or is about to pass?

Mr. GARN. Those are the two major provisions in the House bill. Those provisions are also contained in this bill.

Mr. EXON. Let me ask the chairman of the Banking Committee if we should become bogged down on amendments—I have an amendment that I hope would be noncontroversial that might be accepted. But basically, if the additions to the bill over and above what the House has passed become contentious in this body, then would it be the view of the chairman of the Banking Committee that the discretion being the better part of valor it might be a good idea to back off and just pass in this body the two essential ingredients that I understand are more or less must legislation, which I agree with? Would he consider backing off and making the bill coming out of here more in companion with what the House has already acted upon?

Mr. GARN. No, Senator; I would not. I made that position very clear many times. I have been in this situation before, and I yielded to that kind of threat. In December of 1971, I was told if I did not yield and just go with the two provisions of the House that the whole thrift industry would fail, and that it would be on my shoulders because I insisted on having additions to the bill. Well, the thrift industry did not collapse, fortunately, and it was not all dumped on me. But I am a little bit tired of Congress on these issues where an entire industry is in a revolutionary stage always just being a little Dutch boy sticking their fingers in the dike and saying we did what was necessary to be done. I think it is necessary to do more than that. I am tired of the promises that, if you just do the must legislation, we will be back in 6 months and we will do the additions.

Former Chairman PROXMIRE is familiar with the process. He suffered with it a long time before I did, and he agrees with me that we must pass a larger bill. I want to make sure the Senator understands what I have always said on this floor many times, and repeated the last several days. I do not insist that the Senate bill, as passed out of the Senate Banking Committee that is now before us, pass intact or that the House of Representatives has to swallow every line and paragraph on it.

There is a big difference between just accepting a couple of loophole closings and some accommodation in between. There is a lot of room in between because, as the Senator from Wisconsin said, 95 percent of this bill is not controversial. Earlier today, I went through it, and I again reviewed all of the sections of the bill that are not controversial.

So to throw the baby out with the bath water, most of those which the House would accept because they are not controversial, my answer to your question is no. I am not going to accept a couple of little loophole closures. But I am known as a pretty pragmatic legislator who is willing to sit down and trade, as we do in conferences, and see what can be worked out. There are only four items out of this 130-some-odd-page bill that are really controversial. That is the regional banking issue, which the Senator from New York has been addressing himself to; there is no dispute over whether the South Dakota loophole should be closed.

It is a matter of degree with what was originally in the bill and what Senator DODD amended. The other two are municipal revenue bonds and mortgage-backed securities. I am willing to accept the judgment of the Senate on those issues, and then go to conference. But to just accept a couple of loophole closures, I do not think that would be responsible or necessary, particularly when I have also, in these other comments, announced that if we fail to reach a bill this year, that everybody who wants to have a nonbank bank be put on notice that the July 1, 1983, grandfather date in this bill would be the date that would still stand.

So if we fail during the interim to have a bill, if they invest a few million bucks in nonbank banks, we will eventually pass those loophole closures and eventually have to go back to 1983. So I do not see a great need to rush in doing just that little bit. We can do more than that issue.

Mr. EXON. I thank the chairman of the Banking Committee and I thank the leader.

I would close by saying that on this issue I would hope that while there may be differences of opinion on some of the things that might be raised, that we could at least move ahead and let the Senate work its will. It seems to me that is the basic appeal that the majority leader made. I say to the majority leader, that chairman of the Banking Committee, and my distinguished friend from Wisconsin, the ranking member, that I will help wherever I can to move this along.

Mr. BAKER. I thank the Senator.

Mr. President, before we go into morning business for a wrapup, I will announce that there will be no more record votes today.

CLOTURE MOTION

Mr. BAKER. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 2851, a bill to authorize depository institution holding companies to engage in certain activities of a financial nature and in certain securities activities, to provide for the safe and sound operation of depository institutions, and for other purposes.

Senators Howard Baker, Mack Mattingly, John H. Chafee, Dan Quayle, Robert Stafford, Slade Gorton, William Proximre, Chic Hecht, Don Nickles, Lowell Weicker, Mark Andrews, Arlen Specter, Jake Garn, Warren Rudman, Bob Dole, William Cohen, and Barry Goldwater.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until 6:15, in which Senators may speak for not more than 2 minutes each, except the two leaders, to whom the time limitation will not apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 806. An act to provide for a plan to reimburse the Okefenoke Rural Electric Membership Corporation for the costs incurred in installing electrical service to the Cumberland Island National Seashore.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2574. An act to revise and extend title VII of the Public Service Act, relating to nurse education.

The message further announced that the House has agreed to the amendment of the Senate to the amendment of the House to the following joint resolution:

S.J. Res. 25. Joint resolution redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site."

The message also announced that the House insists upon its amendment to the bill (S. 529) to revise and reform the Immigration and Nationality Act, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Judiciary: Mr. RODINO, Mr. MAZZOLI, Mr. SAM B. HALL, JR., Mr. SYNAR, Mr. FRANK, Mr. CROCKETT, Mr. SCHUMER, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. BERMAN, Mr. FISH, Mr. MOORHEAD, Mr. HYDE, Mr. LUNGREN, and Mr. MCCOLLUM.

As additional conferees: From the Committee on Agriculture, solely for consideration of section 101 of the bill and section 101 of the House amendment: Mr. DE LA GARZA, Mr. PANETTA, and Mr. MORRISON of Washington.

From the Committee on Agriculture, solely for consideration of sections 211, 214, and 407 of the bill, of sections 211 and 214 of the House amendment, and of such portions of sections 301 and 302 of the bill and of sections 301 and 304 of the House amendment as relate to eligibility and funding for public assistance programs within the jurisdiction of the Committee on Agriculture: Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. PANETTA, Mr. MORRISON of Washington, and Mr. CHAPPIE.

From the Committee on Education and Labor, solely for consideration of sections 101, 211, 214, and 407 of the bill, of sections 101, 211, 214, and 305 of the House amendment, of subsection 107(d) of the Immigration and Nationality Act as contained in section 122 of the House amendment, and of such portions of sections 301 and 302 of the bill and of sections 301 and 304 of the House amendment as relate to eligibility and funding for public assistance programs within the jurisdiction of the Committee on Education and Labor: Mr. HAWKINS, Mr. FORD of Michigan, Mr. MILLER of California, Mr. ERLENBORN, and Mr. PACKARD.

From the Committee on Energy and Commerce, solely for consideration of such portions of sections 301 and 302 of the bill and of sections 301 and 304 of the House amendment as relate to eligibility and funding for public assistance programs within the jurisdiction of the Committee on Energy and Commerce: Mr. DINGELL, Mr. WAXMAN, and Mr. BROYHILL.

Solely for consideration of section 119 of the House amendment: Mr. DE LA GARZA.

Solely for consideration of sections 111, 115, 116, 117, 118, subsection 205(f), and title V of the House amendment, and modifications thereof committed to conference: Mr. ROYBAL.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 136. Concurrent resolution to correct technical errors in the enrollment of the bill S. 1546.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5220. An act to protect the national defense shipyards of the United States, and for other purposes.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 743. An act for the relief of Theda June Davis; and

H.R. 2387. An act for the relief of Benjamin B. Doeh.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3762. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, a report and final environmental statement on the Minidoka Powerplant Rehabilitation and Enlargement, Minidoka Project, Idaho-Wyoming; to the Committee on Energy and Natural Resources.

EC-3763. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a notice of a Department of Health and Human Services matching program; to the Committee on Governmental Affairs.

EC-3764. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a report on the use and distribution of Quechan Tribe of Fort Yuma Reservation, California, judgment funds; to the Select Committee on Indian Affairs.

EC-3765. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the patent laws implementing the Patent Cooperation Treaty; to the Committee on the Judiciary.

EC-3766. A communication from the Secretary of Education, transmitting, pursuant to law, Final Regulations for Student Rights in Research, Experimental Activities, and Testing; to the Committee on Labor and Human Resources.

EC-3767. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the fiscal year 1986 budget request of the Board; to the Committee on Labor and Human Resources.

EC-3768. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for the period October 1983 through May 1984; to the Committee on Small Business.

EC-3769. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report on the payment of Aviation Officer Continuation Pay; to the Committee on Armed Services.

EC-3770. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Saudi Arabia for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3771. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to repeal the provisions exempting aircraft owners or operators from reimbursing the Federal Government or any agency thereof for certain Sunday and holiday overtime services; to the Committee on Commerce, Science, and Transportation.

EC-3772. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the 1984 second quarter report on the Olympic Commemorative Coin Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3773. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Steel Industry Compliance Extension Act Brought About Some Modernization and Unexpected Benefits"; to the Committee on Environment and Public Works.

EC-3774. A communication from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to raise the maximum annual uniform allowance for uniformed employees of the Federal Law Enforcement Training Center, Department of the Treasury; to the Committee on Finance.

EC-3775. A communication from the President of the United States, transmitting, pursuant to law, a report on his decision not to grant import relief to the copper industry; to the Committee on Finance.

EC-3776. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on the activities funded under the South Africa Human Rights Fund; to the Committee on Foreign Relations.

EC-3777. A communication from the Deputy Director for Administration of the Central Intelligence Agency, transmitting, pursuant to law, a report of proposed revision of the statement of general routine uses for all CIA records systems; to the Committee on Governmental Affairs.

EC-3778. A communication from the National Commander of the American Ex-Prisoners of War, transmitting, pursuant to law, a copy of the 1984 audit report as of June 30, 1984, for the American Ex-Prisoners of War, Inc.; to the Committee on the Judiciary.

EC-3779. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report of his determination that the Department will refrain from defending the constitutionality of the appointment provisions of the Bankruptcy Amendments and Federal Judgeship Act of 1984; to the Committee on the Judiciary.

EC-3780. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Incomplete Participant Data Affect Reliability of Values Placed by Actuaries on Multiemployer Pension Plans"; to the Committee on Labor and Human Resources.

EC-3781. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report on the administration of title I of Public Law 81-874 and Public Law 81-815, as amended; to the Committee on Labor and Human Resources.

EC-3782. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the results of a study on the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer pension plans; to the Committee on Labor and Human Resources.

EC-3783. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the audit of the United States Capitol Historical Society's financial statements for the years ended January 31, 1983, and 1982; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 381. A bill to establish a Federal Courts Study Commission and a Federal Oversight Council on the Future of the Judiciary (Rept. No. 98-598).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2768. A bill to provide for the education in the United States of certain students of limited financial means from developing countries (Rept. No. 98-599).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON (for himself, Mr. PROXMIRE and Mr. LEVIN):

S. 2982. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending; to the Committee on Governmental Affairs.

By Mr. GORTON:

S. 2983. A bill to amend the tariff schedules of the United States to clarify the duty treatment of certain types of plywood; to the Committee on Finance.

By Mr. BAKER:

S. 2984. A bill to designate the air traffic control tower to be constructed at the McGhee Tyson Airport in Knoxville, TN, as the "Tom Kesterson Tower"; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. THURMOND and Mr. HEINZ):

S. 2985. A bill to transfer certain functions to the Equal Employment Opportunity Commission, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DANFORTH (for himself and Mr. KENNEDY):

S.J. Res. 352. Joint resolution designating October 1984 as "National Head Injury Awareness Month"; to the Committee on the Judiciary.

By Mr. BYRD:

S.J. Res. 353. Joint resolution to designate the week of February 3, 1985, through February 9, 1985, as "National School Guidance and Counseling Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOREN (for himself, Mr. BAUCUS, Mr. BENTSEN, Mr. BUMPERS, Mr. BURDICK, Mr. EXON, Mr. LEAHY, Mr. NICKLES, Mr. PRYOR, and Mr. ZORINSKY):

S. Res. 440. Resolution to express the sense of the Senate that the President should immediately notify the Soviet Union that additional purchases of U.S. grain, above the maximum level specified in the Long-Term Grain Agreement, may be made by the Soviet Union during the second year of the agreement and to seek to modify the agreement by establishing higher minimum and maximum supply guarantees; to the Committee on Foreign Relations.

By Mr. ROTH (for himself and Mr. TSONGAS):

S. Con. Res. 139. Concurrent resolution condemning South Africa's arrests and detentions of political opponents; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON (for himself, Mr. PROXMIRE and Mr. LEVIN):

S. 2982. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio by reallocating the distribution of Federal spending; to the Committee on Governmental Affairs.

STATE MINIMUM RETURN ACT

Mr. DIXON. Mr. President, I rise today to introduce "The State Minimum Return Act of 1984." This act will correct imbalances in the amount of Federal spending that certain States receive in return for the tax dollars they send to Washington.

Although this bill contains complex language and provisions, I want to assure my colleagues and taxpayers of the United States, at the outset, that the bill does not require any increases in spending. Rather, the bill reallocates funds among States within existing spending limits, so as not to increase the deficit.

This bill addresses a very important issue which has caused real hardship in my State of Illinois, and in many other States, principally in the Midwest and Northeast. In 1983, Illinois received only 75 cents in Federal spending for each tax dollar it spent to the Federal Government. For the past 30 years, this ratio has been similarly low. Losing a quarter on every dollar is not a good deal to begin with. But when you think in terms of the Federal budget, Illinois and other States are sending billions of dollars to Washington every year that they never see again.

Many of these disadvantaged States were among those that suffered most during the recent recession. They can least afford to lose billions of dollars right now. Government policy should not make a bad situation worse. Rather, it should lend a hand to States whose economies have needed the most help in the recent past.

For the past 3 years, I have worked with my colleagues on both sides of the aisle to help correct this loss of funds by adjusting spending for specific Federal programs. As cochairman of the Northeast-Midwest Senate coalition, I have pursued many efforts to get a better deal for needy States.

While these efforts have helped create jobs and improve the economy of Illinois, and of many other States, they have not been sufficient to stop the continual flow of funds from these States to other States with healthier economies. In fiscal 1982, States that received less than 90 cents in spending for each tax dollar were short-changed a total of $54 billion by the Federal Government. Illinois alone paid out $12.5 billion more than it received in spending. It would require approximately $25 billion to bring disadvan-

taged States to the 90-cents level. We need a comprehensive approach to solve this problem. We cannot allow vast sums of money to be drained out of States like Illinois.

Attached to this statement is a research report I have prepared on the problem of these Federal dollar outflows. The report analyzes the source of these outflows, highlighting the low level of defense contracts and, to a lesser extent, grant programs in disadvantaged states. Additionally, the report examines the consequences of these outflows for States. The economies of States sending more money to Washington in taxes than they receive in spending have low growth rates. These rates result in part from low levels of the types of Federal funds which generate growth—grants and contracts. I request unanimous consent that the text of the research report be printed in the RECORD at the conclusion of my remarks.

The bill I am introducing will adjust Federal spending in the categories of Government contracts and grant programs. Contracts and grants accounted for $250 billion of the Federal budget in fiscal 1983, and are the chief sources of imbalances among States. These spending categories help stimulate economic growth, creating jobs and spurring private investment. Grants and contracts cause a ripple effect in the economy of a community. The award of a Government contract not only creates jobs in the company in which the work is performed. It also increases business and creates jobs in local companies supplying goods to the contractor.

In the area of Federal grants to State and local governments, the State Minimum Return Act will increase by 10 percent the share of moneys going to disadvantaged States. For example, if Illinois received an average of $100 million of a $1 billion highway program, or 10 percent, it would receive $110 million, or 11 percent, in the first year after the bill was enacted. That would mean an additional $10 million to repair unsafe bridges and to repave highways, and jobs for Illinoisans to work on those projects.

Since there are usually more projects that meet eligibility requirements for grant programs than there is funding available, this provision will allow disadvantaged States to receive a greater proportion of their eligible projects. For example, if the city of Rockford, IL, wanted to renovate an old, abandoned warehouse in a rundown neighborhood, to attract new business and improve the economy of the community, it would be more likely under this bill to get an urban development action grant for this project than it would otherwise.

Disadvantaged States will also receive additional moneys in the area of Federal contracts. With respect to competitive procurements and noncompetitive procurements, the head of each Federal agency will be required to award a contract to a firm that will do the work in a disadvantaged State if it submits a bid that is lower or equivalent to a bid from a firm that would do the work elsewhere. This means that if a metal cabinet for a Government office or a rubber fuel line for an Air Force plane can be made in Illinois more cheaply, or at the same price, than it can be made in a State that gets more than its fair share of spending from the Federal Government, that cabinet or fuel line is going to be made in Illinois by workers and businesses in Illinois.

Under this bill, contracting agencies will also have to attempt to increase the share of contracts in each disadvantaged State by 10 percent in each fiscal year, and will report on their progress annually. All States which currently receive less than $1 back from the Government in spending for each dollar they pay out in taxes will be eligible for these provisions.

The procurement provisions will create an incentive for companies to locate in Illinois and other disadvantaged States. In doing so, this bill will help restore the business climates in these States, which have been disrupted by the drain of Federal funds and low levels of funding for grants and contracts.

States will be eligible to receive additional grants and contracts if they currently receive less than 90 cents in spending for each tax dollar. States will be eligible to receive additional contracts if they receive between 90 cents and $1 in spending for each tax dollar.

Let me say again that this bill will not require additional spending in these categories. I firmly believe that increasing spending across-the-board is not the way to solve this problem. The resulting increases in the deficit would worsen rather than improve the economies of Illinois and other disadvantaged States, and the economy of the Nation as a whole.

What is being suggested here is a reallocation of Federal moneys among the States, rather than the creation of new Government spending programs. In addition, in order not to penalize the needy and other citizens who currently receive direct Government benefits in all States, the bill will not affect payments to individuals by the Federal Government. Such programs as Social Security, food stamps, supplemental security income, Pell grants, lower income housing assistance, veterans assistance, black lung disability, guaranteed student loan interest subsidies, retirement payments for railroad workers, and Federal workers' compensation, retirement and disability, and employee life and health insurance will not be affected by the bill. In addition, programs which are limited by law to certain States, such as the Bureau of Reclamation, the Tennessee Valley Authority, and the Bonneville Power Administration, will not be covered by the bill.

The State Minimum Return Act is an attempt to develop the comprehensive approach we need to end what amounts to a multibillion dollar penalty being paid each year by Illinois and many other States. By any measure, there is every reason that these States should be getting back their fair share of the Federal budget. I realize that this bill represents the first attempt to tackle this complex problem, and I will welcome any comments or suggestions for improvement by my colleagues and other interested parties.

I urge my colleagues to join me in this effort to help these disadvantaged States get back a fair share of their tax dollars.

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield?

Mr. DIXON. Mr. President, I shall be delighted to yield to my warm friend, the distinguished senior Senator from Wisconsin.

Mr. PROXMIRE. May I say to my good friend from Illinois that I am delighted and honored that I am cosponsoring this important measure. It is about time. I say to the Senator from Illinois that he can come to Wisconsin for any type of parade, if we vote this bill, and the citizens of Wisconsin would be glad to carry him on their shoulders throughout the parade route. This is a wonderful proposal and about time. I am just unhappy that I did not think about it 20 years ago. It is something we should have been doing all along. Not only is this a lalapalooza, to use the word of my good friend from Illinois, for the taxpayers of Wisconsin, but I think for people throughout the country it is a good idea.

What it means is it will stimulate competition. If the people and the businesses of Illinois realize that they can get those contracts if they come after them, they will do it. Unfortunately, in our State, we get one-half of 1 percent of the Federal defense contracts, although we pay about 2 percent of the taxes and we have about 3 or 4 percent of the industry. So we are getting, at the very best, one-quarter of what we should get in defense contracts. That is partly because our people are not aggressive enough. They are not active enough; they do not bid enough. But it is also because there obviously is a tendency to go back to the same old places, year after year, to the great disadvantage of Illinois and Wisconsin, both of which have serious unemployment problems, both of which have industry that can do the job, that have people who are ready and willing to put in a full day's

work for a full day's pay but do not have the opportunity to do it.

I am delighted the Senator has introduced this bill and I am pleased and honored to be a cosponsor.

Mr. DIXON. Mr. President, may I say how pleased the Senator from Illinois is that the Senator from Wisconsin is a principal cosponsor. He has for many years here established a reputation as a protector of the public purse while working always for fairness and equity in this place. This bill is designed to protect the public purse. It spends no additional money; it simply allocates funds into loser States such as Wisconsin and Illinois that, for many, many decades, have been underprivileged in favor of other parts of the country with respect to the expenditure of Federal dollars. I am very much honored by the fact that a man whom I so richly and warmly admire, and have admired for many years before coming to this place, has joined me in this struggle.

Mr. PROXMIRE. Mr. President, not only has the Senator from Illinois made a good proposal but he has also paved the way for what I think will be a hardhitting confrontation among Members of the Senate.

People have not always been as generous as we would like them to be. But that is healthy. There not only will be competition between industries and States but among Senators. I think we are going to see a very exciting fight over this bill when it is debated. I hope we see a companion bill introduced in the House.

Mr. DIXON. I thank my friend, and I ask unanimous consent that at this point there be included in the RECORD a report entitled "Illinois and the Drain of Federal Funds," a copy of "The State Minimum Return Act of 1984," a section-by-section analysis of the bill and a guide to the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2982

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 "State Minimum Return Act of 1984".

STATEMENT OF POLICY

SEC. 2. It is the purpose of this Act to provide, within existing budgetary limits, authority to reallocate the distribution of certain Federal spending to various States in order to ensure by the end of fiscal year 1989 that each State receive in each fiscal year an amount of Federal expenditures equal to a minimum of 90 percent of the Federal tax burden attributable to such State for such fiscal year.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "Federal agency" means any agency defined in section 551(1) of title 5, United States Code.

(3) The term "State" means each of the several States and the District of Columbia.

(4) The term "historic share" means the average percentage share of Federal expenditures received by any State during the most recent three fiscal years.

(5) The term "Federal expenditures" means all outlays by the Federal Government as defined in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(1)).

(6) The term "Federal tax revenues" means all revenues collected pursuant to the Internal Revenue Code of 1954.

DESIGNATION OF ELIGIBLE STATES

SEC. 4. (a) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 90 percent.

(b) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under paragraph (1) of section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 100 percent but greater than or equal to 90 percent.

(c) During each fiscal year, the Director after consultation with the Commissioner of the Internal Revenue Service and the Director of the Census Bureau, shall determine the eligibility of any State under this section using the most recent fiscal data and estimated data available concerning Federal tax revenues and Federal expenditures attributable to such State. The Commissioner of the Internal Revenue Service shall determine the attribution of Federal tax revenues to each State after consultation with appropriate officials of the National Tax Foundation.

DESIGNATION OF REALLOCABLE FEDERAL EXPENDITURES

SEC. 5. All Federal expenditures in any fiscal year shall be subject to reallocation to ensure the objective described in section 2 with respect to eligible States designated under section 4, except for such expenditures with respect to the following:

(1) Water and energy programs which are authorized by law and benefit a region of the United States composed of more than 3 States but not all States.

(2) Compensation and allowances of officers and employees of the Federal Government.

(3) Maintenance of Federal Government buildings and installations.

(4) Offsetting receipts.

(5) Programs for which the Federal Government assumes the total cost and in which a direct payment is made to a recipient other than a governmental unit. Such programs include:

(A) Social Security, including disability, retirement, survivors insurance, unemployment compensation, and Medicare, including hospital and supplementary medical insurance;

(B) Supplemental Security Income;

(C) Food Stamps;

(D) Black Lung Disability;

(E) National Guaranteed Student Loan interest subsidies;

(F) Pell grants;

(G) lower income housing assistance;

(H) social insurance payments for railroad workers;

(I) railroad retirement;

(J) excess earned income tax credits;

(K) veterans assistance, including pensions, service connected disability, nonservice connected disability, educational assistance, dependency payments, and pensions for spouses and surviving dependents;

(L) Federal workers' compensation;

(M) Federal retirement and disability; and

(N) Federal employee life and health insurance.

REALLOCATION AUTHORITY

SEC. 6. (a) Notwithstanding any other provision of law, during any fiscal year the head of each Federal agency shall, after consultation with the Director, make such reallocations of expenditures described in section 5 to eligible States designated under section 4 as are necessary to ensure the objective described in section 2.

(b) Notwithstanding any other provision of law and to the extent necessary in the administration of this Act, the head of each Federal agency shall waive any administrative provision with respect to allocation, allotments, reservations, priorities, or planning and application requirements (other than audit requirements) for the expenditures reallocated under this Act.

(c) The head of each Federal agency having responsibilities under this Act is authorized and directed to cooperate with the Director in the administration of the provisions of this Act.

REALLOCATION MECHANISMS

SEC. 7. (a) Notwithstanding any other provision of law, for purposes of this Act, during any fiscal year reallocations of expenditures required by section 6 shall be accomplished in the following manner:

(1)(A) With respect to procurement contracts, the head of each Federal agency shall—

(i) identify qualified firms in eligible States designated under section 4 and disseminate any information to such firms necessary to increase participation by such firms in the bidding for such contracts,

(ii) in order to ensure the objective described in section 2, attempt to increase the national share of such contracts for each such eligible State by 10 percent each fiscal year, and

(iii) thirty days after the end of each fiscal year, report to the Director regarding progress made during such fiscal year to increase the share of such contracts for such eligible States, including the percentage increase achieved under clause (ii) and if the goal described in clause (ii) is not attained, the reasons therefor.

Within ninety days after the end of each fiscal year, the Director shall review, evaluate, and report to the Congress as to the progress made during such fiscal year to increase the share of procurement contracts the preponderance of the value of which has been performed in such eligible States.

(B) In the case of any competitive procurement contract, the head of the contracting Federal agency shall award such contract to the lowest bid from a qualified firm that will perform the preponderance of the value of the work in an eligible State designated under section 4 if the bid for such contract is lower or equivalent to any bid from any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(C) In the case of any noncompetitive procurement contract, the head of each Federal agency shall identify and award such contract to a qualified firm that will perform the preponderance of the value of the work

in an eligible State designated under section 4 and that complete such contract at a lower or equivalent price as any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(D) For purposes of this paragraph, in the case of any procurement contract, any firm shall be qualified if—

(i) such firm has met the elements of responsibility provided for in section 8(b)(7) of the Small Business Act as determined by the head of the contracting Federal agency to be necessary to complete the contract in a timely and satisfactory manner, and

(ii) with respect to any prequalification requirement, such firm has been notified in writing of all standards which a prospective contractor must satisfy in order to become qualified, and upon request, is provided a prompt opportunity to demonstrate the ability of such firm to meet such specified standards.

(2)(A) With respect to all other expenditures described in section 5, any eligible State designated under section 4(a) shall receive 110 percent of such State's historic share with respect to such expenditures.

(B) In the case of projects funded by Federal expenditures authorized and appropriated on an individual project basis, subparagraph (A) shall be applied to the greatest extent practical.

(b) No reallocation shall be made under this section with respect to expenditures for any program to any State in any fiscal year which results in a reduction of 10 percent or more of the amount of such expenditures to such State.

(c) No reallocation shall be made under the provisions of this Act which will result in any Federal expenditure to Federal tax ratio of any State being reduced below 90 percent.

AMENDMENTS

SEC. 8. No provision of law shall explicitly or implicitly amend the provisions of this Act unless such provision specifically refers to this Act.

EFFECTIVE DATE

SEC. 9. The provisions of this Act shall take effect for fiscal years beginning after the date of the enactment of this Act.

ILLINOIS AND THE DRAIN OF FEDERAL FUNDS

(Senator Alan J. Dixon)

EXECUTIVE SUMMARY

In 1981 and 1982, Illinois ranked dead last in terms of the dollars it got back from the federal government for its tax payments. In 1983, Illinois received 75 cents in spending for each tax dollar it sent to Washington. In the same year, twelve states received more than $1.20 in federal spending for each one of their tax dollars. This enequity is not unique to Illinois, but applies also to many other states, principally in the Northeast and Midwest, which send large amounts of tax dollars annually to Washington, and get back an abysmally low level of spending in such categories as defense, federal installations, and many grant projects. The result is a massive annual drain of money out of these states. Many of these states are among those areas which suffered most under the recent recession and which continue to be plagued by higher rates of unemployment. They can ill afford such an outflow of funds. The end product of this outflow is an infusion of federal money into other states, principally in the South and West, whose economies have been thriving in recent years.

As this report shows, this pattern of funding flows has existed for over a generation. In the past three years, however, it has worsened, due in large part to a shift in budget priorities which has increased the outflows and which has caused Illinois and other disadvantaged states to fall farther behind beneficiary states. Increases in the defense budget and corresponding cutbacks and freezes in other spending categories have caused money to flow out of Illinois and its neighboring states at a higher volume and at a faster rate. This report discusses the sources and implications of this problem, and a proposed solution, "The State Minimum Return Act of 1984."

INTRODUCTION

Since the Second World War, the geographic and structural bases of the American economy have undergone profound and much-chronicled change. A shift in emphasis from heavy manufacturing to service and high-technology industries, and the migration of population, businesses, and capital from the large cities of the Midwest and Northeast to the expanding cities of the South and West are only two, albeit the most sweeping, of these developments. The short-term results of these shifts for many states of the Northeast and Midwest have been higher unemployment rates, increasing levels of poverty, and slower rates of economic growth.

Patterns of federal spending in recent years have closely mirrored these regional economic changes. Prospering states in the South and West have consistently received higher proportions of federal spending than those in the Northeast and Midwest. Illinois stands as the most glaring example of this inequity. In 1982, Illinois ranked 51st among all states (including the District of Columbia), receiving 66 cents in spending for each tax dollar it sent to the federal government. In that same year, Michigan received 76 cents for each tax dollar, Indiana received 77 cents, and Wisconsin received 78 cents (see table 6). (In 1983, these ratios increased slightly, due in large part to additions to the data base used to calculate the ratios (see table 9).) Given the economic hardship encountered by these states during the recession of 1982, these numbers suggest a disturbing paradox: Federal spending flows least into those states which need it most.

Because federal outlays currently comprise nearly one-quarter of the Gross National Product, their distribution has wide-ranging and substantial effects. Federal spending helps create jobs, alleviate poverty, and ease fiscal burdens on state and local governments. In Illinois, comparatively low levels of federal spending threaten to decrease the quality of life for its citizens and to hurt the business climate, discouraging new investment and the formation of new businesses within the state. Illinois' low percentage of federal contracts has hindered employment and profits, and thus has slowed the state's recovery from the recent recession. Freezes and cutbacks in social service programs have exacted a particularly painful toll on the poor of Illinois.

After careful consideration of these factors, I have concluded that the federal government must adjust its spending patterns to prevent such obvious and damaging disparities. In the 1930s, President Franklin D. Roosevelt launched a massive federal effort to address the economic problems that plagued the South, noting that the national economy, as a whole, could never achieve its full potential as long as one region of the country was vastly underutilized. The Tennessee Valley Authority, the Rural Electrification Administration and a host of other federal initiatives made today's booming "Sunbelt" possible. Yet, some 50 years later, the economic tables have turned. Government policy has not responded to those changes. Without requesting any new federal spending, I am advocating a shift in a policy based on equity. Government spending and tax policies should not make a bad situation worse. They should not aggravate economic disparities, brought on in large measure by the recession and by structural changes in the economy. In the interest of national and state economic growth and of equity, the time has come to reverse this dangerous trend.

CHAPTER 1—SOURCES OF THE BALANCE OF PAYMENTS PROBLEM

The annual outflow of federal dollars from Illinois is the product of several factors, some of which can be traced back 50 years. In order to correct this inequity which burdens the state, it is essential to examine these factors closely. We must look first at taxes and expenditures.

FEDERAL TAX PAYMENTS

As an historically wealthy and populous state, Illinois traditionally has paid large amounts of federal taxes at high rates. Since 1952, Illinois has been ranked among the top states both in total federal taxes paid and in per capita tax payments. (1) In 1982, Illinois was ranked 4th in total tax payments and 7th in per capita tax payments. These rankings reflect a slight slippage in recent years, due to a decline in the annual growth rate of the Illinois economy as compared to other large states in the South and West.

At first glance, Illinois' high tax rates appear to be a decisive factor in the state's negative balance of payments with the federal government. Indeed, Professor Janet Rothenberg Pack notes that revenues, or more specifically and progressive income tax system, are the principal source of differential tax/expenditure ratios among states. Pack cites the narrowing of gaps over time between the favorable ratios of certain states and the dismal ratios of other states as evidence of this argument. Between 1952 and 1976, for example, New Mexico's tax/expenditure ratio declined from $2.99 to $1.47, while New Hampshire's ratio increased from .64 to .90. (2) According to Pack, the convergence of these high and low ratios in states can be explained largely by the narrowing of income differentials among states and regions and the resultant narrowing of tax burdens among these states. (3) In other words, states which had relatively low incomes and enjoyed high growth rates between 1952 and 1976 witnessed declines in their ratios, due to their increased tax burdens, and vice-versa.

Illinois, however, does not fit this hypothesis. Despite the state's relatively high income and low growth rate, its tax/expenditure ratio in 1976 (.70) was almost identical to its ratio in 1952 (.69). Thus, Illinois' high tax burden and low growth and higher unemployment rates do not appear to have influenced strongly its tax/expenditure ratio. For this reason, it is necessary to examine spending patterns.

FEDERAL EXPENDITURES

By virtue of its size, as in the case of tax payments, Illinois has always ranked near the top in total federal expenditures. Unlike tax payments, however, per capita spending

in Illinois has consistently rated among the lowest states. In 1982, Illinois ranked 46th among all states in federal per capita expenditures, with an average of $1,950—more than $600 below the national average of $2,591 (see table 4). For at least three of the preceding five years, Illinois had been ranked 40th or below. According to the Census Bureau, Illinois' jump in 1983 to 34th can largely be explained by new categories of spending added to the data base that is used to calculate the rankings.

At least as important as Illinois' low rank in total per capita expenditures are the types of federal spending which enter the state. Spending in the form of grants and procurement, called "hard" spending by analysts, produces a ripple effect in communities, by stimulating private investment and creating jobs. As a result, the benefits which flow from this type of spending often outweigh the dollar value of the spending. In Illinois, however, direct payments to individuals, such as Social Security and Food Stamps, comprise a larger share of total spending than they do in other states. In 1982, more than 62 percent of federal spending in Illinois consisted of direct payments (see table 1); only three states had higher shares. Similarly, Illinois has traditionally received more federal money in the form of grants-in-aid than many other states. Such grants cover costs of programs ranging from Medicaid to mass transit. By 1983, however, Illinois' share of grants had fallen off, as the state ranked 34th, receiving $365 per capita, slightly below the national average of $390 (see table 4).

It is in the area of federal procurement that Illinois has suffered the most. As is the case with many other Midwestern states, Illinois has unfailingly ranked far below other states in awards of civilian and defense contracts. Only eight percent of Illinois' federal spending came in the form of contracts in 1983, as compared to more than 21 percent for the nation as a whole. Illinois' low level of military contracts, which comprised almost 80 percent of all federal procurement in 1983, is particularly glaring. Illinois received $129 in per capita defense procurement in 1983, less than one-quarter of the national average of $535, and less than one-tenth of the per capita amounts received by Connecticut and Virginia. What is even more disturbing is that defense spending has declined as a share of Illinois federal spending in the past decade. In 1971, military outlays represented 17 percent of total federal spending in Illinois. By 1983, this share had shrunk to less than 12 percent.

Illinois' low level of defense spending, particularly in the category of procurement, is extremely damaging for three reasons. First, defense spending has increased significantly as a percentage of the federal budget under the present Administration. As a result, Illinois has lost ground to other states. This is evidenced by the state's tax/expenditure ratio ranking declining from 47th to 51st between 1980 and 1982. Second, many analysts have noted that defense contracts provide an important stimulus to local economies, creating jobs, spurring private investment, and thus inducing indirect benefits which exceed the value of the contracts. (4) Collectively labeled the "multiplier" or "ripple" effect, these benefits are especially helpful to communities during economic downturns. Finally, since many major defense procurements are funded on a multi-year basis, they produce a long-term effect on state and local economies. Illinois' low level of these expenditures has placed the state at a disadvantage from which it must emerge immediately to avoid worsening problems in future years.

CHAPTER 2—IMPLICATIONS OF THE BALANCE OF PAYMENTS PROBLEM

Several serious implications arise from an examination of Illinois' negative balance of payments with the federal government. Most important among these is the influence that this disparity can exert on the economic growth rate of the state. This impact is most clearly seen in the correlations between growth rates and tax/expenditure ratios of states. Pack found that between 1950 and 1975, among states which averaged ratios of $1.25 and above, 13 of 16 had growth rates above the national average. Among such states as Illinois, which averaged ratios below .90, only one of 12 had above-average growth rates. (5) More recently, between 1979 and 1982, per capita personal income in Illinois increased at a rate of 23.4 percent, well below the national average of 28.3 percent. During these years, Illinois' tax/expenditure ratio ranged from .73 to .66. During the same three-year period, per capita personal income in Florida grew at a rate of 33.8 percent, well above the national average. Florida enjoyed tax/expenditure rations ranging between $1.11 and $1.15 during this period.(6) Although economic growth rates in states are not determined exclusively by federal balances of payments, the correlation between the two is obvious.

The correlation between growth rates and federal fund flows can be attributed in large part to the types of spending received in states. As noted earlier, certain types of spending, such as transportation, public works, and defense contracts are more economically stimulative than direct payments to individuals, since they create employment and often induce private investment, rather than just increase consumption rates.(7) Illinois' low growth rate in recent years can thus be explained in part by the decline in its share of stimulative spending categories.

A look at Illinois' federal spending by agency illustrates this pattern. Political scientist Thomas Anton observes that between 1971 and 1980, the percentage of Illinois' federal spending accounted for by defense expenditures declined from 8.5 percent to 4.9 percent, and the share of spending accounted for by the Department of Housing and Urban Development dipped from 10.8 percent to 5.2 percent.(8) Because these types of spending consist in large part of public works construction projects and contracts, which are economically stimulative, a decline in their share of Illinois' federal spending may also have influenced the state's slower-than-average growth rate.

A subtler implication of Illinois' negative balance of payments lies in the strain on the fiscal capacity of the state and local governments which results from smaller infusions of federal spending for grants-in-aid. Between 1981 and 1983, federal spending for grants-in-aid declined by 2.2 percent, from $94.8 billion to $92.7 billion. Grants to Illinois, moreover, declined by 9.1 percent, from $4.6 billion to $4.2 billion. The strains caused by these declines forced state and local governments to curtail services and raise taxes, which hurt the business climate as well as quality of life for citizens.

SUMMARY

In sum, what emerges from an examination of Illinois' negative balance of payments is a vast inequity—and a powerfully ironic inequity at that—which has caused damaging effects already and may potentially cause more of them if something is not done.

Recent years have witnessed a pattern in which the federal government collects large tax payments from high-income, low-growth states such as Illinois, and returns a comparatively small amount of spending in exchange. Conversely, the government dispenses money in greater proportion among high-growth states in the South and West, while exacting a comparatively small price in taxes. The federal government thus perpetuates the widening economic disparities between regions and states through its tax and spending policies.

CONCLUSION—A SOLUTION TO THE BALANCE OF PAYMENTS PROBLEM

To respond to the inequities faced by Illinois and many other states, it is essential to readjust federal spending patterns which are a chief cause of this problem.

The bill I am introducing will do this in the following manner: to help rectify disparities in the negative balances of payments of many states and to improve the economic growth rates of these states, this legislation will concentrate on stimulative spending categories, such as grants and federal contracts. Spending in these categories will be reallocated among states, so that the deficit will not increase. To avoid cutting essential social services for the needy in all states, the bill will not alter formulas for distributing direct payments to individuals, such as Social Security. The bill will, however, adjust federal shares of social service grant programs such as Medicaid, to ease the burden on state and local governments whose budgets are currently strained by their states' negative balances of payments. States whose tax/expenditure ratios are below 90 cents will be eligible for all of these provisions, and states whose tax/expenditure ratios are between 90 cents and $1 will be eligible for provisions regarding procurement.

The results, I hope, will be twofold. The federal government will become more effective in stimulating investment and jobs in the states where they are needed most, and it will ease fiscal burdens on citizens and state and local governments in areas victimized by inequities in the federal balance of payments.

TABLE 1.—DISTRIBUTION OF FEDERAL EXPENDITURES BY CATEGORY: UNITED STATES [1] AND ILLINOIS, FISCAL YEARS 1981–83

[Dollars in millions]

	1981			1982			1983		
	United States	Illinois	Percent [2]	United States	Illinois	Percent [2]	United States	Illinois	Percent [2]
Total expenditures: [3]									
Dollars	$545,469	$21,391		$584,782	$22,353		$672,647	$28,591	
Percent	100	100		100	100		100	100	
Grants:									
Dollars	93,296	4,610		86,581	4,103		89,756	4,191	
Percent	17.10	21.56	+4.46	14.81	18.36	+3.55	13.34	14.66	+1.31
Salaries and wages:									
Dollars	73,652	1,928		77,494	2,068		101,469	3,317	
Percent	13.50	9.01	−4.49	13.25	9.25	−4.00	15.09	11.61	−3.48
Direct payments:									
Dollars	257,117	12,522		283,140	13,919		322,853	18,009	
Percent	47.10	58.54	+11.44	48.42	62.27	+13.85	48.00	62.99	+14.99
Procurement:									
Dollars	116,003	1,995		132,157	2,053		142,079	2,221	
Percent	21.27	9.33	−11.94	22.60	9.18	−13.42	21.12	7.77	−13.35
Other programs:									
Dollars	5,398	337		5,410	211		16,486	852	
Percent	.99	1.58	+.59	.92	.94	+.02	2.45	2.98	+.53

[1] Only includes monies distributed to 50 States and District of Columbia. Does not include moneys distributed to U.S. territories.
[2] Percent difference.
[3] Totals may not add due to rounding.

Source: U.S. Bureau of the Census. "Federal Expenditures by State for Fiscal Years 1981, 1982, 1983." (Prepared pursuant to The Consolidated Federal Funds Report Act of 1982—Public Law 97–326.)

TABLE 2.—ESTIMATED FEDERAL TAX PAYMENTS AND EXPENDITURES IN ILLINOIS,[1] FISCAL YEARS 1976–82

[Dollars in millions]

	Expenditures		Tax payments		Outflow dollars
	Dollars	Percent	Dollars	Percent	
1976	$15,290	4.32	$18,005	6.17	−$2,715
1977	17,337	4.45	21,537	6.15	−4,200
1978	19,276	4.52	23,859	6.05	−4,583
1979	20,785	4.49	28,132	6.16	−7,347
1980	23,033	4.42	30,337	5.98	−7,304
1981	21,391	3.92	34,426	5.88	−13,035
1982	22,353	3.82	34,874	5.80	−12,521

[1] Since columns for spending and taxes are estimates which do not include spending categories that could not be allocated by states, these outflow numbers are necessarily rough estimates and do not appear in tables prepared by the Congressional Research Service. Additionally, the data base was changed pursuant to The Consolidated Federal Funds Report Act of 1982, so that data for the years 1976 through 1982 may not be added to form a total multi-year outflow.

Source: Lilian Rymarowicz. "Estimated Federal Tax Payments of Individual States Compared to Estimated Federal Outlays in the States, Fiscal Years 1976–82." Washington, DC. Congressional Research Service. Table 1.

TABLE 3.—FEDERAL TAX/EXPENDITURE RATIOS AND RANK FOR ILLINOIS, FISCAL YEARS 1977–82

	Ratio (cents)	Rank
1977	0.72	47
1978	.75	45
1979	.73	46
1980	.74	47
1981	.67	51
1982	.66	51

Note: Ratio—Federal funds distributed for each dollar of Federal taxes paid. Rank—For ratios of Federal dollars distributed per Federal taxes paid, for all of 50 States and District of Columbia. Rankings range from 1 to 51. Rankings and ratios based on six-digit ratio computations from tax and expenditure data, with the assumption that for the United States, $1 in expenditure equals $1 in tax payments.

Source: Same as table 2, except these are taken from Rymarowicz, table 2 for fiscal years 1977–82.

TABLE 4.—PER CAPITA FEDERAL EXPENDITURES BY CATEGORY AND RANK: UNITED STATES AND ILLINOIS, FISCAL YEARS 1982 AND 1983

	Fiscal year 1982			Fiscal year 1983		
	United States	Illinois		United States	Illinois	
		Dollars	Rank		Dollars	Rank
Total expenditures	$2,591	$1,950	46	$2,932	$2,489	34
Grant expenditures	379	358	33	390	365	34

TABLE 4.—PER CAPITA FEDERAL EXPENDITURES BY CATEGORY AND RANK: UNITED STATES AND ILLINOIS, FISCAL YEARS 1982 AND 1983—Continued

	Fiscal year 1982			Fiscal year 1983		
	United States	Illinois		United States	Illinois	
		Dollars	Rank		Dollars	Rank
Salaries and wages	335	180	40	432	289	37
Direct payments to individuals	1,228	1,214	22	[1] 1,371	[1] 1,568	6
Procurement	626	179	42	669	193	42
Other	23	18	29	70	74	16

[1] Includes Federal employee life and health insurance programs, in which Illinois received $228 per capita, ranking first among all States, excluding the District of Columbia.

Source: U.S. Bureau of the Census. "Federal Expenditures by State for Fiscal Years 1982 and 1983."

TABLE 5.—ESTIMATED FEDERAL TAX PAYMENTS AND FEDERAL EXPENDITURES BY STATE, FISCAL YEAR 1982

[Amount in millions of dollars]

	Tax payment [1]		Expenditures [2]	
	Amount	Percent of total	Amount	Percent of total
New England:				
Connecticut	10,783	1.79	11,967	2.05
Maine	2,224	.37	3,100	.53
Massachusetts	15,819	2.62	17,313	2.96
Mew Hampshire	2,387	.40	2,368	.40
Rhode Island	2,438	.41	2,538	.43
Vermont	1,092	.18	1,155	.20
Mid-Atlantic:				
Delaware	1,751	.29	1,491	.26
Maryland	12,109	2.01	15,065	2.58
New Jersey	23,583	3.92	16,619	2.84
New York	49,481	8.22	43,835	7.50
Pennsylvania	31,136	5.18	28,481	4.87
Midwest:				
Illinois	34,874	5.80	22,353	3.82
Indiana	13,590	2.26	10,111	1.73
Iowa	7,493	1.25	5,196	.89
Michigan	24,500	4.07	18,016	3.08
Minnesota	10,920	1.82	8,560	1.46
Ohio	28,249	4.70	23,282	3.98
Wisconsin	11,642	1.94	8,897	1.52
South:				
Alabama	7,686	1.28	9,668	1.65
Arkansas	4,163	.69	5,100	.87
Florida	25,583	4.25	28,460	4.87
Georgia	11,868	1.97	12,766	2.18
Kentucky	7,293	1.21	7,747	1.33
Louisiana	10,200	1.70	9,575	1.64
Mississippi	4,273	.71	6,562	1.12
North Carolina	12,298	2.04	11,527	1.97
Oklahoma	7,752	1.29	6,952	1.19
South Carolina	6,006	1.00	7,371	1.26
Tennessee	9,775	1.62	11,359	1.94
Texas	40,948	6.81	32,114	5.49
Virginia	13,798	2.29	21,865	3.74
West Virginia	3,977	.66	3,998	.68

TABLE 5.—ESTIMATED FEDERAL TAX PAYMENTS AND FEDERAL EXPENDITURES BY STATE, FISCAL YEAR 1982—Continued

[Amount in millions of dollars]

	Tax payment [1]		Expenditures [2]	
	Amount	Percent of total	Amount	Percent of total
West:				
Alaska	1,723	.29	1,868	.32
Arizona	6,621	1.10	7,465	1.28
California	71,286	11.85	75,014	12.83
Colorado	8,249	1.37	7,613	1.30
Hawaii	2,630	.44	3,433	.59
Idaho	1,981	.33	2,102	.36
Kansas	6,458	1.07	6,334	1.08
Missouri	11,865	1.97	15,955	2.73
Montana	1,906	.32	1,782	.30
Nebraska	3,922	.65	3,324	.57
Nevada	2,591	.43	2,215	.38
New Mexico	2,776	.46	5,142	.88
North Dakota	1,684	.28	1,460	.25
Oregon	6,878	1.14	5,510	.94
South Dakota	1,440	.24	1,601	.27
Utah	3,009	.50	3,710	.64
Washington	12,569	2.09	13,010	2.22
Wyoming	1,542	.26	1,048	.18

[1] Estimated by the Congressional Research Service (CRS) using the same techniques described in CRS Report No. 82–28 E, p. 3–7 in distributing $601.605 billion of actual fiscal year 1982 Federal tax revenues. See also Tax Foundation Inc., Monthly Features for March, 1983, page 2.

[2] Computations by CRS from table 1 of the U.S. Bureau of the Census, Federal Expenditures by State for Fiscal Year 1982 (prepared pursuant to the Consolidated Federal Funds Report Act of 1982, Public Law 97–326). Total varies from published amounts by $18.794 billion, of which $12.851 billion was not distributed by States and $5.943 billion was distributed to U.S. territories. Note also that the total fund distribution by State accounts for 80.29 percent of total budget outlays ($728.375 billion) for fiscal year 1982. Excluded from the census compilation are interest payments on the Federal debt, unemployment compensation payments disbursed by States, and other expenditures for which State-by-State allocations were not available. (See introduction in the census report for a detailed discussion.)

Source: Replicated from Lilian Rymarowicz, fiscal 1982.

TABLE 6.—FEDERAL TAX/EXPENDITURE RATIOS BY STATE FISCAL YEAR 1982

	Spending/taxes ratio	Rank
New England:		
Connecticut	1.15	16
Maine	1.43	5
Massachusetts	1.13	17
New Hampshire	1.10	29
Rhode Island	1.05	26
Vermont	1.11	19
Average	1.14	
Mid-Atlantic:		
Delaware	.86	40
Maryland	1.28	9
New Jersey	.72	48
New York	.91	36

TABLE 6.—FEDERAL TAX/EXPENDITURE RATIOS BY STATE FISCAL YEAR 1982—Continued

	Spending/taxes ratio	Rank
Pennsylvania	.94	33
Average	.92	
Midwest:		
Illinois	.66	51
Indiana	.77	46
Iowa	.71	49
Michigan	.76	47
Minnesota	.80	44
Ohio	.85	41
Wisconsin	.78	45
Average	.76	
South:		
Alabama	1.29	8
Arkansas	1.26	10
Florida	1.15	15
Georgia	1.11	20
Kentucky	1.09	23
Louisiana	.96	31
Mississippi	1.58	4
North Carolina	.97	30
Oklahoma	.92	35
South Carolina	1.26	11
Tennessee	1.20	13
Texas	.81	43
Virginia	1.63	3
West Virginia	1.03	27
Average	1.09	
West:		
Alaska	1.10	21
Arizona	1.16	14
California	1.08	24
Colorado	.95	32
Hawaii	1.34	7
Idaho	1.09	22
Kansas	1.01	28
Missouri	1.39	6
Montana	.94	34
Nebraska	.88	39
Nevada	.88	38
New Mexico	1.91	2
North Dakota	.89	37
Oregon	.82	42
South Dakota	1.13	18
Utah	1.26	12
Washington	1.06	25
Wyoming	.69	50
Average	1.09	
Northeast	.97	
Midwest	.76	
Northeast and Midwest	.87	
South	1.09	
West	1.09	
South and West	1.09	
District of Columbia	4.02	1
U.S. average	1.00	

Source: Rymarowicz, fiscal 1982.

TABLE 7.—PER CAPITA FEDERAL EXPENDITURES BY STATE: TOTAL EXPENDITURES AND PROCUREMENT, FISCAL YEAR 1982

	Total expenditures		Civilian and defense procurement	
	Spending	Rank	Spending	Rank
New England:				
Connecticut	$3,819	4	$2,129	1
Maine	2,736	12	715	10
Massachusetts	2,999	10	975	7
New Hampshire	2,530	19	574	18
Rhode Island	2,663	14	417	25
Vermont	2,239	32	412	26
Mid-Atlantic:				
Delaware	2,493	20	516	21
Maryland	3,534	5	959	8
New Jersey	2,245	30	442	24
New York	2,490	21	503	22
Pennsylvania	2,399	25	335	34
Midwest:				
Illinois	1,950	46	179	42
Indiana	1,849	49	388	30
Iowa	1,792	50	147	48
Michigan	1,957	45	200	40
Minnesota	2,091	42	391	29
Ohio	2,160	38	405	28
Wisconsin	1,872	48	226	37
South:				
Alabama	2,468	22	330	35
Arkansas	2,221	34	266	36
Florida	2,795	11	487	23

TABLE 7.—PER CAPITA FEDERAL EXPENDITURES BY STATE: TOTAL EXPENDITURES AND PROCUREMENT, FISCAL YEAR 1982—Continued

	Total expenditures		Civilian and defense procurement	
	Spending	Rank	Spending	Rank
Georgia	2,290	28	335	33
Kentucky	2,115	40	185	41
Louisiana	2,222	33	634	14
Mississippi	2,593	17	580	17
North Carolina	1,936	47	168	43
Oklahoma	2,243	31	212	38
South Carolina	2,327	27	370	31
Tennessee	2,463	23	584	16
Texas	2,175	37	536	20
Virginia	4,027	2	1,203	4
West Virginia	2,048	44	86	50
West:				
Alaska	4,533	1	1,089	6
Arizona	2,672	13	649	13
California	3,100	8	1,126	5
Colorado	2,568	18	616	15
Hawaii	3,499	6	356	32
Idaho	2,192	36	410	27
Kansas	2,658	15	663	12
Missouri	3,229	7	1,257	3
Montana	2,247	29	121	49
Nebraska	2,108	41	152	46
Nevada	2,621	16	664	11
New Mexico	3,872	3	1,501	2
North Dakota	2,219	35	155	45
Oregon	2,079	43	149	47
South Dakota	2,335	26	160	44
Utah	2,444	24	542	19
Washington	3,085	9	946	9
Wyoming	2,129	39	210	39
United States	2,591		626	

Source: U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1982."

Note.—Ranks do not include District of Columbia, but U.S. total does include District of Columbia. Figures for District of Columbia are: Per capita total expenditures—$17,127; and per capita procurement—$2,970.

TABLE 8.—PER CAPITA FEDERAL EXPENDITURES BY STATE: TOTAL EXPENDITURES AND PROCUREMENT, FISCAL YEAR 1983

	Total expenditures		Civilian and defense procurement	
	Spending	Rank	Spending	Rank
New England:				
Connecticut	$3,750	7	$1,755	1
Maine	2,679	27	378	32
Massachusetts	3,484	9	1,112	8
New Hampshire	2,784	20	601	14
Rhode Island	2,946	14	425	24
Vermont	2,551	31	374	33
Mid-Atlantic:				
Delaware	2,572	30	381	31
Maryland	4,211	3	1,246	5
New Jersey	2,481	35	416	25
New York	2,906	17	549	17
Pennsylvania	2,786	19	345	35
Midwest:				
Illinois	2,489	34	193	42
Indiana	2,199	49	398	28
Iowa	2,250	46	179	43
Michigan	2,203	48	214	38
Minnesota	2,437	36	428	23
Ohio	2,435	37	415	26
Wisconsin	2,220	47	208	39
South:				
Alabama	2,717	24	346	34
Arkansas	2,609	28	309	36
Florida	3,047	12	542	18
Georgia	2,580	29	457	22
Kentucky	2,376	40	207	40
Louisiana	2,326	45	412	27
Mississippi	2,978	13	754	11
North Carolina	2,114	50	151	47
Oklahoma	2,355	42	170	44
South Carolina	2,547	32	392	29
Tennessee	2,757	21	560	16
Texas	2,347	43	519	21
Virginia	4,503	1	1,426	2
West Virginia	2,404	39	94	50
West:				
Alaska	4,296	2	1,009	9
Arizona	2,751	23	581	15
California	3,429	10	1,226	6
Colorado	2,824	18	669	13
Hawaii	3,928	4	522	20
Idaho	2,420	38	385	30
Kansas	2,938	15	691	12

TABLE 8.—PER CAPITA FEDERAL EXPENDITURES BY STATE: TOTAL EXPENDITURES AND PROCUREMENT, FISCAL YEAR 1983—Continued

	Total expenditures		Civilian and defense procurement	
	Spending	Rank	Spending	Rank
Missouri	3,811	6	1,269	4
Montana	2,698	26	169	45
Nebraska	2,711	25	194	41
Nevada	2,916	16	767	10
New Mexico	3,826	5	1,381	3
North Dakota	3,129	11	287	37
Oregon	2,335	44	144	48
South Dakota	2,751	22	166	46
Utah	2,540	33	537	19
Washington	3,555	8	1,206	7
Wyoming	2,375	41	136	49
United States	2,932		669	

Source: U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1983."

Note.—Ranks do not include District of Columbia, but U.S. total does include District of Columbia. Figures for District of Columbia are: Per capita total expenditures—$18,473; and per capita procurement—$2,148.

TABLE 9.—TAX/EXPENDITURE RATIOS OF DISADVANTAGED STATES ELIGIBLE UNDER ALL SECTIONS OF STATE MINIMUM RETURN ACT, FISCAL YEAR 1983

	Ratio	Rank [1]
Mid-Atlantic:		
Delaware	$0.80	46
New Jersey	.68	51
Midwest:		
Illinois	.75	48
Indiana	.83	43
Iowa	.86	41
Michigan	.79	47
Minnesota	.86	42
Ohio	.87	39
Wisconsin	.82	45
South:		
Louisiana	.86	40
Oklahoma	.82	44
Texas	.75	49
West:		
Colorado	.89	38
Wyoming	.70	50

[1] Includes District of Columbia, which ranked first.

Note.—These ratios differ from those in table 6 for fiscal year 1982 because of the addition of two spending categories (expenditures for Postal Service procurement and salaries and expenditures for Federal employee life and health insurance) to the data base for "Federal Expenditures by State for Fiscal Year 1983," that increased significantly the amount of Federal spending allocated to Illinois, Michigan, Texas, and other large states.

Source: U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1983," and Tax Foundation, Inc. "Monthly Tax Features." (Washington, DC, April 1984).

TABLE 9A.—TAX/EXPENDITURE RATIOS OF ADVANTAGED STATES

[In millions of dollars]

	Ratio	Rank
New England:		
Maine	$1.22	12
Massachusetts	1.09	24
Rhode Island	1.05	27
Vermont	1.09	22
Mid-Atlantic:		
Maryland	1.29	8
South:		
Alabama	1.29	9
Arkansas	1.33	7
Florida	1.10	18
Georgia	1.10	21
Kentucky	1.09	23
Mississippi	1.59	3
South Carolina	1.24	11
Tennessee	1.21	13
Virginia	1.55	4
West Virginia	1.08	26
West:		
Arizona	1.10	20
California	1.08	25
Hawaii	1.39	6
Idaho	1.15	16
Missouri	1.45	5
Montana	1.10	19
Nebraska	1.04	28
New Mexico	1.67	2

TABLE 9A.—TAX/EXPENDITURE RATIOS OF ADVANTAGED STATES—Continued

[In millions of dollars]

	Ratio	Rank
North Dakota	1.16	15
South Dakota	1.26	10
Utah	1.20	14
Washington	1.13	17

Source: See table 9.

TABLE 10.—TAX/EXPENDITURE RATIOS OF DISADVANTAGED STATES ELIGIBLE FOR PROCUREMENT PROVISIONS OF THE STATE MINIMUM RETURN ACT

[Fiscal year 1983]

	Ratio	Rank
New England:		
Connecticut	$0.94	33
New Hampshire	.97	31
Mid-Atlantic:		
New York	.92	35
Pennsylvania	.98	29
South:		
North Carolina	.95	32
West:		
Alaska	.94	34
Kansas	.97	30
Nevada	.92	36
Oregon	.90	37

Source: See table 9.

NOTES

1. Advisory Commission on Intergovernmental Relations (I.M. Labovitz), *Regional Growth: Flows of Federal Funds, 1952-76.* Washington, D.C., Government Printing Office, June, 1980; Lilian Rymarowicz, *Estimated Federal Tax Payments of Individual States Compared to Estimated Federal Outlays in the States, Fiscal Years 1976-1982.* Washington, D.C. Congressional Research Service (published annually).

2. Janet Rothenberg Pack, "The States' Scramble for Federal Funds: Who Wins, Who Loses?," *Journal of Policy Analysis and Management,* I. No. 2 (1982), pages 181-187.

3. *Ibid.;* See an excellent discussion of this in Daniel Patrick Moynihan, *New York State and the Federal Fisc:* VII, 1983, pages 74-77.

4. See, for example, Robert N. Schoeplein, *The Midwest Economy, Issues and Policy: The Federal Balance of Payments with Midwest States.* Urbana, Illinois: University of Illinois, 1981, page 62; Moynihan, pages 77-78.

5. Pack, page 179. See also Schoeplein, pages 64-65.

6. *National Journal,* No. 38, September 17, 1983. (Data compiled by the U.S. Department of Commerce, Bureau of Economic Analysis.)

7. Schoeplein, page 27; Moynihan, pages 77, 78; Pack, page 175; see also footnote 4.

8. Thomas J. Anton, "The New Federalism in Illinois, "*Illinois Issues,* March, 1982, page 13.

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"THE STATE MINIMUM RETURN ACT OF 1984"—SECTION-BY-SECTION ANALYSIS

I. STATEMENT OF POLICY

The purpose of this bill is to guarantee all states a 90 percent return in spending based on their tax payments by Fiscal 1989, by reallocating certain spending categories within existing budget authority.

II. DESIGNATION OF ELIGIBILITY OF STATES

Which states can receive money and how this is determined.

States which currently receive less than a 90 percent return will be eligible for all reallocation adjustments provided for in this bill.

States which currently receive a return between 90 percent and 100 percent will be eligible only for reallocation adjustments regarding procurement.

Eligibility will be determined by the following agencies: the Director of the Office of Management and Budget (OMB) will determine the eligibility of states on an annual basis, after consultation with the Director of the Census Bureau, who publishes data on Federal expenditures in states, and the Commissioner of the Internal Revenue Service (IRS), who collects taxes from the states. The Commissioner of the IRS will consult with the National Tax Foundation, a private, non-profit organization that has a widely-accepted methodology for allocating actual tax burdens in states. These actual tax burdens often differ from tax collections from states. Corporate taxes, for instance, are collected in states in which a company's headquarters are located, but the taxes are actually paid in many states in which offices or subsidiaries of the company are located.

III. DESIGNATION OF REALLOCABLE FEDERAL EXPENDITURES

Which types of Federal expenditures are exempt from the bill.

Water and energy programs and agencies which by law are limited to certain states. These include the Bureau of Reclamation, the Tennessee Valley Authority, the Bonneville Power Administration.

Salaries and wages of Federal employees;

Maintenance of Federal buildings and installations, such as military bases;

Offsetting receipts (for example, revenues from the sale of timber in national forests);

Direct payments to individuals, including Social Security; unemployment compensation; Medicare; Food Stamps; Black Lung Disability; Supplemental Security Income; National Guaranteed Student Loans; Pell grants; lower income housing assistance; social insurance and retirement payments for railroad workers; excess earned income tax credits; veterans assistance; Federal workers; compensation, retirement, and life and health insurance.

IV. REALLOCATION AUTHORITY

Who administers adjustments in spending.

The head of each Federal agency will reallocate spending to eligible states necessary to meet the requirement of a 90 percent return by Fiscal 1989, after consultation with the Director of OMB.

For the purpose of these adjustments in spending, all administrative requirements (for example, agency priorities or application processes), except audit requirements, will be waived.

V. REALLOCATION MECHANISMS

How spending is reallocated to eligible states.

Procurement.—The head of each Federal agency will attempt to increase the national share of contracts awarded to and performed in each eligible state by 10 percent annually. Thus, if a state was receiving 5% of the contracts awarded by a particular agency in a given year, the agency would attempt to ensure that the state received 5.5% of the value of the contracts awarded the following year. Toward this end, agency heads will seek out and identify qualified firms and disseminate necessary information to increase participation of these firms in procurement. In addition, agency heads will submit reports to the Director of OMB 30 days after the end of each Fiscal Year regarding progress made in increasing the number of contracts awarded to, and performed by, firms in eligible states. Only those contracts in which the work is performed in eligible states may be counted toward the 10 percent increase. 90 days after the end of each Fiscal Year, the Director of OMB will report to Congress regarding the progress made by each agency.

How these firms receive contract awards.

For competitive procurements, a firm that will perform the contract in an eligible state will receive a contract award if its bid is lower or equivalent to the bid of a firm that will perform the contract in an ineligible state.

For noncompetitive procurements, a firm that will perform the contract in an eligible state will receive a contract if it can complete the contract at a lower or approxi-

mately equivalent price as a firm that will perform the contract in an ineligible state.

For a firm to receive a contract under these provisions, it must be determined by the head of the contracting agency to have met the requirements of section 8(b)(7) of the Small Business Act, including capability, competency, capacity, credit, integrity, perseverance, and tenacity. (These are requirements utilized for the issuance of a certificate of competency, required of all firms seeking to obtain government contracts.) In the case of pre-qualification requirements, the firm must be notified in writing of necessary standards and it must meet those standards in a timely manner.

V. REALLOCATION MECHANISMS (continued)

Federal Grants.—For all grant programs of the various Federal agencies, such as the Department of Transportation, the Department of Housing and Urban Development, the Department of Health and Human Services, in which funds are allocated to states by the Federal government, eligible states will receive an increase of 10 percent in their share of total program monies, based on the average share they have received over the past three Fiscal Years. For example, if a state received an average share of 10 percent, or $100 million, of a $1 billion grant program, it would receive 11 percent, or $110 million, of the grant program in the first Fiscal Year after enactment of the bill, assuming the program was funded at the same level in that year.

How adjustments are made without overly disrupting programs and ineligible states.

Projects that are individually authorized and appropriated (for instance, an Army Corps of Engineers dam project) will only be covered by the bill to the extent practical.

No state will receive more than a 10 percent cut in any one program over the previous Fiscal Year directly as a result of the bill.

No reallocation can be made if it will result in any state receiving less than a 90 percent return in the aggregate.

VI. LIMIT ON AMENDMENTS

This bill cannot be amended without specific reference to this bill.

VII. EFFECTIVE DATE

The bill will take effect in the first Fiscal Year after enactment of the bill.

GUIDE TO THE STATE MINIMUM RETURN ACT OF 1984

Section 4—Eligible States (Page 2, lines 11-22).

(a) States with less than a 90 percent return eligible for all sections of the bill (14 states):

Colorado, Delaware, Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, New Jersey, Ohio, Oklahoma, Texas, Wisconsin, Wyoming.

(b) States with less than a 100 percent return eligible for section regarding procurement (9 states):

Alaska, Connecticut, Kansas, Nevada, New Hampshire, New York, North Carolina, Oregon, Pennsylvania.

Section 5—Designation of Reallocable Federal Expenditures.

Spending categories not included (Page 2, line 33—Page 4, line 5).

(1) Water and energy programs restricted to regions, including Tennessee Valley Authority (Mid-Atlantic and Southern states), Bonneville Power Administration (Northwestern states), Bureau of Reclamation (Western states), Appalachian Regional Development (Southern and Mid-Atlantic states surrounding Appalachian Mountains).

(4) Offsetting receipts—Examples—sale of mineral leasing rights owned by the federal government, sale of timber from national forests, sale of offshore oil leasing rights, sale of water for irrigation.

(5) Direct Payments to Individuals (Page 3, line 13—Page 4, line 5).

Supplemental Security Income—Supplemental income for poor and elderly people in addition to Social Security. It is needs-tested, not based on income like Social Security.

Social Insurance for Railroad Workers—Unemployment insurance payments for railroad workers; benefits for Conrail employees and Milwaukee railroad workers.

Section 6—Reallocation Authority (Page 4, lines 6-23).

(b) "the head of each Federal agency is authorized to waive any provision with respect to allocation, . . ." to reallocate monies under the bill:

Agencies will not be limited by existing formulas, set-asides, or other requirements, when reallocating monies under this bill.

Section 7—Reallocation Mechanisms (Page 4, line 24—Page 6, line 25).

Procurement—Each state receives an increase of 10 percent in its percentage share of total contract dollars, based on an average of its percentage shares over the past three fiscal years.

Hypothetical.—If a state received an average of $5 billion in contracts over the past three years, and the total contracts awarded amounted to $100 billion in each of those years, the state's average share would be 5 percent. Under the bill, the state would receive 5.5 percent in the first year, or $5.5 billion, a 10 percent increase. In the second year, the state would receive 6.1 percent, or $6.1 billion, and so forth, assuming that total contracts remained at $100 billion per year.

Procurement—State Example (in the first year after bill is enacted, if total contract dollars remained the same).

Illinois—Total procurement would increase from $2.2 billion to $2.5 billion, an increase of (75¢ return) approximately $300 million, based on a percentage increase from 1.4 percent to 1.6 percent of the national total.

Defense procurement would increase from $1.48 billion to $1.63 billion, an increase of approximately $150 million, based on a percentage increase from 1.2 percent to 1.3 percent of the national total.

Indiana—Total procurement would increase from $2.2 billion to $2.5 billion, an increase of (83¢ return) approximately $300 million, based on a percentage increase from 1.4 percent to 1.6 percent of the national total.

Michigan—Total procurement would increase from $1.9 billion to $2.4 billion, an increase of (79¢ return) approximately $500 million, based on a percentage increase from 1.37 percent to 1.51 percent of the national total.

Federal Grants.—Each state receives 110 percent of its average share over the past three fiscal years. For example, if a state currently has an average share of $100 million of a $1 billion grant program, or 10 percent, it will receive $110 million in the first year after the bill has been enacted, or 11 percent. In the second year, it will receive $121 million, or 12.1 percent, and so forth, assuming that total funds continue at the $1 billion level.

Federal Grants—State Examples (in the first year after the bill is enacted, if total program monies remain the same)

Illinois.—Aid to Families with Dependent Children.—Increase from $442 million to $485 million, an increase of approximately $43 million, based on a percentage increase from 5.6 percent to 6.2 percent of the national total.

Medicaid.—Increase from $728 million to $905 million, an increase of approximately $177 million, based on a percentage increase from 4.3 percent to 4.8 percent of the national total.

Wastewater Treatment.—Increase from $142 million to $194 million, an increase of approximately $52 million, based on a percentage increase from 5.9 percent to 6.5 percent of the national total.

Urban Mass Transit.—Increase from $308 million to $333 million, an increase of approximately $25 million, based on a percentage increase from 8.2 percent to 9.1 percent of the national total.

Education.—Increase from $246 million to $332 million, an increase of approximately $86 million, based on a percentage increase from 4.5 percent to 4.9 percent of the national total.

New Jersey.—Medicaid (68¢ return). Increase from $530 million to $564 million, an increase of approximately $34 million, based on a percentage increase from 2.7 percent to 3.0 percent of the national total.

Minnesota.—Wastewater Treatment (86¢ return). Increase from $47 million to $63 million, an increase of approximately $16 million, based on a percentage increase from 1.6 percent to 2.1 percent of the national total.

Ohio.—Urban Mass Transit (87¢ return). Increase from $102 million to $120 million, an increase of approximately $18 million, based on a percentage increase from 2.8 percent to 3.3 percent of the national total.

By Mr. GORTON:

S. 2983. A bill to amend the Tariff Schedules of the United States to clarify the duty treatment of certain types of plywood; to the Committee on Finance.

TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD

Mr. GORTON. Mr. President, the measure I am introducing today is aimed at correcting an anomaly in the U.S. Tariff Schedules. Under existing Tariff Schedules, edge-worked plywood sheets—tongue and groove or shiplap plywood—are being treated by the Customs Service not as plywood sheets, but as building boards chiefly "used in the construction of walls, ceilings, or other parts of buildings." The tariff rate on this latter category is less than half the former, resulting in an inflow of edgeworked Canadian plywood sufficient to cause significant distress to plywood manufacturers in the Pacific Northwest.

Anyone with the slightest familiarity with plywood knows that the Customs Service's current practice is an absurdity. Tongue and groove plywood is clearly and obviously plywood, and the measure I am proposing simply clarifies this.

This bill is identical to H.R. 5182, on which hearings were held in the House of Representatives, and which has been reported out of that body's Ways and Means Committee. This measure is designed to clarify that such tariffs as are legislated by Congress are to be carried out according to the intent of Congress at the time at which they were enacted; it is not intended to create a new protectionist barrier.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That headnote 1 of part 3 of schedule 2 of the Tariff Schedules of the United States is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by striking out "chiefly used in the construction of walls, ceilings, or other parts of buildings" and inserting in lieu thereof "other than plywood, wood-veneer panels, or cellular panels".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

By Mr. HATCH (for himself, Mr. THURMOND, and Mr. HEINZ):

S. 2985. A bill to transfer certain functions to the Equal Employment Opportunity Commission; to the Committee on Governmental Affairs.

EQUAL EMPLOYMENT OPPORTUNITY ENFORCEMENT REORGANIZATION ACT

Mr. HATCH. Mr. President, today I am introducing for myself and my colleagues Senators THURMOND and HEINZ a bill that will protect the authority of the Equal Employment Opportunity Commission to enforce both the Age Discrimination in Employment Act [ADEA] and the Equal Pay Act.

In 1977, Congress passed the Reorganization Act, authorizing the President to reorganize the execution branch and its agencies to increase efficiency and promote better execution of the laws. Under the act, the President was required to submit each reorganization plan to both Houses of Congress, and the plan would become effective unless either the Houses of Representatives or the Senate objected to the plan within 60 days of its submission.

A reorganization plan submitted to Congress in 1978, among other things, transferred authority over ADEA and the Equal Pay Act from the Department of Labor to the Equal Employment Opportunity Commission. Neither the Senate nor the other body objected and the plan became effective on July 1, 1979. Subsequent appropriations bills passed by Congress since 1979 have referenced the enforcement of ADEA and the Equal Pay Act as being among the functions performed by the Commission.

In 1983, in the landmark case of Immigration and Naturalization Service against Chada, the Supreme Court held that the one-House congressional veto in the Reorganization Act of 1977 was unconstitutional, because it allowed Congress to act in a legislative capacity without complying with the procedural requirements of article I.

Not unexpectedly, the decision raised questions about the validity of more than 200 statutes which contain legislative veto provisions including the Reorganization Act of 1977. Last February, in EEOC against Hernando Bank, the fifth circuit held that the legislative veto provision was severable from the rest of the Reorganization Act and that authority over ADEA was validly transferred to the Commission. Last month, the sixth circuit, in Muller Optical Company against EEOC, also affirmed that the EEOC may enforce ADEA, on the grounds that an unexercised legislative veto does not violate the constitutional separation of powers when the executive action approved by Congress, the transfer of authority over ADEA and the Equal Pay Act, does not affect substantive rights or alter enforcement powers.

Unfortunately, in EEOC against CBS, Inc., the second circuit held the one-House veto provision in the Reorganization Act of 1977 was unconstitutional, thus invalidating the transfer of enforcement authority to the Commission. Yet the court noted that immediate dismissal of the suit against CBS would be too harsh a remedy and stayed the entry of its judgment until December 31, 1984, suggesting that this stay would give Congress sufficient time to take appropriate legislative action.

The bill we are introducing today is such appropriate legislative action. It will simply enact the reorganization plan of 1978, thus protecting the authority of the Commission to enforce ADEA, the Equal Pay Act, and section 501 of the Rehabilitation Act of 1973, as well as the authority of Department of Justice of bring suit under section 707 of title VII of the Civil Rights Act of 1964, as amended.

It should be noted that this bill is not intended to send a signal that Congress now believes all of the statutes containing legislative veto provisions are invalid nor that new legislation is necessary to overcome the problems posed by the Supreme Court's decision in Chada. To the contrary, I believe that the opinions of the fifth and sixth circuits noted above are well-reasoned and that if appealed, the decision by the second circuit would be overturned.

Unfortunately, in this instance to wait until the judicial process has been exhaused would place a significant burden on those citizens who already have brought suit or may wish to seek relief under ADEA, the Equal Pay Act and other Federal statutes in those jurisdictions which will follow the reasoning in the CBS, Inc. decision. Our purpose in introducing this bill is to protect these individuals, so that their rights are not lost due to an unintended administrative miscue while the decision of the second circuit is being appealed.

I also wish to note that the bill strictly conforms to the wording of reorganization plan No. 1, which was submitted to Congress in 1978. Our purpose in drafting the bill in this manner was to ensure that the bill's only consequence is to overturn the decision in EEOC against CBS, Inc. We did not, it the name of simplicity, use this bill to create new rights or new responsibilities. As written, it simply protects the existing delegation of authority for the enforcement of ADEA and the Equal Pay Act. For these reasons, I hope that Congress will act on this bill expeditiously.

Mr. President, I ask unanimous consent that the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2985

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

SHORT TITLE

SECTION 1. That this Act may be cited as the "Equal Employment Opportunity Enforcement Reorganization Act".

TRANSFER OF EQUAL PAY ENFORCEMENT FUNCTIONS

SEC. 2. All functions related to enforcing or administering section 6(d) of the Fair Labor Standards Act, as amended (29 U.S.C. 206(d)), are hereby transferred to the Equal Employment Opportunity Commission. Such functions include, but shall not be limited to, the functions relating to equal pay administration and enforcement now vested in the Secretary of Labor, the Administrator of the Wage and Hour Division of the Department of Labor, and the Office of Personnel Management (formerly the Civil Service Commission) pursuant to sections 4(d)(1); 4(f); 9; 11 (a), (b), and (c); 16 (b) and (c); and 17 of the Fair Labor Standards Act, as amended (29 U.S.C. 204(d)(1); 204(f); 209; 211 (a), (b), and (c); 216 (b) and (c); and 217)) and section 10(b)(1) of the Portal-to-Portal Act of 1947, as amended (29 U.S.C. 259).

TRANSFER OF AGE DISCRIMINATION ENFORCEMENT FUNCTIONS

SEC. 3. All functions vested in the Secretary of Labor or in the Office of Personnel Management (formerly the Civil Service

Commission) pursuant to sections 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621, 623, 626, 627, 628, 629, 630, 631, 632, 633, and 633a), are hereby transferred to the Equal Employment Opportunity Commission. All functions related to age discrimination administration and enforcement pursuant to sections 6 and 16 of the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 625 and 634), are hereby transferred to the Equal Employment Opportunity Commission.

TRANSFER OF EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT ENFORCEMENT FUNCTIONS

SEC. 4. (a) All equal opportunity in Federal employment enforcement and related functions vested in the Office of Personnel Management pursuant to section 717 (b) and (c) of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16 (b) and (c)), are hereby transferred to the Equal Employment Opportunity Commission.

(b) The Equal Employment Opportunity Commission may delegate to the Merit Systems Protection Board (formerly the Civil Service Commission) or its successor the function of making a preliminary determination on the issue of discrimination whenever, as a part of a complaint or appeal before the Office of Personnel Management (formerly the Civil Service Commission) on other grounds, a Federal employee alleges a violation of section 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16), provided that the Equal Employment Opportunity Commission retains the function of making the final determination concerning such issue of discrimination.

TRANSFER OF FEDERAL EMPLOYMENT OF HANDICAPPED INDIVIDUALS, ENFORCEMENT FUNCTIONS

SEC. 5. All Federal employment of handicapped individuals enforcement functions and related functions vested in the Office of Personnel Management (formerly the Civil Service Commission) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 781), are hereby transferred to the Equal Employment Opportunity Commission. The function of being cochairman of the Interagency Committee on Handicapped Employees now vested in the Chairman of the Office of Personnel Management pursuant to section 501 is hereby transferred to the Chairman of the Equal Employment Opportunity Commission.

TRANSFER OF PUBLIC SECTOR 707 FUNCTIONS

SEC. 6. Any function of the Equal Employment Opportunity Commission concerning initiation of litigation with respect to State or local government, or political subdivisions under section 707 of title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-6), and all necessary functions related thereto, including investigation, findings, notice, and an opportunity to resolve the matter without contested litigation, are hereby transferred to the Attorney General, to be exercised by him in accordance with procedures consistent with said title VII. The Attorney General is authorized to delegate any function under section 707 of said title VII to any officer or employee of the Department of Justice.

TRANSFER OF FUNCTIONS AND ABOLITION OF THE EQUAL EMPLOYMENT OPPORTUNITY COORDINATING COUNCIL

SEC. 7. All functions of the Equal Employment Opportunity Commission Coordinating Council, which was established pursuant to section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), are hereby transferred to the Equal Employment Opportunity Commission. The Equal Employment Opportunity Coordinating Council is hereby abolished.

SAVINGS PROVISION

SEC. 8. Administrative proceedings including administrative appeals from the acts of an executive agency (as defined by section 105 of title 5 of the United States Code) commenced or being conducted by or against such executive agency will not abate by reason of the taking effect of this Act. Consistent with the provisions of this Act, all such proceedings shall continue before the Equal Employment Opportunity Commission otherwise unaffected by the transfers provided by this Act. Consistent with the provisions of this Act, the Equal Employment Opportunity Commission shall accept appeals from those executive agency actions which occurred prior to the effective date of this Act in accordance with law and regulations in effect on such effective date. Nothing herein shall affect any right of any person to judicial review under applicable law.

INCIDENTAL TRANSFERS

SEC. 9. So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Act, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate department, agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall, as necessary, provide for terminating the affairs of the Council abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Act.

EFFECTIVE DATE

SEC. 10. Sections 2 through 5 of this Act shall take effect on July 1, 1979, and sections 6 and 7 of this Act shall take effect on July 1, 1978.

● Mr. THURMOND. Mr. President, I am pleased to join with the distinguished chairman of the Labor and Human Resources Committee, Senator HATCH, and other Senators in sponsoring legislation to ratify the transfer of enforcement authority for the Age Discrimination in Employment Act and certain other statutes to the Equal Employment Opportunity Commission [EEOC].

The authority of the EEOC to enforce this key Federal statute, which prohibits employment discrimination against older workers, has been called into question by a recent decision of the U.S. Court of Appeals for the second Judicial Circuit. On August 28, 1984, in the case EEOC against CBS, Inc., the second circuit invalidated the authority of the EEOC, transferred to it by President Carter's reorganization plan No. 1 of 1978, to enforce the Age Discrimination in Employment Act.

The basis for the court's decision was the fact that the 1977 Reorganization Act, which provided the President general authority to promulgate executive branch reorganization plans, contained a "one-house legislative veto" provision, a concept which has been held uncontitutional by the U.S. Supreme Court in the landmark Chadha case of last year. Most importantly, unlike two other Federal circuit courts which have considered the issue, the second circuit declined to uphold the EEOC enforcement authority on the basis that the legislative veto provision was severable from the remainder of the Reorganization Act or that Congress had subsequently ratified the transfer of enforcement authority to the EEOC.

Mr. President, as the distinguished chairman of the Labor and Human Resources Committee had indicated, our introduction of this legislation should not be taken as an indication that we approve of the second circuit holding in EEOC against CBS, Inc. Indeed, the Commission had indicated that it plans to seek an en banc rehearing and possible further appeal of that case. It could be that future development might render this legislation unnecessary.

In the interim, however, there is a cloud of uncertainty over the authority of the EEOC to carry out its vital mission of enforcing the several statutes protecting the elderly from employment discrimination, particularly within the geographical confines of the second circuit—New York, Connecticut and Vermont. If that cloud of uncertainty is not promptly removed by other means, we believe Congress will move expeditiously to enact whatever legislation may be necessary to ensure that the several statutes which protect the rights of individuals from age discrimination in employment are fully enforced.

Mr. President, the legislation we are submitting today essentially ratifies and codifies the transfer to the EEOC of enforcement authority over various employment discrimination statutes encompassed within the reorganization plan No. 1 of 1978. It may be that this legislation can be refined and improved, and as earlier mentioned, developments could render the legislation unnecessary. There must be no doubt, however, that the commitments to protecting our citizens, particulary older Americans, from unlawful discrimination in the workplace will be fulfilled. It is in that spirit that I join with my several distinguished colleagues and cosponsors in submitting this legislation today.●

Mr. HEINZ. Mr. President, as chairman of the Senate Aging Committee, I support Senator HATCH's bill to enforce both the Age Discrimination in Employment Act [ADEA] and the

Equal Pay Act. This legislation was made necessary by an August 28 decision in the Second Circuit Court of Appeals. The second circuit's decision stated that the transfer of authority for the ADEA was unconstitutional because it was authorized by the Reorganization Act of 1977, a statute which contained a "one-house legislative veto" provision. The court was not taking issue with the merits of the transfer, nor was it commenting on the effectiveness of the EEOC in carrying out its enforcement activities. Rather, the court merely drew upon the precedent established in the Supreme Court's Chada decision and ruled that the transfer was unconstitutional because of a legislative veto decision.

It should also be noted that there have been two recent decisions, one in the fifth circuit and one in the sixth circuit, affirming that the EEOC may enforce the ADEA. I agree with Senator HATCH that this bill is not intended to send a signal that Congress now believes all of the statutes containing legislative veto provisions are invalid. Rather, I believe that the opinions of the fifth and sixth circuits which I just mentioned are accurate and that if appealed, the decision by the second circuit would be overturned.

However, the necessity of this legislation, Mr. President, is measured in human terms. If we wait for the judicial process to take its course, the 21 ADEA cases now pending in the second circuit are jeopardized. Each of those cases involves the employment rights of older Americans, who by law were guaranteed the opportunity to have their grievances heard in a court of law.

Furthermore, the second circuit's decision could have negative consequences on the 150 ADEA cases pending in other circuit courts nationwide. Ultimately, failure to restore the EEOC's enforcement authority means that 28 million older Americans would be without legal protection against age discrimination in employment. I might add, Mr. President, that the court recognized the potential harm that could result from its decision and, therefore, stayed filing its decision until December 31, 1984, suggesting that this would give Congress an opportunity to enact corrective legislation. This bill is just that, it will simply enact the reorganization plan of 1978, thus protecting the authority of the Commission to enforce the ADEA, the Equal Pay Act, and section 501 of the Rehabilitation Act of 1973, as wall as the authority of the Department of Justice to bring suit under section 707 of title VII of the Civil Rights Act of 1964, as amended.

Mr. President, as you know the Senate Aging Committee has had a longstanding interest in policies and legislation that promote continued employment opportunities for older persons who are willing and able to work. Age discrimination in employment continues to be a major reason why middle-aged and older workers are systematically excluded from the opportunity to work. The first legislative response to this concern was the ADEA.

During the first 10 years after its enactment, enforcement of the ADEA was the responsibility of the Department of Labor. In 1979, by Executive order, enforcement responsibility for the ADEA shifted from DOL to the EEOC. Age discrimination charges now constitute a significant portion of the EEOC's caseload. Indeed, the age-related jurisdiction is the fastest growing of all civil rights enforcement statutes. A report by the EEOC placed the number of age-related charges filed during fiscal year 1983 at 15,303. The magnitude of the problem of age discrimination, as well as the increasing importance of enforcement measures designed to combat such discriminatory practices, underscores the necessity for the EEOC to have clear authority to enforce the ADEA.

I urge my colleagues to join me in cosponsoring this legislation.

By Mr. DANFORTH (for himself and Mr. KENNEDY):

S.J. Res. 352. Joint resolution designating October 1984 as "National Head Injury Awareness Month"; to the Committee on the Judiciary,

NATIONAL HEAD INJURY AWARENESS MONTH

● Mr. DANFORTH. Mr. President, today I am introducing a joint resolution on behalf of myself and Senator KENNEDY to designate October 1984 as "National Head Injury Awareness Month."

Recent estimates indicate that over 100,000 Americans die from head injuries every year. Most of these tragic deaths are caused by motor vehicle or sports accidents. In addition, each year 450,000 to 700,000 people sustain head injuries serious enough to require hospitalization, and 50,000 of these individuals are permanently disabled. These victims suffer permanent brain damage that prevents them from returning to schools, jobs, and normal lifestyles. The tragedy of this situation is increased by the fact that two-thirds of these disabled individuals are young people, under the age of 30.

These individuals permanently disabled by head injuries are left with mental and physical impairments, speech problems, and behavioral disorders. Often these disabilities are not apparent to the causal observer, but their effects are still debilitating. In many instances, the victims of serious head injury experience frequent fatigue, forgetfulness, irritability, and depression that make it extremely difficult or impossible from them to maintain a job or attend school.

In addition, the families of head injury victims are faced with a number of emotional and financial problems. Many head injury victims are comatose for extended periods of time and need special services and treatment; however, there is a lack of facilities designed to meet the special treatment and rehabilitation needs of the head-injured. As a result, many families, themselves, are left with the burden of caring for their disabled family members.

A great many of these families have experienced great frustration and a sense of helplessness in their search for appropriate facilities and treatment for head-injury victims. As a consequence, they have joined together with a number of health care professionals to form the national head injury foundation. This organization, together with its numerous State chapters, has been working tirelessly to educate the public about the problem of head injury and the needs of disabled head-injury victims. The National Head Injury Foundation has committed itself to bring the problems of head injury to national attention and to provide the families of head-injury victims with the necessary facilities and resources.

Senator KENNEDY and I urge you to support this effort by designating October 1984 as "National Head Injury Awareness Month." I ask unanimous consent that this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 352

Whereas an estimated four hundred and fifty thousand to seven hundred thousand people require hospitalization each year for head injuries;

Whereas an estimated one hundred thousand of these victims die as a result of head injuries;

Whereas approximately fifty thousand head injury victims, more than two-thirds of whom are under the age of thirty, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lifestyles;

Whereas the effects of head injuries are emotionally and financially devastating to families;

Whereas there is a serious lack of facilities designed to care for the special needs of the head injured; and

Whereas long-term medical research on brain-injured patients is incomplete: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Head Injury Awareness Month" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that month with appropriate programs and activities.●

By Mr. BYRD:

S.J. Res. 353. Joint resolution to designate the week of February 3, 1985,

through February 9, 1985, as "National School Guidance and Counseling Week"; to the Committee on the Judiciary.

NATIONAL SCHOOL GUIDANCE AND COUNSELING WEEK

Mr. BYRD. Mr. President, I am today introducing a joint resolution to designate the week beginning February 3, 1985, as "National School Guidance and Counseling Week."

Founded in 1953, the American School Counselor Association is an organization which serves its members and the public through programs that advance guidance and counseling in all school settings: elementary, middle/junior, secondary, and postsecondary.

The theme of the sixth annual observance of "National School Guidance and Counseling Week" is "School Counseling: the Human Connection." This theme emphasizes the special role school counselors fulfill in helping to meet the needs of students and their families. Counselors are an essential part of the education team. Working with teachers, administrators, and special services personnel, counselors provide students academic assistance in selecting programs of study. This is important in helping students meet their future career goals. Counselors also work with students to help develop personal skills, such as decisionmaking and self-awareness, and to generally assist our young people in the difficult process of maturing—growing up.

During "National School Guidance and Counseling Week" let us join together to focus public attention on guidance and counseling programs and increase the understanding of the public regarding the importance of these programs to our children. I urge my colleagues to give this resolution their full consideration and complete support.

I ask unanimous consent that the full text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 353

Whereas there are approximately seventy thousand professional counselors working with the teachers and other educational personnel of the Nation;

Whereas professional counselors are instrumental in the mental development and academic and career planning of the students of the Nation;

Whereas guidance and counseling programs enable students to learn essential life skills, and thus benefit society by producing better prepared adults;

Whereas professional counselors are an integral part of the educational process of the Nation;

Whereas national and community efforts are needed if guidance and counseling programs are to be effective;

Whereas support for counseling programs is needed from individuals who take actions that significantly affect children, such as parents, teachers, administrators, community leaders, school board members, and legislators; and

Whereas it is appropriate to recognize the dedicated individuals who serve as professional counselors in the schools of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 3, 1985, through February 9, 1985, is designated as "National School Guidance and Counseling Week", and the President is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to celebrate such week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 1128

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1128, a bill entitled the "Agricultural Productivity Act of 1983."

S. 1746

At the request of Mr. RUDMAN, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 1746, a bill to require that the Federal Government procure from the private sector of the economy the goods and services necessary for the operations and management of certain Government agencies and that the Director of the Office of Management and Budget and the Comptroller General of the United States identify the activities of the Federal Government to produce, manufacture, or otherwise provide goods and services which should be provided by the private sector and prepare a schedule for transferring such activities to the private sector.

S. 1747

At the request of Mr. ARMSTRONG, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1747, a bill to amend title 38, United States Code, to establish two new programs of educational assistance for veterans of peace time service, to close the Post-Vietnam Era Veterans' Educational Assistance Program to new participants, and to repeal the December 31, 1989, termination date of the Vietnam-era GI bill, and for other purposes.

S. 2139

At the request of Mr. HEINZ, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponor of S. 2139, a bill to improve the operation of the countervailing duty, antidumping duty, import relief, and other trade laws of the United States.

S. 2266

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2266, a bill to grant a Federal charter to Vietnam Veterans of America, Inc.

S. 2380

At the request of Mr. HEINZ, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2380, a bill to reduce unfair practices and provide for orderly trade in certain carbon, alloy, and stainless steel mill products, to reduce unemployment, and for other purposes.

S. 2576

At the request of Mr. BINGAMAN, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 2576, a bill to establish a commission to study and make recommendations concerning the international trade and export policies and practices of the United States.

S. 2768

At the request of Mr. MATHIAS, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2768, a bill to provide for the education in the United States of certain students of limited financial means from developing countries.

S. 2770

At the request of Mr. MELCHER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2770, a bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes.

S. 2869

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. PERCY], and the Senator from West Virginia [Mr. RANDOLPH] were added as cosponsors of S. 2869, a bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for expenses incurred by an individual taxpayer for the purchase of television subtitle equipment to be used by a hearing-impaired individual.

S. 2894

At the request of Mr. MELCHER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 2894, a bill to amend the Internal Revenue Code of 1954 to clarify the application of the imputed interest and interest accrual rules in the case of sales of residences, farms, and real property used in a trade or business.

S. 2917

At the request of Mr. TSONGAS, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Connecticut [Mr. DODD], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2917, a bill to confer citizenship posthumously on Corporal Wladyslaw Staniszewski.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. MOYNIHAN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution expressing the sense of Congress that the president of Syria should permit Jewish emigration.

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. LAUTENBERG, the name of the Senator from Texas [Mr. TOWER] was added as a cosponsor of Senate Concurrent Resolution 117, a concurrent resolution relating to the promotion of technological innovation in computer software and the protection of computer software.

SENATE CONCURRENT RESOLUTION 139—CONDEMNING SOUTH AFRICA'S ARRESTS AND DETENTIONS OF POLITICAL OPPONENTS

Mr. ROTH (for himself and Mr. TSONGAS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 139

Whereas peace in South Africa can be achieved only through addressing the legitimate political aspirations of the nation's black majority.

Whereas no South African government reform proposal has sought to involve the nation's black majority in the direction of national affairs.

Whereas eligible voter turnout in the recent elections for Asian and "Colored" representatives to a minority parliament was extremely low.

Whereas the South African government has arbitrarily arrested and indefinitely detained approximately 200 peaceful opponents of the government's new constitutional arrangements.

Whereas the South African government has used extra-legal means to redetain men and women already released from detention by a high ranking South African court of law.

Resolved by the Senate (the House of Representatives concurring),

(1) The United States should not lend its support to any South African constitutional reform arrangements which do not begin to address the legitimate political aspirations of the nation's black majority.

(2) The United States Congress condemns the South African government's arbitrary arrests and indefinite detention of peaceful opponents to the government's constitutional arrangements.

(3) The United States Congress is dismayed by the South African government's decision to defy and to bipass the legal rulings of its own high courts in order to suppress lawful political opposition.

(4) The South African government should immediately terminate its practice of arbitrary arrests and detention and should release those men and women who have been arbitrarily imprisoned and having expressed, publicly and peacefully, their political preferences.

Mr. TSONGAS. Mr. President, I am proud today to join with my eminent colleague from Delaware as coauthors of the Roth-Tsongas resolution on South Africa.

We have observed events unfolding in South Africa in recent weeks and we are quite frankly shocked at what we have seen. The Government in South Africa has gone to great lengths to sell a series of constitutional changes as a program of multiracial democracy. Two separate parliamentary bodies, we have been told, will allow "Coloreds" and "Asians" to participate in the direction of national affairs. But when the time came to measure "Colored" and Asian support for these changes, the Government resorted to the police state tactics it knows so well to suppress peaceful political opposition to these so called democratic reforms.

On the eve of the elections to elect "Colored" representatives to the new parliament, some 200 leaders and activists in the election boycott movement were arrested by South African police and indefinitely detained. The following day, August 22, the Colored elections took place with only 20 percent of potential voters casting their votes. A week later elections for the Asian parliament took place with an even lower turnout. The boycott had registered a resounding success in spite of the wholesale arrest of its leadership.

The Roth-Tsongas resolution aims squarely at this hypocritical manipulation of democratic processes by the South African Government. Forcing so-called reform down the throats of decidedly unconvinced groups is not reform and it is not democratic. Coloreds and Asians decided to boycott these elections by substantial majorities because the new constitutional scheme excluded completely the black majority of South Africans and because the new structure preserved uncontestable control of the Government in white hands. When the boycott movement gathered enough strength to threaten the appearance of racial unity, the Government simply silenced the popular voice it did not want to hear. Then when a supreme court judge in the province of Natal ordered the immediate release of seven of the detainees because their notices of detention were invalid, the Minister of Law and Order, Mr. Louis le Grange ordered the redetention of the Natal detainees as well as other boycott leaders subject to similar court action.

Such actions mock democracy and spurn racial justice. I think that many of my colleagues will want to join Senator ROTH and me in expressing through this resolution our condemnation and dismay over these actions of the South African Government. It is a pernicious order of injustice for a regime to oppress its people; but to oppress in the name of "multiracial democracy" is a cynical sham and this Congress should recognize it and expose it.

SENATE RESOLUTION 440—RELATING TO MODIFYING THE UNITED STATES-SOVIET UNION GRAIN AGREEMENT

Mr. BOREN (for himself, Mr. BAUCUS, Mr. BENTSEN, Mr. BUMPERS, Mr. BURDICK, Mr. EXON, Mr. LEAHY, Mr. NICKLES, Mr. PRYOR, and Mr. ZORINSKY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 440

Whereas the United States' surplus of grain remains at an unreasonably high level;

Whereas the price U.S. farmers receive for grain products is well below the full cost of production;

Whereas American farmers are dependent on export sales for one-fourth of their income;

Whereas the volume of U.S. agricultural exports has declined for the fourth consecutive year and this year is expected to be thirteen percent below the level exported in fiscal year 1981.

Whereas the estimated value of U.S. agricultural exports for 1984 would represent a decline of thirteen percent since fiscal year 1981;

Whereas the agricultural trade balance has fallen twenty-five percent since the peak in fiscal year 1981;

Whereas the agricultural trade balance reduces the rising overall trade deficit of the United States;

Whereas the maintenance and development of agricultural markets for U.S. products are vital to the economic well-being of this Nation;

Whereas the Soviet Union market is an important market for U.S. grain;

Whereas the Soviet Union and the United States have a long-term agreement which allows for minimum and maximum levels of purchases of U.S. grain by the Soviet Union;

Whereas the Soviet Union has already arranged for delivery of the minimum level of grain for the second year of the Long-Term Agreement;

Whereas the Soviet Union cannot make purchases of U.S. grain in excess of 12 million metric tons without consulting with the United States government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) immediately notify the Soviet Union that additional amounts of U.S. grain, above the 12 million metric ton maximum, may be purchased by the Soviet Union during the second year of the current Long-Term Grain Agreement;

(2) seek to modify the Long-Term Agreement by establishing higher minimum and maximum supply guarantees than are currently in effect; and

(3) take all other appropriate actions to provide for an increased quantity of U.S. agricultural products purchased by the Soviet Union.

● Mr. BOREN. Mr. President, on behalf of Senators BAUCUS, BENTSEN, BUMPERS, BURDICK, EXON, LEAHY, NICKLES, PRYOR, ZORINSKY, and myself, I am submitting a sense of the

Senate resolution which calls for the President to immediately notify the Soviet Union that additional amounts of U.S. grain, above the 12 million metric ton maximum, may be purchased by the Soviet Union during the second year of the current long-term grain agreement. The resolution further calls for the President to seek to modify the agreement by establishing higher minimum and maximum supply guarantees. I ask unanimous consent that the text of the resolution be printed in the RECORD at the conclusion of my remarks.

We are facing a crisis in the export of U.S. agricultural products which must be recognized and reversed. The continued strength of the dollar is placing our agricultural commodities at a competitive disadvantage to other countries that export agricultural commodities. Year after year, we are experience a decline in both volume and value of agricultural exports.

In fiscal year 1983, total U.S. farm product exports totaled $34.8 billion, 11 percent less than a year earlier. The value exported in fiscal year 1983 represents approximately a 21-percent reduction when compared to the value of products exported in fiscal year 1981. For fiscal year 1983, alone, this decrease in value resulted in a 22-percent decrease in the agricultural trade surplus.

In fiscal year 1983, the volume of U.S. agricultural products exported declined by 8 percent. When compared to fiscal year 1981, the level of products exported in fiscal year 1983 were 11 percent lower. According to USDA, agricultural export volume is expected to decline again this year, marking the 4th consecutive year of decline.

The U.S. share of the export market was 48 percent in 1981-82. With the current decrease in American participation in the world export market, it seems that the figures will continue falling depreciatively, to below the 1983-84 level of 38 percent.

This alarming trend must be reversed. A depression in the agricultural export market inevitably has an impressive impact at home. Exports help farmers make the most efficient use of their resources and keep costs lower, enabling U.S. consumers to spend a smaller share of disposable income on food than consumers in other nations. If production had to be reduced to the level of domestic demand alone, farmers would have no choice but to allocate fixed costs to the remaining output. This could increase unit costs to American consumers substantially.

Not only do agricultural exports provide American consumers with a good food bargain, they also provide jobs. The U.S. Department of Agriculture estimates that for every $1 billion of agricultural exports, 35,000 jobs are created. Each dollar of agriculture exports stimulates an additional $1.05 of output in the U.S. economy and about 70 percent of this additional activity accrues to nonfarm sectors of the economy.

Mr. President, we must take every possible action to maintain and further develop our existing markets. One obvious way to do this is to take better advantage of the Soviet market. Regular U.S. and Soviet long-term agreement consultations are scheduled for mid-November. There is no reason why we should wait until November to secure additional purchases of U.S. grain by the Soviet Union. For the past 10 weeks, the Soviets have been making unusually large purchases of U.S. grain. In fact, the Soviet Union has already arranged for delivery, before January 1, 1985, of the minimum level of grain provided for under the second year of the long-term agreement. Under the long-term agreement, the Soviet Union cannot make purchases in excess of 12 million metric tons in any agreement year without consulting first with the United States.

It is imperative that we act now while the Soviets are on a buying spree. We should immediately notify the Soviets that we are willing to provide for purchases of grain in excess of the 12 million metric ton maximum. Further, we should seek to modify the long-term agreement by establishing higher minimum and maximum supply guarantees than are currently in effect. The resolution we are submitting today expresses the sense of the Senate that the President should take these actions now in order to maintain and further develop this important market.●

● Mr. BUMPERS. Mr. President, I am pleased today to join with Senator BOREN as an original cosponsor of the resolution urging the President to begin immediate consultations with the Soviets for the purpose of giving formal notification of the raising of export limits set under the long term grain agreement. With current grain prices severely distressed, greater Soviet purchases throughout fiscal year 1985 may be the only significant positive event affecting our grain market.

For fiscal year 1984, this administration agreed to raise the export limit from its negotiated level of 12 million metric tons. Grain shipments to the Soviet Union are projected to exceed 13.3 million metric tons by September 30 and the Soviets are attempting to arrange as great a quantity as possible for September delivery because of the failure of this administration to extend the LTA limits for next year.

Yet, if the Soviet grain harvest falls below 170 million metric tons, as many experts are suggesting, then the United States has a golden opportunity to reestablish its major share of the Soviet market. Current Soviet purchases of U.S. grain for delivery in fiscal year 1985 already amount to 8.3 million metric tons, and the purchases could exceed 20 million metric tons—nearly 12 million metric tons of corn and 8 million metric tons of wheat.

If Soviet imports total nearly 45 million metric tons, as expected, the United States has the opportunity to capture just under 50 percent of the Soviet market. Certainly, if Soviet purchases peak at 50 to 55 million metric tons, as projected on the high side, the U.S. share will be even greater because of the readily available surplus of grain in the United States.

These expected purchases will only be possible if this administration heeds the President's campaign rhetoric and extends the limits on the long term grain agreement. Formal assurance will be necessary to promote additional sales because of the distrustful nature of the Soviets. If such an assurance is immediately given, the United States may avoid driving the Soviets into markets of competitor nations.

I would also like again to urge the administration to seek the inclusion of rice in our long term grain agreement with the Soviets. Currently, over 22 million hundredweight of rice is in Government storage, and the extremely low rice prices, as we move into rice harvest, assure that millions more hundredweight of rice will likely end up in Government storage. A significant contributing factor is the administration's failure to help us maintain our foreign rice markets in the face of foreign competition, and the inclusion of rice in the LTA would help open a major new market to our embattled rice farmers. Over the last several years Soviet imports of rice have averaged 800,000 metric tons a year, and none of this rice comes from the United States.

For the sake of our grain farmers, many who are not likely to survive in farming without drastic grain price improvements, I urge the President to raise the LTA limits, and I call on my colleagues to help impress upon the President the severity of this need.●

AMENDMENTS SUBMITTED

TELEVISION AND RADIO IN THE SENATE

RANDOLPH AMENDMENT NO. 3754

(Ordered to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to the resolution (S. Res. 66) to establish regulations to implement television and radio coverage of proceedings of the Senate; as follows:

At the end of the Resolution add the following:

SEC. 8. Rule XII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"(5) When yeas and nays are ordered on the floor, each Senator shall vote from the assigned desk of the Senator.".

FINANCIAL SERVICES COMPETITIVE EQUITY ACT

TOWER AMENDMENT NO. 3755

(Ordered to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to the bill (S. 2851) to authorize depository insitution holding companies to engage in certain activities of a financial nature and in certain securities actitivies, to provide for the safe and sound operation of depository institutions, and for other purposes; as follows:

Insert at the appropriate place the following new section:

SEC. . Notwithstanding any other provision of law, it shall be unlawful for the Federal Home Loan Bank Board to propose, promulgate, or adopt regulations, or changes in existing regulations, relating to the conversion of savings and loan associations from mutual to stock form, unless such regulations or changes in regulations become effective after February 29, 1984. The provisions of this section shall apply to any regulation published on or after August 1, 1984.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, September 11, to consider the following nominations for Associate Judge of the Superior Court of the District of Columbia:

Susan Holmes, Rufus King, Colleen Kollar-Kotelby, A. Noel Kramer, Emmett Sullivan, Robert Tignor, and Robert Richter.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 11, at 2 p.m., to receive a closed-session briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 11, 1984, in order to receive testimony concerning the FCC 7-7-7 Rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FORMER SENATOR JACOB JAVITS COMMENTS ON THE QUALITY OF LIFE

● Mr. WEICKER. Mr. President, it is with great pride that I submit for the RECORD an article written by our friend and former colleague, Senator Jacob K. Javits. I also am submitting a recent New York Times article that summarizes a speech given by Jack to the New York Hospital. I believe that upon reading them, each one of us will find that they address two of the most basic questions we as individuals, and as legislators, can ask ourselves: What does it mean to be terminally ill and how do we define the quality of life?

I believe that Senator Javits' comments and reflections are forthright, sensitive, and provocative. They are a tribute to the life of a man who distinguished himself in this body and continues to serve all of us through his wisdom and example.

The articles follow:

WHEN SHOULD DOCTORS LET A PATIENT DIE?—A TERMINALLY ILL FORMER SENATOR SAYS THE DECISION SHOULD BE BASED ON BRAIN FUNCTION

(By Jacob K. Javits)

I am a victim of what is generally called a terminal disease. It is amyotrophic lateral sclerosis (ALS), which slowly disables muscles by reducing the ability of the motor neurons—the nerves that control movement—to deliver chemical messages from the brain to those muscles. ALS is usually a disease of middle age and thereafter, and more men than women seem to get it. It is not considered contagious. It is popularly known as Lou Gehrig's disease, because it killed the great baseball player while he was still in his thirties. There is no known cure.

I am now confined to a wheelchair, because my leg muscles are inadequate, and I need a ventilator to help me breathe, though it uses only room air. The critical thing in keeping alive, in my estimation, is to keep my mind in order and functioning. Fortunately, ALS does not seem to compromise the brain or the intellectual ability of the stricken individual.

When I received the news that I had this difficult disease after a long and active career as a lawyer, Army officer, state attorney general, and a member of Congress, I could have been devastated and destroyed. But I was not. I decided I would simply have to make the best of it. Throughout my medical experience, this philosophy has always prevailed: that I had a job to do and a life to finish, and that no physical obstacles could stop me in the pursuit of what I considered to be my duty and responsibility to my people and my time.

Therefore, for patients with a so-called terminal illness like ALS, my message is this: We are all terminal and we are all going to die sometime. So why should a terminal illness be different from a terminal life? There is no difference, and I would suggest that the most positive thought for any patient is to concentrate on perpetuating life. First and foremost, whether the patient is a mechanic or a United States senator, he or she must have motivation for living—if the life force is to prevail over illness or infirmity.

For me this life source starts from Marian, my wife, and our children, who have been my basic support, and extends to relatives and friends, country, and the world. But I have also been sustained by my doctors, who in diagnosing my case always gave me two assurances: that I would be continent, and that my intellectual capacities would be unaffected. Despite my handicaps, I can speak, see, hear, taste, smell, feel, even swallow (though many ALS patients have difficulty with this function). No matter how my other faculties might suffer, the use of my brain seems assured. This, it seems to me, is the essence of life.

I was very much interested in the stir created earlier this year when Governor Richard D. Lamm of Colorado was reported to have urged all elderly people with terminal illnesses to get out of the way and leave medical care for younger and more vital subjects. This view ran into an enormous storm of disapproval, especially from those who would be affected. The governor sounded inhuman to many, including me. Actually, it turned out that Lamm had said "We all have a duty to die." Nonetheless, in discussing treatment of the terminally ill, he raised a question of deepest seriousness for the medical profession and for the community in general.

It is true that medical care is very expensive, and that it is still not available without regard to economic resources on a nondiscriminatory and equal basis for all. But until that goal is reached, I believe the medical profession should cooperate with efforts to establish a test in cases of terminal illness that would enable us to determine who should live and who should die. It should be based not on how rich the patient and his family are, but on whether the brain is functioning and whether there is any expectation that the patient will continue to enjoy what is truly life.

This can best be done by a process that involves the participation of the patient, the patient's family, a representative of the patient's religious affiliation, a representative of the community, and, of course, the medical profession—and ultimately, if the issue is not resolved, the judgment of a court. But I believe that the criterion must be the ability of the brain to function—for that is life, as distinguished from death. Even when continuous excruciating pain is present, we have every reason to hope that advances in the control of pain may help us continue to consider the functioning brain as the rule for life.

Based upon what I have been through, I have found that medical care is generally administered with good intentions to those with terminal illnesses, and that an atmosphere of good will pervades medical offices and hospitals. I believe it is also fair to say that the patient should have a lot to do with the treatment, however limited it may be. For if he is cooperative, optimistic, and communicative to the doctor and other health professionals, he will inspire the total medical staff, and this can have a lot to do with the results.

A friend of mine, Norman Cousins, a distinguished author and editor who suffered some years ago from what he thought at the time was a terminal illness, has given us all a message in that respect. Humor was the single factor that helped him most, and

he demonstrated that the patient can contribute as much as the doctor or the nurse to a happy outcome, and can make life much easier for the people who function within the health care or hospital setting.

We have made a lot of progress in this country in the quality and the availability of health care, but we still have a long way to go. I am very proud of what we have done, especially because most of it is in the private sector, which always gives greater freedom and greater opportunity to the individual. I believe, too, that there is a growing body of opinion in the health care professions that has helped to move this process on its way, and that this is an expression of social consciousness among the members of the health care professions. Though this attitude is far from universal, I am sorry to say, it is nonetheless impressive and very promising for the future.

Now a few observations on my own life as a "sick man," which may be helpful to others carrying comparable serious disabilities. I do lecture, I do read, and I do write. I dedicate my life to the issues that have dominated it for many decades now, and to my profession as a lawyer. I believe that I can still be useful in many ways.

In short, life does not stop with terminal illness. Only the patient stops if he does not have the intellectual and moral wherewithal to go forward with life until death overtakes him. That happens to everybody. We can be inspired by our disabilities and carry on what is truly life, or we can be dismayed and downed by them.

The greatest therapy is to forget about terminal illness. Everybody is terminal. That is the great message that can perpetuate the useful life of the patient and be of solace and comfort to the patient's family and friends. what is really worthwhile in life is the excitement and the expectation of living, and the giving and the receiving, which is, after all, life's essence.

DOCTORS HEAR JAVITS IN A SALUTE TO LIFE

(By Lawrence K. Altman)

New York Hospital reversed the format for its main weekly medical conference yesterday by letting the patient lecture instead of the doctor.

The patient was former Senator Jacob K. Javits of New York, and in his most introspective discussion of his illness since it was diagnosed in 1980, he said he was speaking out in an effort to be an inspiration to everyone afflicted with similar incurable diseases.

Mr. Javits spoke for almost an hour about how his will to live has helped him survive with a paralyzing terminal illness and still maintain a good quality of life.

Mr. Javits, who will turn 80 years old next week, suffers from a form of motor neuron disease that is also called amyotrophic lateral sclerosis, or A.L.S., also known as Lou Gehrig's disease, for the New York Yankee baseball player who died of the same ailment.

Seated in a wheelchair in a large medical lecture room, Mr. Javits spoke firmly but at a measured pace. Pausing every few words to allow a battery powered mechanical portable respirator help him catch his breath, he told an audience of about 150 doctors:

"WE ARE ALL TERMINAL"

"If there is anything I can leave with you in terms of the treatment of patients with a terminal illness, it is this: We are all terminal—we all die sometime—so why should a terminal illness be different from terminal life? There is no difference."

Mr. Javits said the most important point in staying alive was to "keep my brain in order and functioning." He added, "This is the essence of life."

The disease has not affected Mr. Javits's mental abilities but it has led to striking weakness of the muscles below his neck. He wears a supportive collar to prevent his head from sagging and thereby further interfering with his ability to breathe. That difficulty, his doctors said, was due entirely to the muscle weakness resulting from the damaged nerves.

KEEPS A FULL SCHEDULE

Although it takes him three hours in the morning to prepare for the day, Mr. Javits said, he has written many articles, delivered commencement addresses, received awards and testified before his former colleagues in Congress about the need for more basic research in his disease and others.

Mr. Javits said in an interview that his medical bills totaled "upward of $50,000 a year," and that they were paid by three health insurance polices and from his own pocket.

Mr. Javits said he was upset when he heard reports of remarks by Gov. Richard D. Lamm of Colorado recently, remarks that he and others interpreted as "urging older people with terminal illness to get out of the way and leave medical care for younger, more vital subjects."

But Mr. Javits also said that he felt that Governor Lamm had "raised a question for the profession of deepest gravity; it is true that medical care is very expensive."

Mr. Javits went on to lament that Americans had not established a system to deliver health care to all.

URGES LIFE-OR-DEATH TEST

He called on doctors to develop a test "to enable us to determine socially who should live and die." Such a test, he asserted, should not be based on such factors as age and the name of the ailment, "but on whether your brain is functioning, and I believe that can best be done by peer review" consisting of family members, members of the clergy, physicians, and, if necessary, the court.

Mr. Javits said he had decided to resort to all necessary medical measures if he developed acute respiratory failure, which he did while he was in Palm Beach, Fla., in March 1981.

Mr. Javits's appearance is part of a recent trend in which prominent people have spoken publicly about their feelings of being seriously ill. Mr. Javits credited Norman Cousins, former editor of The Saturday Review, who has written books about his own ailments, for alerting the public to the value of humor in overcoming illness. Mr. Javits also said that patients should realize that their cooperation and optimism "brightens and inspires the total medical staff" and that such attitudes can contribute as much as the doctor or nurse to the patient's well-being.

Mr. Javits also spoke about how his views differed from those of the late David Niven, the actor, who also suffered from ALS. From exchanges of letters, Mr. Javits said, he learned that Mr. Niven was "very resentful and discouraged" about developing ALS.

Like Mr. Javits, Mr. Niven lost his ability to walk. Unlike Mr. Javits, Mr. Niven had difficulty eating because the disease had affected the nerves controlling his swallowing muscles.

"I tried very hard to buck him up, but he just couldn't stand what to him was the disgrace of these infirmities;" Mr. Javits said. "It was a vivid illustration of the psychological impossibility for him, a handsome man with a vivid personality, to accept the limitations that his disease imposed upon him."

The conference at which Mr. Javits appeared is known as medical grand rounds. In past decades, when medical costs were much lower than they are now, patients often stayed in the hospital so they could be present when their case was discussed.●

THE REAL COST OF THE PHILIP A. HART SENATE OFFICE BUILDING

EXECUTIVE SUMMARY

● Mr. JOHNSTON. Mr. President, the press has carried so many stories about the extravagance and exorbitant costs of the Hart Senate Office Building that it has become conventional wisdom that the Hart Building is among the costliest Federal buildings ever built. The facts show otherwise—the Hart Building's cost growth was relatively modest compared with similar structures built in the same period of high inflation. Its actual per square foot construction cost is far less than many corporate headquarters and other modern buildings and, when discounted for inflation, substantially less than other congressional buildings such as the Rayburn House Office Building, as a full report on the construction cost has disclosed.

FOUR ERRONEOUS ASSUMPTIONS ABOUT THE HART COST

Four fundamental fallacies are at the center of the public misconception of the high costs of Hart: First, Hart was originally estimated to cost $48 million; second, the difference between the terms "construction costs" and "project costs" can be ignored; third, cost overruns plagued construction; and fourth, Hart is extravagant. This study shows clearly that all of these assumptions are erroneous. The arguments against Hart then fall like a deck of cards.

TRUE CONSTRUCTION COST PROVES LOW AT $97 SQUARE FOOT

When people say that Hart's costs grew from $48 to $137 million, an increase of almost 300 percent, they distort the cost growth of the building. The $48 million starting point was based on a quick, preliminary estimate of a building that was only half the size of the Hart Building and could not have come close to accommodating the Senate's requirements. The first realistic estimate was $85 million, done in 1974. Thus, the real project cost growth was only about 50 percent, almost five times less than popularly reported. The actual construction costs, as well as their growth in the decade of the project were even less. The $85 million project cost figure includes roughly $12 million for administrative and overhead functions. The correct initial estimated construction

cost was approximately $73 million. The actual construction cost was around $107 million, as opposed to the project cost of $137 million. This works out to $97 per square foot—far less than the $127 per square foot—adjusted for inflation—for the Rayburn House Office Building. The Architect of the Capitol, George White, has studied the inflation factor for all buildings built on the Hill this century—such as the Senate's Dirksen and Russell Office Buildings and the House's Longworth Office Building—and the cost of the Hart Building is substantially lower than any of them. Moreover, the actual contruction cost growth of the Hart Building was approximately 47 percent, far less than the 67 percent recorded in the construction industry during the same period.

FEW COST OVERRUNS

There really were very few cost overruns, as that term is properly used. A true cost overrun occurs when there is a firm contract executed at a specific price or estimated cost, actual costs far exceed that price or ceiling, and the contractor then seeks to recover the difference. This was not the case with Hart. The change orders were extremely small—less than 3 percent—as a function of total construction costs. While there was cost growth—not overruns—from estimated to actual costs, it was due primarily to inflation and changes in the requirements of the building.

Finally, Hart is not extravagant. The Architect of the Capitol and the Associate Architect, John Carl Warnecke & Associates, initiated numerous cost savings measures, for example, substitution plaster for much of the marble, aluminum for bronze, and so forth, which ultimately saved in excess of $30 million in construction costs. Thus, Hart emerges as a balanced building, by no means opulent.

FUNCTIONAL DESIGN APPRECIATED BY OCCUPANTS

The time has come for the "Taj Mahal" myth of the Hart Senate Office Building to die. The Hart Building should be appreciated for what it is—a highly functional building compatible with the monumental architecture on the Hill, well liked by its occupants, which had the misfortune of being constructed in a period of unprecedented inflation. It should be judged on its true costs and function, not on its political mythology.●

MILITARY READINESS

● Mr. GOLDWATER. Mr. President, the July/August issue of the Defense Systems Review magazine contained an article which I feel points out the blatant partisanship involved in the recent release of a biased, outdated and inaccurate report on military readiness by the chairman of the House Appropriations Subcommittee on Defense. This report, containing data as much as 2 years old, was released solely to discredit the Reagan administration's outstanding efforts to bring this country's military posture back from the abysmal state to which the Carter administration had allowed it to deteriorate.

By any criteria, this Nation's military is far better able to perform its mission than at any time in recent history. I know, because I make it a point to visit as many military units as I can and have discussed this issue at length with virtually every military leader of all the services. These men with 30 years or more of experience unanimously state that the equipment they are receiving and the men to operate that equipment have never been better.

As Mr. Martin states: "The Reagan administration is to be commended for its ardent struggle to bring this Nation's defense posture up to its current status. Those in Congress who have acted as obstructionists and who distort the true status of this Nation's military force, should be censored, not only by their respective constituents, but by history itself."

Mr. President, I commend this worthwhile and thought-provoking article to my colleagues and ask that it be printed in its entirety in the CONGRESSIONAL RECORD.

The article follows:

BIASED CONGRESSIONAL DEFENSE REPORT IGNORES THE TRUTH

(By Harry Martin)

A Democratic-controlled congressional subcommittee has issued a critical report claiming that the readiness of U.S. fighting forces has deteriorated under the Reagan Administration. This report was conveniently issued during an election year and became a major issue for the Mondale campaign.

Obviously, the political spectrum from Republican to Democrat differs greatly on this issue—mainly supporting what is considered best for their respective candidates. But what truth is there to this biased congressional report?

Those who have issued the report claim that the Reagan Administration has devoted too much to high-priced hardware—ships, tanks, planes, and missiles—while ignoring ammunition, spare parts, fuel, equipment maintenance, and training. Defense Secretary Caspar Weinberger has accused the House Appropriations Subcommittee on Defense of issuing a "dangerously wrong" study.

To defuse the issue, independent analysis is necessary. Major improvements have been made toward the ability of U.S. forces to wage war today as compared to 1980, according to people like Gen. David C. Jones (USR, Ret.), former chairman of the Joint Chiefs of Staff.

The congressional subcommittee report is correct in stating that the armed forces fall way short in their capability of waging a sustained conventional war in Europe against the Soviet Union, much less the kind of global conflict for which Weinberger insists the nation should be prepared to fight—but it is wrong to maintain that U.S. readiness has deteriorated under the Reagan Administration. The report fails to compare the readiness capability of U.S. forces under the Carter Administration to that of the Reagan Administration—at least in true terms. The report also fails to recognize the road blocks the writers and their congressional colleagues have set up over the years in respect to the defense budget.

The last years of the Carter Administration and all the years of the Reagan Administration have been devoted to the upgrade and readiness of U.S. forces—and congressional Democrats can't fool anyone. Notable gains in the defense umbrella over the last four to five years include more modern and more effective weapons: a new generation tank, armored fighting vehicles, and attack helicopters for the Army; new fighter planes for the Air Force and Navy; armored landing craft for the Marine Corps; to name some. There is a higher caliber of recruits—in 1980 only 68 percent of the recruits were high school graduates—this year the number is 92 percent.

Better training methods are being employed with increased flying hours for Air Force pilots, more days at sea for sailors, and soldiers are receiving more realistic combat simulation. The strategic airlift capability is slowly improving with spare parts and supplies increasing.

The U.S. is still short of war-reserve munitions—and the Pentagon readily admits that this nation may not reach the required reseves until the 1990s. Today the Navy has only 20 percent of these munitions' stockpiles, the Air Force 30 percent, the Marine Corps 43 percent and the Army 75 percent. But these levels were even more seriously deficient four years earlier.

A review of the FY'82 through FY'85 budgets offer substantial evidence to counter the congressional report. Navy aircraft and weapons procurement are up 57.5 percent, whereas munitions, training, and other non-hardware procurement are up 100.8 percent. The Army's budget demonstrates that munitions training, and other procurement has risen faster than weapon systems. Weapon systems rose 69 percent while munitions, training and spares jumped 85.2 percent. Only in the Air Force did weapon systems procurement outpace munitions, training and spares—rising 268 percent as compared to 230.1 percent. Pay raises have also been accomplished to increase morale and reenlistment, and to improve the caliber of today's recruits.

Granted, in election years, the state of the military is always subject to debate by the "ins" and the "outs" of the political community—but for a congressional group who has argued continually for cuts, who has forced reductions, to lie to the American people about the serious question of defense preparedness only re-enforces the important gains the Reagan Administration has made in the U.S. defense posture against sometimes overwhelming odds. Mr. Mondale was part of an administration that cut the defense priorities drastically—and should know the real truth behind the growth of defense readiness in this nation. Such political attitudes bring back recollections of the days in which John Kennedy claimed the Eisenhower-Nixon administration allowed America to fall behind the Soviets on strategic missiles. "The missile gap" helped Kennedy in his narrow victory over Nixon, only to proclaim after the election that he was "mistaken" and that a missile gap did not actually exist.

What these politicians apparently do not realize is what impact such grandstanding can have on foreign policy—and how much undermining it has. But the price of winning in this nation's political sphere supercedes the nation's security—and certainly the truth.

The Reagan Administration is to be commended for its ardent struggle to bring this nation's defense posture up to its current status. Those in congress who have acted as obstructionists, and who distort the true status of this nation's military force, should be censored—not only by their respective constituents, but by history itself.●

IF PRESIDENT REAGAN HAD HIS WAY

● Mr. CHILES. Mr. President, I am told that today the President of the United States said that if Congress had enacted everything he wanted, the deficit would be $40 billion lower.

That is what the President says. But the Congressional Budget Office early this year said that "the budget deficit under administration policies would grow from $186 billion in 1984 to $192 billion in 1985 and $248 billion by 1989."

The Budget Office is not partisan. It has no ax to grind. It only has its best, objective analysis to report. And what it says is that if Congress does exactly what the President wants, if we ratified every spending cut he asked, every military spending increase, and all his revenues requests to the precise decimal, the deficit will be $62 billion higher in 1989 than it is now.

Even if someone were to accept the President's claim that the deficits would be $40 billion lower if Congress had done something else, this year's deficit would still be over $130 billion, more than twice as high as it was during the final year of the Carter administration.

It seems to me that while I don't agree with each of the specifics in Vice President Mondale's deficit-reduction plan, he at least deserves high praise for putting his plan on the table. It is a reasonable, credible approach to our biggest economic threat, the Federal deficit.

Now that Mr. Mondale has made his plan public, I would hope the President would follow suit. I think all Americans would like to hear what the President really has in mind.

In fact, if both candidates had their plans before the public, we might all profit from something akin to a bidding war. Who can cut the deficit the most? Who can do it in the fairest and most effective way? That's certainly a reasonable question, and a major criteria for any voter intent on making an informed decision this fall.

The thrust of the Mondale plan is right on target. The savings the plan would achieve would be applied to deficit reduction. The whole story of this year in Congress and throughout the Nation's economy has been the deficit, the harm it does, the threat it poses.

Mr. Mondale has told us what he would do. The President should do the same. It is in the Nation's best interest.●

THE DURATION OF COEXISTENCE

● Mr. GOLDWATER. Mr. President, it is almost impossible to sit on the floor of the Senate or to listen on our loudspeakers in our offices, to watch television, to read the newspapers, to listen to the candidates, and not hear an almost unceasing, repetitious declaration for arms control.

Now I will admit that theoretically this would be a wonderful thing. To be able to sit down with the other countries of the world and work out a multilateral agreement on the control and number of arms that were to exist in this world would be a great step forward.

But, we are arguing for something that has been used as a weapon of war ever since Lenin lived on this Earth. Lenin believed that it was most useful to his intentions, and this has been accepted as doctrine by the Soviets ever since, that to have pacifists in every enemy group worked to their advantage. In fact, a Russian delegation to the Geneva Disarmament Conference in 1972 was reminded that "who has ever denied the usefulness of pacifists to undermine the enemy?"

With that same philosophy was an accompanying one of "peaceful coexistence." This, they felt, would inevitably lead to war and then the question always came up, who would start the war? And, the Communists' thinking in that general field, was that it would either be started by the capitalists, or between the capitalists, or the whole era of capitalism would disappear, to be replaced by their Socialist concepts in government.

Because the subject of disarmament and talks with the Soviets has so dominated the thinking and speaking of so many people in this country, I want to place in the RECORD a very interesting piece, written by Mr. William Harben, appearing in the Journal of Defense & Diplomacy. Mr. Harben is a senior partner of a research firm here in Washington and is a retired Foreign Service officer, whose tours of duty included 2 years in Moscow. The title of his piece is "The Duration of Coexistence" and because of its importance, I ask that it be printed in the RCORD.

The article follows:

THE DURATION OF COEXISTENCE

(By William N. Harben)

In his first official statement upon assuming office, Konstantin Chernenko offered "peaceful coexistence" to the United States, thus raising the question once again of the definiton of Soviet doctrinal terms.

One aspect of peaceful coexistence has been arms control negotiations, which have been without noteworthy result for decades. The public is weary with the data on throw-weights, MIRVing and the rest, but not one of the authors of the many books and articles on the subject wonders whether it is possible that the stalemate is attributable, not to the failure to make this or that concession, but to the fact that Lenin repeatedly and emphatically rejected as delusion all hopes for disarmament as long as world revolution was incomplete. Generally unnoticed at the time of the first SALT talks was an article in the January 1971 issue of Novyy Mir, by the Soviet ideologue, academician Aleksei Matveevich Rumyantsev, in which he recalled that Lenin has asked Foreign Minister Georgi Chicherin to prepare a "pacifist" program to be used by a Russian delegation to the Genoa disarmament conference in 1972. To Chicherin's protest at the heresy of disarmament, Lenin replied, according to Rumyantsev, "Who has ever denied the usefulness of pacifist to undermine the enemy?"

Hardly a day passes in the Soviet Union without it press justifying a particular policy by referring to Lenin's writtings on the subject. Lenin was vague and contradictory on economics, but he was clear and dogmatic on war. Rumyantsev is not regarded in the Soviet context as a firebreather, and while his anecdote is depressing to us, it was actually rather dovish by Moscow standards. He seemed to be trying to justify to hardliners that it was ideologically permissible to engage in disarmament talks with the West at all.

About a year ago, the Kremlin's chief Yankee-stroker, Georgi Arbatov, revealed that he, too, had been poring over the Holy Writ looking for a ray of light, but all he could come up with was a reminiscence of Nadezhda Krupskaya, Lenin's wife, that her husband had once remarked that weapons of war might some day become so terrible that the masses would reject war.

The point is that doctrine matters in the Soviet Union. No policy can be carried forward unless precedents can be found in the writings of Lenin. If therefore behooves western analysis to become familiar with Leninist doctrine on a major concern. Much of this is published, some is not. Rumyantsev's citation, for example, seems to have been extracted from Foreign Ministry archives (he gives Chicherin as the source).

When Khruschchev declared in Pravda on June 25, 1958, that Soviet foreign policy would continue to be a "Leninist policy of peaceful coexistence," the word "Leninist" was not mere rhetorical decoration, but an assurance to the party that the government would not depart from the agreed definition based on Lenin. Hence the reiteration, on that and other occasions, that "peaceful coexistence" had been Soviet policy since 1918—which would include the Soviet invasions of Poland and Iran in 1921, the invasion of Manchuria in 1929, the attacks on Finland in 1939 and 1941, etc.

Stalin noted (*Collected Works*, X, p. 288) that "We cannot forget the saying of Lenin to the effect that a great deal in the matter of our construction depends on whether we succeed in delaying war with the capitalist countries, which is inevitable but which may be delayed, either until proletarian revolution ripens in Europe or until the colonial revolutions come fully to a head, or finally, until the capitalists fight among themselves over the division of the colonies. Therefore, the maintenance of peaceful relations with the capitalist countries is an obligatory task with us."

INEVITABLE WAR

"Peaceful coexistence" is therefore inevitably to end in War. Who will start this war? According to Lenin, "If war is waged by the proletariat after it has conquered the bourgeoisie in its own country and is waged with the object of strengthening and extending socialism, such a war is legitimate and 'holy'" (*Selected Works*, VII, p. 357). "The Social Democrats [the old name of the Communists] may even find themselves in the position of having to demand agrressive wars" (Lenin, *Works*, XV, p. 176). "We must say that the party congress commissions the Central Committee to denounce all peace treaties and to declare war on every imperialist state and on the whole world as soon as the Central Committee regards the moment as appropriate" (Lenin, *Sochineniya*, 4th ed., XXVII, pp. 96-97).

One is tempted to dismiss this as the rantings of a madman were not the rantings of another madman so fresh in memory. It is more fashionable to dismiss it as having been uttered long ago, in circumstances that hardly prevail at the present time. Apparently it is not so dismissed in Moscow, however. Gen. Yevdokim Yegorovich Maltsev, writing in *Krasnaya Zvezda* on Feb. 14, 1974, asserted that:

"The defense might of the USSR is growing stronger on the basis of Leninist ideas and on Lenin's doctrine on the defense of the socialist homeland. Wholly guided by this doctrine, our party adopts a creative approach to the complex problems of . . . defense capability in strict conformity with the particular features of a given stage of social development and the world situation. . . . Events of the present stage of social development are approaching the point where at any moment a situation may arise in some link of the capitalist system which will pave the way for revolutionary transformations."

Given Lenin's emphatically aggressive intention and the abuse to which the word "defense" has been subjected even by "bourgeois" states, it would be unwise to take much comfort from its use here. As the Sixth World Congress of the Comintern in 1928 put it: "There is no contradiction between the Soviet government's preparations for defense and for revolutionary war and a consistent peace policy. Revolutionary war of the proletarian dictatorship is but a continuation of revolutionary peace policy 'by other means.'"

The continuing validity and immutability of Leninist war doctrine is sometimes proclaimed in the USSR so sharply that one might suspect that Soviet "doves" are frantically trying to warn a bemused West that it is in mortal peril. The idea that "peaceful coexistence" might be permanent has been repeatedly denounced as "unscientific": "It is clear that there can be no continuing, 'eternal' coexistence of socialist and capitalist states. To advance such a demand means to reduce the principle of peaceful coexistence to absurdity," wrote D. Aleksandrov in *Mirovaya Ekonomiya i Mezhdunarodnye Otnosheniya*, XI, 1963.

"Peaceful coexistence" in Moscow's view is therefore no more than a state of uneasy armistice preceding an inevitable war—like the relationship between France and Germany in the Twenties and Thirties. It is simply a restraint of major hostilities until the moment most propitious for attack. But surely they do not intend to attack? Probably not soon, but there is obviously a faction in Moscow that seriously entertains the idea. At the Twenty-second Congress of the Soviet Communist Party, Marshall Rodion Yakovlevich Malinovski's speech contained the following passage: "We must . . . also study means of foiling the aggressive designs of the enemy by inflicting a lightning blow on him at the proper moment [*svoyevremenno*]" (Vol. II, p. 118). *Pravda* tried to put the cat back in the bag on Feb. 23, 1964, by changing this to a "lightning blow in return." But on Jan. 21, 1974, Richard Ivanovich Kosolapov, now editor of *Komunist*, wrote in *Pravda* that "constructive peaceful coexistence . . . by no means signifies the termination of the class struggle in all its forms. . . ." Earlier, Marshal Vasili Danilovich Sokolovski, in his *Voyennaya Strategiya*, 1968, p. 26, had asserted that the "highest form of class struggle" is "war between states with different social systems."

WAITING FOR THE OPPORTUNITY

War has thus far been avoided obviously not because of Moscow's aversion to war, but because the opportunity for certain victory has not yet presented itself. Soviet military writings (Sokolovski's, for example) display a fascination with surprise attack, but Malinovsk's indiscretion, amended for foreign consumption, implies that surprise even then was not easy to achieve—the "means" to achieve it had to be "studied." Peace has therefore been due partly to western surveillance and intelligence networks, which makes it almost impossible to prepare a first strike "lightning blow" on a scale sufficient to ensure victory.

A Soviet attack would have to be on a large, and hence detectable, scale because of the West's military strength. Western armaments have therefore prevented the only kind of war that assures victory to the aggressor. Nuclear weapons are part of that strength. In the 1960s, Soviet military writers dismissed the idea that nuclear weapons changed the nature of war "as bourgeois ideologists assert." Such weapons were just artillery of greater explosive force.

But the increasing power and diversification of nuclear weapons gave rise to doubts and, recently, to admission of the possibility that a great war might be fought without using them at all. If, as Robert McNamara wrote in the fall 1983 issue of *Foreign Affairs*, the sole purpose of a nuclear arsenal is to deter the adversary from using *his* arsenal, then each arsenal cancels the other out, with the possible exception of small tactical devices used in sparsely inhabited areas or at chokepoints like the Rhine crossings or the Pyrenees passes. But this enhances the possibility of war. Once nuclear weapons are swept from the chessboard, the Soviet proletariat may once again be able to "fulfill its international duty" across frontiers, not in Afghanistan, but in Europe or the Middle East. The vast coventional armament of the USSR seems to indicate that its leaders never gave up hope that conventional war might some day again be possible.

PAST INVASIONS

Why 42,600 tanks and 176 divisions (to NATO's 13,500 and 86, respectively)? A currently popular explanation is paranoia induced by past invasions, particularly by Germany. Let us examine these invasions. In 1914 it was Russia that invaded Germany, not the other way around. Defeated in East Prussia, the Soviet army was then pursued onto its own soil. But, far from developing a paranoia as a result of the deep German thrust into the Ukraine in 1918, Lenin in 1923 actually invited the German Reichwehr of Gen. Hans von Seeckt, prohibited by Versailles from possessing tanks or an air force, to violate these provisions of the treaty on Soviet soil, out of the sight of Allied inspectors. It was in Von Seeckt's Soviet training camps that the Luftwaffe and the panzer divisions were born.

The second German invasion is 1941 was preceded by a massing of Soviet troops close against the German-Soviet demarcation line that was so alarming that Berlin cabled its ambassador, Count Werner von der Schulenburg, in Moscow and asked if the USSR intended to attack. Von der Schulenburg replied that they did not, that it was just Stalin's idea of 300 percent security. Whatever the facts about who was about to invade whom, Moscow again seemed to be curiously free of paranoia: following the war, the Soviets were even inducting surrendered SS-men into the militarized Kasernierte Volkspolizei which it set up in its zone of occupation while the western allies were still requiring the Germans to account for spears used in Wagnerian operas. More recently, the "paranoid" Soviets forced the unhappy East Germans to introduce military training in the high schools, matching the militarization of Soviet youth.

The notion that Moscow fears invasion by the Germans or by any nation is in any case belied by the offensive deployment of its armies. Their ammunition dumps, for example, are close to the border with the West, where they would be overrun in the first few hours of a NATO attack.

Over the years the USSR has howled abuse at purely defensive measures of the western countries, probably striving to inspire a numbing fear by advertising western measures that pre-suppose retreat. In the 1950s, they pointed to the chambering of West German bridges to facilitate their demolition in the path of the expected Soviet advance and later the planting of nuclear mines in the passes of the Erzgebirge. Radio Moscow even denounced the sending of German Leopard tanks far away to Spain, where they could hardly launch an attack against the East, but could be used very easily to seal the gorges of the Pyrenees. The campaign against neutron weapons is the latest example.

NUCLEAR WEAPONS

If strategic nuclear weapons are militarily useless as McNamara claims, why do not the Soviets agree to their abolition, thus saving enormous expense? Because they are of enormous political use, as the Soviets began to realize in the 1960s, when the Communist Santiago Alvarez, writing in the World Marxist Review in June 1963, noted:

"Acute political crises may give rise to revolutionary situations in the western countries. We have in mind such things as a sharp deterioration of international relations fraught with the danger of nuclear war. . . . It may well be that any immediate danger of nuclear war would cause a leftward swing among the masses. . . ."

He was echoed by Pravda on August 13 of the same year, and Khrushchev set out, through highly publicized speeches, to provoke the necessary terror with lurid visions of accidental missile launchings caused by a "flock of geese" (on radar) and missiles being turned out "like sausages" in Soviet arms plants. The credit for developing the strategy of using the masses' fear of nuclear war to incite them to revolution probably belongs to the noted Marxist historian E.P. Thompson whose scenario of escalating protests and demonstrations, summarized by Scott McConnell in Commentary in April 1983, appeared in 1960.

The Soviet government will be very reluctant to dispel nuclear fear by concluding agreements to limit nuclear weapons, particularly now, when Alvarez's and Thompson's predictions are beginning to come true. Having lost its economic appeal, moreover, communism has no political issue left that is as potentially effective as the "Schrecklichkeit" of the nuclear bogey. Many in the West assume that the Soviets share this dread, having endured terrible loss of life and devastation in World War II. But the government of the USSR ensures that the memory of that period passes from Soviet minds.

Only nine years after the end of World War II, a Defense Ministry pamphlet by Viktor A. Chaprakov (*Militarizatsia Stran Severo-Atlanticheskogo Bloka*, Voyeni Izdat) reminded Soviets that "The bourgeois-pacifist attitude toward war which stresses the 'horrors of war' and inculcates hatred of all wars is alien to us. Communists are against imperialistic wars as being counterrevolutionary wars, but they are in favor of liberating, anti-imperialist, revolutionary wars."

While suppressing at home films and literature that dwell on the horrors of war, the Soviet government encourages them abroad, on one occasion even lending troops of the Czechoslovak army as extras in an American television remake of Erich Maria Remarque's classic *All Quiet on the Western Front*.

From the age of seven, Soviet children are given military training; when I was in Moscow, 15 million children took part in the annual field maneuvers of the "Children's Army," also known as *Zarnitsa*.

CIVIL DEFENSE

Many members of antinuclear groups in the West are puzzled and worried by the vast Soviet civil defense program, which appears to contradict their firmly held belief that there is no effective defense against nuclear attack. Perhaps they are right, but they forget the political value of the Soviet civil defense program, which by instilling a probably false sense of security, immunizes the Soviet people against any spillover of the nuclear terror being drummed up abroad.

Bilateral nuclear disarmament will not take place until Moscow loses more domestically than it gains abroad by maintaining the nuclear threat. Discouraged by jamming and censorship from any serious attempt at educating Soviet public opinion, we have contented ourselves with broadcasting jazz, literary comment, politically uplifting homilies and the news. The great mass of Soviets has no idea of the war doctrine of the Communist Party, nor do even most Soviet officials know of the enormous preponderance of Soviet conventional forces. It is surely evidence of neglect on the West's part that even Soviet negotiators must be given the most elementary information by their western counter-parts on the strength and deployment of their own armed forces. One representative of a Soviet bloc country once asked me, during a negotiation, for information on his own country's armed forces. Noting my startled expression, he added, "Nothing secret . . . . just a magazine article, like those in the *U.S. News and World Report*."

WITHHOLDING INFORMATION

There must be a good reason why the Kremlin keeps such information from its people and from its diplomats. If awareness spreads that the USSR has about 29,000 tanks more than "aggressive" NATO, the Soviet people might begin to wonder how many family cars might have been manufactured with the same money. The Soviet poor have no say in government, but their political courage has been great on those occasions when the truth was obvious. The loyalty of the aristocracy, the *nomenklatura*, is bought with perks and maintained by instilling the fear that too many questions may plunge a man into the gray masses of the faceless toilers. The latter now have no great fear of the Gulag. Once, when I warned a persistent Leningrad blackmarketeer to disappear before my "tails" picked him up and sent him to a labor camp, he laughed. "Let them!" he said. "I just got out of one, and it's the same out as in!"

If we are to rid ourselves of this orchestrated nuclear nightmare, we must spend years educating the Soviets using all available media on the apocalyptic doctrine of the Communist Party and on the superfluity of the armaments that keeps them in unending poverty, even at the expense of the latest trends in jazz and sports.●

EMPLOYEE EDUCATIONAL ASSISTANCE EXTENSION ACT

● Mr. MOYNIHAN. Mr. President, I rise today to speak about an important and worthy proposal, the Employee Educational Assistance Extension Act, S. 249.

This legislation would extend the employee educational assistance provisions of the Internal Revenue Code of 1954. In 1978, Congress opened the classroom door to thousands of American workers by adding section 127 of the Tax Code and thereby providing tax incentives for employers to pay for the further education of their employees—regardless of whether or not that education was, as under prior law, narrowly defined as job-related.

Section 127 has provided new opportunities for the advancement of women and minority workers, improved America's competitiveness, and contributed to the general enlightment of the American public by encouraging employers to provide tax-free educational fringe benefits to their employees.

Over 7 million employees have been able to further their educations and improve their job skills as a result of the employee educational assistance provisions of the Tax Code. Because these provisions expired in December of 1983, employer-provided educational assistance, such as the payment of tuition, is no longer considered excludable from an employee's income, unless the employee takes courses that are directly related to his job. S. 249, of which I am proud to be a cosponsor, would extend these employee educational assistance provisions and make them a permanent part of the Tax Code.

Congress broadened the employee educational assistance incentives in 1978 because the prior requirement that only assistance for job-related courses could be excluded from employee income precluded many nonmanagement workers from taking courses necessary for advancing their own careers.

Before 1978, a firm could provide tax-free tuition for executives to improve their management skills or to clerks and secretaries to improve their shorthand skills, but, essentially, little more. Many low-level employees, who could not otherwise afford to take courses that might enable them to move into the professional managerial ranks, could not receive tax-free, employer-provided assistance to do so.

That all changed in 1978 under the expanded section 127 of the Tax Code, and American workers—many of them women and minority workers—have benefited measurably. The American Telephone Co., for example, reports that 85 percent of its nonmanagement employees who earned degrees thought AT&T's tuition assistance program have moved into management positions.

The employee educational assistance provisions of the Tax Code also have been responsible for retaining many thousands of America's industrial workers. If we are to compete with our trading partners, American industry must retool and update its manufacturing technology. This process leaves many unskilled workers ill-prepared for increasingly complex jobs. Section 127 of the Tax Code has helped many of these workers to adapt to new technology by learning new skills. In the end, this saves American jobs. Section 127, then, has been an invaluable hedge against unemployement and, at the same time, has helped American business train American workers to compete with foreign labor.

Employee educational assistance is also vital to our efforts to improve America's educational system. Just 1 year ago, the President's Commission on Excellence in Education declared that the Nation is "at risk" due to a nationwide decline in educational standards.

One answer, the Commission suggested, was to expand resources to improve the quality of teaching at all levels. The employee educational assistance incentive is important in this effort, as it enables school systems and universities to offer teachers new opportunities for intellectual growth. Section 127 has enabled many underpaid teachers to take courses they otherwise would be unable to afford and then bring what they learn to their students and colleagues.

Educational assistance benefits also are an important tool to help educational institutions attract quality teachers. A school district or college which cannot provide their teachers higher salaries may, still, be able to offer tax-free tuition assistance. The National Educational Association estimates that almost 60 percent of all

school districts in my home State of New York offer educational assistance benefits to their teachers.

In addition, the distinguished former Congressman John Brademas, now president of New York University, has informed me that some 70 percent of NYU graduate and teaching assistants have received some sort of tuition assistance under section 127, assistance which will no longer be available to attract talented scholars unless Congress extends section 127.

Mr. President, the educational assistance benefits provided under section 127 of the Tax Code not only contribute to American commerce, they also are vital for an informed and enlightened American public. Thomas Jefferson, as ever, was right to observe that American liberty depends on an educated electorate. In 1816, Jefferson warned: "If a nation expects to be ignorant and free, in a state of civilization, it expects what never was and never will be."

Educational opportunity has been a national priority since Jefferson's days. Section 127 of the Tax Code has provided women and minorities in particular a chance to learn and advance which earlier they often could not afford. Section 127 has helped improve the quality of American managers and teachers and assisted countless American workers to secure the skills they need in this new age of high technology. And this, Mr. President, provides our Nation with a better informed citizenry.

I urge my colleagues to support S. 249, to extend tax-free educational assistance to working Americans.●

AUNTY KAU'I AND HULA AS FOLK ART

Mr. MATSUNAGA. Mr. President, it was my privilege last Thursday to attend a Capitol reception to honor 17 distinguished American folk artists, winners of the Third Annual National Heritage Fellowships sponsored by the National Endowment for the Arts. I can report to my colleagues that it was a richly awarding event to meet such talented artists in many fields representing 13 States, 6 of them new to the Endowment's Folk Arts Program including my own. The 1984 fellows join 31 others recognized in the previous 2 years. Arts Endowment Chairman Frank Hodsoll observed that theirs is "an assemblage of remarkable people, reminding us forcefully of the artistic depth and cultural breadth that is our national heritage."

The work of selecting among those nominated for these fellowships was a "happy task" for the members of the National Council on the Arts and the advisory panel to the Arts Endowment's Folk Arts Program, in the words of Bess Hawes, program director. "We were forced to grow in our understanding of the people of our Nation and the artistic skills they value," she told us.

Hers is a most worthwhile program in support and recognition of folk art in our national culture. "We have been as unbureaucratic as a Federal agency can be in making guidelines for nominations for these fellowships," she wrote. "They are no forms. Any citizen can send in a nomination. The evaluation process is rigorous, but we have left the door open to all the keepers of American folk traditions."

The representative of my own State among those honored this year is the "kumu hula" or Hawaiian dance teacher affectionately known as Aunty Kau'i. Some of us may have seen her perform the traditional hula of the Hawaiian, together with her daughter Noenoe and granddaughter Hauolionalani, on the National Mall earlier this summer as participants in the 18th Annual Festival of American Folklife staged by the Smithsonian Institution. No one fortunate enough to have witnessed those three generations of women perform with rare grace and beauty could come away without a new appreciation of Hawaiian hula. Most of us are accustomed to "hula auwana" or modern hula, accompanied by languid-sounding music. In contrast "hula kahiko" or traditional hula is much more forceful and performed often to a drumbeat sound and an almost mesmerizing chant.

Aunty Kau'i, born Emily Kau'i-o-makawelina - lanio - kamano'okalanipo on the island of Oahu in 1908, was among five people, all women, identified by the Bernice P. Bishop Museum in 1970 as "Loea hula," or experts in the traditional hula; of the five only Mrs. Emily Zuttermeister is still active in its performance and instruction.

She is of Hawaiian descent and her parents, following the Hawaiian "hanai" practice of the time, gave her to her maternal grandparents to raise. Thus she grew up surrounded by old Hawaiian custom. Her uncle, Sam Pua Ha'aheo, a police officer and elder of his church, also held the traditional position of "lawai'a kilo" or fish spotter who stands on a high place and directs the fishing boat. He kept his knowledge of the hula and the ancient chants secret until he was an old man.

In 1933, he decided it was time to pass on this knowledge. He opened a "hula halau" or hula house on the shore of Oahu's Kahana Bay beside his fishing shack. Emily had married Karl Zuttermeister, a mainlander of German descent who was fascinated with all things Hawaiian and eager for his wife to learn the old forms. She reluctantly agreed; her study and practice demanded every week night for 3 years. After her graduation, she began to teach her uncle's chants and hulas to other Hawaiian girls, including her daughter Noenoe and in time her granddaughters. She has been passing these deep traditions to others of 50 years.

Today Aunty Kau'i serves as a model of purity and classicism for hundreds of younger artists of all races and, indeed, from other parts of the world. During World War II she was asked to teach the hula to servicemen and women in order to provide recreational release. She recalls instructing at all the military posts on Oahu, including Pearl Harbor, and sometimes had as many as 500 in a class.

Learning the hula was a natural extension of her early life, a life steeped in Hawaiian cultural tradition. Her grandfather, a teacher of Hawaiiana, and her grandmother, a local authority in herbal Hawaiian medicine, trained her to read the Bible in Hawaiian. Now at 75 she continues to provide continuity in the preservation of Hawaiian cultural tradition and young people consider the opportunity to study under her to be a rare privilege, as indeed it is.

Ms. Hawes observed of the 1984 folk arts fellows: "In a larger sense we did not choose them; they have used their lives to choose creativity, beauty and quality and it was that life process which recommended them to this celebration of artistry in American life."

The artistry of "Aunty Kau'I" Zuttermeister is an outstanding reason why it is a great privilege for me to represent the vastly gifted Hawaiian people of our Aloha State in this Chamber, Mr. President.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M., FOR THE RECOGNITION OF CERTAIN SENATORS, AND DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow; that after the recognition of the two leaders under the standing orders there be special orders in favor of the following Senators: Senators QUAYLE, MURKOWSKI, STENNIS, NUNN, and PROXMIRE for not to exceed 15 minutes each, to be followed by a period for the transaction of routine morning business until 11:30 a.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow, the Senate will convene at 10 a.m. After recognition of the two leaders under the standing order, there will be five special orders, followed by a period for the transaction of routine morning business until 11:30 a.m., in

which Senators may speak for not more than 5 minutes each.

At 11 a.m., or prior thereto if there is no further requirement, the Senate wil resume consideration of the pending bill, S. 2651.

Mr. President, does the distinguished minority leader have anything further?

Mr. BYRD. Mr. President, I have nothing further, I say to the distinguished majority leader.

Mr. BAKER. I thank the minority leader.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I now move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to and, at 6:09 p.m., the Senate recessed until tomorrow, Wednesday, September 12, 1984, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 11, 1984:

THE JUDICIARY

William D. Keller, of California, to be U.S. district judge for the central district of California vice a new position created by Public Law 98-353, approved July 10, 1984.

Ronald E. Meredith, of Kentucky, to be U.S. district judge for the western district of Kentucky vice a new position created by Public Law 98-353, approved July 10, 1984.

F.A. Little, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana vice Nauman S. Scott, retiring.

William G. Young, of Massachusetts, to be U.S. district judge for the district of Massachusetts vice a new position created by Public Law 98-353, approved July 10, 1984.

George La Plata, of Michigan, to be U.S. district judge for the eastern district of Michigan vice a new position created by Public Law 98-353, approved July 10, 1984.

R. Allan Edgar, of Tennessee, to be U.S. district judge for the eastern district of Tennessee vice H. Ted Milburn, elevated.

Walter S. Smith, Jr., of Texas to be U.S. district judge for the western district of Texas vice a new position created by Public Law 98-353, approved July 10, 1984.

HOUSE OF REPRESENTATIVES—*Tuesday, September 11, 1984*

The House met at 12 o'clock noon.

The Reverend Carol Davies, United Methodist Church, Stevenson, WA, offered the following prayer:

Gracious God, for the blessings of this day we give You thanks. As we acknowledge Your presence among us, we ask You to be with these men and women as they go about their work today. May they continue to be faithful servants always being mindful of those for whom they serve. May they be caring and compassionate, patient and understanding, yet bold to speak out for justice and peace for all people. May their ears be open to hear what You are saying, their eyes open to see the needs of others, their minds open to discover new truth about You and the world, and their hearts open to love. Give us all courage to meet the challenge of today motivated by the vision of Your kingdom. 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5177. An act granting the consent of Congress to an amendment to the Wheeling Creek Watershed Protection and Flood Prevention District Compact entered into by the States of West Virginia and Pennsylvania.

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. 4164. An act to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.

The message also annouced that the Senate insists upon its amendment to the bill (H.R. 4164) "An act to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capacilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. DENTON, Mr. WEICKER, Mr. EAST, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, Mr. EAGLETON, and Mr. DODD to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2878) "An act to amend and extend the Library Services and Construction Act," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. DENTON, Mr. WEICKER, Mr. EAST, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, Mr. EAGLETON, and Mr. DODD to be the conferees on the part of the Senate.

THE REV. CAROL DAVIES

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

Mr. MORRISON of Washington. Mr. Speaker, there is a tradition within the Methodist Church of circuit riders and today's guest chaplain, the Reverend Carol Davies, is a modern-day version of the circuit rider made famous by history.

She serves two small districts in the beautiful Columbia River Gorge that divides the States of Washington and Oregon, serving the Stevenson United Methodist Church with 125 members and 34 miles away the Lyle United Methodist Church with 50 members.

Some of you can perhaps place the location of these two churches because they are in the shadow of America's active volcano, Mount St. Helens.

Reverend Davies is a northwest native, took her undergraduate work at Willamette University in Oregon, her theological training at the Pacific School of Religion in Berkeley, CA.

Like most churches, her churches speak through community activities. She is president of the Domestic Violence Council, vice president of the Senior Citizens Board and serves on the Mental Health Board.

Our guest pastor today serves in one of the most beautiful places in America, ministering to America's finest folks.

I thank the Speaker, Chaplain Jim Ford and our guest chaplain today, Rev. Carol Davies.

APPOINTMENT OF CONFEREE ON S. 38, H.R. 1904, H.R. 5167 AND S. 2496

The SPEAKER. The Chair appoints the gentleman from California, Mr. HAWKINS, as a conferee to fill the vacancies caused by the death of Representative Perkins of Kentucky on the following conferences:

S. 38, Longshoremen's and Harbor Workers' Compensation Act amendments;

H.R. 1904, Child Abuse Amendments of 1984;

H.R. 5167, Department of Defense Authorization Act; and

S. 2496, Adult Education Act Amendments of 1984.

COMMUNICATION FROM THE CHAIRMAN OF THE DEMOCRATIC CAUCUS

The SPEAKER laid before the House the following communication from the chairman of the Democratic Caucus:

DEMOCRATIC CAUCUS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 6, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to inform you that Representative Andy Ireland is no longer a Member of the Democratic Caucus.

With best wishes, I am,

Sincerely,

GILLIS W. LONG.

COMMUNICATION FROM THE SPEAKER OF THE HOUSE

The SPEAKER laid before the House the following communication from the Speaker of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 11, 1984.

Hon. PARREN J. MITCHELL,
Chairman, Committee on Small Business, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Andy Ireland's election to the Committee on Small Business has been automatically vacated pursuant to clause 6(b) of Rule X, effective today.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

□ 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.

COMMUNICATION FROM THE SPEAKER OF THE HOUSE

The SPEAKER laid before the House the following communication from the Speaker of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 11, 1984.
Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative Andy Ireland's election to the Committee on Foreign Affairs has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

THOMAS P. O'NEILL, Jr.,
The Speaker.

APPOINTMENT OF CONFEREES ON H.R. 4164, VOCATIONAL-TECHNICAL EDUCATION ACT OF 1984

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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

The Chair hears none, and appoints the following conferees: Messrs. HAWKINS, FORD of Michigan, BIAGGI, ANDREWS of North Carolina, MILLER of California, CORRADA, KILDEE, WILLIAMS of Montana, BOUCHER, and ACKERMAN; Mrs. BURTON of California; Messrs. HAYES, ERLENBORN, and GOODLING; Mrs. ROUKEMA, and Messrs. GUNDERSON, BARTLETT, PACKARD, NIELSON of Utah, and CHANDLER.

WHERE'S THE BUDGET, MR. PRESIDENT?

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

Mr. ALEXANDER. Mr. Speaker, yesterday Walter Mondale forthrightly spelled out precisely what he would do to bring down the staggering deficits of this administration. Instead of the radical Reagan policy of borrow-and-spend, borrow-and-spend, Mr. Mondale plans to restore moderation to the Federal budget.

Mr. Reagan responded to the Mondale initiative by providing a photo opportunity for White House reporters.

In 1980, Ronald Reagan promised a balanced budget by 1983, or even 1982 if we were lucky. We now know that we were not lucky. Instead of a balanced budget, Ronald Reagan has given us 4 years of historic deficits which—when added together—exceed the total of all deficits from all Presidents from George Washington through Jimmy Carter.

Mr. Speaker, we now have Fritz Mondale's budget plan. Four years later, we still have only Ronald Reagan's promise.

Last spring the American people were asking, "Where's the beef?"

Today they are asking, "Where's the budget?"

A SEVERE THREAT TO THE COPPER INDUSTRY

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

Mr. DAVIS. Mr. Speaker, today I am introducing, with nine of my colleagues, a concurrent resolution to implement the International Trade Commission's recommendations to provide import relief to the American copper industry. Last Thursday, the President chose not to accept the ITC's finding of injury. The very existence of a vital American industry is threatened. The severity of that threat is illustrated by the ITC's unanimous injury vote.

Since 1979, over 40 percent of American copper workers have lost their jobs. Seventeen of the Nation's 25 largest copper mines have closed. On the day of the President's announcement, the single remaining copper mine in my district—which used to employ over 3,000 people—shut down all operations. If we do not act this strategic material soon will be available only from foreign sources. This is not in the best interest of our national security or in the interest of the tens of thousands whose jobs depend on a viable American copper industry.

I urge my colleagues to join me in this effort.

□ 1210

GUARDSMEN SHOULD NOT TAKE PART IN PARAMILITARY ACTIVITIES

(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, at this time I do not have all of the information I need to determine if the Alabama National Guardsmen involved in the Nicaraguan incident last week were hired by or were acting under the orders of our Government.

While I personally support covert actions by the United States, I am opposed to the involvement of National Guardsmen or Reservists who are currently active members of a Guard or Reserve unit to be involved in covert activities.

The National Guard is no longer just a support for the regular forces. The National Guard now has just as many combat missions as the active forces. If guardsmen are hired for covert activities, you are in effect putting active military personnel in a covert operation.

Mr. Speaker, I am seriously considering introducing legislation or a sense of the Congress resolution to prohibit National Guardsmen who are members of a Guard unit from participating in a covert action, whether they are working for our Government or for private groups.

URGING PASSAGE OF THE FAIR TRADE IN STEEL ACT

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

Mr. SCHULZE. Mr. Speaker, the most recent monthly figures for imports of foreign steel clearly underscore the urgent need for legislation to control the relentless pace of imported steel. In July of this year, over 2½ million tons of foreign steel were shipped to the United States, marking an almost 1 million ton increase over the June level of imports. The latest figure, moreover, represents nearly a twofold increase in imports from the already high July 1983 level. In fact, July's figures establish a new monthly high for steel imports and represent a new penetration record for foreign steel.

Mr. Speaker, as distressing as these new import figures are, they only portend even further unemployment and plant closings for the domestic steel industry. Foreign steel imports have now captured an unacceptable 25 percent of the U.S. market while American steelworkers continue to lose their jobs to a tidal wave of unfairly traded steel. With thousands of other steel jobs now seriously threatened by this new flood of imports, we can no longer delay passage of H.R. 5081, the Fair Trade in Steel Act.

As one of the 221 cosponsors of this bill—a majority of the House of Representatives—I strongly urge the House leadership to bring the Fair Trade in Steel Act to the floor and to support import relief for America's steelworkers and firms.

BALANCED BUDGET AMENDMENT AND SOCIAL SECURITY

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

Mr. WEAVER. Mr. Speaker, the constitutional amendment to balance the budget is clearly designed to gut the Social Security Program. If Social Security is excepted from the Federal budget, as it should be, the Federal budget is revealed as being preponderantly military, over 50 percent of Government programs now spent in the military.

Those promoting the constitutional amendment to balance the budget clearly do not want to cut the military. They want to gut the Social Security Program.

I suggest, therefore, that we bring the constitutional amendment to balance the budget to the House floor; there offer an amendment to except the Social Security Trust Fund and pass the constitutional amendment without Social Security within the provisions of the balanced budget amendment. Then I believe the advocates of that amendment will let it die a quiet death.

MONDALE TAX CUTS AND FARM PROGRAMS

(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, like most of my colleagues, I think, was interested yesterday in what former Vice President Mondale said in revealing his plan for how to reduce this country's deficits.

Coming from rural western Wisconsin, I was particularly interested in that section focusing on agriculture, and surprised that the man who says he is going to help America's farmers was going to do so by cutting $4 billion in the cost of our agricultural programs.

I became even more surprised as I looked at the details of his programs. He said he was going to do so by enacting multiyear farm programs. He was going to match foreign export subsidies. He was going to stop all Farmers Home Administration farm foreclosures. He was going to provide a stronger soil conservation program. He was going to enact a stronger and better crop insurance program, and spend more money for better research. Yet he was going to do all of this and still cut spending in agriculture by $4 billion.

I know there will be a lot more taxes under Walter Mondale and I think there also will be a lot more spending, and a lot more deficits.

DEFICIT REDUCTION: IT TAKES A PLAN, NOT MAGIC

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

Mr. GLICKMAN. Mr. Speaker, yesterday Walter Mondale unveiled his plan for dramatically cutting projected Federal deficits by fiscal year 1989. It has now become a political ritual, virtually a matter of orthodoxy in Presidential campaigns over the last decade to promise a balanced budget by the end of the first term in office.

Mondale offered a refreshing change. Instead of a vague promise he told the American public where he would propose cuts, where he would raise taxes, and where he would even make some add-ons to the budget. The contrast to the President's call for a balanced budget amendment, which would take years to put into effect and would still be without any reasonable enforcement mechanism, is dramatic. It is something the American people should take note of.

I do not agree with every item in the Mondale plan. But we should not fixate on what we do not like. We should fixate on starting a specific process on tough points to reduce the budget deficit.

I commend him for putting a plan on the table from which to work. Without a plan it looks like we are going to be left with a President who seems to think that a couple of constitutional amendments will magically erase the deficits without ever having to grapple with the details.

Budgets are made of details and I say right on to Fritz Mondale for having the guts to show the American people the kinds of things that will need to be done if deficit reduction is going to be more than campaign rhetoric.

TIMBER BAILOUT BILL

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

Mr. CONTE. Mr. Speaker, yesterday, a full page ad in the Washington Post called on the Congress to cut the deficit.

The self-proclaimed bipartisan budget coalition predicted economic doom unless a deficit reduction plan is adopted, and they said that "no spending program should be off-limits * * *." As true statesmen, these leaders of our country asked the elderly, the poor, veterans, and retired civil servants to put the country first and their own interests second.

But at the same time, two organizations signing this ad have begged the Congress for a Government bailout program that could dwarf an effort to save the *Titanic*.

Speculators in the timber industry want the Congress to terminate $3 billion in Federal timber contracts made in the 1970's. These companies planned to make millions using fixed-priced Government contracts. Now, because of poor judgment and low inflation, they want a Federal bailout—a business welfare program that will cost the Treasury $1.5 billion.

I commend these organizations for their interest in solving the deficit problem, but in this case they're barking up the wrong tree.

COVERT ACTIVITIES IN NICARAGUA

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

Mr. MILLER of California. Mr. Speaker, several years ago the President of the United States came to the House and asked for permission to carry on a covert war against the people and the Government of Nicaragua, and this House agreed to that for a period of time.

Four times in the last year this House has emphatically said we do not agree with that covert war against the Government of Nicaragua and we have voted to preclude funds being used for that purpose.

We now read in the paper that the President and this administration are sitting idly by while private citizens violate the laws of this land to participate in that covert war. The Neutrality Act specifically prohibits the funding or sponsorship of private military expeditions against governments with which we are at peace.

We are currently engaged in negotiations with the Nicaraguan Government. We are currently represented in their country by an Embassy and they are represented by an Embassy here.

□ 1220

And yet we find out that American citizens have gone into Nicaragua to disrupt their economy, to kill their civilians, and to topple their Government.

It is time for this administration to support and enforce the laws of this land. And if our Government wants to make war against the country of Nicaragua it ought to come to the Congress and ask for a declaration of war.

This Congress has refused to declare war. And yet we find out that two American citizens participating in that covert war were recently killed in a helicopter crash, that U.S. officials at least knew of their activities, and that officials of the American Embassy in El Salvador helped these individuals' organization provide military supplies to the Salvadoran Army.

The President ought to come out against these kinds of actions. The President ought to enforce the law.

HONORING MIAMI UNIVERSITY

(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, it is with great pride that I rise today to pay tribute to an outstanding educational institution on the occasion of its 175th anniversary. Founded in the beautiful rolling wooded hills of southwestern Ohio in 1809, Miami University in Oxford, OH, has long been known for its commitment to excellence.

Through the years, Miami University has been distinguished by its exceptional academic reputation and contribution to our society. Among the more notable graduates of Miami are U.S. President Benjamin Harrison, editor and publisher of the New York Tribune Whitelaw Reid, and Prof. William H. McGuffey, creator of the famed "McGuffey Readers."

Miami has achieved national recognition not only for graduating well-rounded and successful individuals, but also as the "Cradle of Coaches." In addition to Miami's main campus in Oxford, two southern Ohio branch campuses and the European campus in Luxembourg round out the opportunities available to a Miami student.

In a recent address, Miami President Paul G. Pearson said "we look to the past to understand our present and to help define our future." Through troubled times and much hard work, Miami has maintained its commitment to offering an excellent, well-rounded education and has been able to build on its rich inheritance. If the grand achievements and triumphs of its past are any indication of what lies ahead, then the next 175 years hold special promise for Miami University.

Today I am introducing a resolution commemorating the 175th anniversary of Miami University. I urge my colleagues to join us in supporting the resolution.

A RERUN OF 1972 WITH THE OPPOSITE RESULTS

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

Mr. WALGREN. Mr. Speaker, the American public is thinking these days about how much credit to give this administration for the recovery that we are now experiencing. Some political commentators are even comparing the 1984 election year with 1972 when the Democratic candidate lost every State except one, Massachusetts.

I believe that if the American people apply the same standard to the election of 1984 as they did in 1972 we will indeed have a rerun of the 1972 election, but it will be Ronald Reagan who will lose every State in the Union except one; perhaps he might carry Massachusetts.

And that is because Ronald Reagan has simply done what the American people laughed George McGovern right off the political stage for simply proposing.

You will remember he proposed giving everybody $1,000. If you take our population of some 200 million and divide it by the yearly budget deficits we have been running it comes out to $1,000 for every man, woman, and child in America. It is no wonder we have recovery.

But in thinking back on George McGovern, I think we ought to remember two things: At least he proposed that we give everybody $1,000 instead of $20,000 to some people and $250 to others, and at least he proposed we do it only once.

THE DEFENSE AUTHORIZATION BILL

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

Mr. McCURDY. Mr. Speaker, the unwillingness of Congress to pass a fiscal year 1985 Defense authorization bill can only be viewed in this election year by the voters as yet another indicator of the collective inability of Government to face and make the necessary hard choices in determining what's best for America's defense.

To continue to fail to come to grips with the resolvable differences existing between the House and Senate on defense spending will force us to pass a continuing resolution. This will seriously disrupt and slow production of critical weapons programs, delay or prevent new programs from starting and end up costing the taxpayers an additional $1 billion for every month that passes without a Defense bill.

When we, the architects of the Congressional Budget Act, ignore its provisions by failing to pass a Defense bill as required by this law, we further lose public credibility.

I urge my colleagues in Congress to face reality; bite the bullet; adhere to the provisions of the Budget Act and resolve our differences quickly. Don't make the defense of America a hostage to partisan politics.

WALTER F. MONDALE, THE ACTOR

(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, much has been said by others on the other side of the aisle for many years about President Reagan being the consummate actor, and that has been generally been considered to be a criticism.

Well, now, Walter Mondale has revealed himself as the consummate actor, perhaps with the biggest role.

Remember at the beginning of the primary he was Mr. Nice Guy. In fact, he was so nice some people called him Mr. Dull.

Then he decided to be Mr. Bad Guy. You will recall that, against Senator HART. Then in and around my district in his visit just last week he became Mr. Mad Guy.

Remember his line: "I am mad, I am damned mad."

Now we have Captain Courageous. Yes, Captain Courageous has jumped out of the box and told us that he is going to raise our taxes. Well, it might take great courage to admit that he is going to take more money out of our pocketbooks. So let us congratulate him for his courage, Mr. Speaker, and defeat him for his continuing old-time role as Mr. Liberal, Mr. Tax and Tax, Mr. Spend and Spend.

WALTER MONDALE'S BOLD AND IMAGINATIVE PROPOSAL ON THE HUGE BUDGET DEFICIT

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

Mr. LEVIN of Michigan. I thank the Speaker.

Mr. Speaker, yesterday Walter Mondale proposed a bold and imaginative proposal to address the critical domestic issue, the huge budget deficit.

His analogy to a poker game was quite appropriate. He put his specific proposal on the table of the American electorate, but the President has refused to show his cards, and that certainly sounds like a bluff.

The American people deserve something more than election year rhetoric, some of which we have just heard, in this crucial effort to control the budget deficit.

The President is acting like a prisoner of the present. It is time that the President tell us his specific thoughts about the future, including on the huge deficits. Optimistic platitudes simply are not enough.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). 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 in which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 12, 1984.

LIBRARY OF CONGRESS MASS BOOK DEACIDIFICATION FACILITY

Mr. YOUNG of Missouri. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5607) to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal civilian or military agency, to proceed with the construction of the Library of Congress Mass Book Deacidification Facility, and for other purposes.

The Clerk read as follows:

H.R. 5607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is authorized and directed, subject to the supervision and construction authority of a Federal civilian or military agency, to construct the Library of Congress Mass Book Deacidification Facility in accordance with the general design developed by the Library of Congress and reviewed by the Architect of the Capitol, as set forth in the document entitled "Library of Congress Mass book Deacidification Facility, Engineering, Design, and Cost Estimate and Drawings", dated December 1983. Such facility shall be constructed on Federal property within seventy-five miles of the United States Capitol Building.

SEC. 2. Notwithstanding any other provision of law, the Librarian of Congress shall equip, furnish, operate, and maintain the Library of Congress Mass Book Deacidification Facility.

SEC. 3. There are authorized to be appropriated for fiscal years beginning after September 30, 1983, sums not to exceed $11,500,000 to carry out the provisions of this Act.

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

The gentleman from Missouri [Mr. YOUNG] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. YOUNG].

□ 1230

Mr. YOUNG of Missouri. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5607 authorizes and directs the Librarian of Congress, subject to the supervision and construction authority of a Federal civilian or military agency, to construct the Library of Congress Mass Book Deacidification Facility within 75 miles of the U.S. Capitol at an estimated cost of $11.5 million.

Construction of this facility will allow for the deacidification of approximately 500,000 items of the Library of Congress' vast collection of approximately 80 million items on an annual basis. Currently, over 77,000 books of the Library's collection deteriorate to the extent that they can no longer be used on an annual basis.

Mr. Speaker, the Library of Congress, and libraries throughout the world, are facing an increasingly pressing problem, namely, the rapid deterioration of their collections due to the unstable nature of paper produced since around 1850.

Prior to the 1850's, paper was made from cotton or linen rags, and it could last for hundreds of years. By then, however, the industrial revolution and the growing demand for reading matter called for a cheaper and more plentiful source of paper. Technologists discovered their new paper supply in the cellulose fibers from ordinary wood pulp. But untreated pulp based paper was too absorbent to take a sharp imprint, so chemicals must be added to prevent the ink from running and provide for the proper absorbency. These chemicals, especially aluminum sulphate, sooner or later combine with moisture in the paper to form sulphuric acid. This acid, which forms at varying rates on all books published since 1850, is the direct cause of the disintegration of books.

Mr. Speaker, 12 years ago the Library of Congress' Preservation Research and Testing Office undertook a major program to identify the most universal approach for deacidifying books on a very large scale. This program involved a systematic investigation of all known liquid and gas phase deacidification processes and a study of new possibilities. After much research and experimentation of vapor phase deacidification, a process was developed and patented in 1976 by chemists in the Library of Congress which arrests the degradation of paper and increases the life of books and other library materials by a factor of 2 to 5 times. At present the effective life for acid paper books is 30 to 40 years, whereas this new process will extend the life of books in the Library's collections by 400 to 600 years. This process based on vapor phased impregnation of books with zinc, will neutralize the acidity and leave a residue of zinc carbonate to protect the paper from further acid induced loss of strength.

Invention of this deacidification process by the Library's chemists began with tests in an ordinary pressure cooker in the Library's Preservation Research and Testing Office. Further successful tests with large numbers of books were conducted in facilities of the General Electric Co. in Valley Forge, PA. In 1982 and 1983, the Library of Congress, in consultation with the National Aeronautics and Space Administration successfully conducted a large scale 5,000 volume test and did smaller scale testing in order to refine the process.

The present proposed facility consists of twin vacuum chambers made in a rectangular shape to accommodate pallets loaded with books. The building includes staging areas for book loading and unloading, a series of rehumidification rooms, and a complete developmental test facility which has its own small DEZ test chamber independent of the production system. In addition, the building includes support facilities for maintenance, storage, offices, heating and air conditioning. It is anticipated the Army Corps of Engineers will construct the facility for the Library of Congress.

The capital costs authorized by this legislation include $11.5 million for the construction of a new laboratory building, equipment and related facilities. The Army Corps of Engineers estimates that the building will cost $3.5 million; laboratory facilities and equipment, together with directly related costs will total $8 million. Funds for this activity are included in the Library's fiscal year 1985 budget.

The Library of Congress enlisted the support of the Army Corps of Engineers in locating a suitable federally-owned site for the facility. Consideration was given to existing facilities which could be converted for use by the Library of Congress, as well as the construction of a new facility. Based on the findings of the corps and the Library it was determined that the most cost effective facility would be one constructed at Fort Detrick which is located approximately 50 miles from the U.S. Capitol. This kind of arrangement is highly desirable because of the availability of engineering and maintenance services, fire protection and safety services, and security.

Enactment of this bill, together with subsequent appropriations, will enable the Library of Congress to preserve the Library's vast collection of books from rapid and total disintegration. It will also make it possible to preserve these books in their natural and original state, that magnificent product of the printer's and publisher's art, the hand held book. This "first of a kind" laboratory facility will be available not only to the Library of Congress but to the library and scholarly community throughout the country, and for that matter, throughout the world.

The Librarian of Congress is to be commended for his outstanding leadership in this matter.

Mr. Speaker, I urge enactment of H.R. 5607.

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

Mr. Speaker, I rise today in support of this legislation just annotated by my good friend and distinguished chairman of the Subcommittee on Public Buildings and Grounds and I would like to associate myself with his remarks.

As we have just heard, H.R. 5607 authorizes the Librarian of the Library of Congress to construct a Mass Book Deacidification Facility at Fort Detrick, MD. This facility is to be con-

structed by the Army Corps of Engineers, on federally owned property, at an estimated cost of $11.5 million.

Since the innovation of inexpensive paper manufacturing techniques, utilizing wood pulp and chemicals, in 1850, libraries throughout the world have been plagued with the problem of books and manuscripts deteriorating due to the acidic nature of the pages from which they are made. Because of this, a great of time and energy has been spent to perfect a system to neutralize the acids in the paper. By neutralizing this acid, deterioration is stopped and the life of the books is prolonged.

With a collection of nearly 80 million items, of which 77,000 deteriorate annually to the point that they can no longer be used, the Library of Congress has long needed a preservation system that was both efficient and inexpensive. The Library's scientist quickly determined that the most universal approach would be a gaseous system; which in the words of one leading book preservationist would be the absolute ideal from every point of view, if it could be made to work.

Roughly 12 years ago, the Library set to work on the problem and now has proven that a gaseous system can work and be both efficient and cost-effective. Their unrelenting and unparalleled efforts resulted in the development and patenting of a vapor-phase impregnation process utilizing the chemical diethyl zinc, or DEZ as it is commonly referred.

In cooperation with the National Air and Space Administration, the Library constructed a pilot facility and jointly they successfully demonstrated the viability of this new, high-tech process. This legislation would authorize the construction of a full scale production facility, capable of initially treating and preserving 500,000 books annually and as many as 1.5 million when the facility becomes fully operational.

At this time, I think I speak for all of us here, today when I say that the men and women of the Library of Congress and at NASA are to be commended for their pioneering efforts in this very important field of library science.

The Public Buildings and Grounds Subcommittee has extensively reviewed the design of the proposed facility, as well as the Library's need for the facility, and agrees that such a facility is needed. The building is estimated to cost roughly $3.5 million and the laboratory facilities, equipment and other directly related costs are estimated to be $8 million.

I would like to point out to the Members that during the hearings on this issue concern was expressed regarding the hazards associated with the use of diethyl zinc. Our investigations revealed that like most things, safety is not inherent, it is planned and an extensive amount of safety planning has gone into this project.

Our primary interests were to insure appropriate steps were taken to minimize or eliminate all potential risks. During the hearings and in subsequent communications the Library demonstrated that the elimination of these risks was of critical concern to them as well.

The Library undertook a 6-step safety approach, in consultation with outside engineers, to identify potential hazards and minimize the associated risks. As currently engineered, the Library states they have eliminated any potential hazard to personnel or books with the process.

I think we all recognize that safety features can be engineered into any system but we still must contend with the human element. It is imperative, as the Library plans to do, that all personnel involved with the operation, either directly or indirectly, receive structured training in the handling of hazardous materials as well as safety procedures to be followed in the event of an accident.

This training should involve knowledgeable personnel from the chemical manufacturer. Training manuals should be documented and formated in such a manner so that even those unfamiliar with the process have sufficient background and other relevant information regarding the procedure to operate the system safely.

I know the Library is as equally concerned about the safety aspects of the facility and through their continued efforts I am confident all potential hazards can be eliminated.

In conclusion, the Library is to be commended for their outstanding efforts and I am honored to have had the privilege to be associated with this legislation which will enable them to bring their many years of work to fruition.

I urge my colleagues to support the passage of this bill.

● Mr. HOWARD, Mr. Speaker, I rise in support of H.R. 5607 and first I would like to commend the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the Honorable ROBERT A. YOUNG, the distinguished ranking minority member of the Subcommittee on Public Buildings and Grounds, the Honorable E. CLAY SHAW, and the distinguished ranking minority member of the Committee on Public Works and Transportation, the Honorable GENE SNYDER, for their fine leadership in bringing this legislation before the House.

Mr. Speaker, the facility called for In H.R. 5607 will enable the Library of Congress to extend the life of its books by 400 to 600 years. For the past 100 years, scholars, librarians and archivists have been concerned about the deterioration of books produced after the 1850's. With over 80 million items in its collection, the Library of Congress is regarded to be one of the foremost centers of knowledge in the world. However, three-fourth of all its books are in danger of total disintegration.

Twelve years ago the Library of Congress' Preservation Research and Testing Office was faced with three alternatives in handling the deterioration of their collection: they could have allowed the books to continue to deteriorate; they could have transferred the books onto microfilm; or, they could have searched for a method to remove the harmful acid from the books. After detailed research, the scientists of the Library of Congress, in cooperation with scientists at NASA, developed and patented an inexpensive yet cost effective method of deacidification. The process they developed, diethyl zinc gas phase book deacidification, will annually treat 500,000 books at a mere 10 percent of the cost of microfilming each book.

The cost of contructing this facility is a small price to pay in order to preserve the very embodiment of knowledge—the hand held book. The Librarian of Congress is to be commended for his pioneering leadership in this matter, for this facility will be a prototype, serving as a model to libraries all over the world.

Mr. Speaker, I urge enactment of H.R. 5607.●

● Mr. SNYDER Mr. Speaker, I rise in support of H.R. 5607, which authorizes the Librarian of the Library of Congress to construct a mass book deacidification facility at Fort Detrick, MD, and ask unanimous consent to revise and extend my remarks.

For nearly 12 years now, the preservation scientists at the Library have been working to perfect a system to deacidify the books in the Library's vast collection of over 80 million items on a large or mass-production-type scale.

For those unfamiliar, since about 1850, paper manufacturers have been using a chemical process to convert wood pulp into a fiberous chemical mat which we know as paper.

With time, the chemicals, which are acidic, cause the fibers in the paper to break down or deteriorate, which we easily recognize when a slip of paper or the pages of a book begin to turn yellow or crumble at the touch. To arrest this deterioration. processes were developed to deacidify the paper, but most of these processes are costly and time consuming, particularly if applied on a large scale.

The Library's scientists quickly determined that the most ideal and universal process or deacidifying books on a large scale would be a gaseous system, and their research efforts resulted in the development and patent-

ing of a vapor-phase impregnation process utilizing the chemical diethyl zinc.

This process involves loading books and other Library materials into a chamber which is then sealed and into which gaseous diethyl zinc is then injected. The diethyl zinc reacts with the paper, neutralizing the acid and leaving a thin residue of zinc oxide to prevent further degradation.

When properly treated, the life of these books, which is currently 30 to 40 years, can be extended by as much as five times.

In cooperation with the National Aeronautics and Space Administration's scientists and technicians at the Goddard Space Flight Center, the Library has been operating a pilot test facility and has already successfully treated over 5,000 books and other materials.

The results of these tests, together with the engineering data collected, has culminated in the planning and design of the mass book deacidification facility which this legislation authorizes.

The estimated cost of the facility is $11.5 million, of which $3.5 million will be used for the construction of the building and the balance for laboratory equipment, instruments, and other directly related costs.

The facility will be constructed on federally owned land at Fort Detrick, which is located in Maryland about 50 miles northwest of here, by the Army Corps of Engineers in consultation with an outside architectural and engineering firm.

When completed, the facility will be capable of initially treating about 500,000 books annually and as many as 1.5 million books when the facility is fully operational.

The projected unit cost of treating the books using this process will be roughly $3.50 per volume at plant startup and is projected to drop to about $1.80 per volume as the plant output and efficiency is increased. I might add that this is considerably less than the current procedure of microfilming books, which costs approximately $30 per volume.

In conclusion, Mr. Speaker, it gives me great personal pleasure to have been associated with this legislation, which will enable the Library of Congress to put into production this new high technology process which they have pioneered.

The men and women associated with this project are to be commended for their outstanding achievements, and I hope that we can show our support and appreciation for their accomplishments by supporting the passage of this legislation.●

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Missouri. 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 Missouri [Mr. YOUNG] that the House suspend the rules and pass the bill, H.R. 5607.

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. YOUNG of Missouri. 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 Missouri?

There was no objection.

Mr. YOUNG of Missouri. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 2418) to authorize and direct the Librarian of Congress, subject to the supervision and authority of a Federal, civilian, or military agency, to proceed with the construction of the Library of Congress mass book deacidification facility, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

Mr. SHAW. Mr. Speaker, reserving the right to object, and I do not intend to object, I do so so that the gentleman from Missouri could give the House an explanation of what he is doing.

Mr. YOUNG of Missouri. Mr. Speaker, will the gentleman yield?

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

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

Mr. Speaker, on May 18, 1984, the Senate passed S. 2418, a bill authorizing to be appropriated to the Librarian of Congress funds in the amount of $11.5 million necessary for the construction of the Library of Congress mass book deacidification facility. H.R. 5607 just passed by the House also provides for such construction, however, the language incorporated in H.R. 5607 simply clarifies the language in S. 2418. Therefore, as the gentleman from Florida is aware, the committee proposes to strike everything after the enacting clause in S. 2418 and substitute the contents of H.R. 5607 just passed by the House.

□ 1240

Mr. SHAW. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2418

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress is authorized and directed, subject to the supervision and construction authority of a Federal, civilian, or military agency, to construct the Library of Congress Mass Deacidification Facility in accordance with the general design developed by the Library of Congress and reviewed by the Architect of the Capitol. Such facility shall be constructed on Federal property within seventy-five miles of Capitol Hill.

SEC. 2. The Library of Congress Mass Book Deacidification Facility shall be operated and maintained by the Librarian of Congress, whose authority under the first section of the Act entitled "An Act to abolish the office of Superintendent of the Library Building and Grounds and to transfer the duties thereof to the Architect of the Capitol and the Librarian of Congress", approved June 29, 1922 (42 Stat. 715; 2 U.S.C. 141), shall be exercised to equip, furnish, and maintain the facility.

SEC. 3. There are authorized to be appropriated for a fiscal year beginning after September 30, 1983, sums not to exceed $11,500,000 to carry out the provisions of this Act.

MOTION OFFERED BY MR. YOUNG OF MISSOURI

Mr. YOUNG of Missouri. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Missouri moves to strike all after the enacting clause of the Senate bill, S. 2418, and to insert in lieu thereof the text of the bill, H.R. 5607, as passed by the House.

The motion was agreed to.

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

A similar House bill (H.R. 5607) was laid on the table.

COMPREHENSIVE DRUG PENALTY ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4901) to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4901

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

TITLE I—CONTROLLED SUBSTANCES PROVISIONS

SEC. 101. This title may be cited as the "Comprehensive Drug Penalty Act of 1984".

SEC. 102. (a) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new matter:

"(7) If the offense involved is a felony, all land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2) or for cultivation of any plant that is such property, except that no land or building shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

The court may order forfeiture of less than the whole of any land or building under paragraph (7) if the owner establishes that forfeiture of the whole would be grossly disproportionate to the severity of the offense or to the extent of the use or intended use. If land under paragraph (7) is used or intended to be used for cultivation, the court shall order forfeiture of only the portion of the tract so used or intended to be used, and if the cultivation is dispersed over less than all of the tract, the court may order forfeiture of a portion of the tract equal to the areas used or intended to be used for cultivation.".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by inserting "(1)" before "The provisions of law"; and

(2) by adding at the end the following new paragraph:

"(2) In addition to the venue under section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture under this section, a proceeding for forfeiture may be brought in the judicial district in which the defendant is found or in which the prosecution is brought.".

(c) Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended in the sentence beginning "The Attorney General" by striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the".

SEC. 103. Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsections:

"(h) During the period beginning on the date of the enactment of this subsection, and ending on September 30, 1987, the Attorney General shall forward to the Treasurer of the United States for deposit in the Department of Justice Forfeiture Fund any amounts of moneys and proceeds remaining after payment of expenses of proceedings for forfeiture under subsection (e) of this section.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

SEC. 104. (a) A reference in this section to a section or other provision is a reference to a section or other provision of the controlled Substances Act (21 U.S.C. 801 et seq.).

(b) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$550,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(c) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(1) in the sentence beginning "in the case of", by striking out "$15,000 or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "if any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(d) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(e) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(f) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(1) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(g) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(1) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000" and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(h) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(i) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(j) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(k) Section 403(c) (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(l) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(m) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time, and method of payment of a fine, the court shall—

"(1) give primary consideration to the need to deprive the defendant of profits or other proceeds from the offense;

"(2) consider the defendant's income, earning capacity, and financial resources;

"(3) consider the burden that the fine will impose on the defendant and on any person who is legally or financially dependent on the defendant; and

"(4) consider any other pertinent equitable factor.

"(b) As a condition of a fine, the court may require that payment be made in installments or within any period that is not longer than the maximum applicable term of probation or imprisonment, whichever is longer. If not otherwise required by such a

condition, payment of a fine shall be due immediately.

"(c) If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has paid part of a fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) If an indictment or information alleges that property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall order seizure if there is probably cause to believe that—

"(1) the property is subject to forfeiture; and

"(2) an order restraining transfer of the property is not sufficient to ensure availability of the property for forfeiture.

"(b) Any person who is convicted of a felony under this title or title III shall forfeit to the United States such person's interest in—

"(1) any property constituting or derived from gross profits or other proceeds obtained from the offense;

"(2) any property used, or intended to be used, to commit the offense; and

"(3) in the case of a conviction under section 408 of this title, in addition to the property described in paragraphs (1) and (2), such person's interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprise.

"(c) The court shall order forfeiture of property referred to in subsection (b) if the trier of fact determines beyond a reasonable doubt that such property is subject to forfeiture.

"(d) The United States shall, to the maximum extent practicable, provide notice of the provisions of subsections (e), (f), and (g) to any person with an alleged interest in property forfeited under subsection (c) and shall, in the manner prescribed by the Attorney General, provide public notice of the forfeiture.

"(e)(1) Not later than 60 days after the date of an order under subsection (c), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture.

"(2) Not later than 90 days after the filing of a petition under paragraph (1), the Attorney General shall make a written determination with respect to the petition. Except as provided in subsection (f), the property shall be disposed of pursuant to such determination, which shall not be subject to review.

"(3) A period specified in this subsection may be extended by the court for good cause shown.

"(f)(1) Any person (other than a defendant convicted of the offense on which the forfeiture is based) may petition the court for remission or mitigation of the forfeiture. A petition under this subsection shall be filed not later than 60 days after the date of the order under subsection (c), or, if a petition is filed under subsection (e), not later than 60 days after the date of the determination of the Attorney General.

"(2) The court shall grant appropriate relief if, after a hearing, the petitioner establishes by a preponderance of the evidence that—

"(A) at the time of the offense the petitioner had an interest in the property that was separate from or superior to the interest of the defendant; or

"(B) in the case of an interest acquired for value after the offense, when acquiring the interest the petitioner did not know or have reason to know of the offense or of any order restraining transfer of the property.

"(g) A petition to the Attorney General or the court under this section shall be verified and shall set forth the relief sought, the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest, and any additional facts and circumstances supporting remission or mitigation.

"(h)(1) Except as provided in paragraph (2), the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, to the extent that such laws are not inconsistent with this section.

"(2) The duties of the Secretary of the Treasury with respect to dispositions of property under the customs laws shall be performed under paragraph (1) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(i) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

"(j) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(k)(1) In addition to any order authorized by subsection (j), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any person against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, except that the court may extend the effective period of the order for not more than 10 days for good cause shown and for a longer period with the consent of each person affected by the order.

"(l) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the offense or within a reasonable time after the offense; and

"(2) there was no likely source for such property other than the offense.".

SEC. 105. (a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(b) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(c) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end of the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(d) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(e) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

SEC. 106. Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(1) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

SEC. 107. (a) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"SEC. 413. Alternative fine.

"SEC. 414. General provisions relating to fines.

"SEC. 415. Criminal forfeiture.".

(b) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"SEC. 1017. Applicability of section 413 and section 414.".

SEC. 108. (a) Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Department of Justice Forfeiture Fund

"(a) There is established in the Treasury a fund to be known as the Department of Justice Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the Attorney General, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1963(c) of title 18, United States Code, and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) for payment (to the extent that such payment is not otherwise provided for by law)—

"(1) of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) of rewards for information resulting in a conviction or forfeiture;

"(3) of liens against forfeited property;

"(4) of amounts with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and

"(6) for purchase of evidence of any violation.

"(b)(1) Any reward under subsection (a)(2) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. Any such reward shall not exceed $250,000, except that a reward for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one-quarter of the amount realized by the United States from the property forfeited.

"(2) Any amount under subsection (a)(6) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. No such payment shall exceed $250,000.

"(3) Amounts under subsection (a) of this section shall be available, at the discretion of the Attorney General, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section and ending on September 30, 1987—

"(1) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324);

"(2) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title; and

"(3) earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, such sums as may be necessary under subsection (a) of this section, except that not more than $10,000,000 are authorized to be appropriated from the fund under paragraphs (2), (5), and (6) of such subsection for each such fiscal year.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(b) The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Department of Justice Forfeiture Fund.".

TITLE II—TARIFF ACT PROVISIONS

SEC. 201. (a) Section 602 of the Tariff Act of 1930 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(b) The sentence beginning "All vessels," in section 605 of the Tariff Act of 1930 (19 U.S.C. 1605) is amended by inserting "aircraft," after "vehicles," the first place it appears.

(c) Section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

SEC. 202. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intension to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

SEC. 203. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended—

(1) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(2) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

SEC. 204. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended—

(1) by striking out "if no" and inserting in lieu thereof "(a) If no";

(2) by inserting "aircraft," after "vehicle,";

(3) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(4) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

SEC. 205. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended—

(1) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(2) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

SEC. 206. Section 611 of the Tariff Act of 1930 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

SEC. 207. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) in the sentence beginning "whenever it appears"—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(B) by striking out "the value of"; and

(C) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(3) in the sentence beginning "If such value"—

(A) by striking out "such value of"; and

(B) by striking out "exceeds $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(4) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

SEC. 208. (a) The sentence beginning "Except as" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by inserting "aircraft," after "vehicle,".

(b) The sentence beginning "If no" in section 13(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(1) by striking out "If no application" and inserting in lieu thereof "Except as provided in subsection (c), if no application"; and

(2) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States".

(c) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

SEC. 209. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such a year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

SEC. 210. (a) Section 614 of the Tariff Act of 1930 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(b) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended—

(1) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(2) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

SEC. 211. Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by section 209 of this Act, is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all know interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

SEC. 212. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears, and

(2) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

SEC. 213. The sentence beginning "Whenever any" in section 618 of the Tariff Act of 1930 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

SEC. 214. (a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by sections 209 and 211 of this Act, is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed to the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b)(1) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(2) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. 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 New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

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

Mr. Speaker, The Comprehensive Drug Penalty Act of 1984, H.R. 4901, which is now before us is the net result of a thorough examination by the Committee on the Judiciary and the Committee on Ways and Means of the problems confronting Federal law enforcement agencies and their attempts to take the profits out of drug dealing and streamline forfeiture procedures.

In the 97th Congress, the Subcommittee on Crime and the full Committee on the Judiciary developed the predecessor to this bipartisan bill (H.R. 7140), and it passed the House of Representatives without dissent on September 28, 1982. A compromise version of this bill—now in essence H.R. 4901, along with other bills, H.R. 3963, the anticrime package—passed the House and Senate late in the lame-duck session of the 97th Congress by

the margin of 271 to 72 in the House and unanimously in the Senate. The President, primarily on an issue unrelated to this bill, decided to pocket veto the anticrime package. In the 98th Congress, Mr. SAWYER and I introduced legislation similar to H.R. 7140 (H.R. 3299) and this bill was reported out as a clean bill from the Subcommittee on Crime on October 27, 1983 as H.R. 4901. This bill was reported as amended by the Committee on the Judiciary on February 28, 1984. Subsequently, the Subcommittee on Trade reported H.R. 4901 on June 1, 1984—they have jurisdiction over title II—and the full Committee on Ways and Means reported the bill on August 9, 1984.

I emphasize this extensive process since I believe that H.R. 4901 with the refinements made by the Ways and Means Committee is a careful and considered product of the House of Representatives.

As to the substance of the bill, at the present time we are faced with the ridiculous situation where drug dealers have been able to accumulate huge fortunes as a result of their illegal activities and the sad truth is that the financial penalties for drug dealing are frequently seen by dealers as only a small cost of doing business. For example, under current law the maximum fine for many serious drug offenses is only $25,000. The Comprehensive Drug Penalty Act of 1984 will substantially reform these fines and bolster forfeiture procedures. H.R. 4901 would increase tenfold and more the fines for major drug trafficking offenses and empower the courts to impose an alternative fine of up to twice the gross profits of the criminal enterprise. The bill provides, for the first time, criminal forfeiture provisions for all felony drug cases.

Additionally, the measure would create a presumption that all property acquired by major traffickers during the period of the criminal enterprise are the fruits of drug-related crime, if no other legitimate source for the property exists. The courts would also be granted greater power to forfeit the fruits of drug-related crime including land and buildings, and authorizes them to restrain the transfer of property pending the outcome of the trial.

Proceeds of these forfeitures would go into two $10 million per year revolving funds that would be used to finance further drug enforcement efforts and better maintain seized goods.

In addition, this bill would increase the scope of property subject to Customs Service "administrative forfeiture," which is a default judgment process, from $10,000 to $100,000, with no dollar limit on the default proceeding where cars, boats, and planes are involved; set up a customs forfeiture fund; allow the United States to discontinue forfeitures on property in favor of similar proceedings by State and local agencies; and increase some law enforcement authority of the U.S. Customs Service.

In this fashion not only will we increase efficiency and provide additional law enforcement funding, we will be making the punishment fit the enormity of the dollar volume involved in organized drug trafficking.

I urge your support for H.R. 4901 as amended.

I might say that in this Congress my distinguished colleague from Florida, CLAY SHAW, asked the Subcommittee on Crime to visit Florida, and Mr. GIBBONS of the Subcommittee on Trade was also concerned with this problem at a time when we had an enormous amount of inventory of seized boats and planes in Florida. Hundreds of boats and dozens of airplanes were rotting in the water or rusting at airstrips because we do not have the capability to process administratively through the present forfeiture process these assets. I saw yachts worth $350,000 that after 2 or 2½ years in the water were worth no more than $25,000 or $30,000. This situation was a criminal waste of money. More importantly, these belong to fictitious persons that gave a cemetery somewhere in Arkansas or some other place in the country as their address, and we know they are not going to show. To permit these assets to rot and to rust in this fashion, without bringing the proceeds in and managing these resources in a way where we can utilize them to foster and to finance other law enforcement operations, is just unforgivable. We have lost 3½ years of valuable time because we do not have new forfeiture provisions in the law.

So I want to say to my colleague from Florida: Thank you for hosting that particular hearing. It was a productive one, because it helped us to sharpen our focus.

I also want to thank my distinguished colleague, HAL SAWYER, who I think is a lawyer's lawyer, for his great work on this legislation. We have probably wrestled with forfeiture as much as any other crime measure in two Congresses, and we think we have fashioned a good bill.

I want to thank my colleague from Florida [SAM GIBBONS], the distinguished chairman of the Subcommittee on Trade of Ways and Means, for his cooperation. I know that we were delayed somewhat because the full committee was working on a tax bill and was preoccupied in conference, and it took my distinguished friend about 2 months in order to arrange for full committee time so that we could process this legislation.

Well, time is running out. We still have time to pass this forfeiture bill, however, if you want a strong forfeiture bill, if you want to provide new tools for law enforcement, here is your chance. If you really do not want forfeiture, then this is your chance to vote against good, solid crime legislation.

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

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

Mr. Speaker, the estimated $100 billion that Americans will spend in 1984 on illegal drugs is the impetus for forfeiture reform. The profit potential of drug dealing is fantastic and is so large that existing fines are merely the cost of doing business. And so there are sometimes up to $1 million of bail treated the same way. Recognition that the drug trade will not be affected unless the profit is removed from the crime has led to the development of forfeiture as a form of penalty. The existing forfeiture laws, however, net only $5 million a year. A bill to strengthen existing forfeiture laws passed the House in the 97th Congress but was pocket vetoed as part of H.R. 3963 on other grounds.

Under current law, assets valued at more than $10,000 must be forfeited in proceedings in U.S. district court. Now, the dockets of the courts are overloaded. The U.S. attorney's office has more sex-appealish things to do than forfeiture and, consequently, it languishes through the procedure for up to several years before anything is really done, and in the meantime the assets sit and deteriorate.

□ 1250

As the chairman of the subcommittee, Mr. HUGHES, said, we went down at the behest of CLAY SHAW of Florida, and looked at the situation in southern Florida. At that time, as I recall it, there were some 400 yachts tied up there that were in the custody of the Customs Service but could not be sold or liquidated because they were worth more than $10,000 each, and it was taking very, very long to forfeit them in Federal court proceedings.

In the meantime, there was pilfering and vandalism going on. The boats were not kept up because the Customs Service had no way of getting reimbursed for what they spent on it, and in addition to that, some $100 a month was being spent per boat for dockage expense to keep them docked. We went up to another area and saw airplanes, which had been used to transport drugs. Some of them were twin jet engine planes that would cost half a million dollars each, sitting there relegated to the same fate as the seized yachts at a small, private airport near Fort Lauderdale.

These things have to be corrected, and this bill is aimed at doing that. Under H.R. 4901, the present bill, we correct that problem in that we leave out completely a ceiling on the value of assets that can be forfeited sum-

marily in administrative proceedings. I may say that the average time when the administrative procedure is able to be used is 30 days, which will turn them over and begin to put some of this money that was taken from the drug dealers, and turn it around and use it to put these dealers and their henchmen in jail, which I think is a very fine use of their assets. This bill will much facilitate that.

I believe that this forfeiture bill is the most important bill that we have turned out of the Subcommittee on Crime, and perhaps even the whole Judiciary Committee, during this Congress. I think it ranks together with the bill we turned out of our Subcommittee on Crime in the last Congress, amending the doctrine of posse comitatus, so that we allowed the armed services, particularly the Air Force and the Navy, to get into the act in interdicting these drugs coming into the United States.

I am very proud that we are able to bring this measure to the floor I am very proud also of posse comitatus, which has worked fantastically well as some of you may have noticed. They say that interdiction, particularly along the huge Florida coastline, some 8,000 miles as I recall it, now makes it very treacherous attempt for any drug smugglers attempting to bring drugs into this country. It is really helping. I think this forefeiture bill is one of the principle steps that we have taken in this Congress and that it will rank with the modification of posse comitatis as a very effective law enforcement tool.

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

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the full Judiciary Committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984.

This bill deals with one of the most important crime problems confronting this country which is the phenomenal increase in drug trafficking in recent years. We are now faced with a situation where drug dealers have been able to amass huge fortunes as a result of their illegal activities. The sad truth is that the financial penalties for drug dealing are frequently only seen by dealers as a cost of doing business. Under current law the maximum fine for many serious drug offenses is only $25,000. Moreover, the Government's ability to obtain civil or criminal forfeiture of the profits or proceeds of drug dealing has been hampered by statutory deficiencies. This bill attempts to address these problems in a manner that will encourage the immediate and effective utilization of these new tools by law enforcement.

An overview of the problems with the current forfeiture statutes by Government officials in this and the last Congress produces a clear consensus about the need for change. What is less clear is the path to achieve that reform. Most observers agree that prosecutors face three major problems: Ambiguous statutes, problems in tracing the proceeds of drug trafficking, and difficulties in proof. The solutions to these dilemmas are numerous and pursuit of them can often create a divergence of views. For example, while it may be desirable to ease Government seizure of property involving drug trafficking, one must also be careful to protect the rights of innocent third parties. Frequently, it is these conflicting values that produce different opinions about the wisdom of particular legislative reforms.

In the legislation before us, the Committee on the Judiciary and the Committee on Ways and Means have attempted to balance the strong societal interest in eradicating trafficking in illegal drugs with the constitutional rights of our citizens. I am satisfied that a proper balance has been struck.

I, therefore, strongly support H.R. 4901 as one of the most important pieces of legislation that can attack the basic economic motive for drug trafficking, and I would like to compliment Subcommittee Chairman HUGHES and the ranking member, Mr. SAWYER, for their bipartisan approach to this significant legislation.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to compliment the gentleman from Michigan [Mr. SAWYER] and also the gentleman from New Jersey [Mr. HUGHES] for the tremendous leadership that you gentlemen have both given our subcommittee, and right through the committee level on this most important piece of legislation.

Mr. Speaker, as was said earlier, the Subcommittee on Crime held a hearing in my district in south Florida to study both the failures of the Federal drug asset forfeiture process and the tremendous successes that the State of Florida has experienced under its progressive State forfeiture state. One of the most shocking examples of the tragedies resulting from the Federal system is the Miami River which is lined with vandalized rotting boats. In some cases, these ruined vessels were at the bottom of the river rather than on it. In many cases, we saw ships that had already piled up more dockage, that is the rent, for just simply the space that it takes up than these vessels were actually worth themselves.

On July 15, 1984, the GAO issued a report, "Better Care and Disposal of Seized Cars, Boats, and Planes Should Save Money and Benefit Law Enforcement." The GAO report documents monetary losses due to serious problems with current Federal procedures for storing, forfeiting, and selling seized conveyances. As of April 1983, Federal law enforcement agencies were holding over 4,518 seized conveyances—3,665 cars, 692 boats, and 161 airplanes—worth $82 million when seized. GAO's evaluation reveals, however, that due to lengthy forfeiture proceedings, inadequate security and a lack of maintenance, seized conveyances—plagued by deterioration, vandalism, and theft—frequently sell for only a fraction of their value at the time they were taken.

H.R. 4901 will end this decay and waste by providing the law enforcement agencies with the authority to properly care for and dispose of these assets.

Another important provision in H.R. 4901 permits the Federal law enforcement agencies to donate the assets to their State and local law enforcement partners contributing to the fight against drug trafficking.

We have found in our study of this issue, that many times turf problems seem to set in. Particularly when you are dealing with an asset of great value, it has been found that some times one agency would not share this information with another for fear that they would take over this asset at the time of seizure. Now with this legislation this can be bridged by our Federal agencies who can turn over the assets to States like the State of Florida.

Also, these Federal agencies can turn over these particular assets to States that have a procedure in their own State statute to accelerate or streamline the sale of these assets. These types of RICO statutes in the State law can be used by the Federal Government simply by the Federal Government contributing or turning over the possession, custody and control of these assets to the States.

When this important measure is sent to the President, I will work to ensure that it includes two provisions adopted by the other body. The first provision, called substitute assets, would permit the Department of Justice to forfeit substitute assets—property not purchased with illegal drug profits—when DOJ can prove the amount of illegal profits gained and hidden beyond the reach of the forfeiture process, such as funds deposited in offshore banks. The second provision would improve the forfeiture provisions in RICO, the Racketeering Influenced and Corrupt Organizations Act, 18 U.S.C. 1961-68.

RICO was adopted in 1971, the same year as the drug forfeiture provision amended by H.R. 4901. This proposal

parallels the improvements in the drug forfeiture area in H.R. 4901.

With these two improvements, H.R. 4901 will provide an excellent tool for the law enforcement effort against drugs. More importantly, H.R. 4901 will take the profit out of this murderous crime.

I urge the Members' support for H.R. 4901.

□ 1200

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

Mr. HUGHES. Mr. Speaker, I yield 3 minutes to the distinguished committee chairman, the gentleman from Texas, Mr. JACK BROOKS, and I might say two things before the gentleman speaks; I want to thank the gentleman for his cooperation in fashioning some amendments to the legislation that would enable us to retrofit some of the equipment so it can be used by the law enforcement and other agencies for their particular operations. I want to thank the gentleman for that.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984. H.R. 4901 will provide strong additional tools in the Government's war against drug trafficking by increasing the maximum fines for drug offenses, permitting criminal forfeiture in all felony drug offense situations, and expediting the procedures in civil and criminal forfeitures. In attacking the basis of drug traffic—the huge profits to be made in this activity—H.R. 4901 will tremendously assist our law enforcement personnel.

I am especially pleased that the bill, as brought to the floor by my good friend and Judiciary Committee colleague, BILL HUGHES, incorporates some of the work that has been done by my Committee on Government Operations dealing with conveyances which are used in drug traffic and are seized by Federal law enforcement officials. A study which was done at my request by the General Accounting Office last year suggested improvements in the handling of seized conveyances and urged Congress to expedite the forfeiture process, create an improved funding mechanism for preservation costs and for the acquisition of needed conveyances, and gain more oversight over the use by Federal agencies of forfeited conveyances.

H.R. 4901 follows both the recommendations of GAO and ideas which I incorporated in H.R. 3725, the Forfeited Conveyance Disposal Act.

Mr. Speaker, H.R. 4901 also permits the Secretary of the Treasury and the Attorney General to discontinue forfeiture proceedings under this act in favor of forfeiture under State law, and to transfer seized property under such conditions to the appropriate State or local official. It also permits the transfer of forfeited property to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

In both respects, this represents a major departure from the traditional handling and disposition of Federal property. Current law provides a procedure under which the Secretary of the Treasury and the Attorney General may transfer forfeited property, such as vehicles and vessels, to the General Services Administration, thereby allowing GSA to determine whether other Federal agencies can use such conveyances in their operations. This provision is unchanged by H.R. 4901. I hope the Secretary of the Treasury and the Attorney General will continue to follow current practice in this regard, as it has been particularly beneficial to numerous Federal agencies, including the Coast Guard and the National Oceanic and Atmospheric Administration.

Given the vital importance of an effective war against drug traffic, these new provisions are understandable. Nevertheless, continuous congressional oversight will be needed to ensure that these new authorities are exercised carefully and judiciously.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, I wish I could support H.R. 4901 in its present form. I understand the importance of having a criminal forfeiture procedure before us. I understand the importance of having it enacted into law.

As a matter of fact, this subject was title III of the President's crime package, indicating at least that it was no less than third in line of importance as far as the administration is concerned with respect to the entire area of law enforcement.

But at the same time, the procedure being used here compels me to oppose it in this version. As we know, we are here on the Suspension Calendar. No amendments are allowed. We are limited to 20 minutes of debate a side and we do not have the opportunity to debate two essential amendments and consider two essential amendments to this bill.

I would like to dwell just on one for the moment, and that is the question of substitute assets.

At the very outset, we must realize that one of the reasons that we are dealing with this very bill itself is because of the sophistication of many of the drug traffickers and organized crime figures concealing their financial assets is common practice, not only because of the prospect of forfeiture but also because their financial dealings might expose them to tax and currency laws.

This is particularly relevant with respect to drug trafficking which usually involves the passing of money, and because money is fungible or very fluid, it very frequently is laundered or transferred overseas where it is impossible to trace.

Without the availability of substitute assets, it is my view and the view of the administration and the Justice Department and many in the law enforcement field that you could have a millionaire drug king who imports and sells heroin, then deposits cash in a Swiss account and then the Government would be rendered incapable of reaching that cash itself.

That does not seem to me to be the direction that we want to go and it seems to me if we were offered an opportunity to vote on this floor, we would do much as they have done in the U.S. Senate.

I should note that a substitute asset provision is included in S. 1762 as adopted by the Senate on February 2, 1984, by a vote of 91 to 1. The forfeiture provision in that particular bill is strongly endorsed by the ranking minority member of the Senate Judiciary Committee, Senator BIDEN from Delaware.

We should recognize that in a criminal forfeiture trial, the Government must prove that specified property of the defendant was used and obtained in such a way as to render it subject to forfeiture under applicable statute. If, after entry of the special verdict of forfeiture, it is found that those specified assets have been removed, concealed, or transferred by the defendant so they are no longer available to satisfy the judgment of the forfeiture, the court then may order the defendant to forfeit other of his assets in substitution.

That is the essence of the amendment that we are being denied the opportunity to vote on on this floor.

The problem we have is that major pieces of the President's crime legislation have, for whatever reason, found their way very, very slowly to the floor of the House. We are now told, as the distinguished chairman of the subcommittee has said, if you want forfeiture, vote for this bill. If you do not, do not vote for this bill. If you do not want to strike a hard blow against crime, then do not vote for this bill. Well, that is just not true.

The fact of the matter is this bill has some very good provisions. If you want to gauge it, you could say you could be soft on crime, you could be tough on crime, and in between, you could be semitough on crime, and these rules are allowing us to be semitough on crime because for whatever reason, some have decided that we ought not to have the ability to vote on the provisions suggested by the President of the United States, supported by his Justice Department and supported by a coalition in the Senate

that includes Senator BIDEN of Delaware, Senator KENNEDY of Massachusetts, and Senator STROM THURMOND of the State of South Carolina.

I do not understand why that is being done. Some say that all we have to do is follow this bill which allows the alternative fine provision and that will serve the same purpose. I would suggest to my colleagues that that is discretionary under this bill with respect to the judge.

It was argued in committee, the chairman of the subcommittee suggested that we could use the fine to condition the time served by the individual. I thought this bill was directed at some of the worst criminals we had and it seems to me they ought to serve their full time.

In addition, they ought to be fined and we ought to be able to go against substitute assets.

So, Mr. Speaker, I am very, very sorry that we do not have this bill in the shape that we could have had with a simple opportunity to debate an amendment up or down, have it voted on within 1 hour or less than 1 hour's period of time.

The second provision that I think is extremely important is the RICO statute. The gentleman from Florida has indicated that they have this sort of criminal forfeiture provision in their RICO statues, the racketeering statutes in the State of Florida.

All I am saying is, we ought to be given the opportunity to extend it to racketeering as far as the Federal Government is concerned, as opposed to limiting it here in this bill merely to drug trafficking. It is important that we touch drug trafficking, but we also should be able to attack major organized crime that does not affect drug trafficking.

□ 1310

Mr. HUGHES. Mr. Speaker, before I yield to my distinguished colleague from Florida, I yield myself such time as I may consume.

Mr. Speaker, let me say to my distinguished friend, the gentleman from California, who seems to be my debating partner these days in and out of the House of Representatives on crime legislation, that this committee passed a very strong forfeiture bill in the 97th Congress. I suspect that my colleague from California voted for it. It basically has the same provisions dealing with alternative fine and the presumptions that are in this bill. It was a bill that was strongly supported by the Department of Justice, and I realize that my colleague is carrying water for the Department of Justice today, who all of a sudden decided this morning they are going to oppose the bill.

Let me say that the Department of Justice has opposed just about every bill that we have moved out of our subcommittee, including the posse comitatus legislation that we passed in the 97th Congress that it takes such credit for today. We have had a long struggle in trying to get this bill ready for floor action. The basic fact is that if we want to pass a forfeiture bill, this is the procedure. This is the only procedure where we can be assured that we will have enough time to work any differences out with the Senate.

As chairman of the subcommittee and as ranking Republican, HAL SAWYER of Michigan and I have made some decisions. We have to be the quarterbacks and decide how to move legislation through the process.

There were three other committees that had jurisdiction over aspects of this bill and we have spent the better part of this year just trying to maneuver this bill through committees, trying to get it to the position where we can vote on it. We have less than 3 weeks left.

The fact remains that if the gentleman, who can exercise his right to vote against any legislation he wants, wants to vote against it, that is fine, but the fact is, he is voting against a major crime initiative, one that I think is probably one of the most important crime measures that we will have moved out of the Committee on the Judiciary this year. We have lost 3½ years because the President voted the other version that my colleague supported and, frankly, I wish that we had a different procedure than we do, but we have to live with what we have.

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

Mr. HUGHES. I will briefly yield to my colleague, the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, the fact of the matter is, under the Suspension Calendar, if the gentleman wished to, the gentleman could have amended this bill before he brought it to the floor to allow substitute assets. The gentleman does not support substitute assets.

Mr. HUGHES. Mr. Speaker, if I may reclaim my time, first of all, RICO is not even germane to this legislation; and second of all, as a matter of policy, our committee opted for what we think is the only way to reach assets overseas, through the procedures we devised. It was a procedure that the gentleman from Michigan [Mr. SAWYER] and I devised, the audited fine provision and the presumption of forfeiture, along with other members of the committee, and we think that is far superior, that will reach assets in the Bahamas.

My colleague's substitute assets procedure is not going to reach assets in the Bahamas. That is why we settled on this procedure. It happens to be that the Department of Justice did not think of it. That is why they are opposed to it. They did not think of it. It was our idea and, as a result, they are opposed to it. If we waited for the Department of Justice to agree to anything that we moved out, we would not move any crime legislation out of our committee.

Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from Florida [Mr. Gibbons].

Mr. GIBBONS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am here today to support this bill, H.R. 4901. In doing so, I want to pay tribute to the gentleman from New Jersey [Mr. HUGHES], the gentleman from Michigan [Mr. SAWYER], and to the others who have worked so hard on it. It is a fine piece of legislation. The part of it that pertained to the Committee on Ways and Means was handled on a bipartisan basis.

We had hearings. We worked on it hard. The gentleman from Minnesota [Mr. FRENZEL] would be here today supporting this legislation but he has a primary in his State.

In the subcommittee and in the full committee, we did everything we could to improve it. Unfortunately, this same piece of legislation passed this Congress about 2 years ago and it was caught up in some other controversy and did not become law because of the reasons that the gentleman from Michigan [Mr. SAWYER] remarked about in his statement. I hope that this time it can become law. It needs to become law. The reasons for it have been so adequately pointed out by both the gentleman from Michigan [Mr. SAWYER] and the gentleman from New Jersey [Mr. HUGHES].

The forfeiture provisions in this bill are a vast improvement over the forfeiture provisions of the current law, and that is what the Committee on Ways and Means had the responsibility for. Although I have not polled the committee as recently as this morning, I think the Committee on Ways and Means reported this bill out unanimously after we had worked on it and it was done on a broad, bipartisan basis.

Mr. Speaker, I hope the bill will be adopted. If there are any other changes that need to be made in this very tough fight on drugs and narcotics, then I am sure this Congress will take it up. I do not know of a Member of this Congress who in any way wants to coddle any smugglers or drug pushers or bankers or anyone else that is involved in the drug trade. We are doing the best we can in the time limit we have and the very tough subject matter we are dealing with.

Mr. HUGHES. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I just want to congratulate the gentleman for his efforts, both in the 97th Congress, because I can remember when the gentleman convened a special hearing in the closing days of the 97th Congress to deal with those areas of jurisdiction that the Committee on Ways and Means deals with. The gentleman has been extremely cooperative through his efforts and the efforts of the gentleman from Minnesota [Mr. FRENZEL] and the committee.

I think we have developed a major initiative, and there are dozens of provisions in this bill that will improve existing law. But more importantly, it will enable us to provide the law enforcement community with some major new tools to deal with drug traffickers.

I spent 10 years in law enforcement. My distinguished colleague, the gentleman from Michigan, was a district attorney in Grand Rapids, MI, for a number of years. We both view this as major initiative, one that we had hoped would have been enacted in the last Congress and we were both sick to see this bill in particular go down the drain, 2 years of our efforts go down the drain, and we have lost 3½ years of valuable time.

I thank the gentleman for his cooperation.

The SPEAKER pro tempore. The time of the gentleman from Florida [Mr. GIBBONS] has expired.

Mr. HUGHES. Mr. Speaker, I yield 1 additional minute to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding this additional time to me.

Mr. Speaker, I do not know any tougher problem. I have seen the evidence that the gentleman refers to, and the gentleman from Florida [Mr. SHAW] refers to, in the Miami River and the airports down there and in my own city of Tampa.

This is an honest, good-faith effort and in the Committee on Ways and Means it was certainly a bipartisan effort. There was no, and there has been to this very moment, no opposition to this bill by members of the Committee on Ways and means that I am aware of.

We urge adoption of the bill, and we want to commend the gentleman from New Jersey and his committee for the fine work that he has done on it. I think it would be a shame to shoot down this bill by last-minute opposition, on a bill that has been pending for 2½ years. We have been delayed too long.

I rise in support of H.R. 4901, a bill to amend the Controlled Substances Act, the Controlled Substances Import and Export Act, and the Tariff Act of 1930 to improve forfeiture provision and strengthen penalties for controlled substances offenses. This bill is desperately needed by our law enforcement officers to attack one of the most serious problems facing our nation today—the increased trafficking in narcotics which is threatening the youth of America. I commend the gentlemen from New Jersey for the excellent work of the Committee on the Judiciary in putting together this excellent and extremely important piece of legislation to address this problem.

H.R. 4901, as amended, and ordered reported by the Committee on Ways and Means, consists of two titles. Title I, which is entitled the comprehensive Drug Penalty Act of 1984, is under the jurisdiction of the Committee on the Judiciary and as favorably reported by that committee on June 19, 1984. It makes various amendments to the Controlled Substances Act and the Controlled Substances Import and Export Act, including increasing the penalties for convictions in all felony drug trafficking cases and creating a strong criminal forfeiture statute.

Title II, which is under the jurisdiction of the Committee on Ways and Means, amends the Tariff Act of 1930 to provide for a more streamlined approach for handling civil forfeitures and to expand the arrest authority of customs officers. The bill would allow the use of administrative rather than judicial forfeiture proceedings in many more cases by increasing the current ceiling from $10,000 to $100,000 for most articles and by removing the ceiling entirely for prohibited merchandise and conveyances which are used to import, export, transport, or store any controlled substance. The bill also would raise the amount of the bond which is required to be posted in order to require a judicial forfeiture from $250 to the lesser of $2,500 or 10 percent of the value of the property. Additionally, the bill would establish the customs forfeiture fund to help defray the escalating costs associated with forfeiture procedures and provide the authority for customs to transfer seized or forfeited property to State or local law enforcement agencies. Finally, the bill would increase the compensation level which can be paid to informers from $50,000 to $250,000.

Under current law, judicial forfeiture proceedings must be used in all cases where the seized property exceeds $10,000, even though most cases are uncontested. This results in significant delays of up to 2 years, during which time the seized property frequently deteriorates, resulting in a substantial decrease in value.

Further, since customs may not currently use the net proceeds of one seizure to offset the unrecouped costs of another seizure, such losses must be covered by their regular appropriations. Because it is difficult to budget for these unpredictable expenditures, moneys have to be diverted from other important administrative or enforcement functions.

The changes provided for in title II should result in substantial cost savings to the U.S. Government, without adversely affecting the property rights of owners wishing to contest the forfeiture of their property.

This bill is desperately needed and I urge you to support its passage.

Mr. SAWYER. Mr. Speaker, I yield myself one additional minute.

Mr. Speaker, alluding to the two items that the gentleman from California mentioned: substitute assets. If we can find substitute assets, we can certainly levy on them with a judgment fine that has been imposed by the court. If there is an appeal, that will not make any difference because the court has power to not stay any sentence pending appeal if there is not a bond filed. So I do not really see what the substitute asset really adds to the tremendously large fine the court is empowered to levy in this kind of case.

It seems to me, as far as RICO is concerned, that is the racketeering statute, it really deals with other matters and I think we have all the remedies we need in this forefeiture bill for the narrower scope of this bill. I do not see any point of tying it in with RICO.

So while I understand the arguments that are being raised, I think they are, frankly, without merit and the bill should be supported.

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

Mr. SAWYER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is abundantly right. On RICO, as the gentleman well knows, we decided as a matter of policy not to deal with RICO except in the context of a hearing dealing with RICO.

□ 1320

There are a number of problems associated with RICO. The American Bar Association has some concerns with it, and the gentleman and I have both talked about this.

The SPEAKER pro tempore. The time of the gentleman from Michigan [Mr. SAWYER] has expired.

Mr. HUGHES. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Michigan [Mr. SAWYER] and I had both hoped that we could get to RICO before this session was out, but we have just run out of time. But I can tell my colleague, who will be leaving this year, unfortunately, and will not be coming back to Congress, that it is my hope that in the early days of the 99th Congress, if I am privileged to be

here, we want to get into RICO and do the thorough examination that the gentleman and I discussed, which I think needs to be done not just in the context of a forfeiture statute but RICO generally.

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

Mr. HUGHES. I yield to the gentleman from Michigan.

Mr. SAWYER. Mr. Speaker, I agree with the gentleman.

● Mr. BENNETT. Mr. Speaker, I rise today in strong support of H.R. 4901, the Comprehensive Drug Penalty Act. I am an original sponsor of this bill and have sponsored similar legislation for years. It is a positive and essential step in the direction toward taking the profits out of drug dealing. By strengthening financial penalties and reforming forfeiture procedures, this economic attack on the illegal drug business is an essential step in the overall fight against drug abuse.

We are all aware of the epidemic proportions that drug and alcohol abuse have reached in our country. It is clear that efforts to date to mount any economic attack on the illegal drug business have not been very successful. It is time to make drug dealing much more costly for those who profit from such a hideous crime.

This bill dramatically increases maximum fines for drug offenses, improves the Federal Government's ability to use forfeiture proceedings in drug cases, and permits the courts to prevent the transfer of property that may be subject to forfeiture. It also sets up two funds, with revenue derived from forfeiture receipts, to aid antidrug efforts by the Department of Justice and the Customs Service.

I am very excited about the drug penalty forfeiture funds set up by the bill. I think it's an excellent idea to use moneys obtained from forfeiture to finance law enforcement efforts by Justice and the Customs Service. But I think the moneys should be used for drug abuse education and prevention programs as well. I am introducing today a bill that would direct the use of some of the moneys received from forfeiture in drug cases for drug abuse rehabilitation programs. Next year, after the forfeiture program is in place, we can set aside moneys for drug abuse efforts other than enforcement.

I have long supported various measures to combat the problems of drug abuse in this country. I commend Chairman HUGHES for his excellent work in giving us a workable bill which will be a much needed tool in the fight against illegal drugs. I urge my colleagues to approve this legislation.●

● Mr. FISH. Mr. Speaker, the Comprehensive Drug Penalty Act of 1983 will stengthen the use of forfeiture as a weapon in attacking drug trafficking and increase the fines available for serious drug offenses. Title III of the President's comprehensive crime legislation, which I introduced in the House as H.R. 2151, is similarly designed to improve forfeiture and increase drug offense fines, thereby combating one of the gravest crime problems facing our country: the importation and distribution of dangerous drugs.

H.R. 4901 creates a strong criminal forfeiture statute that would be applicable in all felony drug trafficking cases, provides authority for the civil forfeiture of real property used in the commission of major drug crimes, provides a funding mechanism whereby amounts realized in forfeiture cases can be used to defray the mounting costs associated with forfeitures, and amends the forfeiture provisions of the Tariff Act of 1930—a statute which governs civil forfeitures under both the Customs and drug laws—to increase the use of efficient administrative forfeiture procedures in uncontested cases.

This important bill, however, does not include two very important provisions strongly endorsed by this administration and included in the forfeiture bill adopted by the other body.

An important part of the administration's forfeiture legislation focuses on strengthening the criminal forfeiture provisions of the Racketeer Influenced and Corrupt Organization—or RICO—statute (18 U.S.C. 1961 et seq.). H.R. 4901's forfeiture amendments are confined to those applicable to drug offenses. The authority to reach the profits and financial underpinnings of organized criminal activity through forfeiture is a necessary part of effective law enforcement in this area. This is the very reason that, in 1970, the Congress included criminal forfeiture as one of the sanctions applicable to violations of RICO. Combating racketeering is a top priority of Federal law enforcement, and deprivinig those involved in organized criminal activity of the financial resources they amass and use in this crime is an integral part of that enforcement effort. To be successful in this effort, however, we must improve existing forfeiture authority under the RICO statute. H.R. 4901 does not include these important improvements.

A substitute assets provision would also greatly enhance the effectiveness of criminal forfeiture. Briefly, a substitute assets provision works as follows: The Government must prove in the criminal trial that specified property of the defendant was used or obtained in such a way as to render it subject to forfeiture under the applicable statute. If, after the entry of the specified assets have been removed, concealed, or transferred by the defendant so that they are no longer available to satisfy the forfeiture judgment, the court may order the defendant to forfeit other of his assets in substitution. Thus, by applying a substitute assets provision, defendants would not be able to avoid the criminal forfeiture sanction simply by making their forfeitable assets unavailable at the time of conviction. If today's consideration by this body is to have real impact, a substitute assets provision is essential to punishing the organized, and clever, drug trafficker.

Drug asset forfeiture is one of the most important improvements contained in the President's crime package. H.R. 4901 has my pledge of support. In conference, I will work to include the stronger provisions of the Senate bill.●

● Mr. SENSENBRENNER. Mr. Speaker, the most effective law enforcement weapon against the infiltration of drugs is one that takes profit out of crime. Prison terms and insubstantial fines are meaningless as long as drug racketeers know that they can make millions by supplying illegal drugs. The forfeiture bills before us today would enable Federal Government to make substantial progress in taking the profit out of crime. This bill will take from the drug criminal all of his illegal gains and the equipment used in obtaining those gains. The proceeds in forfeiture will be invested in continuing law enforcement efforts.

The impact that this bill will have on all persons in this Nation cannot be overstated. The victims of drug abuse do not share in the profits of these criminals. They are little more than prey in a highly profitable illegal activity. We must take the profit out of this horrendous crime.

Although I enthusiastically support drug forfeiture laws, I will work to ensure that stronger administration-endorsed proposals be included in the final product we send to the President. H.R. 4901 does not include authority to forfeit substitute assets when the profits from the crime are hidden from justice. The version passed by the other body has carefully drafted provisions that would ensure the punishment of sophisticated drug traffickers in a way that is constitutionally sound and just. Another provision in the superior bill passed by the other body improved the provisions of the Racketering Influenced and Corrupt Practices Act, 18 U.S.C. Sections 1961-1968. This provision, if improved under these provisions, would greatly assist law enforcement efforts against the kingpin traffickers.

When drug dealers skip $1 million in bail, tough measures are required. Forfeiture is the tough response.●

● Mr. FEIGHAN. Mr. Speaker, I rise today in support of the Comprehensive Drug Penalty Act of 1984, H.R. 4901, which I cosponsored. This bill will strengthen penalties for drug traf-

ficking and deprive drug dealers of the tools of their trade through forfeiture of their property. Their boats, planes, and estates will be confiscated.

Drugs and crime are linked, whether it is actually the crime of drug dealing, as in this legislation, or the commission of a crime under the influence of drugs: Drugs cause crime. This very important bill will attack the sale of controlled substances by raising the price which dealers have to pay when caught. For example, H.R. 4901 will subject to forfeiture all land and building used with the knowledge of the owner for holding, storing, or cultivating illegal drugs or materials used to manufacture them.

This bill will stiffen penalties against drug dealers by increasing maximum fines more than 3,000 percent from $15,000 to $500,000 and by permitting the imposition of an alternative fine up to twice the gross gain derived from the crime.

These two provisions will go a long way toward ending the reign of terror that has descended upon many American communities. To highlight the importance of this legislation, one need only look at statistics which show that one out of every five American households suffered a rape, robbery, assault, or larceny during 1983. More than one-third of those crimes are drug-related.

This bill provides the country with tough laws which will show the drug pushers that this Congress will do more than pay lipservice to the problems created by drugs and crime. I urge my colleagues to support this bill.●

● Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984, and I urge my colleagues to support this urgently needed legislation.

Narcotics trafficking and drug abuse is currently a criminal activity exceeding $100 billion per year, with the Federal Government spending approximately $1 billion annually to interdict illicit narcotics, to educate our citizens on the dangers of drug abuse, and to treat and rehabilitate those individuals who are dependent upon or addicted to drugs. Drug traffickers obviously are making enormous profits and yet, under current law, the maximum fine for most serious drug offenses is only $25,000.

One of the major objectives of H.R. 4901 would be to increase the maximum fine for convicted drug traffickers from $25,000 to $250,000. In addition, it would establish an alternative fine concept where drug offenders can be fined up to twice their gross profits or proceeds from drug trafficking ventures in cases where the alternative fine would be greater than the fine specified for the crime itself. The bill would also establish a $10 million forfeiture fund in the Department of Justice and the U.S. Customs Service. The fund would be used to cover ever-increasing costs of forfeiture procedures, which are provided in the bill for all felony drug cases, and to provide additional resources for law enforcement activities in fiscal year 1985 through 1987.

Another important aspect of this legislation would increase the narcotics law enforcement activities of the U.S. Customs Service. This is accomplished by increasing the current level under which administrative rather than judicial forfeiture proceedings can be initiated from $10,000 to $100,000, and by removing the ceiling entirely for merchandise and conveyances which are used to import, export or store illicit substances. Such actions will result in expedited action to avoid deterioration and decreased value of seized articles, as well as the enormous cost of storage. The Secretary of the Treasury would be authorized to transfer seized or forfeited property to State or local agencies which seized or participated in the seizure of the property. Such action would greatly enhance coordination and cooperation among Federal, State and local agencies that the Select Committee on Narcotics Abuse and Control, of which I am the Ranking Minority Member, has found so seriously lacking.

Finally, H.R. 4901 would increase compensation to informers from $50,000 to $250,000, while retaining the current legal limit of such payments to 25 percent of the net proceeds.

Mr. Speaker, I commend the distinguished chairman of the Judiciary's Subcommittee on Crime [Mr. HUGHES], for his tireless efforts in bringing this important legislation to the floor of the House. Given the epidemic proportions of drug availability and abuse in this country, forceful action is required and this legislation does just that. Narcotics Select Committee hearings held around the country and in Washington have clearly demonstrated that drug availability and drug abuse are increasing, while the price to purchase deadly drugs is decreasing. We must take strong action to punish the drug traffickers who are undermining our institutions and who prey on and profit from the misery of so many of our citizens. This legislation is a step in that direction.

I would also like to take this opportunity to remind my colleagues that increased law enforcement efforts must also be accompanied by increased funding for drug education, treatment and prevention programs, and in this regard I urge that a portion of seized drug assets be turned over to a drug education, treatment and prevention fund.●

● Mr. RANGEL. Mr. Speaker, as chairman of the Select Committee on Narcotics Abuse and Control, I rise in support of H.R. 4901, the Comprehensive Drug Penalty Act of 1984. This is an important piece of legislation deserving of support by every Member of this House who is concerned about the impact of drug abuse on their constituents.

Today the financial penalties for drug dealing are frequently only seen by dealers as a cost of doing business. Under current law, the maximum fines for many serious drug offenses is only $25,000. A major purpose of H.R. 4901 is to increase the use of forfeiture proceedings and criminal finds to attack the phenomenal financial base of the drug trade.

H.R. 4901 contains several salutary provisions designed to increase the penalties imposed on drug traffickers, including the following:

Substantially increases the maximum permissible criminal fines in drug cases, generally tenfold from $25,000 to $250,000, and establishes a new alternative fine concept under drug offenders can be fined up to twice their gross profits or proceeds from drug trafficking where the alternative fine would be greater than the fine specified for the crime itself.

Provides criminal forfeiture provisions in all felony drug cases.

Establishes a $10 million forfeiture fund in the Department of Justice and the U.S. Customs Service to help defray escalating costs associated with forfeiture procedures and provide additional resources to be used for law enforcement in fiscal years 1985, 1986, and 1987.

Creates a permissive presumption in criminal cases that all property acquired by drug offenders during the period of the violations or shortly thereafter is subject to forfeiture if no other likely source for such property exists.

The U.S. Customs Service plays an important role in the enforcement of U.S. narcotics laws. Title II of H.R. 4901 contains provisions designed to increase the drug enforcement effectiveness of the Customs Service.

Under current law, judicial forfeiture proceedings must be used in all cases where the value of the seized property exceeds $10,000, even though most cases are uncontested. This results in significant delays of up to 2 years during which time the seized property frequently deteriorates resulting in a substantial decrease in value. H.R. 4901 authorizes the use of administrative rather than judicial forfeiture proceedings in many more cases by increasing the current administrative ceiling from $10,000 to $100,000 for most articles, and by removing the ceiling entirely for prohibited merchandise and conveyances which are used to import, export, transport, or store any controlled substance.

H.R. 4901 also provides authority for the Secretary of the Treasury to transfer seized or forfeited property to State or local law enforcement agencies for forfeiture under appropriate State law or transfer property already forfeited to any State or local law enforcement agency which participated directly in the seizure of the property. Appropriate use of this provision can go a long way toward promoting timely cooperation among Federal, State, and local law enforcement agencies, which is so essential to effective drug investigations and prosecutions.

Finally, the bill increases the maximum level of compensation which can be paid to informers from $50,000 to $250,000. The current requirement limiting such payments to 25 percent of the net proceeds recovered is retained. I support inclusion of this provision in H.R. 4901 because informants often provide information without which drug traffickers could not be convicted. This is often done at great risk to the informant's personal safety. It is appropriate for the Government to recognize this fact by paying a substantial reward for useful information, where the facts of a particular case merit it.

Drug trafficking is a $100 billion-a-year business in America. I commend Chairman HUGHES of the Judiciary Crime Subcommittee and Chairman GIBBONS of the Ways and Means Trade Subcommittee for their work on H.R. 4901. I support H.R. 4901 because it provides law enforcement agencies with effective new tools to apprehend and prosecute drug traffickers.

Although there is no provision currently in H.R. 4901 providing for it, if the asset forfeiture funds established in the bill for the Department of Justice and the Customs Service prove effective, consideration should be given to establishing a similar forfeiture fund to help finance drug abuse treatment and prevention activities.

The widespread availability of illegal drugs in the United States has created a public health problem of epidemic proportions. Over 94 percent of the States responding to a 1983 survey conducted by the National Association of State Alcohol and Drug Abuse Directors reported an unmet need for treatment and prevention services in their States. According to a recent survey by the National Association for City Drug and Alcohol Coordination, many cities report reductions in treatment and prevention services, waiting lists and gaps in services, and existing programs that are heavily overutilized.

Federal funding for drug abuse services has decreased by about 40 percent under the Alcohol, Drug Abuse and Mental Health Service block grant. Dedicating a portion of forfeited drug trafficking profits to underwrite the costs of treatment and prevention is one way to alleviate 3 years of harsh budget cuts which the States have been forced to endure in their drug abuse services budgets and to make the drug pusher pay for the misery he brings to others. This is an idea that deserves future consideration from the Congress.●

The SPEAKER pro tempore. The time of the gentleman from New Jersey [Mr. HUGHES] has expired. All time has expired.

The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4901, 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. HUGHES. 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 therein extraneous material, on the bill just passed.

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

There was no objection.

DRUG ENFORCEMENT COORDINATION ACT OF 1984

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4028) to amend the Drug Abuse Prevention, Treatment, and Rehabilitation Act to revise the authority of the Office of Drug Abuse Policy, to establish a Deputy Director for Drug Abuse Prevention and a Deputy Director for Drug Enforcement in the Office, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4028

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Enforcement Coordination Act of 1984".

NATIONAL POLICY

SEC. 2. The Congress declares that it is the policy of the United States and the purpose of this Act to focus the comprehensive resources of the Federal Government and bring them to bear against all aspects of illicit drug production and trafficking and to develop and assure the implementation of a comprehensive, coordinated, long-term Federal strategy to combat all aspects of such drug production and trafficking. To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this Act to meet the problems of illicit drug production and trafficking through—

(1) coordination of drug enforcement efforts of all Federal law enforcement agencies and agencies with resources, capabilities, and responsibilities that can complement or assist law enforcement agencies;

(2) cooperation with and sharing of drug enforcement intelligence with State and local law enforcement agencies;

(3) coordination of all international, multilateral, and bilateral efforts to suppress drug trafficking, to control cultivation of crops that are, or are the raw materials for, controlled substances, and to control precursor chemicals and other chemicals essential for the manufacture and processing of controlled substances; and

(4) increased cooperation among nations in carrying out the Single Convention on Narcotics, the Convention on Psychotropic Substances, and any other international effort to control the traffic and abuse of controlled substance.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The term "drug enforcement" means—

(A) any of the following law enforcement activities:

(i) the investigation and prosecution of drug offenses and other investigations and prosecutions of individuals involved in drug offenses,

(ii) programs or activities involving international narcotics control,

(iii) the detection and suppression of illicit drug production and trafficking;

(B) the interdiction of the illicit commerce in controlled substances wherever it may occur;

(C) the suppression and eradication of the cultivation of crops that are, or are the raw materials for, controlled substances;

(D) any activity or program by any Federal agency which can complement or assist any of the law enforcement activities described in subparagraphs (A), (B), and (C); or

(E) the conduct of formal or informal diplomatic or international negotiations at any level, whether with foreign governments, other foreign governmental or nongovernmental persons or organizations of any kind, or any international organization of any kind, relating to traffic (whether licit or illicit) in drugs subject to abuse, or any measures to control or curb such traffic;

(2) The term "drug" means a controlled substance as that term is defined by section 102(6) of the Controlled Substances Act.

OFFICE OF DRUG ENFORCEMENT COORDINATION

SEC. 4. (a)(1) There is established in the Executive Office of the President the Office of Drug Enforcement Coordination which shall be headed by a Director appointed by the President. The President may appoint the Vice President to be the Director. Any other appointment to the office of Director shall be made by and with the advice and consent of the Senate. The President may direct the Director to represent the Government of the United States in discussions and negotiations relating to drug enforcement.

(2) Unless the Director is the Vice President, the Director shall be compensated at the rate of pay in effect for level II of the Executive Schedule.

(b) In carrying out section 6 the Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him by such section.

(c) The location of the Office in the Executive Office of the President shall not be construed to limit in any manner access by the Congress or committees of either House (1) to information, documents, and studies

in the possession of, or conducted by or at the direction of the Director, or (2) to Office personnel.

COORDINATION OF FEDERAL EFFORT

SEC. 5. (a) The Director shall—

(1) establish policies, objectives, and priorities for Federal drug enforcement;

(2) annually promulgate a strategy, in accordance with section 7, for coordinated Federal drug enforcement;

(3) coordinate and oversee the performance of drug enforcement functions by Federal departments and agencies to insure the implementation of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of their responsibilities under the strategy promulgated under paragraph (2);

(4) make such recommendations to the President respecting—

(A) changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement, and

(B) the allocation of personnel to and within such departments and agencies.

as the Director determines are appropriate to implement the policies, priorities, and objectives established under paragraph (1) and the strategy promulgated under paragraph (2);

(5) consult with and assist State and local governments respecting their relations with Federal departments and agencies in the performance of drug enforcement; and

(6) submit to Congress a report, within 60 days of the end of each fiscal year, which shall specify the objectives, nature, and results of the drug enforcement activities undertaken by the Director in the preceding fiscal year, include the current strategy, and account for the funds expended under the Act.

(b) To carry out subsection (a), the Director shall—

(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug enforcement;

(2) conduct, or provide for, evaluations of (A) the performance of drug enforcement by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such enforcement;

(3) review the annual budgets submitted to the Office of Management and Budget for the Federal departments and agencies engaged in drug enforcement and make recommendations to the President respecting such budgets before they are submitted to the Congress; and

(4) review the allocation of personnel to and by such departments and agencies.

(c) Federal departments and agencies engaged in drug enforcement shall submit to the Director such information and reports as may reasonably be required to carry out this section.

STRATEGY

SEC. 6. (a) The strategy promulgated under section 6(a)(2) shall contain—

(1) an analysis of the nature, character, and extent of illicit drug trafficking and production in and affecting the United States,

(2) a comprehensive plan, with respect to Federal drug enforcement, which shall specify the objectives of the strategy and how all available resources, funds, programs, services, and facilities authorized under relevant Federal law should be used; and

(3) an analysis and evaluation of the major programs conducted, expenditures made, results achieved, plans developed, and problems encountered in the operation and coordination of the various Federal drug enforcement functions.

(b) To facilitate the preparation of the strategy under section 6(a)(2), the Director shall—

(1) engage in the planning necessary to develop the objectives for a comprehensive, coordinated long-term strategy, including examination of the overall Federal investment to combat illicit drug production and trafficking;

(2) require departments and agencies engaged in Federal drug enforcement to submit such information and reports and to conduct such studies and surveys as are necessary to carry out the purposes of this Act, and the departments and agencies shall submit to the Director the information, reports, studies, and surveys so required; and

(3) evaluate the performance and results achieved by Federal drug enforcement and the prospective performance and results that might be achieved by programs and activities in addition to or in lieu of those currently being administered.

ACCEPTANCE OF UNCOMPENSATED SERVICES

SEC. 7. In carrying out section 6, the Director may accept and employ in furtherance of the purpose of such section voluntary and uncompensated services notwithstanding section 1342 of title 31 of the United States Code.

NOTICE RELATING TO THE CONTROL OF DANGEROUS DRUGS

SEC. 8. Whenever the Attorney General determines that there is evidence that—

(1) a drug or other substance, which is not a controlled substance, has a potential for abuse, or

(2) a controlled substance should be transferred or removed from a schedule under section 202 of the Controlled Substances Act,

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health and Human Services to the Director.

STATUTORY AUTHORITY UNAFFECTED

SEC. 9. Nothing in this Act shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There is authorized to be appropriated for the Office of Drug Enforcement Coordination $500,000 for fiscal year 1985 and $500,000 for fiscal year 1986.

TECHNICAL

SEC. 11. (a) The Drug Abuse Prevention, Treatment, and Rehabilitation Act is repealed.

(b)(1) Section 5313 of title 5, United States Code, is amended by adding at the end the following: "Director, Office of Drug Enforcement Coordination.".

(2) Section 5314 of such title is amended by striking out "Director of the Office of Drug Abuse Policy.".

(3) Section 5315 of such title is amended by striking out "Deputy Director of the Office of Drug Abuse Policy.".

The SPEAKER pro tempore. Is a second demanded?

Mr. SAWYER. 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 New Jersey [Mr. HUGHES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. SAWYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I might need.

Mr. Speaker, the dimensions of our attack on drug production and trafficking, everywhere it occurs, are enormous. It results from the efforts of more than 17 agencies of the Federal Government, at a cost to the taxpayers this year of more than $1.2 billion.

Last week, Bud Mullen, the Administrator of the Drug Enforcement Administration, told me that 1 million Americans need treatment because they are addicted to cocaine—largely because it is so easy to get. We are failing to control the flow of cocaine into the United States and since 1981, the price of cocaine has dropped through the floor.

Heroin, which we know causes thousands of serious crimes, is at the same high levels of availability that it was at 6 or 7 years ago. Mexican brown heroin is available again in New York City after a long absence. Here, too, our enforcement efforts are failing.

Every day, millions of doses of other powerful and dangerous drugs, manufactured in underground laboratories or diverted from medical sources, are sold in the black market of drugs found on street corners and in suburban malls. Once again our enforcement efforts are a failure.

One reason for our lack of success is that the 17 agencies involved in drug enforcement are not working together.

Everyone knows that a winning football team has someone who writes up the plays, and scopes out the plays of the opposing teams. Well, our current drug enforcement strategy is about as sophisticated as a football team that makes up its plays on the field, drawing X's and O's in the dirt.

Right now, no one is developing realistic objectives for our 17 agency drug enforcement team, and the General Accounting Office has repeatedly found that our team is fragmented and not working together.

Basic, accurate management information is not available about costs or the performance of the programs. GAO found in one audit, for example, that the quantity of drugs seized by Customs, the Coast Guard, and DEA had been overstated by 50 percent.

Decisions seem to be made without regard to the overall effort. For exam-

ple, the Customs Service planned to cut 1,000 of its inspectors and to eliminate its aerial surveillance of drug smugglers operating off our shores until Congress protested.

In response to growing recognition of the need for the kind of centralized coordination and direction of our drug enforcement efforts called for in this bill, the administration established what it calls the National Narcotics Border Interdiction System [NNBIS]. However, rather than providing such leadership to mediate and resolve agency turf battles which cripple our overall effort, NNBIS seems to merely add another competitor into the struggle to see who gets credit when an arrest or seizure is made. Here's what Bud Mullen, Administrator of DEA, said about NNBIS a few months ago in memo to the Attorney General recommending that it be passed out.

The grandiose claims of the National Narcotics Border Interdiction System (NNBIS) are beginning to discredit and devalue the efforts of the administration's numerous drug control programs. False credit claimed by NNBIS spokesmen demoralizes the personnel working for a number of Federal agencies whose bona fide accomplishments either go unrecognized or are relegated to second place by the unwise overemphasis on NNBIS and the South Florida Task Force Interdiction Programs.

Mr. Mullen goes on to report that the self-aggrandizing claims of NNBIS are not only demoralizing our operational frontline drug enforcement troops, but they are confusing foreign law enforcement leaders whose cooperation is essential to stopping drugs in the source countries. He gives accounts of visits of NNBIS officials to Mexico, Canada, and the Bahamas which left leaders in these countries puzzled about who represented the United States in narcotics matters and wondering if there is any coordination of our efforts taking place.

The crisis of drug abuse and our disorganized response, are why we need this legislation. This bill establishes in the Executive Office of the President a Director of drug enforcement coordination. The Director shall develop a comprehensive strategy for drug enforcement that spells out the proper role of each of the agencies involved. The Director is to oversee the performance of each agency. If an agency is not meeting its performance standards, the Director shall recommend to the President changes the Director believes are warranted such as changes in management, in personnel, in organization, or in budgets.

The Director will not have direct operational authority, but the Director will have the clout of speaking directly to and for the President.

We need a strong hand at the reins because right now the Drug Enforcement team is worse than a team of horses running out of control—it is a loose herd of 17 agencies, with a history of bureaucratic turf battles, that will not be easily harnessed.

Without a strategy, and without strong, central leadership, when we send our dedicated law enforcement officers to fight the drug traffickers, we betray their dedication, and I suggest, we betray the American people who demand that we effectively address the problem of drug trafficking and crime.

This bill has broad bipartisan support, in the Judiciary Committee, and the Select Committee on Narcotics Abuse and Control. I urge the House to adopt this bill and keep faith with our Nation's law enforcement officers, with our young people, and with our families. We must turn the tide against the drug traffic, and effective drug enforcement coordination is absolutely necessary to do it.

Mr. Speaker, I want to thank the distinguished gentleman from Florida, Mr. CHARLES BENNETT, who is not a member of the Judiciary Committee—he is on the Armed Services Committee; in fact, he is chairman of the Subcommittee on Seapower—for his great assistance, and I also want to thank the gentleman from Florida, Mr. CLAY SHAW, a very valued member of the Judiciary Committee, for his yeoman work on this particular legislation. The gentleman from Florida [Mr. SHAW] introduced legislation in the early days of the 98th Congress that was directed to this issue. He has been in the forefront of crafting this bill through the entire process.

Once again my colleague, the gentleman from Michigan, Mr. HAL SAWYER, has done yeoman work on this legislation. This is a bill that we worked on since the closing days of the 98th Congress, and he is one of the principal architects of this legislation for a so-called drug czar or Office of Drug Policy.

The chairman of the full committee, the gentleman from New Jersey, Mr. PETER RODINO, has also been extremely cooperative and helpful to us in our efforts to come up with a strong bill.

This bill has broad bipartisan support. It is a bill that we need to pull all the various agencies together to move in one direction.

Mr. Speaker, it is my hope that we will have a good bipartisan vote for what I consider to be an important measure to provide a new direction for our law enforcement team in the fight against drug trafficking.

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

□ 1330

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I urge this body's support for H.R. 4028, a bill that I believe will contribute substantially to our drug enforcement program. During the current administration, we have seen a budgetary increase for law enforcement, the successful south Florida task force, the expansion of the south Florida prototype across the Nation, the new national narcotics border interdiction system, and the use of the military under this body's posse comitatus legislation.

These improvements, however, are implemented by the FBI and DEA in the Department of Justice, the Customs Service in the Department of Treasury, the Coast Guard, which is part of the Department of Transportation, and the Department of Defense. For obvious reasons, we have a coordination problem that is interfering with our drug enforcement. The concept of a Drug Enforcement Director, or czar, as it has been pegged, is designed to improve coordination by creating one key official with authority to coordinate the various Federal efforts and manage drug enforcement, in general.

As an example of this is the present Vice President. Vice President BUSH directs the successful south Florida task force and now the border system from a position of unique authority and with the help of an expert staff. Following this example, CLAY SHAW of Florida introduced a bill to implement the coordinator concept for all drug enforcement. The chairman of our subcommittee also introduced a bill, and the committee, based on these proposals, adopted the bill before us today. I urge you to support H.R. 4028.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I rise in support of H.R. 4028, the Drug Enforcement Coordination Act. This measure is designed to control the chaos that exists among the 17 different agencies that are now involved in drug enforcement activities. Three times in the last 10 years the General Accounting Office has examined our drug enforcement program and found that it is severely handicapped by a lack of strong, central oversight. There is little coordination of efforts among the numerous law enforcement agencies involved in narcotics control and no comprehensive strategy for our "war on drugs."

While millions of Americans suffer as a result of the scourge of drug trafficking and criminal problems associated with drug abuse grow, the existing bureaucratic inefficiency and waste is inexcusable. Congress has three times in the last 10 years tried to get the executive branch to undertake coherent planning and oversight of drug control efforts. Only limited success has been achieved in immobilizing high-level drug traffickers and only small inroads have been made in reaching and

eliminating foreign sources of the drug trade. The availability of drugs continues to increase in this country. The front pages of many newspapers recently have been filled with articles on our serious drug control problems, particularly focusing on the lack of effective international narcotics control.

The bill that is before us today would provide a much-needed focus and direction to our national drug control efforts by establishing a director to coordinate and review the policies and goals of each of the law enforcement agencies, determine whether they are consistent with the overall enforcement program, and ensure that money is spent where the best results can be achieved. Unbelievably, right now, no one in the administration has that responsibility.

Regrettably, the President vetoed an anticrime package passed by both Houses of Congress in 1982 which contained somewhat similar provisions to establish strong, centralized leadership in our fight against drug abuse. Numerous hearings and investigations by the Congress have strongly demonstrated the critical need for someone to look at the entire drug enforcement mission—whether it is domestic investigations, border and high seas interdiction, crop eradication programs in other countries, or other international narcotics control programs—to determine what the relative priorities and chances of success between them are, and advise the President how best to allocate the very scarce resources that we have.

For example, far too little has been done to convince drug-producing countries that we view their efforts to control the illicit production and distribution of drugs as an essential element in our relationship with them. In my opinion, the problem of international drug control must receive a higher priority on our foreign policy agenda. In many Congresses, I have both authored and supported measures to achieve this result, including limitations on foreign aid to countries that ignore their international narcotics-control responsibilities. As a member of the President's Commission on Organized Crime, I again have emphasized the need for greater focus on controlling this aspect of the drug problem. Unless effective measures are pursued to prevent drug production and trafficking at its source, there is little chance for any real success in the war on drugs.

The Attorney General testified in congressional hearings that $1 spent on drug enforcement overseas is worth $10 spent in the United States. Yet, the General Accounting Office has pointed out that over the last 5 years international drug program expenditures have remained constant at about $60 million, while interdiction expenditures have more than tripled.

We must have greater efficiencies and planning to carefully direct how our drug enforcement dollars are spent. This bill would require the director of drug enforcement coordination to recommend a budget for the drug enforcement agencies independently of the eight Cabinet agencies involved. If implemented, the bill will give us not only our best shot at striking a blow at the heart of the drug traffic, but a chance to do it with cost effectiveness.

I urge the adoption of this measure.

Mr. SAWYER. Mr. Speaker, I yield 5 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentleman from Michigan for yielding.

I think in looking at this particular piece of legislation it is important that we just for one moment review the history of how we got to where we are today. We all know the success of the South Florida Task Force, especially the success of the coordinated effort set up by President Reagan under the leadership of GEORGE BUSH who has headed up the South Florida Task Force. In doing that, we have come across some very difficult history. As the gentleman from New Jersey properly pointed out, it was because of the efforts of his subcommittee and his good efforts in this particular regard, together with the efforts of the ranking minority member on the Crime Subcommittee, that we were able last year to bring a posse comitatus bill to this floor and passed.

In passing it and putting it into coordinated effort in south Florida where it has been most successful, we did run into a great deal of resistance from the military. I recall in the Government Operations Subcommittee matter, of which I am not a member, but was requested or invited to participate in, we had some testifying from the military who actually expressed hostility to getting involved in law enforcement.

At that time I reminded him that the Vice President had been involved and also read to him a quote directly from the Vice President.

It was because of the strong leadership and this implementation that we brought about a big nick in the problem, the growing problem of law enforcement in drug trading in south Florida.

When you think of all the departments involved, and I just jotted down a few that came to my mind when I was sitting here listening to the debate: The Coast Guard, under the Department of Transportation; Customs and Firearms Control and Tobacco, under the Department of the Treasury; of course, you have Customs, which also comes under the Treasury. You have the DEA and the FBI and Justice.

The Department of Defense, of course, is a most important element to this total mix.

With this, you even have our Representative to the United Nations, and as we are finding out more and more, it is becoming the responsibility of the Secretary of State to let foreign countries know how we feel about them continuing to grow drugs and import them into this country.

This brings about a nightmare of coordination. We need someone at the highest level in the White House itself to coordinate the efforts of all these departments and someone who has also direct access to the President, as GEORGE BUSH has had over the last 3½ years.

This has brought about the success of the South Florida Task Force.

This important piece of legislation is also going to bring about great success, I believe, as a coordinator in putting together this whole picture on fighting law enforcement throughout not just the United States, but throughout the entire world.

I would say to the people of the administration who might oppose this particular bill because of some of the problems of not wanting a growing bureaucracy, I think that this type of coordination will actually save us money. It will we know keep us from spinning our wheels and having three or four agencies doing the exact same thing, continuously reinventing the wheel.

This is a very important coordinating effort and it is one that should be embraced by this House and hopefully it will be put together in a conference with the Senate's version, the version of the other body, before the 98th Congress finishes its business.

□ 1340

I would just like to say in the few minutes that are left that this may be the last piece of legislation—hopefully it is not. Hopefully we will see more good legislation coming out of the Crime Subcommittee. However, this may be the last time that this particular subcommittee will be managing bills coming through.

I would like to say that in the efforts of fighting crime that the gentleman from Michigan [Mr. SAWYER] will certainly be missed when he retires from Congress at the end of this Congress. I might say it is a retirement that he volunteered for.

I would also like to compliment the gentleman from New Jersey who has put together a team with the gentleman from Michigan [Mr. SAWYER] and I can say that even though occasionally all of us let partisan politics get into a particular argument, we seem to be particularly good at this, but I think that this subcommittee has singularly led the way in showing what a subcommittee in this Congress can do

when we lay partisan politics aside and we work for good laws.

This is the type of politics that this Congress needs. I might say that if more subcommittees and committees of this Congress would work together the way this subcommittee has that the American people would be the ultimate benefactors.

I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I might consume.

First, let me just thank my distinguished colleague who is a treasure on the Judiciary Committee, who works very well with us in a bipartisan fashion and whose own experience in south Florida where we have had a major drug trafficking problem, has I think, enriched our own committee's understanding of the dimension of the problem.

I have no doubt that much of what we have turned out, particularly in this last Congress, but certainly back in the 97th Congress, came about because of the gentleman's understanding of the problem and his ability as an attorney to understand what we could do to direct our efforts to those problems.

I want to thank the gentleman for his cooperation.

I also want to thank our colleague from Florida, Mr. BENNETT, who was instrumental in moving the posse comitatus through the conference committee. I think the gentleman well knows he was not on our committee at that time but he was an observer in the conference and it was CHARLIE BENNETT, who was very tenacious to make sure that we moved to bring about the enactment of what I consider to be one of the more important measures in the 97th Congress modifying the posse comitatus law so that the military could assist justice and share intelligence gathering that they produced as they overfly the Caribbean and other parts of the country and in loaning us equipment and in providing staging areas to us. They have proved to be of invaluable benefit, and even though the military was very resistant and fought us every step of the way, tried to scuttle us at every step of the process they now love it. We hear them sing the praises of the modification of the posse comitatus law and now all of a sudden I wonder whose idea it was. It sounds like it might have been the military's idea.

No matter whose idea it was, we passed it and it has turned out to be good legislation.

The same thing is true with this measure. I am satisfied that until we bring about the kind of coordination that is envisioned in this legislation we are going to have a fragmented approach. The gentleman talked about the various agencies and branches of Government that have some piece of the action. It is not unusual to see three wiretaps being run at one time by three different agencies on one investigation because they are not talking.

We try to do something about the coordination and what we do is we set up a number of different coordinating agencies.

Listen to the number of coordinating agencies we have developed to help coordinate these 17 different agencies. We first of all have the Office of Drug Abuse Policy in the White House. Then we have the Cabinet Council on Legal Policy chaired by the Attorney General. Then we have the Narcotics Working Group chaired by the Associate Attorney General. Then we have the new Regional Drug Task Forces administered by the Justice Department. Then we have the National Narcotics Border Interdiction System headed by the Vice President.

What we need is somebody, some one person to coordinate the coordinators, and that is what it amounts to. We need a coordinator in fact, not just a coordinator as we have had.

Unfortunately, we need a coordinator in fact, not a coordinator in name. I might say to my colleagues we cannot afford to have the kind of goof-ups we have had in the last few months. It is just uncalled for. It is just inexcusable that we have personnel from NIMBUS going to Mexico, telling the Mexican authorities that they now are the contacts for this country and to have the Mexican authorities say to the Drug Enforcement Administration, who has worked with the Mexican authorities and who really is the premier agency in drug enforcement worldwide, it is not Interpol, it is our own Drug Enforcement Administration, to have those officials say to the Drug Enforcement Administration, "My God, who is in charge; who is running the drug enforcement program in this country?" That is inexcusable and it would not have happened if we had somebody like the Vice President, somebody like the Vice President in charge of the overall coordination.

So I say to my colleagues it is a good bill. If you want to coordinate these agencies and bring some degree of sense and strategy to our efforts to stem drug trafficking, this is the bill.

Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. I have a feeling of great gratitude for the chairman of the subcommittee and the ranking member and the other members who have spoken.

Early on it became pretty clear that there needed to be somebody in charge of the overall operation and efforts that have been made by a lot of people individually and by committees and by a lot of speeches that have been made about it, but the job has not yet been done.

I think if it is done, and we find much more progress being made, it will be because we get an overall and single leadership in this matter. That's what this bill provides for.

I want to thank the committee not only for this bill, which is a very fine bill, very much overdue, but for the other things that have happened in the last year or so in this field.

There has been a little misunderstanding about the comitatus law and about the fact that the Navy can actually make arrests. There is nothing in that law we agreed to that does not allow the Navy to make arrests. So far it has only been the Coast Guard that has been making arrests, but there is a provision in that agreement between the House and the Senate, in that conference, that said that no power that the Navy had before that agreement would be destroyed. So the Navy does have this legal right to make arrests and they should do so!

I want to thank the committee again for its fine work in this field.

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

I want to again compliment the gentleman in the well [Mr. BENNETT] for the assistance he has given our subcommittee and really spearheaded the posse comitatus amendment. That perhaps of all of the items that came out in the way of law enforcement out of the 97th Congress, was at the head of the list because it has really made a difference.

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

Mr. HUGHES. Mr. Speaker, I just want to yield myself such time as I might consume.

I would like to say without the diligent work of staff, the tireless work of staff, we would not be here today. I want to thank Char Vanlier of the minority staff for her efforts on this legislation and all of the other legislation that we have put out of our subcommittee. I think we have passed something like 13 bills out of our subcommittee. This has probably been one of the most productive sessions. It has kept us busy and without the work of staff we would not be here today.

I also want to thank the chief counsel Hayden Gregory of the majority staff of the Subcommittee on Crime and Eric Sterling who worked particularly in the area of drug trafficking and has worked very diligently on this piece of legislation. Also Ed O'Connell who has worked on computer and credit card crime and other legislation. Also Jennie Sloan who worked on trademark counterfeiting in particular. Without their superb efforts we would not have been able to move

these bills through the process as we have over these last 18 or 19 months.

Mr. Speaker, I have no more requests for time and I yield back the balance of my time.

● Mr. SENSENBRENNER. Mr. Speaker, I oppose H.R. 4028 because I believe the only policy czar in the executive branch should be the President of the United States. This bill recognizes that coordination is needed but ignores the new programs in this administration which are now providing coordination and obviate the need for H.R. 4028.

Law Enforcement Coordinating Committee [LECC's] are now in each of the 94 U.S. attorneys' districts. These LECC's bring together Federal law enforcement priorities, to break down traditional jurisdictional barriers and to facilitate cooperation.

For the first time, the resources of the Federal Bureau of Investigation have entered into the war against illegal drugs. The FBI's manpower and the significant professional expertise of the Bureau have added vast new dimensions to the Federal arsenal being applied to this critical crime problem.

The President has established 13 regional task forces on organized drug trafficking in addition to the earlier south Florida task force. These task forces are working very significant cases against major organized crime activities; cases aimed at indicting, convicting and sentencing the top level of criminals who finance and operate the organizations that distribute illicit drugs.

The Vice President also is serving as coordinator for NNBIS, National Narcotics Border Interdiction System, a major effort involving the military as well as domestic law enforcement in a comprehensive border drug interdiction program.

These and other efforts at increased enforcement, cooperation and coordination are supervised by an interagency working group under the Cabinet Council on Legal Policy. Represented are the Departments of State, Treasury, Justice, Defense, and Transportation. Overall policy direction and coordination for the Government's efforts is provided by the Cabinet Council itself and the President.

We have made great progress minimizing historic disputes between and among the various Federal, State and local law enforcement agencies. We are achieving a new level of efficiency and cooperation. Tremendous progress is being made and we are building upon each success. A new layer of bureaucratic administration would impede that progress.

The provisions of H.R. 4028 would abridge the authority of Cabinet officers and disrupt the Cabinet system. They would isolate the policy making function from operational responsibility by removing it from those agencies which must be accountable for both policy and program decisions.

The administration is strongly opposed to H.R. 4028. Last January, the President vetoed a similar bill because drug czar provisions were included.

The premise of H.R. 4028, that effective Federal drug enforcement requires an additional bureaucratic entity with broad new authorities, is fundamentally flawed.

The Department of Justice, the White House and every Department working on drug law enforcement feels that the bureaucratic structure and confusing responsibilities proposed in H.R. 4028 would be disruptive to ongoing enforcement activites and would distract from the focused, coordinated operations currently in place.

For these reasons, I oppose H.R. 4028. It will simply serve to disrupt the efforts of drug enforcement coordination now in place. I believe these relatively new efforts are working and show great promise for the future. It would be a mistake for this body not to allow these programs to develop their full potential.●

● Mr. FEIGHAN. Mr. Speaker. I rise today in strong support of H.R. 4028, the drug czar legislation, which I cosponsored. The bill will help our drug enforcement programs by coordinating enforcement efforts.

More than anything else, drugs and crime are linked. More than one-third of all prisoners were under the influence of drugs at the time they committed the offense which put them behind bars.

As chairman of the Task Force on International Narcotics Trafficking and a member of the Crime Subcommittee, I quickly concluded that Federal antidrug programs lack effective overall coordination. No single individual in the administration supervises the various drug programs. Even the Vice President, who nominally has responsibility for drug programs—has no input into the budgetary process. If we are going to deal with the total problem, we need a single coordinating office with sufficient power and expertise to draw together the resources of the Federal Government at home and abroad. That is why the Judiciary Committee has passed legislation to establish a single antidrug coordinator in the Federal Government. The administration demonstrates its monumental hypocrisy on this issue by shrilly denouncing Congress' purported inactivity on crime, yet stonewalling this—the most effective crime-fighting legislation before Congress this term.

More than one out of every five American households suffered a rape, robbery, assault, burglary, or larceny during 1983. And more than one third of these crimes are drug related. These figures highlight the problems of innocent citizens who have become victims of crime.

We need tough legislation that strengthens enforcement of the drug laws. This bill will do that. It is time to do more than pay lip service to anticrime programs. It is time to put together a concerted, coordinated and coherent antidrug campaign. H.R. 4028 provides the mechanism we need to launch that campaign. I urge my colleagues' support.●

● Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 4028, the Drug Enforcement Coordination Act of 1984.

This bill would establish an Office of Drug Enforcement Coordination in the Executive Office of the President. The office would be headed by a director who would be appointed by the President. The bill permits the President to appoint the Vice President to be the director of the office.

The director of the office would be responsible for coordinating all Federal drug enforcement activities including investigation and prosecution of drug traffickers, international narcotics control initiatives, interdiction of drug smuggling, and eradication of illicit drug crops. To this end, the director would be required to establish Federal drug enforcement policies and priorities, oversee the performance of drug enforcement functions by Federal agencies, make recommendations to the President concerning the allocation of resources and the organization of Federal agencies needed for effective drug enforcement, and maintain close contact with State and local drug enforcement authorities.

The bill also requires the director to prepare each year a comprehensive strategy for coordinated Federal drug enforcement. The strategy would be submitted to Congress as part of an annual report the director is required to file.

To carry out his responsibilities, the director is empowered to review agency budget and personnel requests submitted to the Office of Management and Budget. The director may also require Federal departments to submit such information and reports as are reasonably required for the director to perform his duties.

It is hardly necessary to spell out for the Members of this body the overwhelming magnitude of the illicit drug trade affecting this country and the awesome social and economic costs we bear as a result. Despite the massive onslaught we face from the producers and distributors of illegal drugs, our Nation's drug enforcement efforts are fragmented among a multitude of departments, agencies, cabinet councils, committees, working groups, and task forces. There is no focal point within the executive branch for determining policies, setting priorities, and assessing the resources that are needed to

carry out an effective drug enforcement program. There is not even any central review of agency budgets to assure that the resources requested for drug enforcement are consistent with an overall plan to attack the drug trade.

Because the responsibility for drug enforcement coordination is dispersed throughout the executive branch, there is also no accountability to Congress. As chairman of the Select Committee on Narcotics Abuse and Control, I have repeatedly asked administration witnesses who is in charge of drug policy. Unfortunately, it seems that no one is in charge.

The purpose of H.R. 4028 is to assure that there is a single, high-level official in the executive branch with the clear mandate and the authority to develop a comprehensive drug enforcement plan and coordinate the implementation of this plan. Creation of the Office of Drug Enforcement Coordination, as contained in H.R. 4028, will provide coherence and direction to our Nation's drug enforcement program. It will also assure greater accountability for results and strengthen congressional oversight of drug enforcement activities. The Office of Drug Enforcement Coordination will not be merely another layer of bureaucracy; rather, it will help cut through the confusing and overlapping array of coordinating bodies this administration has established, which have only served to fragment and conceal responsibility for drug policies.

While I support enactment of H.R. 4028, I do have some serious concerns about the bill. By incorporating and strengthening in H.R. 4028 only the supply control provisions of the Drug Abuse Prevention, Treatment and Rehabilitation Act, this bill fails to sustain the congressional policy that has guided the Federal effort to combat drug abuse and drug trafficking since 1972. That policy recognizes that efforts to reduce the supply of drugs and efforts to reduce the demand for drugs are interrelated and calls for the development and implementation of a comprehensive, coordinated, long-term Federal strategy to combat all aspects of the drug abuse problem. While many of the Federal Government's efforts in the area of drug abuse treatment and prevention have been consolidated in the Department of Health and Human Services, a number of other agencies continue to have significant responsibilities for demand reduction including ACTION, the Department of Education, the Department of Transportation and the Department of Defense. Even our law enforcement agencies such as the Drug Enforcement Administration are involved in drug abuse prevention activities. Drug abuse treatment and prevention require the same high-level attention and coordination that H.R. 4028 would provide for our law enforcement, interdiction and international narcotics control activities.

Notwithstanding these concerns, I support H.R. 4028 because of the pressing need to strengthen the coordination among the many agencies responsible for drug law enforcement. I hope it will be possible to address the demand side of the equation at a later time.●

● Mr. GILMAN. Mr. Speaker, I rise in support of the revised H.R. 4028, the Drug Enforcement Coordination Act of 1984, creating the Office of Drug Enforcement Coordination within the Executive Office of the President [EOP] with a Director who would be responsible for formulating a comprehensive Federal drug enforcement strategy.

Under this measure, the duties of the Director would include establishing objectives and priorities for Federal drug enforcement, coordinating and overseeing the performance of Federal drug enforcement departments and agencies, recommending to the President changes in the organization, management, budget, and personnel of Federal departments involved in narcotics enforcement, and consulting with State and local governments regarding their relations with Federal drug enforcement agencies. The Director would also submit a report to the Congress each year detailing the Director's activities, including the current Federal drug enforcement strategy.

While I support establishing an office within the EOP, I believe that it is essential for us to pass legislation creating a position that has more responsibility, including the responsibility for drug prevention, treatment and rehabilitation functions. That is one reason why I cosponsored the original H.R. 4028, informally known as the "drug czar" bill, which was designed to pull together all aspects of narcotics trafficking and drug abuse under one individual who would have direct access to the President and who would be in charge of formulating and coordinating a Federal drug abuse strategy—a strategy that would include drug law enforcement and drug prevention, treatment and rehabilitation functions. The original H.R. 4028 called for creating an Office of Drug Abuse Policy [ODAP] within the President's Executive Office headed by a Director, and a Deputy Director for Drug Abuse Prevention and a Deputy Director for Drug Enforcement.

Under the revised H.R. 4028, the Office of Drug Abuse Policy, currently headed by Dr. Carlton Turner, would be abolished. Although the Select Committee on Narcotics Abuse and Control, of which I am the ranking minority member, has repeatedly urged a more active and responsive role for this office, abolishing ODAP rather than revising its authority, as the original H.R. 4028 had proposed, leaves no one in charge within the President's Executive Office to formulate and coordinate a comprehensive Federal strategy for drug prevention, treatment, and rehabilitation. Rather, those functions would now be relegated if the recently House-passed H.R. 5603, the alcohol, drug abuse and mental health block grants authorizations, becomes law, to an Alcohol, Drug Abuse and Mental Health Strategy Council located in the Department of Health and Human Services. The critical question now becomes: Who is in charge of the preventing and controlling drug abuse in our Nation? Unfortunately, the revised version of H.R. 4028 leaves us with a fragmented answer.

Mr. Speaker, what concerns me is that the drug prevention, treatment, and rehabilitation aspects of the narcotics problem will be neglected within the Executive Office of the President. One of the reasons that the "drug czar" concept found such popularity among the members of the select committee was that the scattered and half-hearted approach to prevention, treatment, and rehabilitation presently exercised by our Federal agencies necessitated the creation of a position of "drug czar" to direct and coordinate all aspects of the narcotics problem. We now face a "catch as catch can" approach to the drug prevention, treatment, and rehabilitation at a time when drug abuse and the availability of narcotics, especially cocaine, are rising.

I hope that the creation of a Director of Drug Enforcement Coordination will prove to be a positive development in our "war" on drugs, as enforcement has become our last resort in the ever-escalating battle that our Nation is now fighting. However, I also hope that as we focus our attention on the enforcement aspects of the narcotics problem, that we will not neglect drug prevention, treatment, and rehabilitation that is so critical to our Nation's efforts to win the war on narcotics trafficking and drug abuse.

Mr. Speaker, although I am disappointed in the major features of the revised H.R. 4028, I do support this measure since I believe that half a loaf of constructive legislation is better than none at all. In this regard, I also want to commend the distinguished chairman of the Judiciary's Subcommittee on Crime [Mr. HUGHES], who is also a member of the Narcotics Select Committee, for his tireless and dedicated efforts in shepherding a "drug czar" proposal, albeit a modified "czar," to the floor of the House. This task has not been easy for him and I am confident that he, too, would have preferred to see an all encompassing

"drug czar" who would formulate and coordinate a comprehensive Federal strategy to prevent and control drug trafficking and drug abuse.●

The SPEAKER pro tempore (Mr. FRANK). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4028, 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 an Office of Drug Enforcement Coordination to coordinate Federal efforts to combat illicit drug production and trafficking, and for other purposes."

A motion to reconsider was laid on the table.

SUPREME COURT MANDATORY APPELLATE JURISDICTION REFORM ACT OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5644) to provide greater discretion to the Supreme Court in selecting the cases it will review, as amended.

The Clerk read as follows:

H.R. 5644

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 "Supreme Court Mandatory Appellate Jurisdiction Reform Act of 1984".

REVIEW OF DECISIONS INVALIDATING ACTS OF CONGRESS

SEC. 2. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 3. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 4. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 5. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 6. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c)(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

(d) Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 7. (a) Section 310 of the Federal Election Campaign Act (2 U.S.C. 437h) is amended by repealing subsection (b).

(b) Section 2 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 29), is amended—

(1) by striking out "(a)" immediately before "Except"; and

(2) by repealing subsection (b).

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court."

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "1252, 1254, 1291," and inserting in lieu thereof "1291".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 933(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

(i) Section 25(a)(4)(E) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)) is repealed.

(j) Section 21(f) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)) is repealed.

(k) Section 12(e) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)) is repealed.

EFFECTIVE DATE

SEC. 8. The amendments made by this Act shall take effect ninety days after the date of the enactment of this Act, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

□ 1350

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

The gentleman from Wisconsin [Mr. KASTENMEIER] 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 Wisconsin [Mr. KASTENMEIER].

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

Mr. Speaker, I will be very brief. This bill (H.R. 5644) unanimously passed the House last Congress under the sponsorship of Mr. Railsback. During the 2 years that have inter-

vened, reasons for final enactment have grown rather than diminished.

This bill substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court and the Court is obligated to hear and decide those cases. In most instances, these cases do not involve important issues of Federal constitutional law or conflicts in the interpretation of statutes by the circuit courts of appeals. The net effect of the bill is to convert the method of Supreme Court review to a discretionary, certiorari approach.

This change in appellate review is supported by all nine Justices of the Supreme Court. As stated in a letter of June 17, 1982 to me, they clearly state: "* * * we write to express our complete support for the proposals * * * substantially to eliminate the Supreme Court's mandatory jurisdiction."

The nine Justices further observe that mandatory cases permit litigants to require cases to be decided by the Supreme Court regardless of the importance of the issue presented or its impact on the general public. With limited time and resources at its disposal, "* * * it is impossible for the Court to give plenary consideration to all the mandatory appeals it receives. * * *" The Court must resort to summary dispositions that sometimes treat litigants in a cavalier way. Even though the summary dispositions of the Court are binding on the lower Federal courts and State courts, such decisions, in the Court's own words, "sometimes create more confusion than they seek to resolve."

The bill, in addition to being supported by the nine Justices, has been endorsed by the administration, the Judicial Conference of the United States, and the American Bar Association. The bill has its legislative roots deeply set in the American Law Institute's "Study of the Division of Jurisdiction Between State and Federal Courts" (1969), the "Report of the Study Group on the Caseload of the Supreme Court" (1971), the Department of Justice's "Report on the Needs of the Federal Courts" (1977), and my subcommittee's lengthy hearings on "The State of the Judiciary and Access to Justice" (1977) and "Supreme Court Workload" (1983).

There is no known opposition and the bill entails no cost to the Government.

Mr. Speaker, for a more in-depth examination of the proposed legislation, I refer Members to the House Report (No. 98-986) that has been filed. The report provides a lengthy background statement about the current statutory scheme and changes made to it by H.R. 5644.

I urge an "aye" vote on H.R. 5644.

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

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

Mr. Speaker, I rise in support of H.R. 5644, the Supreme Court Mandatory Appellate Jurisdiction Reform Act of 1984.

This legislation, which originated in the 95th Congress and has been enacted at different times by both Houses of Congress, eliminates the mandatory or obligatory jurisdiction of the Supreme Court. This change in appellate review is supported by all nine Justices of the Supreme Court. As their letter of June 18, 1982, points out:

> It is impossible for the Court to give plenary consideration to all the mandatory appeals it receives, * * * to have done so during the 1980 term would have required at least nine additional weeks of oral argument or a seventy-five percent increase in the argument calendar.

Moreover, even though the summary dispositions of the Court are binding on the lower Federal courts and State courts, such decisions, according to the Court, "sometimes create more confusion than they seek to resolve."

The major shortcoming of the current system is that the Supreme Court is required to decide on the merits of cases of no special importance because they happen to fall within the categories which qualify for review by appeal under the current statutes. For example, 28 U.S.C. § 1254(2) authorizes appeal by a party relying on a State statue held to be invalid on Federal grounds by a Federal court of appeals. The notion of a "statute" in this provision applies to municipal ordinances and administrative orders, and it suffices if a State law is held to be invalid as applied. Obviously, the more time the Court must devote to cases of this type which are not of great importance either to the individual States or to the Nation, the less time it has to spend on more significant cases. H.R. 5644 would rectify this situation in a manner consistent with the intent of the Judiciary Act of 1925 to give the Supreme Court discretion to select those cases it deems most important, by eliminating the Court's mandatory jurisdiction. Accordingly, I urge my colleagues' support for this important court reform measure.

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

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Speaker, I rise in strong support of H.R. 5644, the "Supreme Court Mandatory Jurisdiction Reform Act of 1984."

The U.S. Supreme Court occupies a unique place in our constitutional scheme of government. Created by article III of the Constitution, the Supreme Court sits at the apex of the American legal system.

One of the principal functions of the Supreme Court is to resolve cases involving principles the application of which are of wide public importance or governmental interest, and which should be authoritatively decided by a final arbiter. Another function is to ensure uniformity and consistency in the law by resolving conflicts in decisions between or among trial courts or lower appellate courts.

The High Court can devote plenary consideration only to about 150 cases a year. During the past several terms, a substantial percentage of the Court's workload has been devoted to mandatory cases that do not have significant public importance. Elimination of these cases from the Court's docket will not preclude High Court consideration of cases of significant import to the Nation, will not have a deleterious impact on litigants, and will not adversely affect separation of powers or federalism.

Mr. Speaker, I have heard the pleas of eight Justices of the Supreme Court, and other observers, that the Court's workload is at the saturation point. Elimination of the Court's mandatory jurisdiction, although not a panacea to the Court's problems, is a necessary first step in relieving the Court's calendar crisis. As observed by Justice William Brennan in a recent Judicature article: "Congress could afford the Court substantial assistance by repealing to the maximum extent possible the Court's mandatory appellate jurisdiction and shifting these cases to the discretionary certiorari docket."

I applaud the work of the gentleman from Wisconsin [Mr. KASTENMEIER] in bringing this proposal before the full House. Hopefully, the measure will be passed by the other body and signed by the President before the end of this Congress.

I urge an "aye" vote.

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Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield myself just enough time to thank and compliment the Members of the subcommittee who over a period of years worked on this subject to produce the bill before us today.

● Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 5644, the Supreme Court Mandatory Appellate Jurisdiction Reform Act of 1984. This important court reform initiative has the support of the administration, the Judicial Conference, all nine Justices of

the U.S. Supreme Court, and the American Bar Association. In fact, there has been no opposition to this proposal since its initial introduction in the 95th Congress. I would like to note that last Congress, this legislation was introduced in the House as H.R. 6872 by by our former colleague from Illinois, Mr. Railsback, who, during his 16 years in Congress, made many significant contributions in the area of court reform.

H.R. 5644 substantially eliminates the mandatory or obligatory jurisdiction of the Supreme Court. Under current law, certain cases may be appealed directly to the Supreme Court, and the Court is obligated to hear and decide those cases. In most instances, these cases do not involve important issues of Federal constitutional law. Rather, the categories of cases defined by the exisiting appeal provisions are essentially arbitrary. The new effect of H.R. 5644 is to convert the method of Supreme Court review to a discretionary rather than a mandatory approach.

The need for this legislation is heightened by the ever-increasing caseload of the Supreme Court. In all, eight of the nine Supreme court Justices have recently made public statements on the workload of the Supreme Court and the need to do something about it. While H.R. 5644 may not be the final answer to addressing the buregoning workload of the Supreme Court, it is certainly a significant first step that I urge my colleagues to support.●

Mr. KASTENMEIER. 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 Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5644, 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 motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KASTENMEIER. 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. 5644, the bill just passed.

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

There was no objection.

FEDERAL COURTS CIVIL PRIORITIES ACT

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5645) to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5645

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 "Federal Courts Civil Priorities Act".

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 2. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, 'good cause' is shown if a right under the Constitution of the United States or a Federal statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.".

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 3. The following provisions of law are amended:

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(11)) is repealed.

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h(c)), is repealed.

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(i)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-La-Guardia Act (29 U.S.C. 110) is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C.160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "the court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(40)(A) Section 2004(e) of the Revised Statutes of the United States (42 U.S.C. 1971(e)) is amended—

(i) in the third paragraph, by striking out "An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application" and inserting in lieu thereof "The execution of an order disposing of an application pursuant to this subsection"; and

(ii) in the eighth paragraph, by striking out the first sentence.

(B) Section 2004(g) of the Revised Statutes of the United States (42 U.S.C. 1971(g)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the third paragraph.

(41)(A) Section 10(c) of the Voting Rights Act of 1965 (42 U.S.C. 1973h(c)) is amended by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited".

(B) Section 301(a)(2) of the Voting Rights Act of 1965 (42 U.S.C. 1973bb(a)(2)) is amended by striking out ", and to cause the case to be in every way expedited".

(42)(A) Section 206(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-5(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(B) Section 706(f)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(2)) is amended by striking out the last sentence.

(C) Section 706(f)(5) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(f)(5)) is amended to read as follows:

"(5) The judge designated to hear the case may appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure.".

(D) Section 707(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-6(b)) is amended—

(i) in the first paragraph, by striking out "to assign the case for hearing at the earliest practicable date," and by striking out ", and to cause the case to be in every way expedited"; and

(ii) by striking out the last paragraph.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under the subheading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of The Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by a law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than sixty days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 405(e) of the Surface Transportation Assistance Act of 1982 (Public

Law 97-424; 49 U.S.C. 2305(e)) is amended by striking out the last sentence.

(55) Section 606(c)(1) of the Rail Safety and Service Improvement Act of 1982 (Public Law 97-468; 49 U.S.C. 1205(c)(1)) is amended by striking out the second sentence.

(56) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(57) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(58) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 4. The amendments made by this Act shall not apply to cases pending on the date of the enactment of this Act.

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

The gentleman from Wisconsin [Mr. KASTENMEIER] 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 Wisconsin [Mr. KASTENMEIER].

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

Mr. Speaker, this afternoon the House has before it H.R. 5645, a bill to restructure the way in which the Federal courts prioritize the cases before them. This bill has the support of the administration, the Judicial Conference of the United States, the American Bar Association and the Association of the Bar of the city of New York.

The basic purpose of this bill is to create an orderly system of civil priorities. Under current Federal law there are over 80 types of civil cases which must receive expedited treatment. It is clearly impossible for each of these categories of cases to be first—at the same time. The reason the courts have been presented with this chaotic mix of inconsistent directions is the inability of Congress to rationalize competing interests. Each time a committee passes out a new Federal cause of action it believes that those cases should be given a priority. This ad hoc type of development is incoherent and impossible to follow.

The bill repeals virtually all the existing civil priorities and creates a general rule. The general rule is that cases involving liberty such as habeas corpus or collateral review cases shall be given priority. In addition, Federal courts shall give priority to applications for temporary or preliminary injunctive relief. Finally, the courts may grant a priority status to other cases for good cause shown. This last provision is designed to permit the courts to sort out important cases from the frivolous. Not all civil cases contain the same intrinsic merit, even those brought under important Federal statutes. In sum, we trust Federal judges to decide cases on the merits; the least we can do is to trust them to set their own calendar within these general confines.

I do not believe there is any controversy about this bill; it passed the House unanimously last Congress and it is without opposition this Congress.

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

Mr. Speaker, I hope that the members of other committees of this House will pay some attention to H.R. 5645 and hopefully not report to this House in the future bills to set up a lot of new civil case priorities. It tends to have happened in a piecemeal fashion over the years.

I would like to commend the chairman and members of the Courts Subcommittee for their excellent work on H.R. 5645, the Federal Courts Civil Priorities Act, which would permit courts of the United States to establish the order of hearing for certain civil cases. The legislation accomplishes the objective basically by repealing most of the statutory provisions that require the expediting of civil cases in the Federal courts.

Now lately we have had a rush of provisions in other legislation to try to establish Federal causes of action, Federal civil actions. That is another thing, another fad, just like the civil priorities that have been established over a period of time and that this bill seeks to wipe out so that we can have an orderly way of dealing with civil litigation in the Federal courts.

The need to bring some semblance of order to the vast array of civil priorities that are spread throughout the United States Code, from title 2 to title 49, is well documented. The Department of Justice in their testimony before the Subcommittee on Courts, Civil Liberties and the Administration of Justice accurately observed that:

> These provisions have been enacted in a piecemeal fashion over the years with no attention to their cumulative impact on the courts and no effort to create an integrated, internally consistent set of instructions that can be effectively implemented by the courts. Thus, for instance, there are a number of provisions which require the court to hear particular categories of cases before all others, but no indication of how conflicts between such categorical priorities are to be resolved.

So, in other words, everything becomes first.

The current situation of unreconciled civil priorities led the Association of the Bar of the city of New York to conclude in their report on "The Impact of Civil Expediting provisions of the U.S. Courts of Appeals," that "* * * it becomes impossible to comply literally with the statutory requirements." H.R. 5645 effectively addresses this problem by revoking all but the most necessary expediting provisions, such as habeas corpus, and replaces them with a single standard which the courts can apply to all cases to determine the need for expedition.

This is as it should be.

H.R. 5645 is needed and important legislation that I urge my colleagues to actively support.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER], a member of the subcommittee.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 5645, the Federal Courts Civil Priorities Act. This bill recognizes that the courts are in the best position to determine which particular cases need to be expedited on their docket. The courts, after weighing the relative needs of various cases on their dockets, can then establish an order of hearing that treats all litigants fairly.

The bill would retain priority status for only three types of cases: Cases involving personal liberty, cases involving requests for temporary restraining orders or preliminary injunctions, and cases where "good cause" had been shown.

I want to commend Chairman KASTENMEIER for addressing the unique nature of cases filed under the Freedom of Information Act [FOIA] and establishing it as a priority under the "good cause" clause.

The Freedom of Information Act is a major tool through which the public and the press obtain information about their Government. Such information is perishable in most cases. Prompt review of decisions denying access to Government information is critical to insure its value to the public.

I offered an amendment to H.R. 5645 during full Judiciary Committee deliberations that would have given expedited treatment to FOIA cases. The committee instead adopted a substitute offered by Chairman KASTENMEIER that defined "good cause" so that FOIA cases could be eligible for expedited treatment. The bill's report language clearly states FOIA cases' priority.

Chairman KASTENMEIER has done a great job of preserving FOIA's strength. He has insured the American public that their right to know their Government's actions is secure.

□ 1410

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

Mrs. SCHROEDER. I yield to the gentlewoman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I want to compliment the gentlewoman for her role in the subcommittee for bringing forward the concern that the press in this country have continued ability to bring freedom of informa-

tion cases in terms of the timing of cases before Federal courts. And it was in response to that concern that we placed in the bill the "good cause" language, specifically relating to section 552 of title 5, United States Code, and courts' involvement in that type of case.

So I want to commend the gentlewoman from Colorado for her role and reaffirm that what she says is correct in terms of freedom of information cases.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Wisconsin very much.

● Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 5645 which would eliminate most of the existing civil priorities. Over the past 200 years various Congresses have acted in an ad hoc and random fashion to grant priority to particular and diverse types of civil cases. Unfortunately, so many expediting provisions have been added that it is impossible for the courts to intelligently categorize cases.

When this proposal was originally introduced, approximately 40 expediting provisions had been located. As a result of a further computer assisted search by the Library of Congress and Federal Judicial Center, an additional 40 priority provisions have been located.

This bill wipes the slate clean of such priorities with certain narrow exceptions. The courts are instructed under the bill to give appropriate priority to criminal cases and habeas corpus cases, because of the involvement of personal liberty. In addition, the courts are directed to give priority treatment to cases that involve either applications for temporary restraining orders or preliminary injunctions or to any other cases where good cause has been demonstrated. Moreover, because every congressional committee assumes that actions involving their jurisdiction are the most important, it is virtually impossible to reconcile competing priorities among the tens of provisions.

H.R. 5645 which is supported by the administration, the Judicial Conference, the American Bar Association, and the Bar of the city of New York represents an important court reform initiative and I urge my colleagues' support for it.●

Mr. KINDNESS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANK). The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5645, 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. KASTENMEIER. Mr. Speaker, I as 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 Wisconsin?

There was no objection.

RECORD RENTAL AMENDMENT OF 1984

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5938) to amend title 17, United States Code, with respect to the rental, lease, or lending of sound recordings.

The Clerk read as follows:

H.R. 5938

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 "Record Rental Agreement of 1984".

CONDITIONS ON RENTALS

SEC. 2. Section 109 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution.

"(2) Nothing in this subsection shall affect any provision of the antitrust laws. For purposes of the preceding sentence, 'antitrust laws' has the meaning given that term in the first section of the Clayton Act and includes section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition.

"(3) Any person who distributes a phonorecord in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

COMPULSORY LICENSES; ROYALTIES

SEC. 3 Section 115(c) of title 17, United States Code, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right of the maker of a phonorecord of a nondramatic musical work under subsection (a)(1) to distribute or authorize distribution of such phonorecord by rental, lease, or lending (or by acts or practies in the nature of rental, lease, or lending). In addition to any royalty payable under clause (2) and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under clause (2) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause.".

EFFECTIVE DATE

SEC. 4. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of section 109(b) of title 17, United States Code, as added by section 2 of this Act, shall not affect the right of an owner of a particular phonorecord of a sound recording, who acquired such ownership before the date of the enactment of this Act, to dispose of the possession of that particular phonorecord on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before the date of the enactment of this Act.

(c) The amendments made by this Act shall not apply to rentals, leasings, lendings (or acts or practices in the nature of rentals, leasings, or lendings) occurring after the date which is five years after the date of the enactment of this Act.

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

The gentleman from Wisconsin [Mr. KASTENMEIER] 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 Wisconsin [Mr. KASTENMEIER].

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

Mr. Speaker, today I bring to the floor H.R. 5938, the Record Rental Amendment of 1984. This bill modifies the "first sale" doctrine as embodied in section 109(a) of the Copyright Act to require authorization of the copyright owners in a sound recording before that recording may be commercially rented. It involves no cost to the Federal Government.

Under existing law, a phonorecord of a copyrighted sound recording may be commercially rented without the permission of, or compensation to, the copyright owners. According to testi-

mony received by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, there are approximately 200 commercial record rental establishments in the United States. These establishments rent records at low cost, and frequently sell blank audio cassettes as well. One such establishment even advertised, "Never, ever buy another record."

This direct link between commercial record rental and the making of a copy of the record without the permission of or compensation to the copyright owners is the economic and policy concern behind this legislation.

The Senate has already passed a similar bill, S. 32, unanimously. The subcommittee improved on that proposal (H.R. 1027) by adding amendments exempting nonprofit schools and libraries, exempting existing inventories, adding a 5-year sunset provision, eliminating criminal penalties for infringement, and affirming the continued application of Federal antitrust laws. We also made explicit that songwriters with a copyright in a sound recording share proportionately in any royalties from rentals.

It should be noted that although the subcommittee also considered legislation (H.R. 1029) to prohibit the commercial rental of videocassettes or other audiovisual works, the bill we reported does not include this proposal and is limited to phonorecords. Nor does this bill address the issue of home taping of copyrighted works for private, noncommercial use.

H.R. 5938, a clean bill, was reported unanimously by both the subcommittee and the Committee on the Judiciary. It is supported by the administration, the Copyright Office, and a coalition of music publishers, songwriters, artists, and recording companies. It is a worthwhile proposal that deserves your support as well.

Mr. KINDNESS. Mr. Speaker, I yield myself such time as I may consume not to exceed 3½ minutes.

Mr. Speaker, I rise in support of H.R. 5938, relating to the rental, lease or lending of a musical record. This legislation has strong bipartisan support. A similar measure has already passed the other body (S. 32). The effect of this legislation is that unless authorized by the copyright owners, a purchaser of a particular phonorecord may not, for the purposes of direct or indirect commercial advantage, rent or lease a phonorecord to another person. Unlike the renting of a motion picture, the renting of a record is done almost exclusively for the purpose of making a copy of that music without any compensation to the copyright owner and thereby displacing a particular sale of that music. If this practice were permitted to continue and grow it would only be a matter of time before our music industry as we know it today, would be a thing of the past.

During our hearings there were a number of concerns expressed about the effect of H.R. 5938 and they were addressed by amendment in subcommittee, for example, there were witnesses who expressed concern that this legislation might permit the record industry to engage in activity contrary to existing antitrust policy. An amendment was added to make clear that nothing in this bill constitutes an expressed or implied repeal of the Federal antitrust law. This legislation would not permit copyright owners to engage in conduct that is otherwise unlawful under the antitrust law. It was also made clear in subcommittee that H.R. 5938 is not retroactive. That is to say, that a rental store owner who purchased his entire inventory prior to the effective date of this legislation will be free to commercially lend, lease, or rent that inventory without permission of the copyright owner. Also the committee believes that a 5-year sunset provision was in order. The purpose of the sunset provision is to enable the Judiciary Committee to review and reconsider the appropriateness and justification for this legislation at a later time.

Mr. Speaker, this is important legislation. The first sale doctrine was never intended to be used as a mechanism to create a second-hand rental market that would eventually replace a primary sales market or replace a traditional public performance market.

I urge your support for H.R. 5938.

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

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. EDWARDS], the author of the bill.

□ 1420

Mr. EDWARDS of California. Mr. Speaker, I am pleased to rise in support of H.R. 5938, the Record Rental Amendment of 1984. H.R. 5938 modifies the "first sale doctrine" of the Copyright Act to protect the interests of copyright owners in sound recordings and the underlying musical composition by requiring that their consent be obtained before sound recordings could be commercially rented.

For some time, I have advocated a number of legislative proposals to bring our copyright laws, which have not always kept current with advances in technology, up to date. This bill, which I first offered as part of a broader package in 1982, is an important part of that effort.

The phenomenon of commercial record rentals is quite recent. In any one of the approximately 200 record rental stores across the country, for as little as 50 cents, a person can rent a record album, copy the album onto a cassette, and then return the record to the rental store. These stores offer to the public a way of obtaining music without having to purchase a record and subsequently without paying a cent to the creator and copyright owner of that music. The result is lost royalties to recording artists, musicians, composers, and publishers, and lost sales for retail record stores, distributors and manufacturers. The threat these stores present to the health of the recording industry and to record retailers is substantial.

The law needs to be revised so that the growing record rental problem does not add to the estimated $1.4 billion annual loss already caused by home music taping. The bill we are considering today will bring the "first sale doctrine" up to date to reflect these recent changes in technology and in the marketplace.

Mr. Speaker, I would like to take a moment to thank the distinguished chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, Mr. KASTENMEIER, for his work on this important bill. The gentleman from Wisconsin has certainly been in the forefront in urging exploration of the implications of technological change for our copyright laws. I look forward to continuing to work with him in this regard, as we strive to reconcile the needs of creators, users of new technologies and the public.

His work on the Record Rental Amendment of 1984, and that of the other subcommittee members and the fine staff, shows that careful deliberation can achieve that balance. The result is a balanced, well crafted bill which addresses fairly the needs of the creative community, the concerns of record retailers, and the public interest.

Mr. Speaker, I also congratulate and thank the distinguished ranking minority member of the subcommittee, the gentleman from California [Mr. MOORHEAD] and, of course, the floor leader on the other side of the aisle for today, the gentleman from Ohio [Mr. KINDNESS] whose contributions to the issue have been large.

Mr. Speaker, I urge approval of this important legislation.

Mr. KINDNESS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. SAWYER].

Mr. SAWYER. I thank the gentleman for yielding me this time.

Mr. Speaker, I may say that this bill was a very persuasive case presented by the recording companies. On listening to similar testimony on the video tape I was not nearly as persuaded, and I think that was the general consensus of the subcommittee at the time.

This does not, and I emphasize this, address the so-called Sony case, or the interfering with anybody's private

right to record in their own home for noncommercial purposes or copy a recording in their own home for noncommercial purposes. I think we make clear in our report that we did not intend to approach that question or have any impact on it.

Historically, this problem of first sale comes from the ancient English common law which prohibited the putting of alienations or restrictions on property when you sold it. They call it the restraint against alienation rule. Then it was incorporated in our copyright law in 1909, and again in another redoing of that law in 1947, and then modernized, but still substantially the same, in the 1976 copyright law.

It has become obvious after listening to the testimony that the time had come to change that and give copyright owners the protection against at least the deliberate duplication for a commercial purpose and sale of their records. I would urge full support of the bill.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado, Mrs. SCHROEDER, a member of the subcommittee.

Mrs. SCHROEDER. I thank the gentleman for yielding me this time.

Mr. Speaker, as a cosponsor of this legislation, I am delighted to see it on the floor today. The record rental bill is noncontroversial and has enjoyed overwhelming support from the subcommittee and full committee. The Senate has already passed a separate record rental bill.

The bill simply states that under the copyright laws, prerecorded audio records and tapes may not be commercially rented unless authorized by the copyright owner. It's a bill that acknowledges the constitutional copyright principles that protect intellectual property; namely, that the payment of royalties for the use of creative property is the only method by which the creator is rewarded and provided an incentive to future creativity. That principle serves the interest of both the copyright holders and the public.

Currently, the rental record business ignores the copyright holders' right to be compensated. While record rental stores have only been recently established, there are approximately 200 commercial record rental stores. The stores rent the records for rates of $.50 to $2 per day. Blank tapes are frequently sold in the same stores. People can rent records and tape them, without compensating the copyright holder for his or her work. When one combines that with the fact that audio hometaping displaces record sales of approximately $1.4 billion annually, money that does go to the copyright holder, one can see why it is important to nip in the bud the record rental stores' abuse of the first sale doctrine.

It's the direct relationship between the commercial rental of a record and the making of a copy of the record without the permission of or compensation to the copyright owner that prompted the subcommittee to act on the legislation.

The subcommittee report and the chairman of the subcommittee have stated that the bill does not set a precedent for hometaping issues. However, one cannot overlook the important interrelationship of the two issues.

Both address the copyright holder's constitutional right to be compensated for his or her work.

Both address the economic harm of audio hometaping.

Both address the recent clash between our rapid technological advancement and the copyright laws. Copyright law must keep pace with these new technologies.

The preservation of strong copyright laws is important to the creativity that has become our country's trademark all over the world. I would like to thank Chairman KASTENMEIER for making one more step toward strengthening those laws, and urge him to continue in that tradition by examining further the issue of technology's effect on copyright and in particular the hometaping issue.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to a member of the subcommittee, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the gentleman for yielding me this time, and I want to thank him for his work on this bill. This is, as the gentlewoman from Colorado has just said, a very important new area. As technology is advancing, the law has to try to keep up, and it is important that we, in a number of areas—not just this one—deal with making sure that those who have legitimate rights of ownership are protected in those rights of ownership, primarily as an incentive, as the gentlewoman has indicated.

Now, we have previously acted on legislation in the subcommittee involving protection of the design of chips, and there will be other areas where it is important that we act not in a way that restricts the flow of information, but which guarantees that the creative people in our society, whether it is in the arts, or whether it is in computer technology or elsewhere, get the kind of protection of rights of ownership which is necessary for an incentive, and, at the same time, does not stifle competition.

This piece of legislation which has received considerable work from the chairman of the subcommittee and the staff and the Members, I think reaches that goal. It protects those who have a legitimate ownership right. It does what we need to do to keep that incentive in place without stifling legitimate competition and access.

I want to stress one particular point. Many of us on the subcommittee and in the full committee and in the House, are motivated in part by our understanding of the need for proper incentive for creative people—for those who write for those who perform, for those who paint. It is sometimes portrayed, when we deal with copyright matters as if it is a handful of the owners of copyrights who are trying to extract more money from the public. I do not doubt that the owners of copyrights, like the owners of everything, want to extract money from the public. Extracting money from the public is an honorable American profession, and everyone who has a shot at it takes that shot.

□ 1430

But there is another side to this particular issue. We have a few very highly paid performers in the music business, but a lot of people who perform in the music business are the musicians, the side men and side women, so-called, who perform on the records who are not highly compensated. We have people who write songs who do not always get the big hits. We have arrangers and other people who perform creatively.

Record rental without this legislation threatens ultimately their source of income because their income comes from the pool that is available to those who hold the copyrights. But I want to add a caveat here very explicitly to those who do hold the copyrights, and that is to say that we are experimenting.

This is new legislation. This is, as the gentleman from Michigan [Mr. SAWYER] pointed out, a change; an adaptation of copyright law. I think it is a very appropriate one because it is an effort to keep up with new technology. But I, and I think many others are going to want to see that the creative people get a share in the revenues generated here.

If we have a situation where the fees generated here out of rentals in no way reach some of the creative people and they do not always have the copyright—in some cases, the songwriter does not hold the copyright, and in other cases, the musicians, the performers, they never have it. It is going to be important to us to see that they participate in the fruits of this legislation.

Mr. KINDNESS. I yield myself such time as I may consume. Mr. Speaker, I am really encouraged and perhaps enlightened by some of the discussion that has occurred here and I am just delighted to see it come forward because I believe we are seeing in this discussion, this debate, more understanding of what is going on internationally with respect to proprietary interests than we saw last week when

the drug patent extension bill was on the floor.

At that time, what we did was we voted as a House to cut back on the protection of intellectual property in order to give the rights to others to copy that intellectual property at an earlier time.

Today we are acting to protect it.

Last week we were acting to cut it back and at international commerce, we were hurting ourselves for a long time to come.

Remember a couple of years ago the infant formula dispute. That controversy that raged did not really have to do very much with the lives of infants. It had much more to do with an economic struggle, a concern over the control of the means of production. That is what that was really about.

When the World Health Organization formulated a code having to do with infant formula and encouraging breast feeding and discouraging or outlawing, in effect, communications about or advertising about infant formula, it was really an attempt to assure that as these things developed in the developing countries they would be manufactured there, not manufactured in the United States or other developed countries and sold into those lesser developed countries.

The same thing is now happening with prescription drugs and over-the-counter drugs.

Now, what does all this have to do with the bill before us? What it has to do with the bill before us is that we are acting entirely in the reverse direction today if we pass this bill as I think we should, as compared to what we did in cutting back on the patent protections for those who produce or develop pharmaceuticals in the bill that we considered last week.

Maybe we ought to be a little more consistent, but at any rate I am glad to see the intelligent light that has dawned upon us in a consideration of the bill before us today which I sincerely hope the House will pass unanimously.

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

Mr. KASTENMEIER. Mr. Speaker, the gentleman from Ohio [Mr. KINDNESS] has broadened the parameters of this debate somewhat, but nonetheless, I will not yield to the temptation to enter into that particular area.

I would like to yield to the gentleman from California [Mr. BERMAN] 3 minutes. He is a member of the subcommittee who contributed to the work developing this bill.

The SPEAKER pro tempore (Mr. MITCHELL). The gentleman from California [Mr. BERMAN] is recognized for 3 minutes.

Mr. BERMAN. Mr. Speaker, it pleases me that the Record Rental Amendment of 1984 has finally reached the House floor. What we are doing here is tackling a problem before the damage to the creative community is too great, and before the practice of renting records and taping them at home grows so widespread that legislative solutions become more difficult to enact.

The problem we seek to address is clear: People who rent albums do so in order to make unauthorized copies at home. For the store that rents out the record, there is an obvious financial gain. For the person who makes an inexpensive tape of the rented LP, there is an obvious savings. But for the musicians, vocalists, composers, publishers, and record manufacturers who's talent and hard work went into making that record, there is no gain, no compensation—only lost royalties.

While there are legitimate reasons for a video cassette rental market to exist, and I might point out parenthetically that the proponents of amending the first sale doctrine with respect to video cassettes accept that principle, I don't see any justification for allowing this home taping of rented records to continue. Records are meant to be enjoyed over and over again, unlike video cassettes which are generally rented so that they may be viewed once. Many consumers would not care to make the investment needed to purchase a video cassette if they only intended to watch it once. Record consumers, however, should not be encouraged to rent albums they would otherwise buy, simply to facilitate the unauthorized taping and dissemination of these recordings. Renting, and then taping, an album is merely a convenient way for the consumer to avoid paying for what he or she is getting.

Royalties, amounting to only a few pennies per album, derive only from sales. As the option of renting and duplicating records at very small cost becomes more widely available, royalties decline. The loss to the record industry that results from the displacement of sales amounts to $1 billion a year. I worry that this will lead to decisions by record companies not to invest in new talent or less commercially popular artists because they can't afford to take the risk. This hurts artists, consumers, and America's musical tradition.

There is another aspect of record rentals which troubles me, and that is the erosion of the principle that a copyright holder is entitled to compensation for the commercial use of his or her creative property. The financial reward is part of the incentive for artists to contribute their talents to the public domain. In the case of rental stores, their success in no way benefits copyright holders, whose works, after all, form the basis of the rental business. This commercial exploitation of another person's creative property without the proper authorization is unfair and should be stopped.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. BERMAN] has expired.

Mr. KASTENMEIER. May I inquire of the Chair how much time I have remaining.

The SPEAKER pro tempore. The gentleman has 7 minutes remaining.

Mr. KASTENMEIER. Mr. Speaker, I yield 1 additional minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman for yielding me an additional minute.

The bill before us, H.R. 5938, simply amends the "first sale doctrine" in the Copyright Act so that this harmful practice does not gain further momentum. It would require authorization by the copyright owners before a record can be rented out. Private borrowing and the noncommercial lending of public libraries and schools would not be affected. It would still be permissible for stores to rent out their existing inventory without permission of the copyright holders. And there is nothing in this bill that would allow record companies or retailers to engage in activities that are otherwise prohibited by the antitrust laws.

H.R. 5938 represents a fair and reasonable solution to the problem of record rentals and should be passed without further delay. I urge my colleagues to vote "aye."

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. MORRISON], a member of the subcommittee, who contributed to this bill and helped put it in the form it is in.

Mr. MORRISON of Connecticut. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased today to rise in support of H.R. 5938, the Record Rental Amendments of 1984, which I think is a well-crafted bill, the result of careful study and hearings in our subcommittee, and I am pleased and proud to have been a part of bringing it to the floor.

This proposal came before the subcommittee with a laudable purpose; to insure the copyrighted records cannot be commercially rented and presumably copied without the authorization of and compensation to those who created the copyrighted works.

The practice of commercial rental is not currently widespread. However, technological developments in the form of superior copying equipment and the new compact disc present the prospect that without this legislation, creators in the very near future might be deprived of fair compensation and thus the incentive to create.

I am pleased to report that the subcommittee took this excellent proposal and improved upon it. We specifically

exempted public schools and libraries; made it clear that antitrust laws continue to apply; eliminated criminal penalties for infringement; made the bill prospective only excepting existing inventories; and ensured that both the creator of the song and the record share in any royalties. We also provided a 5-year sunset to enable Congress to take account of the actual practices under the law.

Article I, section 8 of the Constitution provides that:

The Congress shall have Power * * * to Promote the Progress of Science and Useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

The monopoly privileges that Congress may confer "* * * are neither unlimited or primarily designed to provide a special private benefit. Rather, the limited grant is a means by which an important public purpose may be achieved." *Sony Corp.* v. *Universal City Studios, Inc.*, 104 S. Ct. 774 (1984).

The congressional role, then, is to define the scope of the monopoly granted to the creator in order to serve as an incentive to the creation of new works for the benefit of the public. Clearly, this necessitates a balancing of interests.

I believe that what we have is an improvement in the copyright law, a proper balancing of the interest of the consumer and the interest of the creator.

□ 1440

That is the central purpose of copyright law. I think it has been realized here.

I would like to commend the chairman for his leadership in forging the necessary changes in this bill that allow it to come to the House floor as a noncontroversial matter and I hope it will be speeded on to passage and sent to the President.

● Mr. FISH. Mr. Speaker, I rise in support of H.R. 5938.

The problem which the record industry faces is more than a clash between titan commercial interest—the larger and more difficult problem is the adaptation of our copyright law, to new technologies. This is not a recent problem. We attempted, with the copyright revision in 1976, to try and adapt the law to various technologies. But the problem and the task of adaptation continues. It grows more serious every day because technology vastly expands the opportunities for copyrighted works to be replicated and used without the owner's control, without the owner's consent, and oftentimes without even the owner's knowledge. And the pace of technological innovation is itself accelerating.

Nowhere is this more apparent than in attempting to adapt the present day use of phonorecords to the traditional concept of the first-sale doctrine. To take a record album that retails at $10.95 and rent it for a day at $2 knowing full well that the album will be recorded and returned—knowing full well that the rental will clearly displace a sale. The idea of copyright is to reward the creator and as a result the public has access to his creation—the problem today is the public has the access like it's never had access before but the creator is not receiving his just reward. That is the adjustment Congress must make in order to preserve the traditional meaning of copyright, which has served this country so very well over the last five decades.

Copyright owners are, because of their creative and entrepreneurial talents, a unique group. They are a minority that cannot readily mobilize grassroots support on legislative issues, particularly copyright ones. This is especially true when the public is offered the choice of using your work product for practically free—but because their contributions to this country's spirit, culture, and economy are so important, the protection of their interest, although at times unpopular, must be on the conscience of the Congress not only as a matter of policy, but as a matter of fairness.

I urge your support for H.R. 5938.●

● Mr. MOORHEAD. Mr. Speaker, I rise in strong support of H.R. 5938, relating to the rental of sound recordings. I have been a consponsor of this legislation for the past two Congresses.

America is the leader in the development of high-technology products—computers and computer software, communications systems, information services, sophisticated chemicals, and the like. We are world leaders, as well, in motion pictures, books, music, records, and cassettes. Similarly, our marketing creativity and ingenuity will continue to be an engine of trade growth. While these products and services hold America's greatest promise for the future, they are also our most fragile commodity—fragile because, while difficult and expensive to create and market, they are easy and inexpensive to copy. The future of U.S. trade in products and services, based on intellectual properties, is critically dependent on a worldwide system of laws that provide adequate and effective protection against theft and unauthorized exploitation by others. In most of the world's developed countries, patent, copyright, trademark, and similar laws exist to protect these important properties. Many of the newly industrialized countries and less developed countries do not have effective intellectual property laws. China, for example, does not have a copyright law, but they have a new patent law which goes into effect in April 1985.

Without improvements in these systems of laws and provision for their effective enforcement, piracy and counterfeiting will become a way of life and will become such a critical portion of the gross national product of those countries that they will be extremely difficult if not impossible to stop. This problem is upon us now. We must create new systems of protection and enforcement. The old wornout systems of the 1960's and 1970's will not serve your industry in the 1980's.

The problems which creators and inventors face today is more than a clash between titan commercial interest, such as Betamax versus motion pictures or performing rights societies versus radio, TV, and jukebox. The larger and more difficult problem is the adaptation of old concepts of copyright law, to new and rapidly changing technologies. The problem today is that the public has access like it's never had access before but the creator is not receiving his just compensation. New technologies have brought the concert into the living room but not the box office, and if our music industry is to remain No. 1 in the world there must be a box office.

Nowhere is this more apparent than in attempting to adapt the present day use of phonorecords to the old copyright concept of the first-sale doctrine. The first-sale doctrine was never intended to be used as means to create a secondhand rental market that, left alone, would eventually replace a primary sales market.

H.R. 5938 would enable copyright owners to control the commercial lending of sound recordings even though ownership of the particular copy has been transferred. A similar measure has already passed the Senate and we expect this to become law this year. I urge your support for this legislation.●

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and I ask whether the gentleman from Wisconsin has further requests.

Mr. KASTENMEIER. No; I do not, Mr. Speaker.

Mr. KINDNESS. If not, Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. 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 Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5938.

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. KASTENMEIER. 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. 5938, the bill just passed.

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

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 32) to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the Senate bill?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 32

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

SECTION 1. This Act may be cited as the "Record Rental Amendment of 1983".

SEC. 2. Section 109(a) of chapter 1 of title 17 of the United States Code is amended by replacing the period at the end thereof with a colon and inserting thereafter the following: *"Provided, however,* That, unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose or authorize disposal of the possession of that phonorecord by rental, lease, or lending, or by any other activity or practice in the nature of rental, lease, or lending.".

SEC. 3. Section 115(c) of chapter 1 of title 17 of the United States Code is amended by renumbering paragraphs (3) and (4) thereof as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right to distribute phonorecords by rental, lease, or lending (or by acts or practices in such nature). Without prejudice to the royalty payable under paragraph (2) of this subsection and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this paragraph equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under paragraph (2) that is payable by a compulsory licensee under such paragraph and under chapter 8. The register of Copyrights shall prescribe regulations to carry out the purpose of this paragraph.".

SEC. 4. This amendment becomes effective upon its enactment.

MOTION OFFERED BY MR. KASTENMEIER

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

The Clerk read as follows:

Mr. KASTENMEIER moves to strike all after the enacting clause of the Senate bill, S. 32 and to insert in lieu thereof the provisions of H.R. 5938 as passed by the House.

The motion was agreed to.

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

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5938) was laid on the table.

EQUAL ACCESS TO JUSTICE ACT AMENDMENTS

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5479) to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 504(a)(1) of title 5, United States Code, is amended—

(1) by striking out "as a party to the proceeding", and

(2) by adding at the end thereof the following:

"The decision of the adjudicative officer on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) Section 504(a)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal.".

(c) Section 504(b) of title 5, United States Code, is amended—

(1) by amending paragraph (1)(B) to read as follows:

"(B) 'party' means a party, as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $1,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $5,000,000 at the time the adversary adjudication was initiated, and which had not more than five hundred employees at the time the adversary adjudication was initiated; except that (I) an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) may be a party regardless of the net worth of such organization or cooperative association, and (II) the adjudicative officer involved may adjust the net worth standards of $1,000,000 and $5,000,000 contained in this subparagraph, when appropriate, to reflect increases in the cost of living;";

(2) in paragraph (1)(C)—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that Act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof;

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(E) 'position of the agency' includes, but is not limited to, the actions and omissions of an agency which led to the adversary adjudication.".

(d) Section 504(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) A party dissatisfied with a determination of fees and other expenses made under subsection (a) may, within thirty days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. If the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), it may, within thirty days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on all appeals heard under this paragraph shall be based solely on the factual record made before the agency.".

(e) Section 504(d)(2) of title 5, United State Code, is amended to read as follows:

"(2) There are authorized to be appropriated to each agency for any fiscal year beginning on or after October 1, 1984, such sums as may be necessary to pay fees and other expenses awarded under this section.".

(f) Section 504 of title 5, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the fees and other expenses awarded under this section is not made within sixty days after the final agency action making an award of such fees and other expenses, interest shall be paid on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date whch is sixty-one days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or official of the United States";

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)"; and

(3) in subsection (d)(1)(B), by inserting immediately after "action" the following:

"or order of remand for further hearing made pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3))".

(b) Section 2412(d)(2) of title 28, United States Code, is amended—

(1) in subparagraph (B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $5,000,000 at the time the civil action was filed, and which had not more than five hundred employees at the time the civil action was filed; except that (I) an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) may be a party regardless of the net worth of such organization or cooperative association, and (II) the court may adjust the net worth standards of $1,000,000 and $5,000,000 contained in this subparagraph when appropriate, to reflect increases in the cost of living;";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(D) 'position of the United States' includes, but is not limited to, the actions and omissions of an agency which led to the litigation;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment the time to appeal which has expired for all parties;

"(H) 'prevailing party in a civil action' includes a party who, pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3)), has won an order remanding the cause for further hearing; and

"(I) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4)(B) of title 28, United States Code, is amended to read as follows:

"(B) There are authorized to be appropriated to each agency for any fiscal year beginning on or after October 1, 1984, such sums as may be necessary to pay fees and other expenses awarded under this subsection.".

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within sixty days after the award of such costs or fees and other expenses, interest shall be paid thereafter on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is sixty-one days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b)(1) of the Social Security Act (42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code, and section 206(b)(2) of that Act shall not apply with respect to any such award.".

SEC. 4. The amendments made by the first section and sections 2 and 3 of this Act shall take effect on October 1, 1984, and shall apply to any adversary adjudication, as defined in clauses (i) and (ii) of section 504(b)(1)(C) of title 5, United States Code (as amended by the first section of this Act), and any civil action described in section 2412 of title 28, United States Code (as amended by section 2 of this Act), which is ending on or commenced after October 1, 1984.

SEC. 5. Section 203(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 6. Section 204(c) of the Equal Access to Justice Act is repealed.

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

The gentleman from Wisconsin [Mr. KASTENMEIER] 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 Wisconsin.

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

Mr. Speaker, I rise in support of H.R. 5479, a bill to extend and improve the implementation of the Equal Access to Justice Act—title II, Public Law 96-481. Portions of the 1980 act expire on October 1, 1984, and urgently need to be extended H.R. 5479 makes the law permanent.

The bill which is before this body is a bipartisan product of the Committee on the Judiciary and was reported by voice vote with no opposition. I would like to commend the members of the subcommittee and the full committee—and in particular the gentleman from New York [Mr. FISH], the gentleman from California [Mr. MOORHEAD], gentlemen from Ohio [Mr. KINDNESS and Mr. SEIBERLING], and the gentleman from Connecticut [Mr. MORRISON] for their assistance in drafting and processing this legislation. I recommend to the Members, the report (H. Rept. 98-992) which the committee has filed on H.R. 5479.

The legislative has widespread support from several organizations including the Small Business Administration's Office of Advocacy, Small Business United, the Small Business Legal Defense Committee, the Small Business Legislative Council, the National Federation of Independent Business, the U.S. Chamber of Commerce, the National Small Business Association, the Independent Business Association of Wisconsin, the Menswear Retailers of America, the Alliance for Justice, and the American Bar Association.

The administration supports the extension of the act, but opposes some of the provisions. I am sure that the administration will agree that H.R. 5479, as reported by the Committee on the Judiciary, has responded to most of the concerns which were raised by the Department of Justice when its representative testified on March 14. H.R. 5479, clarifies and improves many provisions of concern to the Department including: First, the definition of eligible party, Second, the appeal rights and standard of review under the act; and Third, the effect of the act on condemnation proceedings.

The primary purpose of H.R. 5479 is to extend and make permanent those provisions of the Equal Access to Justice Act which will expire on October 1, 1984. These provisions were originally enacted as a 3-year experiment and, I might add, incidentally, not only did the Committee on the Judiciary participate in that regulation (S. 265/H.R. 5612), but certainly so did the Committee on Small Business, of which the present occupant of the chair, the gentleman from Maryland [Mr. MITCHELL] was a principal member. The act provided that the United States shall be liable for attorneys' fees and related expenses to eligible parties who prevail in adversary adjudications and civil actions, unless the United States can show that its position—including its underlying conduct which led to the administrative or court proceeding—was substantially justified or if special circumstances would make an award unjust. The act was aimed at reducing the disparity in resources between the Federal Government and parties in certain administrative and civil court proceedings. Eligible parties under the act are generally small businesses, individuals, units of local government, and other similar organizations. No individual can have a net worth exceeding $1 million. Organizations and businesses—except for agricultural cooperatives and organizations under 501(c)(3) of the Internal Revenue Code—cannot have a net worth exceeding $5 million. All organizations are limited to those with not more than 500 employees.

Rates of compensation for attorneys' fees are generally limited to $75 per hour unless the agency or court deter-

mines that an increase in the cost of living or a special factor, such as the limited availability of attorneys, applies. The act has not been very costly, amounting to only approximately $2½ million in awards since its effective date of October 1, 1981. The Congressional Budget Office [CBO] had originally projected a much higher figure—$100 million.

This year CBO has adjusted its cost estimate[1] downward estimating that the cost of the act, as amended by H.R. 5479, would be approximately $3.7 million for fiscal year 1985 and up to $7 million for fiscal year 1989. If half the parties who prevailed against the United States recovered fees, the figure could go as high as $30 million. However, it is unlikely that the amount would be that high, since there will be no award if the United States can show its conduct was substantially justified.

The major issue which H.R. 5479 clarifies is that the position of the agency or United States which must be substantially justified to relieve the United States of liability when the opposing party prevails is more than the Government's litigation position, and includes the underlying actions and omissions which lead to the proceeding. Although the administration does not like this particular interpretation, this expansive reading of the term is necessary to ensure the basic purpose of the act. Otherwise the Government could act in an unjustified manner until it filed suit or walked into the courtroom, and then escape liability. H.R. 5479 is merely asking that the Federal Government be accountable for its conduct.

In conclusion, Mr. Speaker, I urge your support for this important bill, which will ensure that litigants involved in civil disputes with the Federal Government can vindicate their rights.

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

Mr. Speaker, I rise in support of H.R. 5479, which would permanently authorize the Equal Access to Justice Act and make needed and significant improvements in its provisions.

When the Equal Access to Justice Act was enacted in 1980, it was based on the recognition that, more often than not, individuals and small businesses with limited assets do not have the resources to defend against unjustified Government action. Especially where the cost of vindication routinely exceeds the amount at stake. Moreover, the Government does not have the economic incentive or disincentive to carefully evaluate the merits of its case before proceeding.

[1] See House Report 98-992.

The act rectifies this situation by providing that individuals and small businesses are to be reimbursed for their attorneys' fees if they are successful in certain administrative and judicial actions with the U.S. Government, unless the Government can show that its position was substantially justified or that special circumstances would make such an award unjust.

To date, the number of awards made under the act, especially in administrative proceedings, have been minimal. It has been argued that this is due in large part to the fact that agencies have been reluctant to award attorneys' fees against themselves. As a result of this concern, H.R. 5479 makes it clear that the decisions of adjudicative officers on fee applications in agency proceedings are unreviewable by the agencies. During the full Judiciary Committee's consideration of H.R. 5479, I attempted to strike that provision based on the rationale that creating an unreviewable class of adjudicative officers' decisions is a significant departure from customary agency procedure in that it would be the only issue on which the adjudicative officer makes the final determination. Moreover, in the act's first 2 years, only three adjudicative officers' decisions have been reversed on agency review. However, it was the wisdom of the committee, by a margin of one vote, to give the adjudicative officer the authority to make the final fee determination, rather than the agency itself.

In light of the committee's decision on this issue, I offered a related amendment to ensure that the United States has the same right of appeal of an adverse agency decision on the issue of attorneys' fees and expenses as would a private party. I felt, and the committee apparently agreed in adopting my amendment, that it was inequitable to give a private party the right to appeal while requiring the Government to petition for the leave to appeal.

One of the important improvements in H.R. 5479 is the addition of a new provision which expressly placed Board of Contract Appeals proceedings under the Equal Access to Justice Act. As an author of the Contract Disputes Act of 1978, I have often been frustrated by agency and judicial misinterpretations which run contrary to the spirit of the act. Unfortunately, Equal Access to Justice and its application to the Contract Disputes Act has been yet another example of this type of misinterpretation.

After enactment of the Equal Access Law in 1980, it soon became apparent that Congress inadvertently left the door open to agency and judicial misinterpretation by not specifically authorizing the award of attorneys' fees against the United States in Board of Contract Appeals (BCA) proceedings. It was argued by those trying to limit that liability of the United States that Equal Access had no application to BCA proceedings because Congress had not explicitly authorized the award of attorneys' fees under BCA proceedings. Today, we are overruling this misinterpretation and clearly reestablishing the original intent of Congress to provide Equal Access to Justice in concert with the balanced alternative remedies found in the Contract Disputes Act of 1978. To leave this uncorrected would only undermine the carefully crafted balance set forth for Government contract dispute resolution and further burden the Claims Court with disputes otherwise and perhaps better settled on the BCA level.

In short, Mr. Speaker, the reauthorization of the Equal Access to Justice Act will serve to cement and improve upon the rights of citizens who feel that Government has treated them in an unjustified manner. Accordingly, I urge favorable consideration and passage.

As the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from New York [Mr. FISH] have indicated, the committee adopted several other amendments to the Equal Access to Justice Act in an effort to improve its effectiveness. In light of the importance and complexity, of this legislation I believe that it will be incumbent upon the Judiciary Committee to exercise careful oversight in this area. Having said that, I urge my colleagues to support this significant legislation.

Mr. KASTENMEIER. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER], a member of the subcommittee.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 5479, the reauthorization of the Equal Access to Justice Act. I supported the bill in subcommittee and full Judiciary Committee because it is an important step toward giving individuals, small businesses, and other organizations access to justice in administrative proceedings and civil actions.

H.R. 5479 not only extends, improves, and strengthens the Equal Access to Justice Act—it makes it permanent. The act expands the liability of the United States for attorneys' fees and other expenses to certain parties who prevail against the United States in certain administrative and court proceedings. Therefore, under the bill, prevailing parties in suits against the Government may recover attorneys' fees and certain other expenses when the Government is unable to show that its actions were substantially justified.

In my district of Denver, the small business community considers this bill to be the "magna carta for small busi-

ness." There is a significant number of Federal functions in Denver and Colorado. Consequently, the small business community in Denver is engaged with the Federal Government in many contracts. This bill has had an important impact on small business in my district, and in the country, because it has caused Federal agencies to think twice before it initiates frivolous action. Federal agencies must consider the consequences of this bill.

As a member of the subcommittee, I want to commend Chairman KASTENMEIER and the small business community for their cooperative effort in producing a good, strong piece of legislation.

Mr. KASTENMEIER. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. SMITH] who, representing the Committee on Small Business, had taken the original lead on this legislation 3 years ago and contributed so much to the form which the legislation eventually took. I want to compliment the gentleman from Iowa for his efforts.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend the committee not only for making this access to justice law permanent but also for substantially improving the legislation.

I want to point out a couple of things. For one thing, it was never intended by those of us who were the original authors of this bill in 1980 that the reimbursement would be limited to those cases where a U.S. attorney confirms the agency action. That was never intended, but that is the way it was ruled in at least one of the circuits, and that has been cured in this bill.

I do want to point out a couple of things, though, that I hope in conference the gentleman from Wisconsin and the gentleman from Ohio will favorably consider. In the Senate bill, they include the IRS. Now, I know the Judiciary Committee had jurisdictional problems here, but in the Senate bill, they include the IRS as an agency which must reimburse people in certain cases, and in our hearings, we found that there were substantial numbers of cases where there are arbitrary actions taken by the Internal Revenue Service. I hope that when you come back with the final bill, the IRS will be included.

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Another thing that I want to point out is that in the Senate bill, an agency required to pay the expenses to defend against an action which should not have been taken, shall be required to take out of their salaries and expenses account whatever it is determined should be reimbursed. By doing this, it keeps the pressure on the agency not to be arbitrary or take actions not substantially justified. That is in the Senate bill and if this is done, I think there will be a zero cost. The administration estimated the cost at $100 million. Well, at that time, they were asking for separate appropriations. The last thing we want to do is to give an agency a separate appropriation so that they can pay for whatever they did wrong. If we make them take such a cost out of their salaries and expenses account, then they will not have so many of these arbitrary decisions. So I want to commend the gentleman for this bill and also for the other bills. There are a whole series of bills here on the floor today, all of which have been revealed as needed in hearings before the subcommittee that I am privileged to chair.

One of the bills handled by the gentleman for New Jersey [Mr. HUGHES] and the gentleman from Michigan [Mr. SAWYER] involved priorities on the courts' time. In 1982, one prisoner had 35 habeas corpus petitions and when that happens, it takes the time of the courts away from something that is more important and it squeezes out something that is more important as far as law enforcement is concerned.

Also, the drug enforcement bill is a very important bill, so I want to commend both the full committee and the chairmen of the two subcommittees that have these bills on the floor today.

Mr. KINDNESS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SAWYER].

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

I just want to say, without belaboring this discussion, that this when we first adopted it in 1980 I thought was one of the most necessary and really justice-sounding type of bill. I know that almost all Federal agencies and Federal prosecutors try strictly to bring only those actions or take those positions that are in their view justified, substantially justified; but on occasion it happens that they do not and when it does happen, some small business, some individual, somebody that can ill afford to bear the expenses involved may be subjected to almost a devastating loss beyond either his individual means or the means of his individual business to sustain, even though they end up prevailing in the action.

Now, I would say that in those cases where the Government did not prevail in the action, but the other party did, it should raise I think somewhat of at least a presumption that the action was not substantially justified, leaving it subject to being corrected by proof that through some happenstance or some other reason the Government was substantially justified at the time, but failed to prevail.

I would hope that with these new amendments that we are adding in this bill, trying more and more to point up that question and to say that reasonably justified is not good enough. We turned that down before in the subcommittee and that by substantially justified we intend to mean more than reasonably justified.

I would hope they would look askance at the Government contending for that position and that exemption, where the Government had decisively and rather clearly lost the case, not to say that it cannot be that case, but it seems to me that the courts, as indicated by the figure of the awards given, have been somewhat loathe to exercise the right given them by this bill, and hopefully this bill amends that and will improve that situation.

Mr. KASTENMEIER. Mr. Speaker, I yield 7 minutes to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I rise in support of H.R. 5479, the Equal Access to Justice Act amendments. I am proud to have helped develop this bill in the Subcommittee on Courts, Civil Liberties, and Administration of Justice. I would like to commend our chairman, the gentleman from Wisconsin, for his able leadership in moving this bill forward.

This bill confronts one of the most fundamental problems in our legal system: The gross inequality between the resources of the Federal Government and those who protest its actions; and as the title of the bill suggests, the aim of this legislation is to help remedy this inequality.

H.R. 5479 makes the Equal Access to Justice Act permanent. Under EAJA, the Federal Government is liable for attorneys' fees in some actions when an eligible party prevails against the Federal Government. The Federal Government is liable unless the United States can show that its position, including its underlying conduct, was substantially justified, or unless special circumstances would make an award unjust.

One section of the bill, that pertaining to the Social Security Administration, warrants special attention. In this section, the bill sends a clear directive to the Social Security Administration to reconsider and correct their policies of the past 3 years.

Since passage of the original EAJA legislation in 1980, the overwhelming majority of cases in which the Government's legal position has been found to be "not substantially justified" have involved the Social Security Administration's wholesale cancellation of disability benefits. SSA itself has just completed a study documenting this problem.

As reported by the September 9, New York Times, SSA has stated that "its efforts to remove people from the disability rolls have produced a major

crisis in litigation" and led to a "huge volume of adverse court decisions" and that "the agency's credibility before the Federal courts is at an all-time low" because many judges were convinced that Social Security will "defend any case in court, no matter how terrible the claimant's circumstances."

The confidential study said that there were now 48,000 Social Security cases pending in Federal courts around the country, up from 19,600 at the end of 1981. Last year, it said, 26,798 new cases were filed, an average of about 100 for each workday. Lawsuits have been filed at a slightly higher rate this year. The Government routinely filed answers to the lawsuits without making a "substantive assessment" of whether its positions were defensible, the Times reported.

H.R. 5479 responds in part to these disastrous policies. The bill makes permanent the coverage under EAJA for court proceedings involving SSA. While hearings at the administrative level are not normally covered, administrative hearings at which the Secretary of Health and Human Services is represented by counsel are made eligible under EAJA by this bill. These include the adversarial experiments, Government representation projects, or pilot projects that have been undertaken.

Another important improvement made by H.R. 5479 is clarification of the concept of "prevailing party" in Social Security and SSI cases. The realities are that when a court rules, for example, that the Secretary failed to apply the proper standards in determining disability, the court will remand the case to the Secretary for a new decision in line with the court's instructions. In cases involving SSA, this is normally how a plaintiff prevails and H.R. 5479 recognizes this in terms of EAJA eligibility.

Despite these improvements, the EAJA does not go far enough, in my opinion, in extending coverage in SSA cases. I offered an amendment in the full Judiciary Committee which would have made fees available in all ALJ hearings, not just those in which the Government is represented. Although the amendment initially passed by division, in a subsequent recorded vote decided by proxies, the amendment was defeated 10 to 11. Of course, consideration of this amendment at this time is precluded by the suspension procedure. However, the Senate version of this bill does include the substance of my amendment and I am hopeful that when this bill is considered in conference that coverage will be extended in the final legislation to Social Security proceedings at the adminsitrative level.

I think it is important that when the actions of the Government are not substantially justified with respect to Social Security recipients, the attorneys' fees that it takes to get that action overturned ought not to come out of the recovery of the disabled person, which has been the case up to this point.

Mr. Speaker, if I might, I would like to ask the chairman if he agrees that this is something that could properly be considered in conference and hopefully resolved in the direction that the Senate has moved.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Connecticut yield?

Mr. MORRISON of Connecticut. I yield to the distinguished chairman.

Mr. KASTENMEIER. I might parenthetically say that the gentleman from Iowa [Mr. SMITH] raised a couple of issues as did the gentleman from Connecticut as to matters which may arise hypothetically in a conference.

Obviously, I think the gentleman from Connecticut knows that I sympathize with him in terms of the merits of the amendment he offered, but I felt that tactically and from a parliamentary standpoint, it was not wise or possible to include his amendment at this point.

Within the parameters of the parliamentary situation, and depending upon what the other body does and whether in fact we go to conference, indeed, those matters may come up. I would hope that if it were a matter of conference, that the gentleman from Connecticut would be a conferee to represent that point of view.

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Mr. MORRISON of Connecticut. I thank the chairman and look forward to working with him to accomplish a goal that I think we share.

I yield back the balance of my time.

● Mr. MOORHEAD. Mr. Speaker, I would like to concur in the remarks of the gentleman from Wisconsin [Mr. KASTENMEIER] and the gentleman from New York [Mr. FISH] and indicate my strong support for the extension of the Equal Access to Justice Act. The act provides an important avenue of redress for small businesses and individuals with limited assets when they are forced to litigate against unreasonable Government regulation in order to vindicate their rights. Prior to enactment of the act in 1980, a small businessman subjected to questionable agency regulation would have to assess the costs of contesting the agency action against what was at stake. All too often the amount at stake was exceeded by the costs of contesting the agency action. Under this set of circumstances the small businessman was coerced into compliance even though he may have had a strong case and ultimately prevailed on the merits.

I think it is significant that there have been a relatively low number of applications for awards filed under the act during its first 2 years. While the low number of applications may in part be a result of the act's novelty, as well as certain ambiguities in its provisions, I think they also indicate that the act is helping to provide for a more accountable bureaucracy. Moreover, the experience under the act to date, has helped to highlight existing ambiguities and problems that have been encountered with implementation of the act. H.R. 5479 is designed to address these problems in a manner that will improve the act's effectiveness. The act has wide support from such organizations as the Small Business United, Small Business Legal Defense Committee, Small Business Legislative Council, the National Federation of Independent Business, the Chamber of Commerce, the National Small Business Association, the American Bar Association, and the Alliance for Justice. Accordingly I urge my colleagues to strongly support the passage of H.R. 5479.●

● Mr. FISH. Mr. Speaker, I strongly support the enactment of this legislation which would reauthorize the Equal Access to Justice Act and make important improvements and clarifications in its provisions.

When Congress first approved the Equal Access to Justice Act in 1980 (Public Law 96-481), it was rightfully hailed as landmark legislation by the small business community. This law makes it clear that when individuals, small businesses, and other small organizations prevail against the United States in an administrative proceeding or in a court action, that they should be reimbursed for their attorney's fees and related legal expenses unless the position of the United States is determined to be "substantially justified" or that special circumstances make such an award unjust.

So, Congress intended to place small businesses, other small organizations, and individuals on a more equal footing with the Federal Government in both regulatory proceedings and court actions. Specifically, we wanted to give them an option, rather than simply having to "give in" in the face of costly litigation with the Federal Government. We also wanted Federal departments and agencies to give careful consideration to the real merits of their case before pursuing an administrative enforcement action or a court proceeding. If individuals or small businesses are victims of careless, unreasonable, or unfair governmental action, they should not be forced to merely capitulate or to bear the cost of their successful defense.

H.R. 5479 would permanently authorize the Equal Access to Justice Act. Originally, the statute provided

for a 3-year trial period, from October 1, 1981 to September 30, 1984. Experience under the EAJA has proven to be, on balance, successful and its implementation has been far less expensive than its critics originally estimated. During the first 2 fiscal years of its operation fiscal year 1982 and fiscal year 1983), only 72 awards were made, totaling approximately $2.5 million. Sixty-four of these awards were in court proceedings and eight of these awards were in administrative proceedings. The amount of these awards is far less than the $100 million annual estimate by the Congressional Budget Office when the EAJA was enacted in 1981. It should be emphasized that the updated cost estimate done by the CBO for H.R. 5479 is considerably less than its initial estimate—$7 million per year.

H.R. 5479 also makes important clarifications and additions to the language of the statute. First, this legislation makes it clear that the "position of the agency" and "position of the United States" in the Equal Access to Justice Act means not only the formal position taken in litigation but also includes those actions or omissions by the agency that led to the adversary adjudication or court proceeding in the first place. Second, this measure extends EAJA coverage to proceedings before agency boards of contract appeals under the Contract Disputes Act of 1978 (41 U.S.C. §§ 601-613). Also, this measure gives the United States, for the first time, the right to appeal a fee determination by an administrative law judge. At the current time, only a nongovernmental party can appeal fee awards under this statute.

H.R. 5479 also includes the language of amendment which I offered in the full Judiciary Committee to expand the definition of eligible "party" under this statute. As originally enacted, the definition of party contained the words "corporation" and "organization". The issue as to whether or not units or local government were eligible to be reimbursed for attorney's fees and court costs was left ambiguous. The unfortunate result has been that, for the most part, smaller governmental bodies have not been considered to be eligible parties under the act.

In my estimation, the Equal Access to Justice Act should assist any small organization, whether private or governmental, that is involved in a regulatory or litigation dispute with the United States and where the position of the United States is determined to be not "substantially justified." Units of local government are frequently involved in adjudications or litigation regarding grant eligibility and grant reductions under a variety of Federal assistance programs. Smaller governmental entities face the same cost deterrents and other disadvantages that small businesses do in such proceedings. They should be eligible for reimbursement for their fees and expenses where appropriate. I was most gratified when my amendment was adopted by the full committee.

This extension of the Equal Access to Justice Act has received broad support from such groups as the Chamber of Commerce of the United States, the National Federation of Independent Business, the American Bar Association, the National Small Business Association, the Administrative Conference of the United States, and the Office of Advocacy of the Small Business Administration.

In summary, this legislation permanently codifies a remedial statute that has proven that it can work well and, in addition, makes numerous clarifications in the langauge of the law to further assure fairness to both sides. I strongly urge my colleagues to support the passage of H.R. 5479.●

Mr. KINDNESS. Mr. Speaker, I have no further requests for time, and if the gentleman from Wisconsin [Mr. KASTENMEIER] has no further requests, I yield back the balance of my time.

Mr. KASTENMEIER. 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 Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 5479, 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.

SHOALWATER BAY INDIAN TRIBE — DEXTER - BY - THE - SEA CLAIM SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5714) entitled the "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act".

The Clerk read as follows:

H.R. 5714

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 "Shoalwater Bay Indian Tribe—Dexter-by-the-Sea Claim Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in its patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in such civil action;

(6) the pendency of such civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States under section 4 of this Act:

(a) All rights, title, and interest of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot 1 in section 11, township 14 north, range 11 west, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate number 3763, shall be ratified.

SEC. 4. (a)(1) If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, $1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided*, That nothing in this Act shall be construed as requiring that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

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

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Washington [Mr. PRITCHARD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

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

Mr. Speaker, H.R. 5714 is a bill by our colleague from Washington, Mr. BONKER, to provide for the settlement of the land claim of the Shoalwater-Bay Indian Tribe in western Washington. The tribe has filed suit in Federal district court against the owners of about 60 parcels of private property located in a subdivision known as Dexter-by-the Sea. It appears that these property owners derive their titles from a patent erroneously given by the United States to one George Brown in 1872. This patent was issued for lands which in 1866 had been reserved by Executive order to the Indian tribe.

H.R. 5714, introduced by Mr. BONKER, would remove the clouds on the titles of these innocent landowners who purchased these lands in good faith and would award $1.115 million to the tribe. In exchange, the tribe would relinquish its claims to these lands.

Mr. Speaker, H.R. 5714 has bipartisan support as an identical bill, sponsored by Senator GORTON, has already passed the Senate. The bill would rectify a mistake that was made some 113 years ago by the United States and in the process would prevent the ejectment of some innocent homeowners. Therefore, I urge its passage by the House.

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

Mr. Speaker, I rise in support of H.R. 5714. This is an unusual situation in which clearly the law has been badly bent and the result is that there are a lot of homeowners who have a cloud over their homes.

While normally we would not go this way, I think it makes eminently good sense because it will be far more expensive for the Federal Government if we go ahead with these lawsuits. So I would urge support of my colleagues for this measure and yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the author of the bill, the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, this legislation, H.R. 5714, is designed to settle a longstanding land dispute involving the Shoalwater Bay Indian Tribe and residents of the Dexter-by-the-Sea subdivision near Tokeland in southwest Washington. The bill will provide a monetary settlement to the tribe for land wrongfully transferred to innocent non-Indians.

In 1866, President Andrew Johnson established a reservation for the Shoalwater Bay Indian Tribe by Executive order. This controversy has its roots in an action 6 years later, in 1872, when the United States, because of a technical error, permitted part of the reservation to be patented away. The area in question, part of what is presently known as the Dexter-by-the-Sea subdivision, was sold to individual non-Indian purchasers who had every reason to believe that they were getting clear legal title to the land.

The present Dexter-by-the-Sea landowners, some of whom are retired and depend on their homes as nest eggs, recently found that title to the land in question was clouded when the Shoalwater Bay Indian Tribe brought suit to recover this portion of their reservation. These landowners are faced with a lawsuit for trespass and ejectment and cannot sell their property until this matter is cleared up. This represents a severe hardship for these individuals, who reasonably believed they had good title to the land, brought about by a Government error in granting the original 1872 patent to the land.

Mr. Speaker, where the United States is responsible for this unfortunate state of affairs, it should also be responsible for its resolution. This legislation is the product of careful negotiation between all of the concerned parties. It represents a delicate balancing of the tribe's interest in the land in question, the need to clear the title of the Dexter-by-the-Sea property owners, and local, State, and Federal interests.

If we fail to approve this settlement, the result will be personal hardship and years of expensive and divisive litigation. The Federal Government would not be spared these consequences. Judge Tanner has already ruled that the Federal Government is not immune from liability in this case either under the sovereign immunity doctrine or a narrow construction of the Federal Tort Claims Act. The Government is a party defendant in this action. Liability and legal expenses could involve millions of Federal dollars. Even without figuring in damages, the cost of the property would be well over $1 million (the 1983 assessed value of the 92 lots in the Dexter-by-the-Sea develoment was over $2.5 million—it is estimated that 62 of the lots are within the reservation boundaries). To oppose this legislation on budgetary grounds would be a false economy. The costs to the Government of rejecting this settlement are far greater than accepting it.

Mr. UDALL. 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 Arizona [Mr. UDALL] that the House suspend the rules and pass the bill (H.R. 5714).

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.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1735) entitled the "Shoalwater Bay Indian Tribe-Dexter by the Sea Claim Settlement Act," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1735

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 "Shoalwater Bay Indian Tribe-Dexter-by-the-Sea Claims Settlement Act".

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) there is pending before the United States District Court for the Western District of Washington at Tacoma a civil action numbered C83-167T entitled the "Shoalwater Bay Indian Tribe, a federally recognized Indian tribe against Joe Amador and Jean Amador, et al.", which involves claims to certain privately held lands within the Shoalwater Bay Indian Reservation in Tokeland, Washington, known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea;

(2) the owners of such lands derive their title from a patent issued by the United States Government to George N. Brown on August 1, 1872, certificate numbered 3763;

(3) the Shoalwater Bay Indian Reservation was established by Executive order of President Andrew Johnson on September 22, 1866, and is alleged to include the lands claimed by the Shoalwater Bay Indian Tribe in such civil action;

(4) in it patent to George N. Brown in 1872, the United States failed to exempt the lands claimed by the Shoalwater Bay Indian Tribe in such civil action from the Shoalwater Bay Indian Reservation established in 1866;

(5) since 1872, such lands have been the subject of disputes claiming dual chains of title in the United States as trustee for the Shoalwater Bay Indian Tribe and the patentee, George N. Brown and his successors in title, the defendants in the civil action;

(6) the pendency of the civil action has placed a cloud on the titles held by residents of Dexter-by-the-Sea and First Addition Dexter-by-the-Sea rendering their property essentially unmarketable; and

(7) a legislative resolution of such civil action is appropriate because the United States Government is responsible for the failure to except the land now known as Dexter-by-the-Sea and First Addition Dexter-by-the-Sea from the patent to George N. Brown in 1872.

SEC. 3. Upon receipt of the funds to be paid from the Treasury of the United States of under section 4 of this Act:

(a) All rights, title, and interests of the Shoalwater Bay Indian Tribe, in, and claims to, the lands which are located within the State of Washington in the westerly portion of Government lot 1 in section 11, township 14N, range 11W, W.N., that are the subject of the civil action referred to in section 2(1) of this Act and are known as Dexter-by-the-Sea Subdivision and First Addition to Dexter-by-the-Sea Subdivision, shall be extinguished.

(b) The lands described in subsection (a) shall not be considered to be within the exterior boundaries of the Shoalwater Bay Indian Reservation. Except to the extent provided in the preceding sentence, the exterior boundaries of such reservation shall not be affected by the provisions of this Act.

(c) The validity of the patent issued by the United States on August 1, 1872, to George N. Brown, certificate numbered 3763, shall be ratified.

SEC. 4. (a)(1) If the requirements of subsection (b) of this section are met, the Secretary of the Treasury is authorized and directed in fiscal year 1985 to pay, out of funds in the Treasury of the United States not otherwise appropriated, $1,115,000 directly to the Shoalwater Bay Indian Tribe.

(2) The funds described in paragraph (1) shall be paid by the Secretary of the Treasury in full settlement of all claims of the Shoalwater Bay Indian Tribe, and of any other party to such civil action described in section 2(1), which arise by reason of the issuance of the patent described in section 3(c).

(b) The requirements of this subsection are met if—

(1) the governing body of the Shoalwater Bay Indian Tribe adopts a resolution which—

(A) authorizes the execution by an officer or official of such tribe of documents as the Secretary of the Interior determines to be necessary to settle the claims described in subsection (a)(2),

(B) waives all rights and claims of such tribe against the United States, and against any other person, which arise by reason of the issuance of the patent described in section 3(c), and

(C) is approved by the Secretary of the Interior, and

(2) a final order is entered in the civil action described in section 2(1) which dismisses with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(c) None of the funds paid to the Shoalwater Bay Indian Tribe under subsection (a)(1) shall be used to make any per capita distribution to members of such tribe.

SEC. 5. (a) The Shoalwater Bay Indian Tribe is authorized to utilize the funds paid to the tribe under provisions of this Act for any purpose authorized by ordinance or resolution of the tribe, including investment for economic development purposes.

(b) The tribe shall maintain a segregated accounting system for all principal and income from such funds and shall cause an annual audit to be conducted by an independent certified public accountant. The results of such audit shall be made available for inspection by any enrolled member of the tribe and shall be made available to the Secretary of the Interior.

(c) Except as otherwise provided in this section, funds held and administered by the Shoalwater Bay Indian Tribe which are the subject of this Act, and income derived therefrom, shall be treated in the same fashion as if held in trust by the Secretary of the Interior: *Provided,* That nothing in this Act shall be construed as requiring that the Secretary of the Interior give any prior approval to investment or expenditure of these funds.

(d) Upon payment of the funds to the Shoalwater Bay Indian Tribe, the Secretary of the Interior shall have no trust responsibility for the investment, supervision, administration, or expenditure of such funds.

(e) None of the funds or income therefrom distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act or any other federally assisted program.

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

A similar House bill (H.R. 5714) was laid on the table.

GENERAL LEAVE

Mr. UDALL. 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 Arizona?

There was no objection.

INDIAN FINANCING ACT AMENDMENTS OF 1984

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5519) to reauthorize and amend the Indian Financing Act, as amended.

The Clerk read as follows:

H.R. 5519

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 "Indian Financing Act Amendments of 1984".

SEC. 2. Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended by striking out "which are not members of or eligible for membership in an organization which is making loans to its members".

SEC. 3. Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is amended by striking out "United States: Provided, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)" and inserting in lieu thereof "United States".

SEC. 4. Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended by striking out "who are not members of or eligible for membership in an organization which is making loans to its members".

SEC. 5. Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by striking out "$100,000" in the fourth sentence and inserting in lieu thereof "$350,000",

(2) by inserting the following sentence after the first sentence: "The Secretary shall review each loan application individually and independently from the lender.".

SEC. 6. Section 211 of the Indian Financing Act of 1974 (25 U.S.C. 1491) is amended by striking out "section: Provided, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)" and inserting in lieu thereof "section".

SEC. 7. Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans guaranteed or insured under this title. All collections shall remain until expended.".

SEC. 8. Section 302 of the Indian Financing Act of 1974 (25 U.S.C. 1512) is amended to read as follows:

"There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, an amount which does not exceed $5,500,000 for purposes of making interest payments authorized under this title.

Sums appropriated under this section, shall remain available until expended.".

SEC. 9. Section 402(a) of the Indian Financing Act of 1974 (25 U.S.C. 1522) is amended to read as follows:

"No grant in excess of $100,000 in the case of an Indian and $250,000 in the case of an Indian tribe, or such lower amount as the Secretary may determine to be appropriate, may be made under this title.".

SEC. 10. Section 403 of the Indian Financing Act of 1974 (25 U.S.C. 1523) is amended to read as follows:

"There are authorized to be appropriated not to exceed the sum of $10,000,000 per year for fiscal year 1986 and each fiscal year thereafter for the purposes of this title.".

SEC. 11. The Secretary, in his discretion, may require security other than bonds required by the Miller Act (40 U.S.C. 270a) when entering into a contract with an Indian-owned economic enterprise pursuant to the provisions of the Act of June 25, 1910 (25 U.S.C. 47), for the construction, alteration, or repair of any public work of the United States: *Provided*, That, the alternative form of security provides the United States with adequate security for performance and payment.

SEC. 12. Section 501 of the Indian Financing Act of 1974 (25 U.S.C. 1541) is amended to read as follows:

"Prior to and concurrent with the making or guaranteeing of any loan under subchapters I and II of this chapter and with the making of a grant under subchapter IV of this chapter, the purpose of which is to fund the development of an economic enterprise, the Secretary shall insure that the loan or grant applicant shall be provided competent management and technical assistance for preparation of the application and/or administration of funds granted consistent with the nature of the enterprise proposed to be or in fact funded.".

SEC. 13. Section 503 of the Indian Financing Act of 1974 (25 U.S.C. 1543) is amended to read as follows:

"For the purpose of entering into contracts pursuant to section 502 of this title in fiscal year 1985, the Secretary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to section 302 of this Act. For fiscal year 1986 and for each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.".

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

The gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. MCCAIN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

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

Mr. Speaker, H.R. 5519 is a bill to reauthorize and amend the Indian Financing Act of 1974. This act created four programs. Title I authorized the United States to issue direct loans to Indian and Indian tribes from a revolving loan fund. Title II authorized the United States to provide Federal guarantees on loans made to Indians and Indian tribes. Title III allowed the United States to provide interest subsidies on these guaranteed loans, and title IV, created an Indian Business Grants Program. Since title I does not need to be reauthorized, the bill addresses itself to titles II, III, and IV.

The purpose of the Indian Financing Act is to provide credit that is not otherwise available to Indians and Indian tribes from private money markets. In providing capital on a reimbursable basis, it is hoped that Indians will be better able to utilize their own resources and achieve economic self-sufficiency and self-determination.

Mr. Speaker, Indian reservations are suffering from chronic unemployment and are among the poorest areas of this country. One of the biggest problem is the lack of capital necessary to begin economic development. This act has worked well in the past and although it is far from a comprehensive solutions to the problems facing reservations today, its reauthorization would provide an opportunity to many Indian tribes and Indian individuals so that economic self-sufficiency and economic development have a fighting chance to be transposed from concepts to reality. Therefore, I urge the passage of H.R. 5519 by the House.

Mr. MCCAIN. Mr. Speaker, I request to use as much time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5519, the Indian Financing Act Amendments of 1984.

The Indian Financing Act of 1974 was landmark legislation designed to provide for Federal, Indian, and private sector cooperation and funding to develop Indian reservation economies. The programs established by that act have directly contributed to the creation of hundreds of successful businesses and thousands of jobs on Indian reservations in desperate need of economic development.

Over the past 10 years, $41 million appropriated to the revolving loan fund established by the act has generated over $80 million in loan activity. The loan guaranty and interest subsidy program which would be extended by H.R. 5519 has been the key factor in bringing over $100 million in private capital to reservation-based business enterprise.

H.R. 5519 amends the 1974 act to adjust its provisions to changes in the national economy and to expand financing opportunities to individual Indians. It also provides for additional management and technical assistance.

I might add, Mr. Speaker, the technical assistance is much required on the reservations today, and on many of the reservations there is not the kind of technical expertise that must be utilized in order to take advantage of this legislation.

H.R. 5519 has the support of virtually all Indians, Indian tribes, and organizations. As amended, it includes most of the modifications to the original text that were recommended by the administration. H.R. 5519 is entirely consistent with the President's Indian policy, which emphasizes the need for reservation economic development through cooperative efforts by Indians, the Federal Government, and the private sector.

The other body has passed a companion bill by unanimous consent.

It is all too apparent that there is great need for continued Federal support for economic development efforts on Indian reservations.

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H.R. 5519 provides that support. It is meritorious legislation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, many of our colleagues may have seen in the last few days articles in the Washington Post which dramatically and graphically described the economic conditions which exist on some of our reservations.

There are many actions that the Congress needs to take in order to fulfill its obligations to our Indian tribes.

Mr. Speaker, this legislation is only one of many, but certainly an important one.

Mr. Speaker, I urge support of my colleagues for this legislation.

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

Mr. UDALL. 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 Arizona [Mr. UDALL] that the House suspend the rules and pass the bill H.R. 5519, 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.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2614) to amend the Indian Financing Act of 1974, a measure similar to the bill just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2614

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 "Indian Financing Act Amendments of 1984".

INDIAN REVOLVING LOAN FUND

SEC. 2. Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended by striking out "who are not members of or eligible for membership in an organization which is making loans to its members."

SEC. 3. Section 105 of the Indian Financing Act of 1974 (25 U.S.C. 1465) is amended by striking out "United States: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a)" and inserting in lieu thereof "United States".

LOAN GUARANTY AND INSURANCE

SEC. 4. (a) Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking out "who are not members of or eligible for membership in an organization which is making loans to its members", and

(2) by adding at the end thereof the following new sentence: "The full faith and credit of the United States is pledged to the fulfillment of any obligation incurred by the Secretary with respect to loans guaranteed or insured under this title.".

(b) Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by striking out "$100,000" in the fourth sentence and inserting in lieu thereof "$250,000",

(2) by inserting the following sentence after the first sentence: "The Secretary shall review each loan application individually and independently from the lender.",

(3) by striking out "The application" in the first sentence of such section and inserting in lieu thereof "(a) The application", and

(4) by adding at the end thereof the following new subsection:

"(b) Once a loan is approved by the Secretary, the Secretary and the lender shall maintain close supervision and management of the loan until the loan is liquidated. In order to enhance the success of Indian businesses and to facilitate control of losses, the Secretary shall adopt sound credit procedures in order to—

"(1) identify and predict problem situations before such situations occur, and

"(2) ensure that losses are minimized.".

(c) Section 211 of the Indian Financing Act of 1974 (25 U.S.C. 1491) is amended by striking out "section: *Provided*, That proceedings pursuant to this sentence shall be effective only after following the procedure prescribed by the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386a)" and inserting in lieu thereof "section".

(d) Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated for each fiscal year beginning in fiscal year 1985 such sums as may be necessary to fulfill obligations with respect to losses on loans guaranteed or insured under this title. All collections and appropriations shall remain until expended.".

INTEREST SUBSIDIES

SEC. 5. (a) Section 301 of the Indian Financing Act of 1974 (25 U.S.C. 1511) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) The Secretary", and

(2) by adding at the end thereof the following new subsection:

"(b) The full faith and credit of the United States is pledged to the fulfillment of any contractual obligation which the Secretary incurs for the payment of any interest subsidy authorized under this section.".

(b) Section 302 of the Indian Financing Act of 1974 (25 U.S.C. 1512) is amended to read as follows:

"SEC. 302. (a) There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, such sums as may be necessary for purposes of making interest payments authorized under this title with respect to any loan made before the close of fiscal year 1984.

"(b) There are authorized to be appropriated for fiscal year 1985, and for each fiscal year thereafter, an amount which does not exceed $5,500,000 for purposes of making interest payments authorized under this title with respect to any loan made after the close of fiscal year 1984.".

FUNDING OF CONTRACTS FOR MANAGEMENT AND TECHNICAL ASSISTANCE

SEC. 6. Section 503 of the Indian Financing Act of 1974 (25 U.S.C. 1543) is amended by striking out "the Sectetary is authorized to use not to exceed 5 per centum of any funds appropriated for any fiscal year pursuant to section 1512 of this title," and inserting in lieu thereof "there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this title.".

MOTION OFFERED BY MR. UDALL

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

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill, S. 2614, and to insert in lieu thereof the provisions of H.R. 5519, as passed by the House.

The motion was agreed to.

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

The title of the Senate bill was amended so as to read: "An Act to reauthorize and amend the Indian Financing Act."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 5519, was laid on the table.

GENERAL LEAVE

Mr. UDALL. 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 Arizona?

There was no objection.

TECHNICAL AMENDMENTS TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT

Mr. FRANK. I move to suspend the rules and pass the Senate bill (S. 2819), to make essential technical corrections to the Housing and Urban Rural Recovery Act of 1983, as amended.

The Clerk read as follows:

S. 2819

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 "Housing and Community Develoment Technical Amendments Act of 1984".

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

SEC. 101. (a)(1) The last sentence of section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "while its population is included in an urban county for such fiscal year";

(B) by striking out "continues" and inserting in lieu thereof "elects"; and

(C) by striking out "such" the last place it appears and inserting in lieu thereof "an".

(2) Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended—

(A) in the penultimate sentence, by inserting before the period at the end thereof the following: ", except that the provisions of this sentence shall not apply with respect to any county losing its classification as an urban county by reason of the election of any unit of general local government included in such county to have its population excluded under clause (B)(i) of the first sentence or to not renew a cooperation agreement under clause (B)(ii) of such sentence";

(B) by inserting before the semicolon at the end of clause (B) of the last sentence the following: ", (excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county"; and

(C) by inserting before the period at the end of clause (B) of the last sentence the following: "(excluding the population of metropolitan cities therein) in all its unincorporated areas that are not units of general local government and in all units of general local government located within such county".

(3) Section 102(a)(20) of the Housing and Community Development Technical Amendments Act of 1974 is amended to read as follows:

"(20)(A) The terms 'persons of low and moderate income' and 'low- and moderate-income persons' mean families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of low income' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. The term 'persons of moderate income, means families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent, of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

"(B) The Secretary may establish percentages of median income for any area that are higher or lower than the percentages set

forth in subparagraph (A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area.".

(4) Section 102(a)(21) of the Housing and Community Development Act of 1974 is amended by striking out "capital or office buildings" and inserting in lieu thereof the following: "capitol or office buildings,".

(5) Section 104(a)(2)(E) of the Housing and Community Development Act of 1974 is amended by inserting before the period at the end thereof the following: "or in the methods of distribution of such funds".

(6) Section 104(b)(5)(B) of the Housing and Community Development Act of 1974 is amended by striking out "low and moderate income who are not persons of very low" and inserting in lieu thereof "moderate".

(7) Section 104(d) of the Housing and Community Development Act of 1974 is amended—

(A) in the third sentence, by striking out the last comma;

(B) in the fifth sentence, by inserting "general" before "local" the last place it appears; and

(C) in the sixth sentence, by inserting "general" before "local".

(8)(A) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting "fiscal year 1982 or" before "fiscal year 1983".

(B) Section 105(a)(15) of the Housing and Community Development Act of 1974 is amended by striking out "including" and inserting in lieu thereof "and".

(9) Section 105(c)(2) of the Housing and Community Development Act of 1974 is amended by striking out "(B)" and all that follows through "recipient" and inserting in lieu thereof the following: "(B) in any metropolitan city or urban county having no areas meeting the requirements of subparagraph (A), or in any such city or county in which such areas are so few that according to standards established by the Secretary it would be plainly inappropriate for such city or county to address the needs of its residents who are persons of low and moderate income by limiting assisted activities to activities serving such areas, the area served by such activity is within the highest quartile of all areas within the jurisdiction of such city or county in terms of the degree of concentration of persons of low and moderate income".

(10) Section 106(d)(2)(A) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "a State that has elected, in such manner and at such time as the Secretary shall prescribe" any place it appears and inserting in lieu thereof "the State"; and

(B) in clause (i), as such clause may have been amended by subparagraph (A), by striking out "the State" and inserting in lieu thereof the following: "a State that has elected, in such manner and at such time as the Secretary shall prescribe, to distribute such amounts".

(11) Section 106(d)(3) of the Housing and Community Development Act of 1974 is amended—

(A) in the second sentence of subparagraph (A), by inserting after "title" the following: "or section 17(e)(1) of the United States Housing Act of 1937"; and

(B) in subparagraph (C), by inserting after "104" the following: "or to make the certifications required in subparagraphs (C) and (D) of paragraph (2)".

(12)(A) Section 112 of the Housing and Community Development Act of 1974 is amended by striking out subsection (c).

(B)(i) Notwithstanding any other provision of law or other requirement, the City of Baltimore in the State of Maryland is authorized to retain any land disposition proceeds from closed-out urban renewal projects not paid to the Department of Housing and Urban Development, and to use such proceeds, in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Baltimore shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

(ii) Notwithstanding any other provision of law or other requirement, the City of Denver in the State of Colorado, or its designee, is authorized to receive all funds held by the Denver Urban Renewal Authority from the urban renewal project subject to civil litigation in the case of United States v. Denver Urban Renewal Authority, No. 84-K-67 (D. Colo.), for use as a direct grantee under and in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Denver shall retain such funds in a lump sum and shall be entitled to retain and use all past and future earnings from such funds, including any interest.

(13) The last sentence of section 810(f) of the Housing and Community Development Act of 1974 is amended by inserting ", State," after "government".

(b)(1) Section 110(b) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "section" and inserting in lieu thereof "part".

(2) Section 123(b)(3) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "(a)(4)" each place it appears and inserting in lieu thereof "(a)(1)".

(3) Section 123(c) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out "(1)" after the subsection designation; and

(B) by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

HOUSING ASSISTANCE PROGRAMS

SEC. 102. (a)(1) Section 235(h)(1) of the National Housing Act is amended—

(A) in the penultimate sentence, by inserting after "1983," the first place it appears the following: "utilizing amounts approved in appropriation Acts before the date of the enactment of the Housing and Urban-Rural Recovery Act of 1983,"; and

(B) in the last sentence, by striking out "November 30, 1983" and inserting in lieu thereof "September 30, 1985".

(2) The first sentence of section 236(f)(4) of the National Housing Act is amended by striking out "up to".

(b)(1) Section 3(b)(5)(C) of the United States Housing Act of 1937 is amended by inserting before the semicolon the following: ", and attendant care and auxiliary apparatus expenses for each handicapped member of any family to the extent necessary to enable any member of such family (including such handicapped member) to be employed, except that the aggregate amount excluded under this subparagraph may not exceed 3 percent of annual family income".

(2) Section 6(j) of the United States Housing Act of 1937 is amended—

(A) by inserting ", acquisition, or acquisition and rehabilitation" after "construction"; and

(B) by striking out "large families" and inserting in lieu thereof "families requiring three or more bedrooms".

(3) Section 6(m) of the United States Housing Act of 1937 is amended by striking out "hearing" and inserting in lieu thereof "housing".

(4) Section 8(d)(2) of the United States Housing Act of 1937 is amended by striking out the last two sentences and inserting in lieu thereof the following: "In addition to any other cases in which the Secretary attaches a contract under this section to the structure, a contract under this section with respect to assistance under subsection (b)(1) may be attached to the structure if (A) the Secretary and the public housing agency approve such action; and (B) the owner agrees to rehabilitate the structure other than with assistance under this Act and otherwise complies with the requirements of this section.".

(5) Section 8(e)(2) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new sentence: "The Secretary shall increase the amount of assistance provided under this paragraph above the amount of assistance otherwise permitted by this paragraph and subsection (c)(1), if the Secretary determines such increase necessary to assist in the sale of multifamily housing projects owned by the Department of Housing and Urban Development in order to ensure the availability of dwelling units in such projects for lower income families.".

(6) Section 8(n) of the United States Housing Act of 1937 is amended by striking out "In" and all that follows through "Secretary" and inserting in lieu thereof the following: "In making assistance available under subsections (b)(1) and (e)(2), the Secretary".

(7) The first sentence under section 8(o)(3) of the United States Housing Act of 1937 is amended—

(A) by striking out "or" before "(B)"; and

(B) by inserting before the period at the end thereof the following: ", (C) a family that is determined to be a lower income family at the time it initially receives assistance and that is or would be displaced by activities under section 17(c)".

(8) section 8(o)(7)(D) of the United States Housing Act of 1937 is amended by inserting "unit of" before "general".

(c)(1) The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "1985" and inserting in lieu thereof "1984".

(2) Section 202(h) of the Housing Act of 1959 is amended—

(A) by inserting "and" at the end of paragraph (1); and

(B) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period.

(3) Section 202(1) of the Housing Act of 1959 is amended by adding at the end thereof the following new sentence: "The Secretary shall not impose different requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower.".

(d) The penultimate sentence of section 101(g) of the Housing and Urban Development Act of 1965 is amended by striking out "up to".

(e) Section 213(d)(2) of the Housing and Community Development Act of 1974 is amended by striking out "532" and inserting in lieu thereof "533".

(f) Section 411(a)(4) of the Congregate Housing Services Act of 1978 is amended by adding at the end thereof a semicolon.

(g)(1) Section 216 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by inserting "of Housing and Urban Development" after "Secretary" each place it appears; and

(B) by striking out "paragraph" each place it appears and inserting in lieu thereof "section".

(2) Section 220 of the Housing and Urban-Rural Recovery Act of 1983 is amended by inserting "of Housing and Urban Development" after "Secretary" each place it appears.

(3) Section 221 of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by striking out "chapter" and inserting in lieu thereof "part";

(B) by striking out ", up to the utility allowance,";

(C) by inserting "in lieu of any rental payment" after "made"; and

(D) by striking out "rental" and inserting in lieu thereof "shelter".

RENTAL HOUSING REHABILITATION AND PRODUCTION PROGRAM

SEC. 103. (a) Section 17(a)(1)(A) of the United States Housing Act of 1937 is amended by striking out "to States and units of general local government".

(b) Section 17(b)(2)(B) of the United States Housing Act of 1937 is amended by striking out "(f)" and inserting in lieu thereof "(e)".

(c)(1) Section 17(c)(2)(H) of the United States Housing Act of 1937 is amended by striking out "State or unit of general local government that receives the assistance" and inserting in lieu thereof "grantee".

(2) Section 17(c)(3)(A) of the United States Housing Act of 1937 is amended by striking out "families, including large families with children" and inserting in lieu thereof the following: "families with children, particularly families requiring three or more bedrooms".

(d)(1) The penultimate sentence of section 17(d)(2) of the United States Housing Act of 1937 is amended—

(A) by inserting "general local" before "government"; and

(B) by inserting after "standards" the following: ", and each city that has a population of not less than 450,000 (as determined according to the 1980 decennial census),".

(2) Section 17(d)(4)(E) of the United States Housing Act of 1937 is amended by striking out "persons" and all that follows through "income" and inserting in lieu thereof "lower income families".

(3) Section 17(d)(5)(H) of the United States Housing Act of 1937 is amended by striking out "families, including large families with children" and inserting in lieu thereof the following: "families with children, particularly families requiring three or more bedrooms".

(e)(1) Section 17(e)(1) of the United States Housing Act of 1937 is amended—

(A) in the first sentence, by striking out "(b)(2)" and inserting in lieu thereof "(b)"; and

(B) in the second sentence, by striking out "cities with populations of less than fifty thousand" and inserting in lieu thereof the following: "units of general local government and areas of the State that do not receive allocations under subsection (b)".

(2) Section 17(e)(2) of the United States Housing Act of 1937 is amended by striking out "(b)(2) of this section" and inserting in lieu thereof "(b)".

(f) Section 17(i)(3) of the United States Housing Act of 1937 is amended by striking out "structure" and inserting in lieu thereof "project".

(g)(1) Section 17(k)(5)(A) is amended by striking out "resources under this section" and inserting in lieu thereof the following: "resources under subsection (b), and any unit of general local government receiving resources under subsection (d)".

(2) Section 17(k)(5)(B) of the United States Housing Act of 1937 is amended by striking out "(f)" and inserting in lieu thereof "(e)".

(3) Section 17(k)(5)(C) of the United States Housing Act of 1937 is amended by striking out "(f)(2)" and inserting in lieu thereof "(e)".

(4) Section 17(k) of the United States Housing Act of 1937 is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'State' means each of the several States and the Commonwealth of Puerto Rico;

"(7) the term 'unit of general local government' means (A) any city, county, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe; and (C) the District of Columbia, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

"(8) the terms 'city', 'Indian tribe', and 'urban county' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974.".

(h)(1) Section 17(l)(1) of the United States Housing Act of 1937 is amended—

(A) by inserting a comma after "government"; and

(B) by striking out "(f)(1)' and inserting in lieu thereof "(e)(1)"; and

(2) Section 17(l)(2) of the United States Housing Act of 1937 is amended by striking out "(e)(2)" and inserting in lieu thereof "(e)(1)".

(i) Section 17 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(o) INAPPLICABILITY OF CERTAIN PROVISIONS.—Unless otherwise specifically provided in this section, the following provisions of this Act shall not apply to grants provided under this section: section 3(a), section 3(b)(1), the third sentence of section 3(b)(3), section 3(b)(7), and the last sentence of section 6(a).".

PROGRAM AMENDMENTS AND EXTENSIONS

SEC. 104. (a)(1) The section heading of section 232 of the National Housing Act is amended to read as follows:

"MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES".

(2) Section 234(k) of the National Housing Act is amended—

(A) by striking out "or" before "(3)"; and

(B) by inserting before the period at the end thereof the following: ", or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38, United States Code".

(3) Section 235(j)(2)(C) of the National Housing Act is amended to read as follows:

"(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;".

(4) Section 236(j)(4)(B) of the National Housing Act is amended to read as follows:

"(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and".

(5) The section heading of section 526 of the National Housing Act is amended to read as follows:

"MINIMUM PROPERTY STANDARDS".

(6) Section 531 of the National Housing Act is amended by striking out "title II" each place it appears and inserting in lieu thereof "this Act".

(7) Section 1101(c)(4) of the National Housing Act is amended to read as follows:

"(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.".

(b) Section 7(o)(6)(C) of the Department of Housing and Urban Development Act is amended by striking out "3 of Public Law 90-301" and inserting in lieu thereof "235 or 236 of the National Housing Act".

(c) Section 906(a) of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) for the purpose of generating income to support the building or rehabilitation of housing primarily for the benefit of families and individuals of low or moderate income (A) design, develop, manufacture and sell products and services for use in the construction, sale, or financing of housing, and (B) design and develop commercial, industrial, or retail facilities that are not directly relating to housing, except that not more than 25 percent of the equity commitment of the corporation may be committed in connection with activities that are not directly related to the building or rehabilitation of housing, and the development and preservation of housing for families and individuals of low or moderate income shall be the primary activity of the corporation.".

(d)(1) Section 514(b)(5)(A) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "loan" and inserting in lieu thereof "grant".

(2)(A) Section 520(b)(5) of the Solar Energy and Energy Conservation Bank Act is amended to read as follows:

"(5)(A) establish explicit criteria, and their relative weights, for the allocation of financial assistance under this subtitle among eligible financial institutions; and

"(B) provide that all amounts available for financial assistance under this subtitle as a result of any one appropriations law, or otherwise available for such assistance, shall be allocated at the same time; and".

(B) The Secretary shall issue the regulations required as a result of the amendment made by this paragraph not later than 90 days after the date of the enactment of this Act.

(e)(1) Section 401(e) of the Housing and Urban-Rural Recovery Act of 1983 is amended—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(2) Section 463 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "(c)(1)" the second place it appears and inserting in lieu thereof "(d)(1)".

(3) Section 482 of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "305(b)" and inserting in lieu thereof "305".

(f) The Secretary of Housing and Urban Development shall, not later than October 31, 1984, issue regulations to carry out the amendments made to section 242 of the National Housing Act by section 436 of the Housing and Urban-Rural Recovery Act of 1983.

RURAL HOUSING

SEC. 105. (a)(1) Section 501(b)(4) of the Housing Act of 1949 is amended by inserting before the period of the end thereof the following: "in consultation with the Secretary of Agriculture, taking into consideration the subsidy characteristics and purposes of the programs to which such levels are applied under this title".

(2) Section 501(b)(5) of the Housing Act of 1949 is amended to read as follows:

"(5) For the purpose of this title—

"(A) the term 'income' has the meaning given such term under section 3(b)(4) of the United States Housing Act of 1937 by the Secretary of Housing and Urban Development in consultation with the Secretary of Agriculture; and

"(B) the term "adjusted income" has the meaning given such term in section 3(b)(5) of the United States Housing Act of 1937.".

(b) Section 502(d) of the Housing Act of 1949 is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) not less than 40 percent of the funds approved in appropriation Acts for use under this section shall be set aside and made available only for very low-income families or persons; and

"(2) not less than 30 percent of the funds allocated to each State under this section shall be available only for very low-income families or persons.".

(c) Section 510(e) of the Housing Act of 1949 is amended by striking out ". Such" and ". Where" and inserting in lieu thereof "; such" and "; where", respectively.

(d)(1) Section 513(a) of the Housing Act of 1949 is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, insured and guaranteed loan authority authorized in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this title.".

(2) Section 513(b)(7) of the Housing Act of 1949 is amended by striking out "531" and inserting in lieu thereof "533".

(e)(1) Section 515(2)(B) of the Housing Act of 1949 is amended by striking out the first comma and all that follows through "assistance" the last place it appears.

(f) Section 517(j)(4) of the Housing Act of 1949 is amended by inserting "and" after the semicolon at the end thereof.

(g) The last sentence of section 520 of the Housing act of 1949 is amended by striking out "1984" and inserting in lieu thereof "1985".

(h) Section 521(d)(1) of the Housing Act of 1949 is amended to read as follows:

"(d)(1) In utilizing the rental assistance payments authority pursuant to subsection (a)(2)—

"(A) the Secretary shall make such assistance available in existing projects for units occupied by low income families or persons to extend expiring contracts or to provide additional assistance when necessary to provide the full amount authorized pursuant to existing contracts;

"(B) any such authority remaining after carrying out subparagraph (A) shall be used in projects receiving commitments under section 514, 515, or 516 after fiscal year 1983 for contracts to assist very low-income families or persons to occupy the units in such projects, except that not more than 5 percent of the units assisted may be occupied by low income families or persons who are not very low-income families or persons; and

"(C) any such authority remaining after carrying out subparagraphs (A) and (B) may be used to provide further assistance to existing projects under section 514, 515, or 516.".

TITLE II—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER HOUSING AND COMMUNITY DEVELOPMENT LAWS

CONFORMING REFERENCES TO SECRETARY OF HEALTH AND HUMAN SERVICES AND SECRETARY OF EDUCATION

SEC. 201. (a)(1) Section 242(c) of the National Housing Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(2) Section 1104 of the National Housing Act is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Section 302(c)(2)(B) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education"; and

(2) by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(c) Section 522(a) of the Housing Act of 1949 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(d)(1) Section 402(c) of the Housing Act of 1950 is amended—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively.

(2) Section 404(f) of the Housing Act of 1950 is amended by striking out "Housing and Urban Development" and inserting in lieu thereof "Education".

(e) Section 202(f) of the Housing Act of 1959 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(f) Section 207 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by striking out "Health and Human Services".

(g) Section 209 of the Housing and Community Development Act of 1974 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(h) Paragraphs (1) and (2) of section 413(b) of the Energy Conservation in Existing Building Act of 1976 are amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(i) Section 207(c)(3) of the Public Housing Security Demonstration Act of 1978 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(j) Section 405(i) of the Congregate Housing Services Act of 1978 is amended by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

CONFORMING CROSS-REFERENCES TO TITLE 5, UNITED STATES CODE

SEC. 202. (a)(1) The second sentence of section 1 of the National Housing Act is amended by striking out "without" and all that follows through "States".

(2) Section 1247 of the National Housing Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".

(b)(1) The first sentence of section 502(a) of the Housing Act of 1948 is amended by striking out "the Classification Act of 1949, as amended" and inserting in lieu thereof the following: "chapter 51 and subchapter III of chapter 53 of title 5, United States Code".

(2) Section 502(c)(1) of the Housing Act of 1948 is amended by striking out "5 U.S.C. 73b-2" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".

(c) Section 601 of the Housing Act of 1949 is amended by striking out "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2)" and inserting in lieu thereof the following: "section 5703 of title 5, United States Code".

(d) Section 1416(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "the Administrative Procedure Act" and inserting in lieu thereof the following: "subchapter II of chapter 5, and chapter 7, of title 5, United States Code".

CONFORMING CROSS-REFERENCES TO TITLE 31, UNITED STATES CODE

SEC. 203. (a)(1) Section 304(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(2) Section 306(d) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(3) Section 309(b) of the Federal National Mortgage Association Charter Act is amend-

ed by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(4) Section 315(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(5) Section 316(c) of the Federal National Mortgage Association Charter Act is amended by striking out "the Second Liberty Bond Act, as now or hereafter in force" each place it appears and inserting in lieu thereof "chapter 31 of title 31, United States Code".

(b)(1) Section 4(b) of the United States Housing Act of 1937 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 10(a) of the United States Housing Act of 1937 is amended by striking out "the Government Corporation Control Act, as amended" each place it appears and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(c) Section 502(c)(2) of the Housing Act of 1948 is amended by striking out "section 3648 of the Revised Statutes" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code".

(d)(1) Section 102(f) of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 106(a) of the Housing Act of 1949 is amended by striking out "the Government Corporation Control Act, as amended," each place it appears and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(3) Section 501(b)(6) of the Housing Act of 1949 is amended by striking out "the State and Local Fiscal Assistant Act of 1972 (Public Law 92-512)" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(4) Section 511 of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(5) Section 517(h) of the Housing Act of 1949 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(6) Section 517(k) of the Housing Act of 1949 is amended by striking out "the Budget and Accounting Act, 1921" and inserting in lieu thereof "chapter 11 of title 31, United States Code".

(e)(1) Section 401(e) of the Housing Act of 1950 is amended—

(A) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(2) Section 402(a)(1) of the Housing Act of 1950 is amended by striking out "the Government Corporation Control Act, as amended" and inserting in lieu thereof "chapter 91 of title 31, United States Code".

(3) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "the Accounting and Auditing Act of 1950" and inserting in lieu thereof "chapter 35 of title 31, United States Code".

(4) Section 402(e) of the Housing Act of 1950 is amended—

(A) by striking out "section 309 of the Independent Offices Appropriation Act, 1950 (63 Stat. 662)" and inserting in lieu thereof "section 9107(a) of title 31, United States Code"; and

(B) by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of such title".

(f) Section 203(a) of the Housing Amendments of 1955 is amended—

(1) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(g) Section 15(e) of the Federal Flood Insurance Act of 1956 is amended—

(1) by striking out "the Second Liberty Bond Act, as amended" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "such Act, as amended," and inserting in lieu thereof "such chapter".

(h) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended—

(1) by striking out "the Second Liberty Bond Act" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(2) by striking out "that Act" and inserting in lieu thereof "such chapter".

(i)(1) Section 1222(c) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out "section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))" and inserting in lieu thereof "section 1341(a) of title 31, United States Code".

(2) Section 1243(d) of the Urban Property Protection and Reinsurance Act of 1968 is amended by striking out "law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))" and inserting in lieu thereof "sections 9103 and 9104 of title 31, United States Code".

(j)(1) Section 1310(e) of the National Flood Insurance Act of 1968 is amended by striking out "law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847-849))" and inserting in lieu thereof "sections 9103 and 9104 of title 31, United States Code".

(2) Section 1360(b) of the National Flood Insurance Act of 1968 is amended by striking out "sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5)" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5)".

(3) Section 1373 of the National Flood Insurance Act of 1968 is amended by striking out "the Government Corporation Control Act" and inserting in lieu thereof "chapter 91 of title 31, United States Code,".

(k) Section 502(e) of the Housing and Urban Development Act of 1970 is amended by striking out "section 3648 of the Revised Statutes" and inserting in lieu thereof "subsections (a) and (b) of section 3324 of title 31, United States Code,".

(l)(1) Section 102(a)(17) of the Housing and Community Development Act of 1974 is amended by striking out "the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512)" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(2) Section 108(g) of the Housing and Community Development Act of 1974 is amended—

(A) by striking out "the Second Liberty Bond Act, as now or hereafter in force" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "such Act" and inserting in lieu thereof "such chapter".

(3) Section 119(n)(2) of the Housing and Community Development Act of 1974 is amended by striking out "the State and Local Fiscal Assistance Act of 1972" and inserting in lieu thereof "chapter 67 of title 31, United States Code".

(4) Section 802(e)(2) of the Housing and Communtiy Development Act of 1974 is amended—

(A) by striking out "the Second Liberty Bond Act" and inserting in lieu thereof "chapter 31 of title 31, United States Code"; and

(B) by striking out "that Act" and inserting in lieu thereof "such chapter".

(m) Section 608(d) of the Neighborhood Reinvestment Corporation Act is amended by striking out "The Budget and Accounting Act, 1921" and inserting in lieu thereof "chapter 11 of title 31, United States Code".

MISCELLANEOUS TECHNICAL CORRECTIONS

SEC. 204. (a)(1) Section 4 of the National Housing Act is amended by striking out "such" and inserting in lieu thereof "such".

(2) Section 203(n)(2)(A) of the National Housing Act is amended by striking out "an" and inserting in lieu thereof "a".

(3) The first sentence of section 207(i) of the National Housing Act is amended by inserting "section" before "221(g)".

(4)(A) The National Housing Act is amended by inserting the following section heading for section 214:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, AND HAWAII".

(B) The third sentence of section 214 of the National Housing Act as amended is amended by striking out "Nowithstanding" and inserting in lieu thereof "Notwithstanding".

(5) Section 217 of the National Housing Act is amended by inserting "section 244, section 245," after "236,".

(6) Section 221(d)(3)(iii) of the National Housing Act as amended is amended by striking out "rehabilited" and inserting in lieu thereof "rehabilitated".

(7) The first sentence of section 223(f)(2) of the National Housing Act is amended by inserting "a" before "multifamily".

(8) Section 235(i)(3)(C) of the National Housing Act is amended by striking out "Seretary" and inserting in lieu thereof "Secretary".

(9) Section 236(j)(5)(C) of the National Housing Act is amended by striking out "or residents" and inserting in lieu thereof "of residents".

(10) Section 240(a) of the National Housing Act is amended by striking out "purchasers" and inserting in lieu thereof "purchases".

(11) The first sentence of section 241(a) of the National Housing act is amended by

striking out "to made" and inserting in lieu thereof "to make".

(12) Section 241(b)(1) of the National Housing Act is amended by striking out "of facility" and inserting in lieu thereof "or facility".

(13) Section 242(d)(3)(A) of the National Housing Act is amended by striking out the comma at the end thereof and inserting in lieu thereof a semicolon.

(14) Section 243(d)(2) of the National Housing Act is amended by redesignating subparagraphs (1) through (3) as subparagraphs (A) through (C) respectively.

(15) Section 243(j)(3)(ii) of the National Housing Act is amended by striking out the period at the end thereof and inserting in lieu thereof "; and".

(16) The fourth sentence of section 302(b)(2) of the National Housing Act is amended by striking out "Corporation" and inserting in lieu thereof "corporation".

(17) The National Housing Act is amended by inserting the following section heading for section 512:

"PENALTIES".

(18) The National Housing Act is amended by inserting the following section heading for the first section 513:

"PROHIBITION AGAINST TRANSIENT HOUSING".

(19) The National Housing Act is amended by redesignating the second section 513 as section 513A. Any reference in any law, regulation, order, document, record, or other paper of the United States to the section redesignated in this paragraph hereby is deemed to refer to section 513A of the National Housing Act.

(20) The National Housing Act is amended by inserting the following section heading for section 515:

"AMENDMENT, EXTENSION, OR INCREASE OF COMMITMENT AMOUNTS".

(21) The National Housing Act is amended by inserting the following section heading for section 516:

"PAYMENT OF CERTAIN FUNDS TO TREASURY".

(22) Section 527 of the National Housing Act is amended by inserting "(a)" after the section designation.

(23) The last sentence of section 904(d) of the National Housing Act is amended by striking out "auhorized" and inserting in lieu thereof "authorized".

(b)(1) The first sentence of section 6(a) of the United States Housing Act of 1937 is amended by striking out "convenants" and inserting in lieu thereof "covenants".

(2) Section 14(a) of the United States Housing Act of 1937 is amended by striking out the comma at the end of each of paragraphs (1) and (2) and inserting in lieu thereof a semicolon.

(c)(1) The last sentence of section 105(f) of the Housing Act of 1949 is amended by striking out "Committees on Banking and Currency of the Senate and the House of Representatives" and inserting in lieu thereof the following: "Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

(2) Section 523(g) of the Housing Act of 1949 is amended by inserting "Housing" before "Land" and second place it appears.

(3) The Housing Act of 1949 is amended by inserting the following section heading for section 528:

"TAXATION OF PROPERTY HELD BY SECRETARY".

(d) Section 402(a)(2) of the Housing Act of 1950 is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary".

(e) Section 101(j)(1)(D) of the Housing and Community Development Act of 1965 is amended by striking out "divided" and inserting in lieu thereof "dividend".

(f) The second sentence of section 106(b)(1) of the Housing and Urban Development Act of 1968 is amended by striking out "architectual" and inserting in lieu thereof "architectural".

(g) The last sentence of section 1309(a) of the National Flood Insurance Act of 1968 is amended—

(1) by striking out "and Currency" and inserting in lieu thereof ", Finance and Urban Affairs"; and

(2) by inserting a comma after "Housing".

(h) Section 308(f) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "United States Code" and inserting in lieu thereof "United States".

(i) Section 702(d)(8) of the National Urban Policy and New Community Development Act of 1970 is amended by striking out "of" the last place it appears.

(j) The last sentence of section 201(e) of the Flood Disaster Protection Act of 1973 is amended by striking out the quotation marks.

(k)(1) The first sentence of section 108(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (j)".

(2) Section 117(b) of the Housing and Community Development Act of 1974 is amended by striking out "of 1965 (Public Law 81-428;" and inserting in lieu thereof ", 1955 (Public Law 83-428;".

(l) Section 604(1) of the National Manufactured Housing Construction and Safety Standards Act of 1974 is amended by striking out "than" the last place it appears and inserting in lieu thereof "that".

(m)(1) Section 107 of the Emergency Homeowners' Relief Act is amended—

(A) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(B) by redesignating subparagraphs (A) through (C) of paragraph (1) as paragraphs (1) through (3), respectively;

(C) by redesignating paragraph (2) as subsection (b); and

(D) by redesignating subparagraphs (A) and (B) of paragraph (2) as paragraphs (1) and (2), respectively.

(2) Section 110 of the Emergency Homeowners' Relief Act is amended by striking out the subsection designation.

(n)(1) Section 201(c) of the Housing and Community Development Amendments of 1978 is amended by striking out "a" the first place it appears and inserting in lieu thereof "A".

(2) Section 201(j) of the Housing and Community Development Amendments of 1978 is amended by striking out "236(f)(3)(B)" and inserting in lieu thereof "236(f)(3)".

(3) Section 209(d) of the Housing and Community Development Amendments of 1978 is amended by striking out "conjuction" and inserting in lieu thereof "conjunction".

(4) Section 905(b)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting "of 1974" after "Act".

The SPEAKER pro tempore. Is a second demanded?

Mr. McKINNEY. 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 Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Connecticut [Mr. McKINNEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

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

Mr. Speaker, I act here in the absence of the chairman of the subcommittee, the gentleman from Texas [Mr. GONZALEZ], who will be joining us during the consideration.

Mr. Speaker, this is a noncontroversial bill which makes some technical amendments to the Housing and Urban Rural Recovery Act which was passed by both Houses last year.

Title I of the amendment deals with the specific corrections and clarifications with regard to Public Law 98-181. Title I also makes technical corrections to the community development block grant and the assisted housing programs administered by the Department of Housing and Urban Development and the Farmers Home Administration's rural housing programs.

With regard to the Community Development Block Grant Program, the amendment contains a provision to provide much-needed flexibility for entitlement communities in the principally benefit tests where low-moderate-income people are not densely concentrated. This provision is necessary to insure that the areawide activities can serve low- and moderate-income families in less densely impacted areas and would permit community development block grant activities to be considered to benefit low- and moderate-income families if they are clearly designed to meet the needs of such families and they are located within areas which are among the top 25 percent of all areas within the community having the highest concentration of low- and moderate-income people. This title would also clarify conditions under which an urban county that contained newly identified metropolitan cities can be considered an urban county entitlement jurisdiction if the metropolitan city defers its classification for purposes of the Community Development Block Grant Program. In addition, the cities of Baltimore and Denver may retain the proceeds and interest from certain urban renewal projects as long as those funds are used in accordance with the requirements of the CDBG Program.

With regard to assisted housing programs, this amendment corrects a technical omission with regard to the use of section 235 Homeownership

Subsidy Funds; would permit handicapped employed residents to deduct from their income attendant care costs; would permit the HUD Secretary to increase moderate rehabilitation section 8 assistance to assure that low-income residents can continue to live in rental apartments sold from the HUD inventory; would preserve the HUD Secretary's authority to provide section 8 existing contracts on a project basis in the Loan Management and Property Disposition Program, and would provide an additional 12 cities eligible for grants under the new Rental Housing Development Program.

Title II contains technical and conforming amendments to those provisions of our housing and community development laws not affected by actions taken in last year's Housing Act. Title II corrects archaic references to agencies and departments whose names have been changed, such as the Department of Health, Education, and Welfare to the Department of Health and Human Services.

With regard to the Farmers Home Administration's rural housing program, the amendment would prohibit the transfer of rural housing loan authority to any other program beginning in fiscal year 1985; would resolve the section 502 homeownership targeting issue by adopting Senate language which provides separate set-asides in section 502 authority among very low income borrowers and low income borrowers; and would make clear that States and localities providing rental assistance payments for low income rural projects would not be required to meet any other feasibility requirement in order to obtain a section 515 rental housing loan than is already required by the Farmers Home Administration's Rental Assistance Payment Program.

A provision of the amendment requires the HUD Secretary to issue regulations, by October 31, 1984, to implement section 436 of the 1983 amendments, which was offered by my colleague, Congressman MIKE LOWRY of Washington. That section made FHA hospital mortgage insurance available for the first time to public hospitals. This was a noncontroversial amendment, with considerable bipartisan support, intended to provide needed assistance in obtaining access to capital for those hospitals which continue to maintain a commitment to keep their doors open for all of our Nation's citizens regardless of their ability to pay. Several public hospitals around the country have, in fact, been preparing to submit applications under this new authority.

For this reason, the Banking Committee has been extremely concerned about delays in the implementation of this provision caused by HUD's insistence that additional regulations are needed. The provision thus directs HUD to promulgate any such regulations by October 31, at the latest. Moreover, we strongly urge the Department to promulgate these regulations on an interim final basis, rather than as a nohtice of proposed rulemaking. It is imperative that effective regulations be implemented quickly so that State certificates of need and current feasibility studies do not expire or become outdated.

In addition, HHS Secretary Heckler should immediately begin accepting and processing applications from public hospitals for mortgage insurance, with the expectation that regulations will be in effect by the time the final commitment is required.

While this amendment does not include any statutory changes to the public housing performance funding system, I am concerned that the Department's present effort to apply new standards retroactively to recapture so-called excess investment income is bad policy, as well as unlawful and inequitable. According to the regulations and handbooks in effect when the public housing authorities developed their budgets for authority, fiscal years 1980 through 1983, a public housing authority was to estimate income earned from investments based on their judgement, their past experience and what would be considered reasonable. These budgets were reviewed and approved by HUD personnel. Now, 4 years later, HUD through a field memorandum, is directing public housing authorities to compare the difference between the projected and actual investment income and to recalculate those estimates using the 91-day Treasury bill rate in existence on the date when the budget was originally developed.

I was very pleased to see that in its August 31, 1984, memorandum, the Department decided not to retroactively apply a new standard to procedures used for calculating the rental income estimate used in the performance funding system. This principle should be followed with regard to investment and other income estimates. As long as public housing authorities made a good faith effort to follow the regulations in effect when they prepared their budgets they should not have their operating subsidies reduced. If HUD believes the standards, regulations and directions used in the past need revision, then regulatory or statutory changes should be proposed and applied prospectively. The retroactive application of new more specific guidelines, as proposed in the August 31 and earlier memoranda is unlawful and unfair. I fully expect that the Secretary will not implement an inequitable and retroactive recapture policy.

Mr. Speaker, S. 2819, as amended, is our effort to make technical corrections to our housing authorizations bille of last year and to provide greater policy direction than we were able to give last year because of the sharing of the legislative process and that major piece of housing legislation enacted as part of a larger national financial legislation that it was attached to.

I urge Members to support this bill.

Mr. Speaker, I am including a section-by-section analysis of the legislation for the information of my colleagues:

HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS ACT OF 1984—SECTION-BY-SECTION SUMMARY

TITLE I—TECHNICAL AND CONFORMING AMENDMENTS TO THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

Community and neighborhood development and conservation

Section 101(a)(1)—CDBG definition of an urban county: Amends Section 102(a)(4) of the Housing and Community Development Act of 1974, as amended, to permit local governments that attain metropolitan city status in 1984 or 1985 to be included in an urban county CDBG program by deferring metropolitan status for fiscal years 1984, 1985, and 1986 if it notifies the Secretary that it has elected to do so.

Section 101(a)(2)—CDBG definition of an urban county:

(A) Amends Section 102(a)(6) of the Housing and Community Development Act of 1974, as amended, to clarify that urban counties which have lost population because units of general local government have either elected to be excluded from the county's population or have not renewed a cooperation agreement with the county will not be permitted to continue to be eligible as an urban county after fiscal year 1983; and

(B) & (C) Clarifies that to qualify for entitlement status growing urban counties must include the population of unincorporated areas that are not units of general local government as well as units of general local government (excluding the population of metropolitan cities located within the county).

Section 101(a)(3)—CDBG definition of low and moderate income:

(A) Amends Section 102(a)(20) of the Housing and Community Development Act of 1974, as amended, to define low and moderate income as families and individuals whose incomes do not exceed 80 percent of the area median income, as determined by the HUD Secretary with adjustments for smaller and larger families; defines persons of low income as families and individuals whose incomes do not exceed 50 percent of the area median income; defines persons of moderate income as families and individuals whose incomes exceed 50 percent, but not 80 percent, of area median income, and clarifies that the area involved shall be determined in the same manner as it is determined for the Section 8 housing assistance program; and

(B) Clarifies that the Secretary may adjust higher or lower the percentages of median income for any area if found to be necessary because of unusually high or low family incomes.

Section 101(a)(4)—Government Buildings: Corrects a spelling error in Sec. 102(a)(21) of the Housing and Community Development Act of 1974, as amended.

Section 101(a)(5)—Citizen notice and comment: Amends Section 104(a)(2)(E) of the 1974 Act, as amended, to clarify that the public notice and opportunity for comment requirements also apply to any substantive changes proposed in the method of distribution of a state's CDBG program funds.

Section 101(a)(6)—Definition of moderate income: Amends Section 104(b)(5)(B) of the 1974 Act, as amended, to conform the term used to describe moderate income persons.

Section 101(a)(7)—Definition of unit of general local government: Amends Section 104(d) of the 1974 Act, as amended, to conform term unit of general local government in the grantee performance and evaluation report provisions.

Section 101(a)(8)—CDBG eligible activities: Amends Section 105(a)(8) of the 1974 Act, as amended, to clarify that either fiscal year 1982 or fiscal year 1983 may be used in calculating the percentage of public service activity under the CDBG program; and clarifies in Section 105(a)(15) that grants made to organizations that have provided shared housing opportunities for elderly families are eligible CDBG activities.

Section 101(a)(9)—Eligible for area-wide activities: Amends Section 105(c)(2) of the 1974 Act, as amended, to clarify that localities having no or few areas with a majority of low and moderate residents, area-wide CDBG activities will be considered to principally benefit low and moderate income persons if, in addition to serving an area generally and being designed to meet the needs of low and moderate income residents, the area serviced by the activity ranks among the top 25 percent of all areas within a community's jurisdiction having the highest concentration of low and moderate income residents.

Section 101(a)(10)—State-run program: Amends Section 106(d)(2)(A) of the Housing and Community Development Act of 1974, as amended, to correct a misplaced portion of the text.

Section 101(a)(11)—Permissible administrative costs: Amends Section 106(d)(3) of the 1974 Act, as amended, to allow states to use CDBG funds to cover part of the cost of administration of Section 17 rental rehabilitation activities in non-metropolitan areas in the same way and to the same extent as is permitted under the state run CDBG program.

Section 101(a)(12)—Urban renewal program income: Amends Section 112 of the 1974 Act by:

(A) Deleting the general provision concerning the retention of urban renewal project income;

(B) Providing that Baltimore, Maryland, is authorized to retain any land disposition proceeds from closed-out urban renewal projects not paid to HUD, for use in accordance with the requirements of the CDBG program. Baltimore shall retain such funds in a lump sum and shall be able to use and retain all past and future earnings, including interest; and

(C) Providing that the City of Denver is authorized to retain funds from certain urban renewal project proceeds provided they are used to fund eligible CDBG activities in accordance with the requirements of the CBDG program.

Section 101(a)(13)—Urban homesteading: Amends Section 810(f) of the 1974 Act, as amended, to clarify that states must also make accessible to the public listings of unoccupied properties.

Section 101(b)—Conforming corrections: Makes technical and conforming corrections to the text of Sections 110 and 123 of the Housing and Urban-Rural Recovery Act of 1983.

Housing assistance programs

Section 102(a)(1)—Section 235 Homeownership Loan Program: Amends Section 235(h)(1) of the National Housing Act, as amended, to clarify the HUD Secretary's authority to enter into new contracts for assistance payments under the Section 235 program through fiscal year 1985.

Section 102(a)(2)—Section 236 Assistance: Amends Section 236(f)(4) of the National Housing Act, as amended, to clarify that HUD is to provide sufficient payments to cover 90 percent of the necessary rent increases and changes in tenants income, subject to available Section 5(c) authority.

Section 102(b)(1)—Adjustments to Tenants Income: Amends Section 3(b)(5) of the U.S. Housing Act of 1937, as amended, to clarify that attendant care and auxiliary expenses can be deducted from income as a medical expense in excess of 3 percent of the family's income when such care is necessary to enable a family member, including a disabled or handicapped family member, to be gainfully employed.

Section 102(b)(2)—Public Housing New Construction Priorities: Amends Section 6(j) of the 1937 Housing Act, as amended, to clarify that the HUD Secretary shall give a priority to projects which involve the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupany by large families requiring three or more bedrooms.

Section 102(b)(3)—Reporting Requirements: Amend Section 6(m) of the 1937 Housing Act, as amended, to make a technical change in the public housing agency in the reporting requirements.

Section 102(b)(4)—Renewal of Section 8 Contracts: Amends Section 8(d)(2) of the 1937 Housing Act, as amended, to clarify that in addition to any other cases in which the HUD Secretary attaches a Section 8 contracts to the structure, a Section 8 contract may be attached to the structure if (A) the Secretary and the public housing agency approve such action; and (B) the owner agrees to rehabilitate the structure other than with assistance authorized by the 1937 Housing Act and complies with Section 8 requirements.

Section 102(b)(5)—Assistance Contracts for Property Disposition: Amends Section 8(e)(2) of the 1937 Housing Act, as amended, to provide that the HUD Secretary shall increase the amount of Section 8 moderate rehabilitation assistance if the Secretary determines such increase is necessary to assist in the sale of HUD-held multifamily housing projects in order to ensure the availability of units in these projects for lower income persons.

Section 102(b)(6)—Single Room Occupancy Housing: Amends Section 8(n) of the 1937 Housing Act, to clarify an improper section reference.

Section 102(b)(7)—Voucher Demonstration: Amends Section 8(o)(3)(A) of the 1937 Housing Act, as amended, to clarify that voucher assistance payments may also be made for a low-income family participating in the rental rehabilitation program.

Section 102(b)(8)—Voucher Demonstration: Amends Section 8(o)(7)(D) of the 1937 Housing Act to clarify the term unit of general local government as used in the voucher demonstration program.

Section 102(c)(1)—Section 202 Elderly & Handicapped Housing: Amends Section 202(a)(4)(B)(i) of the Housing Act of 1959, as amended, to clarify the authorization of such sums as may be approved in an appropriation Act for the Section 202 program for Fiscal Year 1985.

Section 102(c)(2)—Section 202 Housing: Amends Section 202(h) of the 1959 Housing Act to correct punctuation within text.

Section 102(c)(3)—Section 202 Selection of a Contractor: Amends Section 202(1) of the 1959 Housing Act to clarify that the HUD Secretary shall not impose different requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the Section 202 sponsor or borrower.

Section 102(d)—Section 101 Rent Supplement Program: Amends Section 101(g) of the Housing and Urban Development Act of 1965, to clarify that HUD is to provide sufficient payments to cover 90 percent of the necessary rent increases and changes in tenants income, subject to available Section 5(c) authority.

Section 102(e)—Rural Housing Preservation Grants: Amends Section 213(d)(2) of the Housing and Community Development Act of 1974 to clarify a reference to the Section 533 Rural Housing Preservation Grant Program.

Section 102(f)—Congregate housing program: Amends Section 411(a)(4) of the Congregate Housing Services Act of 1978, as amended, to conform punctuation within text.

Section 102(g)(1)—Emergency shelter program: Amends Section 216 of the 1983 HURRA to clarify reference to the terms, "Secretary of Housing and Urban Development" and "section" within text.

Section 102(g)(2)—Report on neighborhood strategy area program: Amends Section 220 of the 1983 HURRA to clarify the references to the term, "Secretary of Housing and Urban Development" within text.

Section 102(g)(3)—Utility payments in assisted housing: Amends Section 221 of the 1983 HURRA to clarify that any payment made in lieu of any rental payment by a tenant in a lower income housing project shall be considered to be a rental payment.

Rental housing rehabilitation and production program

Section 103(a)—Program authority: Amends Section 17(a)(1)(A) of the United States Housing Act of 1937, as amended, to delete reference to States and units of general local government to clarify program authority.

Section 103(b)—Program allocation adjustments: Amends Section 17(b)(2)(B) of the 1937 Housing Act, as amended, to conform the subsection designation for states administering the program.

Section 103(c)(1)—Moderate rehabilitation program: Amends Section 17(c)(2)(H) of the 1937 Housing Act, as amended, to conform the reference to grantees under the moderate rehabilitation program.

Section 103(c)(2)—Moderate rehabilitation program: Amends Section 17(c)(3)(A) of the 1937 Housing Act, as amended, to read "families with children, particularly families requiring three or more bedrooms" to clarify that an equitable share of the moderate rehabilitation grants go to assist the housing needs of families requiring 3 or more bedrooms.

Section 103(d)(1)—New construction and substantial rehabilitation grants: Amends Section 17(d)(2) of the 1937 Housing Act, as amended, to conform the term unit of gen-

eral local government within text, and makes eligible each city that has a population of not less than 450,000, as determined by the 1980 dicennial census.

Section 103(d)(2)—New construction and substantial rehabilitation grants: Amends Section 17(d)(4)(E) of the 1937 Housing Act, as amended, to conform terms used to describe lower income families.

Section 103(d)(3)—New construction and substantial rehabilitation grants: Amends Section 17(d)(5)(H) of the 1937 Housing Act, as amended, to read "families with children, particularly families requiring 3 or more bedrooms" to clarify that an equitable share of the rehabilitation grants goes to assist the housing needs of families requiring 3 or more bedrooms.

Section 103(e)(1)—Rental rehabilitation grant program: Amends Section 17(e)(1) of the 1937 Housing Act to conform subsection to clarify that states may administer a state rental rehabilitation program in communities and areas which are not receiving formula allocations.

Section 103(e)(2)—Rental rehabilitation grant program: Amends Section 17(e)(2) of the 1937 Housing Act by redesignating subsection reference to clarify that States may elect not to administer the rental rehabilitation grant program.

Section 103(f)—Preservation, environmental policy, and labor standards: Amends Section 17(i)(3) of the 1937 Housing Act, as amended, to conform the term project within the text.

Section 103(g)—Program definitions:

(1) Amends Section 17(k)(5)(A) of the 1937 Housing Act, as amended, to read "resources under subsection (b), and any unit of general local government receiving resources under subsection (d)" to clarify that grantee means any city or urban county receiving rental rehabilitation allocations and any unit of local government receiving development grant funds;

(2) Amends Section 17(k)(5)(B) of the 1937 Housing Act, as amended, by redesignating subsection reference to clarify that grantee means any State administering a state rental rehabilitation or development grant program;

(3) Amends Section 17(k)(5)(C) of the 1937 Housing Act, as amended, by redesignating subsection reference to clarify that grantee means any unit of general local government which receives assistance from the HUD Secretary under the State rental rehabilitation program;

(4) Amends Section 17(k) of the 1937 Housing Act, as amended, by inserting new paragraphs which define (6) the term "State" to mean each of the several States and the Commonwealth of Puerto Rico; (7) defines the term "unit of general local government" to mean (A) any city, country, town, township, parish, village, or other general purpose political subdivision of a State; (B) any Indian tribe; and (C) the District of Columbia, the Virgin Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and (8) defines the terms "city", "Indian tribes, and "urban country" for the purposes of the rental rehabilitation and development grant programs with the same meanings as set forth in the CDBG program.

Section 103(h)—Program review and audit: Amends Section 17(l)(1) of the 1937 Housing Act, as amended, to redesignate a subsection reference to clarify the authority under which a State may conduct a rental rehabilitation program.

Section 103(i)—Inapplicability of certain provisions: Amends Section 17 of the 1937 Act, as amended, to provide a new subsection which makes the following 1937 Act provisions inapplicable to the rental rehabilitation and development grant program as authorized by this section: Section 3(a), Section 3(b)(1), the third sentence of Section 3(b)(3), Section 3(b)(7), and the last sentence of Section 6(a).

Program amendments and extensions

Section 104(a)(1)—Section 232 heading change: Amends Section 232 of the National Housing Act, as amended, to conform punctuation of the Section 232 heading.

Section 104(a)(2)—Mortgage insurance for condominium units: Amends Section 234(k) of the National Housing Act to permit FHA mortgage insurance for units in projects converted to condominiums if an application for a commitment was made for any unit in the project, or any unit received a case number under direct endorsement, or an application for approval was made under the veteran's housing program was in the process before April 20, 1984.

Section 104(a)(3)—Section 235 program: Amends Section 235(j)(2)(C) of the National Housing Act to provide that the HUD Secretary shall set the interest rate for Section 235 mortgages for housing purchasing by a nonprofit organization, public body or agency.

Section 104(a)(4)—Section 236 program: Amends Section 236(j)(4)(B) of the National Housing Act to provide that the HUD Secretary shall set the interest rate for a mortgage under the Section 236 program.

Section 104(a)(5)—Section 526 heading change: Amends Section 526 of the National Housing Act, as amended, to correct punctuation of the Section 526 heading.

Section 104(a)(6)—Amount of insured mortgages: Amends Section 531 of the National Housing Act, as amended, to clarify that the provisions in the limitations on insuring authority refer to insured mortgage commitments under the National Housing Act.

Section 104(a)(7)—Mortgage insurance for group practice facilities: Amends Section 1101(c)(4) of the National Housing Act to provide that interest rate for mortgage insurance for group practice facilities may be an interest rate agreed upon by the mortgagor and the mortgagee.

Section 104(b)—Legislative review: Amends Section 7(o)(6)(C) of the Department of Housing and Urban Development Act to clarify that the 7(o) provisions concerning Congressional review of rules and regulations do not apply to the Secretary's authority to set interest rates for the Sections 235 and 236 programs.

Section 104(c)—National Housing Partnership: Amends Section 906(a) of the Housing and Urban Development Act of 1968 to permit the National Housing Partnership, in order to generate income to support housing for low and moderate income families, to expand its activities by committing up to 25 percent of its equity to activities related to the construction, sale or financing of housing and to the design and the development of commercial, industrial or retail facilities not directly related to housing.

Section 104(d)(1)—Solar Energy and Energy Conservation Bank: Amends Section 514(b)(5)(A) of the Solar Energy and Energy Conservation Bank Act, as amended, to correct the text to refer to grants rather than loans.

Section 104(d)(2)—Solar Energy and Energy Conservation Bank: Amends Section 520(b)(5) of the Solar Bank Act, as amended, to require the Solar Bank to establish in regulation the criteria and their relative weights for an annual allocation of the available financial assistance among eligible financial institutions and to provide that such financial assistance shall be allocated at the same time. Also provides that the HUD Secretary shall issue the regulations not later than 90 days after enactment of this Act.

Section 104(e)(1)—Coinsurance limits: Amends Section 401(e) of the Housing and Urban-Rural Recovery Act of 1983 to delete an incorrect provision.

Section 104(e)(2)—Solar Energy Bank: Amends Section 463 of the 1983 HURRA to correct subsection designations within the text.

Section 104(e)(3)—GNMA commitment extension: Amends Section 482 of the 1983 HURRA to correct a section reference.

Section 104(f)—Mortgage insurance for public hospitals: Requires HUD to issue regulations not later than October 31, 1984, to implement the FHA insurance program for public hospitals as provided for in HURRA.

Rural housing

Section 105(a)—Definition of Income:

(1) Amends Section 501(b)(4) of the Housing Act of 1949 to make clear that in establishing income eligibility limits that will apply to the rural housing programs the Secretary of HUD shall consult with the Secretary of Agriculture and that such limits shall be established taking into consideration the subsidy characteristics and purposes of the rental and homeownership assistance programs to which such limits are applied.

(2) Amends Section 501(b)(5) of the Housing Act of 1949 to clarify that for the purposes of the rural housing assistance programs (a) the Secretary of HUD shall consult with the Secretary of Agriculture in defining income under Section (3)(b)(4) of the United States Housing Act of 1937 and (b) adjusted income will be the same as it is defined in Section 3(b)(5) of the United States Housing Act of 1937.

Section 105(b)—Section 502 Very Low and Low Income Funding Set-Asides: Amends Section 502(b) of the Housing Act of 1949 to require that (1) at least forty percent of the funds available from appropriations for Section 502 loans be set aside and made available by the Farmers Home Administration for families and persons with incomes of fifty percent or less than the median income of the area; and (2) that not less than thirty percent of the Section 502 loan funds allocated to each state be made available only to such very low income families or persons.

Section 105(c)—Administrative Authorities: Amends Section 510(e) of the Housing Act of 1949 to make a grammatical correction to the property disposition provisions.

Section 105(d)(1)—Prohibition on the Transfer of Housing Included and Guaranteed Loan Authority: Amends Section 513(a) of the Housing Act of 1949 to prohibit the transfer of any loan authority authorized under Title V to any other purpose.

Section 105(e)(1)—Conditions for Section 515 Loans With State or Local Rental Assistance Contracts: Amends Section 515(k)(2)(B) of the Housing Act of 1949 as amended to eliminate the requirement that Section 515 loans for low income rental housing projects with state or local rental assistance shall only be approved if the project can be found to be economically feasible without rental assistance.

Section 105(e)(2)—Low and Very Low Income Occupancy Limits in Rural Projects: Amends Section 515(o) of the Housing Act of 1949, as amended, to remove a redundant provision in paragraph (3).

Section 105(g)—Definition of Rural Area: Corrects Section 520 of the Housing Act of 1949, as amended, to assure that areas defined as eligible rural areas continue to be eligible through fiscal year 1985.

Section 105(h)—Utilization of Rental Assistance Payment Authority: Amends Section 521(d)(1) of the Housing Act of 1949 to provide that available rental assistance funds shall be applied by the Secretary first, to existing FmHA rental housing projects to extend expiring rental assistance contracts or to provide additional amounts necessary to assure full funding of the remaining period existing contracts, secondly, to new rental projects under Sections 514, 515 or 516 that have received commitments after fiscal year 1983 to assist very low income persons or families, except that not more than 5 percent of the units assisted with such payments in these projects shall be for low income persons other than very low income persons; and thirdly, any rental assistance payment authority that remains, after being made available as specified above for existing and new projects, can be used to assist additional eligible tenants in rental projects that already are receiving rental assistance payments.

EXPLANATION OF TITLE II OF HOUSE AMENDMENT TO S. 2819, SEPTEMBER 10, 1984

Title II of the bill contains technical and conforming amendments to those provisions of the housing and community development laws not affected by title I.

Section 201 conforms references to the Secretary of Health and Human Services and Secretary of Education. The Department of Education Organization Act (Pub. L. 96-88; 20 U.S.C. 3401 et seq.) established the Departments of Health and Human Services and Education from HEW. However, the references to HEW in the housing and community development laws have never been updated to reflect this change. In addition, section 306 of the Department of Education Organization Act transferred the functions of HUD relating to college housing loans to the Secretary of Education, without amending title IV of the Housing Act of 1950 to reflect that transfer. This section, then, corrects the housing and community development laws to reflect the effect of the reorganizations and transfers effectuated by the Department of Education Organization Act.

Section 202 conforms cross-references to title 5 of the United States Code. Public Law 89-554 codified title 5 of the United States Code. However, the references to title 5 provisions in the housing and community development laws have never been updated to reflect that codification. Most important of these are the refearences to the Administrative Procedure Act, which should now refer to subchapter II of chapter 5, and chapter 7, of title 5. This section corrects these references.

Section 203 conforms cross-references to title 31 of the United States Code. Public Law 97-258 codified title 31 of the United States Code. However, the references to title 31 provisions in the housing and community development laws have never been updated to reflect that codification (except for a few corrections included in HURRA '83). Most important of these are the references to the Second Liberty Bond Act and the Government Corporation Control Act. This section corrects these references.

Section 204 contains miscellaneous technical corrections to housing and community development laws other than the provisions of, and amendments made by, the Housing and Urban-Rural Recovery Act of 1983. This section corrects certain spelling, grammatical, and section designation errors in the housing and community development laws. Section headings are also provided for certain sections of law in which they were inadvertently omitted. Furthermore, references to prior names of the Banking Committees are corrected.

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

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] has consumed 2 minutes.

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

Mr. Speaker, I rise in support of the amendment to S. 2819, Technical Corrections to the Housing and Urban-Rural Recovery Act of 1983.

Last November, this body passed a legislative package involving housing authorizations and IMF funding. In the course of the 11th-hour negotiations with the administration and the Senate to produce that compromise, several technical oversights managed to escape us. Accordingly, title I of this bill makes essential technical amendments to the Housing and Urban Rural Recovery Act of 1983 to conform to the agreed compromise. These amendments have been developed by House and Senate staff and, to the extent possible, with input from the Department of Housing and Urban Development.

This legislation represents an honest effort on the part of both majority and minority to preserve the technical and noncontroversial thrust of those needed amendments. The bill contains no new programs and in only one instance—the section 235 program—do we extend the life of a program. In that case, there was agreement last year to continue the program but the date was not changed in the final draft.

The technical amendments will correct what could otherwise be a very costly and legally confusing situation for HUD. OMB and HUD don't support all elements of this bill, nor do I. In fact, only yesterday did the administration decide to let us know the extent of their concern about a few of the points in the bill. However, I strongly believe that agreements are made to be honored. I don't believe that this legislation breaches any agreements made in good faith last November: to oppose this bill would breach the agreements.

Title II of this bill represents nothing more than "housekeeping" amendments to other housing and community development laws which have been on the books for some time. These changes are necesitated by changes in other statutes that affect laws under the jurisdiction of the Banking Committee, such as making all references to the "Secretary of Health, Education and Welfare" refer to the "Secretary of Health and Human Services." These are truly technical amendments and deserve to be in legislation of this nature.

Mr. Speaker, I urge my colleagues to support this bill. I am supporting it even though I don't support every amendment. The spirit of these amendments was included in the compromise we reached last November. I believe, as honorable men and women, we are bound by that agreement. I have told my friends in the majority and my friends in the administration that there will be ample opportunity in the next session to change the substance of the 1983 legislation. That is the way we normally operate. The intent of our action today and similar action in the other body is only to meet the terms of our agreement. I would point out also that if we fail to pass this technical corrections bill, it is estimated that the cost to the taxpayers could be embarrassing. In one instance alone, we may be talking about as much as $200 million. I urge my colleagues to pass S. 2819.

Mr. Speaker, I would like to elaborate on some of the major provisions of this legislation to clarify the previously agreed upon intentions of the Banking Committee.

COMMUNITY DEVELOPMENT PROGRAMS

One of the major provisions of the Housing and Urban Rural Recovery Act of 1983 pertaining to the Community Development Block Grant Program, stipulates that CDBG Program funds should be focused on activities that directly benefit low- and moderate-income persons or if the activity is a general one in areas where low- and moderate-income persons are in the majority. The present statutory provision provides an exception for jurisdictions only if there are no concentrations of lower income persons. The net result is that jurisdictions that have one or two such areas are forced to spend all their funds in such areas regardless of the size of those areas and the plight of other low-income areas within the jurisdiction. While I believe the congressional intent of targeting aid to lower income areas should be maintained, it obviously was not our intent to prohibit funding in deserving areas if there were only a few areas that met the criteria. Accordingly, the technical amendment amends the statute to reflect that jurisdictions with no area with a majority of low- and moderate-income residents or so few such areas that in the Secretary's opinion the intent of the statute is not being carried out, may still qualify for areawide community development activities if the areas that are served are

among the top 25 percent of all areas within a community's jurisdiction having the highest concentration of low- and moderate-income persons.

Since enactment of the Housing and Urban Rural Recovery Act, various bills have been introduced by my colleagues to correct what was clearly an unforeseen result. This technical amendment addresses those concerns. I must add that we had anticipated having a technical corrections bill passed by Congress earlier in this session. We are now getting close to the time that some urban counties must requalify for another 3-year cycle. To this end, it is expected that HUD will provide some reasonable additional time to those counties who are in the process of requalifying to go back to their areas in view of this statutory change to determine if other areas in the community may now qualify.

Mr. Speaker, this amendment would also severely limit the application of a provision contained in S. 2819 dealing with the proceeds from the sale of urban renewal properties. The legislation Congress passed last fall set certain parameters regarding moneys realized from an urban renewal grant. In an effort to clarify those provisions, which were evidently viewed by some as being too vague, the Senate amended the 1983 amendments to include local public agencies among those eligible to retain program income. The administration has problems with this, and under various scenarios, ran the cost of the amendment up to a worst-case figure of $236 million.

Mr. Speaker, there may be no cost to the Federal Government because the low side of their scenario was zero. In any event, the amendment offered here redirects the funds to units of local government and limits the applicability to two cities who have meritorious claims. It is not clear as to what the cost for those two cities could be, but it would be some place between $10 and $36 million. In addition, it should be noted that this is not new funding authority but funds that would be expected to be paid back to the Treasury.

HOUSING ASSISTANCE PROGRAMS AND RENTAL REHABILITATION AND DEVELOPMENT GRANT PROGRAMS

The technical corrections to the Housing Assistance Programs and the new section 17 program primarily involve typographical and citational corrections. There are some extensions and clarifications to various program provisions. While the minority is in general agreement with most of the provisions, the following should be emphasized.

First, the bill corrects the extension date of the section 235 program, by extending the Secretary's authority to enter into new contracts for section 235 assistance to September 30, 1985. This is consistent with the 2-year extension of other housing programs contained in the Housing and Urban Rural Recovery Act of 1983. While one could question the need for the section 235 program, the agreement was made to extend it and the extending language was inadvertently dropped from last year's bill. In addition, subsequent appropriation measures have appropriated the funds so we are not talking about additional money. However, as the section 235 program has been subject to past abuses costing the Federal Government millions of dollars in defaulted mortgage payments, it is expected that HUD will monitor carefully the implementation of this new authority.

Second, the bill authorizes the Secretary to make necessary adjustments to the section 8 moderate rehabilitation rent limits in order to effectuate the implementation of the property disposition program while ensuring the ability to utilize the units as low-income housing subsidized units. This change was necessitated by the repeal of the section 8, New Construction and Substantial Rehabilitation Program. As a result, section 8 substantial rehabilitation can no longer be used in HUD's multifamily property disposition program.

Mr. Speaker, based on HUD's previous very limited program activity pertaining to substantial rehabilitation in conjunction with property disposition, it appears that the repeal of section 8 substantial rehabilitation will have no ill effect on HUD's implementation of multifamily property disposition. The existing statutory provisions of sections 8 (c)(1) and (e)(2) of the U.S. Housing Act of 1937 provide HUD sufficient authority to make the necessary rental adjustments to assure continued rent subsidies for those previously subsidized units. This provision then is probably not necessary but it does raise a question about the potential costs of this program. While no one disagrees with preserving low-income housing resources, there is a public policy question of "at what cost?" This technical provision unfortunately does not answer that question. At what point, Mr. Speaker, will the taxpayers say "enough?" Repairs of $60,000, $70,000, $80,000 per unit? Monthly subsidy costs of $800 per unit, $1,000 per unit? At some point, a decision must be made to utilize other resources. I hope our committee will address that question next year.

Mr. Speaker, as you know, the 1983 housing authorization bill defines adjusted income, and includes certain exclusions from income. Since the enactment of the bill, questions have arisen pertaining to the applicability of attendant care and auxiliary apparatus expenses that may be necessary to enable a family member to be gainfully employed, including the gainful employment of a disabled or handicapped family member. The apparent confusion exists due to the fact that section 3(b)(5)(C) of the U.S. Housing Act of 1937 provides an exclusion for medical expenses in excess of 3 percent with no mention of unusual expenses which have previously been addressed in HUD occupancy guidelines. It had always been our intention to provide necessary compensation for reasonable attendant care and auxiliary apparatus expenses to assist employment opportunities of disabled or handicapped family members. Auxiliary apparatus is intended to be limited to vans to transport the handicapped and wheelchairs and other auxiliary equipment the Secretary so determines is necessary to assist in employment opportunities. This should be clear as a result of this legislation.

Finally, a clarifying amendment is being made to section 223(e) of the Housing and Urban Rural Recovery Act of 1983 pertaining to preconditions for competitive bidding of construction contracts under the section 202 program. This amendment is necessary to carry out the original congressional intent that sponsors of section 202 housing for the elderly and handicapped have an unfettered choice of contractor selection methods if they meet the statutory criteria specified in the 1983 act.

Since the enactment of the 1983 act, HUD has issued guidelines which prevent HUD loan proceeds from being used for the cost of change orders in connection with negotiated construction contracts. Moreover, the construction contract is amended for sole-source negotiated contracts imposing certain warranties by the contractor with respect to the drawings and specifications and requires that the contractor agree to assume full responsibility for any increased costs resulting from changes in the contract document. This requirement does not exist in other HUD-insured programs. Why should things be different for section 202 sponsors, who, within the existing statutory criteria, choose to negotiate with an individual contractor?

While HUD should be commended for its efforts to contain costs in the section 202 program, HUD should not impose different requirements with regard to construction change orders so as to coerce sponsors in using competitive bidding rather than negotiated bidding. Equal treatment with regard to change orders should be provided nomatter which contractor selection method is used.

Due to the significant differences in both the House and Senate versions of the new section 17, Rental Rehabilitation and Housing Development Grant Program, the final negotiated compromise did not accurately reflect certain agreed upon intentions of both the House and Senate. While the staff

suggested amendments to the Housing Development Grant Program, it was decided to defer any further legislative efforts until the Department of Housing and Urban Development had a chance to review public comments in response to the interim regulation and obtain other program experiences based on an evaluation of the first round of applications.

Therefore, the scope of the changes pertaining to the section 17 program primarily involve the deletion of superfluous language and corrections of typographic and citational errors. In addition, clarifications are made to permit Indian tribes and insular areas to be eligible for development grants, and to permit the State program for rental rehabilitation to operate in any area other than within the jurisdictions of formula allocation grantees and rural areas.

FHA PROGRAM AMENDMENTS AND EXTENSIONS

This section provides clarifications pertaining to condominium conversion restrictions, Charter of the National Housing Partnerships, and the allocation of resources for the Solar Energy and Energy Conservation Bank.

Section 420(c) of HURRA imposes new restrictions on the use of mortgage insurance for individual condominium units in projects that were converted from rental housing. This amendment provides some relief to developers having condominium conversions in process when section 234(k) of the National Housing Act was enacted. These developers, as well as prospective purchasers of condominium units, may be adversely affected by the imposition of these new restrictions. The technical amendment contained in this legislation provides that if an application for mortgage insurance for any unit was filed with HUD before April 20, 1984, all other units in the same project would be eligible for mortgage insurance without regard to the section 234(k) restrictions.

Mr. Speaker, both the House and Senate authorization bills contained provisions amending the charter of the national housing partnerships. Through an oversight, the compromise version was not included in the final bill. This provision implements the previous agreement by authorizing NHP to design, develop, manufacture, and sell products and services for use in the construction, sale, or financing of housing, and design, and develop commercial, industrial, or retail facilities that are directly not related to housing, except that the total equity commitment of the corporation to commercial, industrial, and retail facilities that are not directly related to a housing project shall not exceed 25 percent of its equity commitment to housing activities. The production and preservation of housing primarily for the benefit of families and individuals of low and moderate income shall remain to be the primary purpose of the corporation.

SOLAR BANK

Mr. Speaker, the Solar Energy and Energy Conservation Bank was established by title V of the Energy Security Act of 1980 to encourage energy conservation and the application of solar technology to lessen this country's dependence on imported oil and other foreign energy sources. While the bank is authorized to provide subsidies directly to financial institutions, HUD has elected to use the States as intermediaries. There has been concern over the procedures and criteria for making funding allocations under the Solar Bank Program. The House amendment clarifies the fund allocation procedure by requiring the solar bank to establish in regulation the criteria and their relative weights for an annual allocation of the available assistance.

RURAL HOUSING

This section clarifies provisions contained in the Housing and Urban Rural Recovery Act of 1983 to permit the Farmers Home Administration, Section 502, Low Income Homeownership Loan Program, to operate more effectively in view of last year's targeting provisions. Currently, the statute requires that nationally not less than 40 percent of subsidized homes in section 502, and 30 percent in each State be available only for occupancy by very low-income families. The intent was to get more funds to the truly needy.

Unfortunately, last year's targeting provision has not achieved the results we had intended. Whether through lack of available low-cost housing or because the ceiling of 50 percent or below of area median income is simply too low to actually qualify a homeowner, the Farmers Home Administration is having a difficult time meeting the 40-percent target. As a result, neither the very low-income funds or the low-income funds are being fully utilized because Farmers Home claims there is a linkage between the two.

The technical amendment solves that problem by establishing two funding categories. A set-aside is established in which at least 40 percent of the funds are for subsidized home loans to very low-income families. In addition, not less than 30 percent of funds allocated to States are required to be set aside for use only by very low-income families. This requirement does not preclude FmHA from pooling and reallocating any unused funds from such a State set-aside so long as the funds remain available only for low-income families.

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

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. McKINNEY] has consumed 3 minutes.

Mr. FRANK. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I would like to engage in a colloquy regarding a section of the bill so that there is no question as to congressional intent when the act is carried out.

I hope my understanding of the provision is correct; because an expensive legal battle is being waged against the Denver Urban Renewal Authority by HUD. While DURA has won the first round of court battles, I would hate to see taxpayer dollars being spent on attorney's fees, rather than to provide the housing, community development, and urban renewal assistance so badly needed in Denver. This provision, already adopted by the Senate, will put an end to that court battle and let the funds be spent where they are most needed.

The section authorizes the city of Denver, CO, to receive and use for housing, urban renewal, and community development purposes, certain funds earned by the Denver Urban Renewal Authority in its administration of the Skyline Urban Renewal project. The Skyline funds consist of all moneys received by the Denver Urban Renewal Authority as income from parking lots, as receipts from the sale of land, air, and subsurface rights in the Skyline area, and other funds resulting from the Skyline project retained by the Denver Urban Renewal Authority, as well as all interest earned on the investment of such moneys. As used in this section, receive means that the city of Denver may hold the Skyline funds as its own property, to invest, dispose of or expend the funds and any interest the funds may earn in the future. The only restriction on Denver's retention, investment, disposition, or use of the funds is that the funds must be used in accordance with the requirements of the Community Development Block Grant Program as specified in title I of the Housing and Community Development Act of 1974. It is clear from that act that the Department of Housing and Urban Development does not have the authority to approve or disapprove of the expenditure of those funds in advance as long as city specifies their use in their annual CDBG proposal and these funds in addition to all funds received under the CDBG Program principally benefit low- and moderate-income families and the city complies with the moderate income families and the city complies with the certification and other requirements of the CDBG Program.

Let me extend my thanks to the chairman and this staff as well as the minority for your support and cooperation.

□ 1530

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

Mrs. SCHROEDER. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentlewoman for yielding.

The gentlewoman has correctly stated the intent of the subcommittee and of the Congress in regard to the matter she has just discussed.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman.

Mr. McKINNEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in support of the amendment to S. 2819.

In almost 18 years in Congress, I have seen few pieces of legislation that were perfect on the first draft and questions often arise before the final product is brought before the House. Most of the time differences between the House and Senate are ironed out in a conference between the two Bodies.

Last fall we didn't have the luxury of a conference on our housing bill. The situation was such that we had to pass an IMF bill. Part of the package we agreed—include was a housing bill that was constructed without the benefit of a formal conference.

Mr. Speaker, in assessing the impact of that housing bill, it was clear that certain provisions were not working as we had thought. Viewed as a whole, these are not major matters. On the other hand, in some circumstances, and in certain localities, these are indeed major matters. An example of that is the problem some urban counties experienced in spending their CDBG funds. Many of my colleagues, including the gentleman from Pennsylvania [Mr. WALKER] have approached me and asked that we pass legislation correcting a flawed provision in last year's act on the CDBG Program. Well, here it is.

In fact, Mr. Speaker, what we present here is an attempt to correct all the faults we could identify that are noncontroversial. The other body has already passed their version. We have an amendment which I support. Our amendment is somewhat longer but that is misleading. Almost one-half of the text of this amendment has nothing to do with last year's bill. Changes are made in other housing laws under our committee's jurisdiction but they are truly technical in nature. They correct out-of-date citations or Department positions that no longer exist. It is simply an attempt to correct the text of our laws so that when a new version of the compiled laws is printed later this year it will not contain out dated references.

The changes we domake to last year's bill are, for the most part, inconsequential. They have been developed in consultation with the administration and the other body. There are, however, a few provisions that are not favored by the administration. One extends the section 235 Subsidized Homeownership Program for another year. The administration is opposed to this program. So am I. On the other hand, the agreement that was reached last year did extend the program and I believe we should live up to our agreement. In addition, the funds have already been appropriated. Another provision opposed by the administration would allow certain cities to retain urban renewal income. The other body added an amendment to existing law that could be broad ranging. In excess of 150 projects would have been effected. We have severely limited the application of that amendment. In fact, projects in only two cities are now covered. The cost could be as low as $10 million as opposed to $236 million if all projects were included.

There were also questions raised about the 202 Program and some of the Farmers Home provisions. None of these, however, could in any way be construed as budget busters. The objection lies more in philosophy and even OMB admits there are two interpretations on these matters.

Mr. Speaker, in the other portions of the bill there are some very laudatory changes. I have already briefly mentioned that part of the amendment that deals with urban counties and the principally benefiting rule. Last year, as you know, we attempted to further target community development funds by requiring them to be spent either on low- and moderate-income families or in areas where low- and moderate-income individuals are in the majority. We provided an exception but the exception was so narrowly drawn that it had the effect of forcing urban counties to spend all their funds in one or two very small geographical areas while larger but deserving areas were prohibited from receiving funds. This certainly was not our intention and I am gratified that we are clearing this up with this amendment.

In addition, the amendment clarifies a provision in last year's bill dealing with attendant care costs allowed under the new definition of income. As a result of this amendment, handicapped residents of assisted housing would be permitted to deduct from their income attendant care and special transportation costs such as wheelchairs and specially modified vans.

I might also mention an amendment to the Farmers Home Administration section. Many of my colleagues will remember the problem that arose earlier this year when funds for the Farmers Home Administration 502 Homeownership Program were not being spent because of an administrative interpretation. Last year's bill targeted 40 percent of the 502 funds for very low income families. When, for various reasons, the full 40 percent of those funds could not be utilized in some States, the Department of Agriculture refused to spend the 60 percent of the remaining funds. These were funds that were to go to low-income families. The Department claimed a linkage between the two. We were able to sever the link for this year in an appropriation bill. This amendment will take care of the problem for future years.

Mr. Speaker, this legislation does have merit and is of a technical nature. It contains no new grandiose programs and has been approved by both the majority and the minority. I hope my colleagues will suspend the rules and pass S. 2819 as amended.

Mr. FRANK. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I understand that these technical amendments are simply correcting oversights of the Housing and Urban-Rural Recovery Act of last year and therefore a matter of importance to my district has not been included. That matter is maintaining the community development block grant [CDBG] entitlement status of those communities which lost their status as central cities after the last census. As I understand it, 19 communities under 50,000 no longer meet the definition of central city of a metropolitan area and therefore will not be entitled for CDBG funding after fiscal year 1985. For the first time, studies of commuting patterns were used to identify central cities, and these cities were dedesignated because they do not attract enough workers. Since attracting workers is a key to a healthy and vibrant economy, this methodology has eliminated some very distressed and struggling communities, which are very much in need of CDBG funding. One of these communities, the city of Hopewell, VA, is in my district. I am also speaking on behalf of my colleague, Mr. HEFNER of North Carolina, who represents the communities of Concord and Salisbury, NC, which are also affected by this change. Mr. Speaker, I can appreciate that in the crush of business the committee has limited its considerations this year to matters of immediate concern, but could you assure me that when the committee considers legislation in the next Congress, it will review the situation of these small cities as the committee conducts hearings and marks up the legislation?

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

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

Mr. FRANK. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for his concern for his district which has led him to be so active in this regard, along with the gentleman from North Carolina [Mr. HEFNER] and others.

The subcommittee, and I speak now after consultation with the chairman of the subcommittee, the gentleman from Texas, very much intends to address this. We share the gentleman's concern. Nine States and nineteen communities, as the gentleman has pointed out, have been so affected.

It is our intention early in the next session to have hearings and to begin legislative consideration of some remedies.

As the gentleman knows, the census data which resulted in these changes was not completed prior to our acting in 1984 and that is why we were not able to act anticipatorially, but we do intend to give very serious consideration to this. We hope we will be able to give some relief to the gentleman and to his colleagues.

I want to commend the gentleman for raising this issue.

Mr. SISISKY. I thank the gentleman.

● Mr. ST GERMAIN. Mr. Speaker, the amendments to the Housing and Urban-Rural Recovery Act of 1983, Public Law 98-181, contain important technical corrections and policy clarifications to that act. These are necessary because in passing Public Law 98-181, the usual procedure of a conference meeting, a conference report, and floor action was bypassed. Important omissions and technical defects which resulted must be corrected. This amendment provides those corrections and also includes clarifications of congressional intent that have been brought to our attention.

Title I of this amendment contains technical corrections to the community development block grant and the assisted housing programs administered by the Department of Housing and Urban Development and the Farmers' Home Administration's rural housing programs.

A provision is included that will clear up the issue involving the principally benefit tests where areawide activities are undertaken in communities that have few or no areas with high concentrations of low- and moderate-income people. This amendment would permit community development block grant activities to be considered to benefit low- and moderate-income families if they are located among the top 25 percent of all areas within the community having the highest concentration of low- and moderate-income people. We clarify that an urban county that contained newly identified metropolitan cities can be considered an urban county entitlement community if the city defers its metropolitan classification for Community Development Block Grant Program purposes.

Among the assisted housing provisions included in this amendment the use of section 235 homeownership subsidy funds that the Congress approved will be facilitated by correcting a technical omission. Handicapped employed residents of federally assisted housing would be allowed their income attendant care costs; the HUD Secretary would be authorized to increase moderate rehabilitation section 8 assistance to assure that low-income residents can continue to live in apartments sold from the HUD inventory. And the HUD Secretary's authority to provide section 8 existing contracts on a project basis in the Loan Management and Property Disposition Program would be preserved. Both of these amendments will help in the effort to utilize to the greatest extent possible the existing housing stock in meeting our low-income housing needs. A provision adds 12 more cities that could be eligible for grants under the Rental Housing Development Program.

Title II contains other necessary technical and conforming amendments to the housing and community development laws and makes other corrections of a technical nature. In addition several provisions are included to the Farmers' Home Administration's rural housing programs. Beginning in fiscal year 1985, the transfer of rural housing loan authority to any other program would be prohibited. The unfortunate section 502 homeownership targeting issue is resolved by a provision which allows separate set-asides of section 502 authority among very low-income borrowers and low-income borrowers so that loans for one needy group of borrowers are not withheld because a loan cannot be made to a borrower from the other group. A provision would make clear that States and localities that provide rental assistance payments for low-income rural rental projects in order to obtain a section 515 rental housing loan not be required to meet other feasibility requirements than already are required by the Farmers Home Administration's Rental Assistance Payment Program.

A provision of the amendment requires the HUD Secretary to issue regulations by October 31, 1984, to implement section 436 of the 1983 amendments, which makes FHA hospital mortgage insurance available for the first time to the public hospitals.

I also am concerned about the Department's persistent effort to change the performance funding system that provides operating subsidies. I am advised that an August 31, 1984, memorandum indicates that the Department decided not to retroactively change the procedures used for calculating the rental income estimate used in the performance funding system. But I must express my real disappointment to find that HUD reneged on an agreement it made when we negotiated the 1983 Act. At that time we agreed that nonprofit section 202 elderly housing sponsors to select contractors on a negotiated basis so long as costs were low—if they where high HUD was permitted to step into the selection process. However, to my dismay HUD went ahead and proposed administrative procedures that made a mockery of its agreement. It would not back off and, therefore, we have included a provision preventing the imposition of requirements merely designed to apply because of the method of contractor selection in a nonprofit section 202 project.

I thank the subcommittee chairman, Mr. GONZALEZ, and the ranking minority member, Mr. MCKINNEY, for their work on this complicated technical amendment and urge its adoption by the House.

INDIAN HOUSING ASSISTANCE

The committee is seriously concerned that the Indian Housing Program may be seriously impaired through regulations involving low-income eligibility limits, the proportion of low and very low-income families that may occupy mutual-help projects and the use of manufactured housing standards in an effort to limit the type and cost of construction for all mutual-help projects.

Income eligibility ceilings for the Indian Housing Program should be established to permit as widespread use of the Mutual-Help Housing Program as possible because it is the only program under which individual housing can be built for Indian families especially those who reside on reservations. Indian family incomes are so low that the prescribed percentages of the median used for other housing assistance would include families that could not afford homeownership and would exclude families that have almost equal housing needs but could afford to participate in the program. Also, the Mutual-Help Program should not be subject to the regulation requiring not more than 5 percent of the units in a project to be occupied by families with incomes between 50 and 80 percent of area median income. As with income ceilings, a regulation of this type would virtually stop the program contrary to the intent of the Congress. And, finally, the committee does not believe that the Congress intended to limit all Indian housing construction to a standard no higher than HUD's manufactured housing standards. The Department has indicated that it will reconsider its approach to each of these issues and the concerns of the committee, therefore, no legislative provisions addressing these issues are included in this bill.●

● Mr. LEHMAN of California. Mr. Speaker, I would like to express my support for Senate bill 2819, which makes technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

This important measure clarifies a number of provisions in the housing authorization bill that was signed into law last November, and makes other minor adjustments in the housing programs addressed by this legislation.

I would like to extend my appreciation to Housing Subcommittee Chairman HENRY B. GONZALEZ for all of his hard work on this technical corrections bill. Chairman GONZALEZ has worked closely with Members from both sides of the aisle to insure that all pertinent viewpoints have been addressed in this bill. I commend him for the excellent piece of legislation he has brought to the floor of the House today.

Of particular interest to my constituents in San Joaquin County, CA, is a provision in this bill that clarifies that San Joaquin county is indeed qualified as an urban county for purposes of participation in the U.S. Department of Housing and Urban Development's Community Development Block Grant Program.

The county reached the population figure of 200,000 required for participation in the program in early 1982. However, because of the delay in determining the accurate count of these residents by the Census Bureau, the county was adversely affected by a technical change in the program in 1983 regarding cities designated as central cities by the Office of Management and Budget. The result of these changes was to deny San Joaquin County the deserved benefits of urban county status even now, 2 years after the county qualified for such status.

On behalf of the citizens of San Joaquin County, I would like to extend my thanks to both of these gentlemen, and to the staff of the House Subcommittee on Housing and Community Development, for all of their assistance in helping to resolve this issue.

I urge my colleagues to vote in favor of this measure to make the law evenhanded and equitable.●

● Mr. HORTON. Mr. Speaker, I rise in support of the amendment sponsored by my colleague, Chairman ST GERMAIN. This package of noncontroversial housing amendments contains language addressing a problem of particular concern to the people of New York State.

In early 1982, the State of New York developed a model proposal for combining Federal and State resources to address the housing needs of low- and moderate-income rural citizens. This proposal provides affordable housing by combining New York State rental assistance money with housing constructed through FmHA section 515 program.

This past year, regulations promulgated by FmHA were released, which made this model program all but impossible to administer. Simply stated, the problems are threefold:

First, the regulations require a market survey demonstrating that the units are marketable without a subsidy. Once the grantee demonstrates that the subsidy is unnecessary, the subsidy is denied.

Second, the regulations require the commitment of at least 25 years be made by the State of New York for rental assistance. The New York State Constitution prohibits authorizations for more than a single fiscal year.

Third, the regulations establish an inequitable funding formula that prevents the release of section 515 for otherwise eligible projects.

These regulations resulted in the fact that less than 20 percent of New York's fiscal year 1983 section 515 allocation has been released. The language in this bill will remedy these problems and allow this successful program to continue to serve the needs of my rural constituents.

I commend my colleague, Chairman ST GERMAIN, for his early attention to these problems. In addition, I want to especially commend my good friend and New York State colleague, STAN LUNDINE, for his untiring efforts as a member of the Committee on Banking, Finance and Urban Affairs.●

● Mr. CORRADA. Mr. Speaker, I rise in support of S. 2819, legislation making technical corrections to the Housing and Urban-Rural Recovery Act of 1983, now Public Law 98-181.

This legislation is essentially noncontroversial, but very important in continuing the basis thrust of many housing programs which the legislation passed at the close of the last session of Congress continued and expanded. It certainly helps meet the need for many cities throughout the United States and Puerto Rico to focus on the housing necessities of low- and moderate-income families, and to continue the Federal Government's responsibility in this area.

The Community Development Block Grant Program of the Department of Housing and Urban Development, as the legislation mandates, should continue to focus on the needs of the low- and moderate-income residents within the area affected by the CDBG program and I strongly endorse that mandate. By a minor omission in the legislation passed last year prior to adjournment, this technicality which changed this focus inadvertently would be reinstated.

In addition, the legislation contains various technical provisions which cover a variety of housing programs including the new Housing Development Grant Program of HUD which is just getting underway on the national level. A provision allowing States to use a small portion of their CDBG "State" block grant for smaller cities in helping implement the new housing rental rehabilitation program is particularly useful, it seems to me, in helping provide the much needed technical assistance for smaller communities in helping get a new program started.

I believe this legislation, which is esssentially technical in nature, is important. I commend Chairman HENRY GONZÁLEZ of the Housing Subcommittee for his promptness in bringing this to the floor for consideration.

I urge support of S. 2819 and its speedy passage.●

● Mr. KOSTMAYER. Mr. Speaker, I rise in strong support of S. 2819, making amendments to the Housing and Urban Recovery Act of 1983.

S. 2819 includes legislation I introduced on February 23, 1984 as H.R. 4843, and which was subsequently introduced by Senator JOHN HEINZ in the other body on February 28, 1984. The Banking, Finance and Urban Affairs Committee has incorporated H.R. 4843 into this bill.

The section of S. 2819 I refer to amends section 105(c)(2)(B) of the Housing and Community Development Act.

Last December county and local officials in Bucks County in my congressional district alerted me to an unintended change in the 1983 law which drastically altered project eligibility rules in urban counties, such as Bucks, and neighboring Montgomery County, and several other counties in Pennsylvania. This change was forcing certain jurisdictions with low population density to concentrate community development block grant activity in few or small pockets of poverty, while ignoring the needs of most of their lower income population.

The Kostmayer/Heinz proposal—which was drafted with the assistance of the National Association of Counties and which also has the support of the National Association of Towns and Townships—will enable cities and counties with few or small concentrations of poor to meet the requirement that at least 51 percent of their CDBG spending benefit lower income persons through projects to improve areas among the top 25 percent in concentration of lower income families.

The 1983 act requires that areawide projects be in census tracts or blocks that have a majority of lower income residents, unless the jurisdiction has no such areas. The jurisdiction would then have to target spending on the 25 percent of areas with the highest proportion of lower income households. We have sought to have the exception broadened for urban counties where it would be unrealistic, and contrary to

the intention of the 1983 act, to focus CDBG spending on a few, small and scattered areas where a majority of residents are lower income. Eight counties in Pennsylvania will be precluded from carrying out areawide projects in those parts of the county where most of their lower income households reside, unless the law is changed.

In Bucks County alone, the following 12 projects are at stake, according to information supplied by the county's Office of Community Development:

[In percent]

Sponsor	Project	Low/mod
Chalfont	Street improvements	49.3
Durham	Acquire Durham mill	41.0
Durham	Recreation facilities	41.0
Riegelsville	Ambulance for emergency squad	39.6
Falls	Park acquisition	44.5
Morrisville	Central area renewal	47.6
New Hope	Traffic signal	42.7
Newton Boro	Street improvements	40.8
Richland	Recreation facility	42.0
Springfield	Springtown Community Center	44.6
Springfield	Water system	44.6
Yardley	Historic preservation	37.9

Mr. Speaker, I want to thank the distinguished chairman of the Banking Committee, Mr. ST. GERMAIN, and the chairman of the Housing Subcommittee, Mr. GONZALEZ, for recognizing the urgency of this problem, and moving my legislation so that these and other deserving projects in urban counties can go forward.

I urge my colleagues to approve S. 2819.●

□ 1540

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

Mr. FRANK. 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 Massachusetts [Mr. FRANK] that the House suspend the rules and pass the Senate bill, S. 2819, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to make technical and conforming amendments in certain laws relating to housing and community development."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. 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 Massachusetts.

There was no objection.

SECONDARY MORTGAGE MARKET ENHANCEMENT ACT OF 1984

Mr. WIRTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2040) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal Home Loan Mortgage Corporation, and for other purposes, as amended.

The Clerk read as follows:

S. 2040

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 "Secondary Mortgage Market Enhancement Act of 1984".

TITLE I—SECURITIES LAWS AMENDMENTS

MORTGAGE RELATED SECURITY

SEC. 101. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding the following new paragraph at the end thereof:

"(41) The term 'mortgage related security' means a security that is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, and either:

"(A) represents ownership of one or more promissory notes or certificates of interest or participation in such notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of such notes, certificates, or participations of amounts payable under, such notes, certificates, or participations), which notes:

"(i) are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in section 603(6) of the National Manufactured Housing Construction and Safety Standards Act of 1974, whether such manufactured home is considered real or personal property under the laws of the State in which it is to be located; and

"(ii) were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution which is supervised and examined by a Federal or State authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to sections 203 and 211 of the National Housing Act, or, where such notes involve a lien of the manufactured home, by any such institution or by any financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to section 2 of the National Housing Act; or

"(B) is secured by one of more promissory notes or certificates of interest or participations in such notes (with or without recourse to the issuer thereof) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the requirements of subparagraphs (A) (i) and (ii) or certificates of interest or participations in promissory notes meeting such requirements.

For the purpose of the paragraph, the term 'promissory note', when used in connection with a manufactured home, shall also include a loan, advance, or credit sale as evidence by a retail installment sales contract or other instrument.".

APPLICABILITY OF MARGIN REQUIREMENTS

SEC. 102. Section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g) is amended by adding the following new subsection at the end thereof:

"(g) Subject to such rules and regulations as the Board of Governors of the Federal Reserve System may adopt in the public interest and for the protection of investors, no member of a national securities exchange or broker or dealer shall be deemed to have extended or maintained credit or arranged for the extension or maintenance of credit for the purpose of purchasing a security, within the meaning of this section, by reason of a bona fide agreement for delayed delivery of a mortgage related security against full payment of the purchase price thereof upon such delivery within one hundred and eighty days after the purchase, or within such shorter period as the Board of Governors of the Federal Reserve System may prescribe by rule or regulation.".

BORROWING IN THE COURSE OF BUSINESS

SEC. 103. Section 8(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78h(a)) is amended by adding the following new sentence at the end thereof: "Subject to such rules and regulations as the Board of Governors of the Federal Reserve System may adopt in the public interest and for the protection of investors, no person shall be deemed to have borrowed within the ordinary course of business, within the meaning of this subsection, by reason of a bona fide agreement for delayed delivery of a mortgage related security against full payment of the purchase price thereof upon such delivery within one hundred and eighty days after the purchase, or within such shorter period as the Board of Governors of the Federal Reserve System may prescribe by rule or regulation.".

MORTGAGE RELATED SECURITIES AS COLLATERAL

SEC. 104. Section 11(d)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by—

(1) inserting "(i)" between "of" and "any"; and

(2) inserting the following immediately after "thirty-five days after such purchase": "or (ii) any mortgage related security against full payment of the entire purchase price thereof upon such delivery within one hundred and eighty days after such purchase, or within such shorter period as the Commission may prescribe by rule or regulation".

INVESTMENT BY DEPOSITORY INSTITUTIONS

SEC. 105. (a) Section 5(c)(1) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

"(S) MORTGAGE BACKED SECURITIES.—Investments in securities that—

"(i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

"(ii) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regula-

tions as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.".

(b) Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by redesignating paragraph (15) as paragraph (16); and

(2) by inserting after paragraph (14) the following:

"(15) to invest in securities that—

"(A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or

"(B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Board may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both;".

(c) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end of paragraph Seventh the following: "The limitations and restrictions contained in this paragraph as to an association purchasing for its own account investment securities shall not apply to securities that (A) are offered and sold pursuant to section 4(5) of the Securities Act of 1933 (15 U.S.C. 77d(5)); or (B) are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), subject to such regulations as the Comptroller of the Currency may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales prices, or both.".

PREEMPTION OF STATE LAW

SEC. 106. (a)(1) Any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in securities that are—

(A) offered and sold pursuant to section 4(5) of the Securities Act of 1933,

(B) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), or

(C) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

to the same extent that such person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

(2) Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, corporation, partnership, association, business trust, or business entity, such securities that are—

(A) offered and sold pursuant to section 4(5) of the Securities Act of 1933,

(B) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))), or

(C) securities issued or guaranteed by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association,

shall be considered to be obligations issued by the United States for purposes of the limitation.

(b) The provisions of subsection (a) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of seven years after the date of the enactment of this Act, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in subsection (a). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior thereto and shall not require the sale or other disposition of any securities acquired prior thereto.

(c) Any securities that are offered and sold pursuant to section 4(5) of the Securities Act of 1933 or that are mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41))) shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Any State may, prior to the expiration of seven years after the date of the enactment of this Act, enact a statute that specifically refers to this section and requires registration or qualification of any such security on terms that differ from those applicable to any obligation issued by the Unites States.

TITLE II—SECONDARY MORTGAGE MARKET PROGRAMS

LIMITATIONS ON PARTICIPATION AGREEMENTS

SEC. 201. (a) The sixth sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended to read as follows: "The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the corporation.".

(b) The fifth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended to read as follows: "The Corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total orginal principal obligation of the mortgage and not merely with respect to the interest purchased by the Corporation.".

AUTHORITY OF FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE LOANS ON MANUFACTURED HOMES

SEC. 202. (a) Section 302(d) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after "located" the following: "or a manufactured home that is personal property under laws of the State in which the manufactured home is located."

(b) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new sentence: "The term 'residential mortgage' also includes a loan or advance of credit secured by a mortgage or other lien on a manufactured home that is the principal residence of the borrower, without regard to whether the security property is real, personal, or mixed.".

(c) Section 302 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

"(1) The term 'mortgage insurance program' includes, in the case of a residential mortgage secured by a manufactured home, any manufactured home lending program under title I of the National Housing Act.".

PURCHASE OF SECOND MORTGAGES

SEC. 203. (a) Section 302(b) of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) until October 1, 1987, conventional mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) until October 1, 1985, conventional mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the corporation, pursuant to paragraphs (1) through (4), shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

"(B) The corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages described in subparagraph (A). In any case in which the corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage described in subparagraph (A) and not merely with respect to the interest purchased by the corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 percent of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

"(C) No subordinate mortgage against one- to four-family residence shall be purchased by the corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 percent of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 percent is guaranteed or insured by a qualified insurer as determined by the corporation; (ii) the seller retains a participation of not less than 10 percent in the mortgage; or (iii) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default. The corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the

mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (ii) of such sentence.".

(b)(1) Section 302(h) of the Federal Home Loan Mortgage Corporation Act is amended—

(A) in the first sentence, by striking out "first"; and

(B) by striking out "The maximum principal obligation" and all that follows through "associations." and inserting in lieu thereof the following: "Such term shall also include other secured loans that are secured by a subordinate lien against a property as to which the corporation may purchase a residential mortgage as defined under the first sentence of this subsection.".

(2) Section 305(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) until October 1, 1987, residential mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) until October 1, 1985, residential mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the Corporation shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

"(B) The Corporation shall establish limitations governing the maximum original principal obligation of such mortgages. In any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage secured by a subordinate lien and not merely with respect to the interest purchased by the Corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 percent of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

"(C) No subordinate mortgage against a one- to four-family residence shall be purchased by the Corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 percent of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 percent is guaranteed or insured by a qualified insurer as determined by the Corporation; (ii) the seller retains a participation of not less than 10 percent in the mortgage; or (iii) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default. The Corporation shall not issue a commitment to purchase a subordinate mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (iii) of such sentence.".

AUTHORITY OF FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE STATE AGENCY INSURED MORTGAGE LOANS

SEC. 204. Section 302(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "a State or any agency or instrumentality of either" and inserting in lieu thereof "any of its agencies or instrumentalities".

MULTIFAMILY MORTGAGE LOAN-TO-VALUE RATIO

SEC. 205. (a) The second sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended by inserting after "mortgage" the first place it appears the following: "secured by a property comprising one- to four-family dwelling units".

(b) The first sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by inserting after "mortgages" the first place it appears the following: "secured by a property comprising one- to four-family dwelling units".

LIMITATIONS ON PURCHASE OF CONVENTIONAL MORTGAGES ON MULTIFAMILY PROPERTIES

SEC. 206. (a) Section 302(b)(2) of the Federal National Mortgage Association Charter Act is amended by striking out the penultimate sentence and inserting in lieu thereof the following: "With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 percent of the dollar amounts set forth in section 207(c)(3) of this Act, except that such limitations may be increased by the corporation (taking into account construction costs) to not exceed 240 percent of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.".

(b) Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by striking out the penultimate sentence and inserting in lieu thereof the following: "With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 percent of the dollar amounts set forth in section 207(c)(3) of the National Housing Act, except that such limitations may be increased by the Corporation (taking into account construction costs) to not exceed 240 percent of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section.".

BOARD OF DIRECTORS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 207. The first sentence of section 308(b) of the Federal National Mortgage Association Charter Act is amended to read as follows: "The Federal National Mortgage Association shall have a board of directors, which shall consist of eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom shall be elected annually by the common stockholders.".

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SEC. 208. Section 308(h) of the Federal National Mortgage Association Charter Act is amended by striking out the last two sentences and inserting in lieu thereof the following: "Pursuant to the authority provided in this subsection, the Secretary shall, not later than June 30 of each year, report to the Congress on the activities of the corporation under this title.".

PERIOD FOR APPROVAL OF ACTIONS OF FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 209. Section 309 of the Federal National Mortgage Association Charter Act is amended by adding at the end thereof the following new subsection:

"(i) If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development, after the date of the enactment of the Secondary Mortgage Market Enhancement Act of 1984, a request for approval or other action under this title, the Secretary shall, not later than the expiration of the 45-day period following the submission of such request, approve such request or transmit to the Congress a report explaining why such request has not been approved. Such period may be extended for an additional 15-day period if the Secretary requests additional information from the corporation. If the Secretary fails to transmit such report to the Congress within such 45-day period or 60-day period, as the case may be, the corporation may proceed as if such request had been approved.".

FEDERAL HOME LOAN MORTGAGE CORPORATION GUARANTEE OF MORTGAGE-BACKED SECURITIES ISSUED BY OTHERS

SEC. 210. Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

"(h) The Corporation may not guarantee mortgage-backed securities or mortgage related payment securities backed by mortgages not purchased by the Corporation.".

PREFERRED STOCK OF FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 211. Section 306(f) of the Federal Home Loan Mortgage Corporation Act is amended—

(1) by inserting before the period at the end of the last sentence the following: ", and shall not be entitled to vote with respect to the election of any member of the Board of Directors"; and

(2) by adding at the end thereof the following new sentence: "Such preferred stock, or any class thereof, may have such terms as would be required for listing of preferred stock on the New York Stock Exchange, except that this sentence does not apply to any preferred stock, or class thereof, the initial sale of which is made directly or indirectly by the corporation exclusively to any Federal Home Loan Bank or Banks.".

STUDY OF PREPAYMENT PENALTIES AND THE SECONDARY MORTGAGE MARKET

SEC. 212. Not later than 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development, following consultation with the Board of Directors of the Federal National Mortgage Association, the Board of Directors of the Federal Home Loan Mortgage Corporation, the President of the Government National Mortgage Association, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board, shall submit to the Congress a report regarding mortgage prepayment penalties and their impact on secondary mortgage market activities. Such report shall include—

(1) a review of State laws and regulations regarding prepayment penalties;

(2) an evaluation of the impact of prepayment penalties on the ability to attract investors to the secondary mortgage market;

(3) an analysis of existing authority for lenders to offer mortgage instruments containing prepayment penalties; and

(4) a proposal for federally standardized mortgage instruments that would contain prepayment penalties in combination with features that would be attractive to prospective purchasers of homes, including below-market interest rates and prohibitions on non-risk related settlement charges normally incurred by homeowners upon refinancing.

AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT REGARDING FEDERAL NATIONAL MORTGAGE ASSOCIATION OBLIGATIONS

SEC. 213. (a) The second sentence of section 309(h) of the Federal National Mortgage Association Charter Act is amended by inserting "before October 1, 1985," after "corporation".

(b) The last sentence of section 311 of the Federal National Mortgage Association Charter Act is amended by inserting after "issuances" the following: "by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation".

The SPEAKER pro tempore. Is a second demanded?

Mr. TAUKE. 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 Colorado [Mr. WIRTH] will be recognized for 20 minutes and the gentleman from Iowa [Mr. TAUKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. Speaker, I yield 10 minutes of my time to the distinguished gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore. Without objection, the gentleman from Texas [Mr. GONZALEZ] is recognized for 10 minutes.

There was no objection.

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

I thank the distinguished chairman, the gentleman from Colorado, for yielding this time.

Mr. Speaker, the amendment being offered today to title II of S. 2040, the Secondary Mortgage Market Enhancement Act, are basically changes in the charter acts of both the Federal National Mortgage Association [FNMA] and the Federal Home Loan Mortgage Corporation [FHLMC] and were previously debated and approved by the House in July 1983 as part of the housing bill known as H.R. 1. However, because of the differences in the House and Senate language these provisions were not included in the compromise housing bill that became law last November.

The major charter act change included in this amendment is a provision that would allow both FNMA and FHLMC to purchase second mortgage loans. This provision extends FNMA's current program and expands FHLMC's authority to purchase seconds other than home improvement and energy loans. This is a very important provision for many would be homeowners around the country and in HUD's recent solicitation of comments on FNMA's second mortgage program, 99 percent of the comments supported a permanent unrestricted authority to purchase second mortgages. While this provision allows for unrestricted purchase of seconds it does have a sunset of 1987 and a limit on the amount of the seconds eligible to be purchased to $57,000 for one to four family homes. Added to the original provision is a limitation that would prohibit FNMA and FHLMC from purchasing both a first mortgage and a second when combined that would exceed the limit of $114,000.

There are a number of other minor changes to the charter acts such as expanding the Board of Directors for FNMA from 15 to 18, and clarifying language dealing with the authority of FHLMC to purchase mortgage loans insured in whole or in part by State agencies. For the record I am including a section-by-section of title II of this amendment.

I urge by colleagues to once again support this legislation that will greatly enhance the critical role that both FNMA and FHLMC play in providing housing for low and moderate income families in our Nation.

The House Banking Committee Report 98-123 provides report language on a number of the Charter Act changes that are being considered today in title II of the amendment to S. 2040. However, the committee wishes to express some additional views to further clarify several of these Charter Act changes.

As in H.R. 1, this amendment provides explicit statutory authority for FNMA and FHLMC to purchase second mortgages. The maximum principal obligation of such mortgages for one- to four-family dwellings has been increased to $57,000 and the sunset date for this authority has been extended to October 1, 1987. This authority in no way lessens the view of the committee that the primary role of FNMA and FHLMC is to deal in mortgages that support and assist the sale and rehabilitation of housing.

Section 209 of this amendment has particular significance in view of the committee's concern that any requests by FNMA for approval by the HUD Secretary as required under the Charter Act be considered in a timely fashion.

Because of the rapidly changing environment in the financial services industry, it is imperative that the role of FNMA in no way be hindered in providing the credit for America's future housing needs. Thus, it is imperative that the Secretary respond to these requests without any unnecessary delays.

The intent of the Secretary's role regarding FNMA's activities was not designed to entangle the corporation in unnecessary delays, bureaucratic redtape, or extraneous considerations. Thus, section 209 was designed to provide a balance between FNMA's need to respond to changing market conditions in a timely fashion, while providing the Secretary with the time necessary to review the requests by FNMA.

The 45-calendar-day period, plus a 15-day extension, if necessary, is ample time for the Secretary to review the request, and the committee does not expect any need for further extensions. If the Secretary does not act in this time period, then FNMA may proceed with the proposal.

Finally, if the Secretary should deny a particular request, a report must be made to Congress explaning the reasons for denial. These views are intended to supercede prior S. 2040 report language relating to this issue.

Section 207 of title II of the amendment to S. 2040 increases the Federal National Mortgage Association Board of Directors to a total of 18 members by adding three new stockholder-elected directors. These new positions may be filled for a term ending with the next annual stockholders meeting.

The need for a secondary market program for manufactured housing has been under discussion for sometime and the Banking Committee is aware of FNMA's current evaluation of a personal property manufactured home secondary market program. The committee urges FNMA to continue to work with industry groups to develop such a program and encourages the implementation of this program in a timely fashion.

And finally, while the committee has agreed to continue the authority of the HUD Secretary to approve FNMA's issuance of obligations to other instruments until September 30, 1985, it wishes to make clear that it does not expect FNMA's requests to meet with any long and unnecessary delays. The committee also does not expect this authority to be used in any way to emphasize or deemphasize certain activities where the HUD direction may not be consistent with congressional intent. And third, the committee expects HUD to keep in mind that FNMA participates in a very competitive market and to not in any way interfere with their response to market developments through the use of obligational authority.

SECTION-BY-SECTION OF TITLE II AMENDMENT TO S. 2040

Sec. 201 states that the statutory limits on first mortgages apply to the original amount of whole loans whether or not partial interest is purchased.

Sec. 202 permits FHLMC to purchase manufactured home loans secured by personal, real or mixed property as long as the homes are principal residences.

Sec. 203 allows FNMA and FHLMC to purchase second mortgages without any restrictions on the use of these mortgages. The maximum original principal obligation cannot exceed $57,000 for one- to four-family dwellings. Sunset is October 1, 1987. FNMA and FHLMC may purchase multifamily mortgages with an October 1, 1985, sunset.

Sec. 204 provides a technical clarification of the definition conventional mortgage so FHLMC could purchase loans insured by State agencies.

Sec. 205 provides that the loan-to-value ratio presently required by FNMA and FHLMC for single-family mortgages no longer applies to multifamily mortgages.

Sec. 206 increases the limitation on the maximum principal obligations of all conventional multifamily mortgages purchased by FNMA/FHLMC to 240 percent of the section 207 FHA multifamily limits in HUD designated high-cost areas.

Sec. 207 increases the FNMA Board of Directors from 15 to 18 with additional members elected by the stockholders.

Sec. 208 requires HUD Secretary to report to Congress no later than June 30 of each year on FNMA's activities.

Sec. 209 requires HUD Secretary to respond to FNMA requests for approval of actions within 45 days with a 15-day extension permitted.

Sec. 210 provides that the Corporation may not guarantee mortgage-backed securities or mortgage-related payment securities backed by mortgages not purchased by the Corporation.

Sec. 211 prescribes standards for FHLMC for issuing perferred stock.

Sec. 212 requires the Secretary to do a study on mortgage prepayment penalties and the impact on the secondary market.

Sec. 213(a) HUD Secretary's general authority to approve issuance of all FNMA obligations expires September 30, 1985.

Sec. 213(b) restricts Secretary's approval of FNMA obligations to issuances of stock and of obligations convertible into stock.

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

Mr. TAUKE. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio [Mr. WYLIE], the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Without objection, the gentleman from Ohio [Mr. WYLIE] is recognized for 10 minutes.

There was no objection.

Mr. WYLIE. Mr. Speaker, I yield myself 3 minutes.

I thank the gentleman for yielding the 10 minutes to the Banking Committee, and I rise in support of the amendment to S. 2040, the Secondary Mortgage Market Enhancement Act.

The primary purpose of this legislation is to increase the efficiency of the housing finance system, along with assuring an adequate future supply of mortgage credit. Title II, over which the Banking Committee has juridiction deals with changes in the charter of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. These two Government-sponsored entities make up the major portion of our secondary mortgage market. The powers they receive will, to a great extent, determine the future of the secondary market.

Congress has a responsibility to promote the economic viability of Fannie Mae and Freddie Mac when that can be done without jeopardizing the status of private enterprise and when it will improve the position of American homeowners. I believe we accomplish that goal in the amendment to title II of this legislation.

For example, we authorize additional powers with regard to second mortgages and also manufactured housing. Both of these subject matters have become much more active in recent years and are very much a part of the mortgage finance scene. Homeowners either utilizing a second mortgage or purchasing a manufactured house should have full access to either Fannie Mae or Freddie Mac. By providing them with this access, we will be lowering the cost of their mortgage credit.

I should point out that, in providing these increased powers to Freddie Mac and Fannie Mae, we have not lost sight of their primary purpose which is to serve the lower to middle segment of the housing market. To ensure this, we have inserted language clarifying the existing statutory limitations on mortgages purchased by either of the two corporations. The law will now clearly read that the mortgage limits apply to the whole loan whether or not only a partial interest is purchased. The intent is to put the so-called luxury market off limits and preserve this market for the rapidly growing private secondary market firms.

In addition, we have prohibited piggybacking of first and second mortgages and we have placed limits on the size of the second mortgage as well as the first mortgage. Under an amendment that enjoyed bipartisan support and was adopted in subcommittee, the second mortgage limits would be 50 percent of the first mortgage limits, or $57,000 at the present time.

For the first time, securities activities and secondary mortgage issues have been dealt with in one comprehensive piece of legislation. In the past, secondary mortgage market legislation has always been linked to various omnibus housing legislation. I believe the significance of the secondary market in today's home financing market warrants separate consideration such as the legislation before us. I applaud the joint efforts of Chairmen ST GERMAIN and DINGELL in bringing this important legislation to the floor, and I urge my colleagues to suspend the rules and pass S. 2040 with the amendment we are considering.

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

Mr. Speaker, I want to begin by saying that it has indeed been gratifying to work with the distinguished chairman of the Committee on Banking, Mr. ST GERMAIN, and with the gentleman from Texas [Mr. GONZALEZ]. This legislation spans the jurisdictions of the Banking and the Commerce Committees. It reflects our shared goals of ensuring adequate financing for housing in this country while protecting investors in our capital markets.

The objective of this bill is to facilitate the growth of a private market for mortgage backed securities. The bill reflects the dramatic changes taking place in housing finance in recent years, as high and volatile interest rates have made traditional mortgage lenders—banks and thrifts—less willing to hold long-term mortgages. Increasingly, Government and Government-sponsored agencies have been called upon to support mortgage originators and have turned to the capital markets as a source of funds for housing. Private participants have entered the arena, and this bill seeks to further encourage their participation. Title I would accomplish this objective by changing certain State and Federal securities regulation requirements for securities backed by mortgages.

In the current interest rate environment, mortgage-backed securities have played a critical role in maintaining the flow of funds to housing. In 1983, $72 billion of the $190 billion of new residential mortgages created were financed through the sale of mortgage-backed securities. At the end of 1983, outstanding mortgage-backed securities issued by the Government-related agencies since the beginning of the early 1970's totaled $243 billion—about 20 percent of all outstanding mortgages—and private firms had issued a total of $10 billion.

The share of the private sector is growing. Last year, private issues accounted for $2 billion of the total. But the market for mortgage-backed securities is estimated to reach $200 billion per year by the mid-1980's to meet the demand for the $1.6 trillion of mortgage credit needed to finance housing through the end of the decade. An increase in the role of private issuers will help meet this need.

This bill was passed by the Senate on November 18, 1983 and was introduced in the House by Mr. ST GERMAIN as H.R. 4557. It was jointly re-

ferred to the Energy and Commerce Committee and the Banking Committee.

Both of our committees have considered the proposal in the context of long-standing public policy goals. The Banking Committee's jurisdiction led them to focus more on encouraging home ownership. Preserving investor protection and maintaining confidence in long-term capital markets are the goals that reflect our jurisdiction. Accordingly, the Energy and Commerce Committee considered only title I of the bill.

Title I of the bill before us is an amendment in the nature of a substitute. It reflects our concern for investor protection and a number of the recommendations of witnesses during our hearing on March 14. The amendment had bipartisan support in committee and has been discussed with the Senate committee. We understand that the Senate does not object to the changes that have been made in title I of the bill.

The substitute amendment would amend the Securities Acts by adding a definition of the term "mortgage-related security." It changes margin requirements governing the timing of purchases and payments to facilitate the trading of mortgage-related securities and provide greater liquidity. It authorizes depository institutions to invest in mortgage-related securities, preempts State law with respect to limitations on the investments in these instruments, and exempts them from registration under State securities law.

The major difference in the bill as introduced and the substitute amendment is the deletion of the section of the bill that would have exempted mortgage related securities from the registration requirements under the Securities Act of 1933. The primary objective of the 1933 act is to ensure adequate disclosure of information to investors. Over the last 50 years, the registration and disclosure requirements have proved to be the bedrock of public confidence in our securities markets. The exemption contained in the bill as introduced would not significantly increase the ability of private issuers of mortgage-backed securities to compete with federally supported agencies, but would significantly erode investor protection.

Other important changes made by our committee include the requirement that mortgage-related securities be rated in the top two—rather than four—rating categories and that they be collateralized by first liens only. In addition, States are given 7 years, instead of 3, to override the preemption of State laws. Finally the section authorizing shelf registration has been deleted as unnecessary.

The substitute amendment provides the mechanisms necessary to encourage expansion of the private market for mortgage backed securities. It does this without compromising requirements for disclosure, the essential ingredient in investor protection. The committee believes that disclosure will enhance investor confidence in this market and thus will contribute to the objective of enhancing the flow of funds to housing through this channel.

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

Mr. WYLIE. Mr. Speaker, I yield 1 minute to the very distinguished ranking minority member of the Housing Subcommittee, the gentleman from Connecticut [Mr. McKINNEY].

The SPEAKER pro tempore. Without objection the gentleman from Connecticut [Mr. McKINNEY] is recognized for 1 minute.

There was no objection.

Mr. McKINNEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to join with my colleagues from the Energy and Commerce Committee and the Banking Committee to urge passage of this important piece of legislation. We are all very aware of the need to stimulate the housing market. This bill represents a major development in the evolution of a market for mortgage-related securities. As that market grows, the ultimate result will be the increased availability of funds for mortgages and more stable rates for home buyers.

Title II of this bill is essentially the same as part of the housing bill, H.R. 1, passed by the House in 1983. The language in title I of this bill has been worked out by the Energy and Commerce Committee in conjunction with the Senate and House Banking Committees. This final product is a comprehensive approach to provide more mortgage liquidity with the necessary support.

I would like to conclude by giving credit to the Texans who have been the moving force in bringing this legislation to the floor. The leadership of the chairman of the respective Housing Subcommittees, Senator TOWER and Congressman GONZALEZ, and the energetic and persistent efforts of Congressman BARTLETT deserve special recognition. Also, the roles played by Chairman ST GERMAIN and ranking Republican CHALMERS WYLIE were instrumental in keeping interest in this legislation alive. Along with the leadership of the Energy and Commerce Committee we have produced a bill that the whole House can endorse.

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Connecticut for his contribution.

The next gentleman who will speak is the gentleman from Texas [Mr. BARTLETT]. Much of the credit for this legislation has been through his persistence and just plain, intelligent, hard work, and he is to be commended for it. I yield 4 minutes to the gentleman.

The SPEAKER pro tempore. Without objection, the gentleman from Texas [Mr. BARTLETT] is recognized for 4 minutes.

There was no objection.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from Ohio for his kind words.

I rise today in very strong support of S. 2040, the Secondary Mortgage Market Enhancement Act. This final product is virtually without controversy, and yet this legislation, I predict, will be one of the most significant bills considered this year.

With the passage of this act, we will help to assure that the 63.5 million Americans who will be in their prime home buying years in this decade will have the opportunity to buy their first home. This legislation simply begins to remove many of those regulatory and statutory impediments that are in the secondary-mortgage market.

The secondary market is increasingly important in providing mortgage capital in this country. In 1980, only 14 percent of all mortgages were sold into the secondary market. By 1983, that amount had risen to 43 percent, and some think that by 1990 that figure will rise to 80 percent. So the issue that we address today, Mr. Speaker, is the continued availability and affordability of mortgage capital for this generation and the next generation of home buyers.

Mr. Speaker, we would not have this legislation before us today if it had not been for the distinguished leadership of the chairman of the Banking Committee, and his leadership in helping to frame this legislation. I commend the gentleman for his patience and his leadership and likewise, I commend my friend [Mr. WYLIE] from Ohio, the ranking member and the ranking member on the Housing Subcommittee [Mr. McKINNEY] and the chairman from my own State, of the Housing Subcommittee [Mr. GONZALEZ] as well as all of the members of the Energy and Commerce Committee.

Many experts predict that the cumulative demand for mortgage credit will exceed $2 trillion between now and the early 1990's. Those in the "baby-boom generation" are reaching their home-buying years, so it is to meet this growing demand for affordable housing that takes a commitment from every sector of the marketplace, and that is the nexus of this bill.

As everyone here knows, I am a strong supporter of Freddie Mac and Fannie Mae, and both of those agencies are supporting this bill. However, the demand is far greater than the existing Federal agencies can provide. So, therefore, we have to look to all

sources for that mortgage capital. It is going to take Fannie Mae, and Freddie Mac, and Ginny Mae, and pension funds, and banks, and savings and loans, both the old kind and the new kind, and new private sources like Sears and GE, and institutional investors, and securities firms, and Wall Street, and indeed all of the participants that we can bring into the secondary-mortgage market.

Mr. Speaker, the main provisions of this bill, and I will run through them very quickly, include: No. 1, defining a mortgage-related security; it has never been done. No. 2, allowing for forward-base trading. No. 3, investment in private mortgage-related securities to be permitted by the depository institutions. No. 4, preempting State laws to simply permit pensions to invest in mortgage-backed securities. Many of those State laws were written when we did not have mortgage-backed securities. We would also permit Freddie Mac to purchase manufactured home loans. We would provide Freddie Mac and Fannie Mae the authority to purchase second mortgages, and we would remove the HUD obligational authority over Fannie Mae using a sunrise provision to give this Congress a chance to revisit that issue by September 30, 1985.

Mr. Speaker, not one of these changes alone is Earth shattering; it is the cumulative effect of all of these changes that will accomplish this House's goal of available mortgage capital so that homebuyers will be able to afford mortgages for their homes in the future. This legislation recognizes the importance of all participants in the secondary mortgage market and in the mortgage market to ensure that we meet that demand.

Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. McCOLLUM].

The SPEAKER pro tempore. Without objection, the gentleman from Florida [Mr. McCOLLUM] is recognized for 2 minutes.

There was no objection.

Mr. McCOLLUM. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in general support of this bill. The last major legislative change affecting the secondary-residential-mortgage market occurred with the enactment of the Emergency Home Finance Act in 1970.

Since 1970, extensive changes have occurred in financing residential mortgages and in bringing needed capital into the residential mortgage market. Perhaps the most significant of these changes has been the development and the financial markets' acceptance of the mortgage-backed securities. This, of course, is an instrument which attracts capital into the mortgage market from both traditional and nontraditional mortgage investors.

However, since 1970, Congress has not looked into the operations of the secondary residential mortgage market to any significant degree.

So, it seems to me that developments in mortgage financing since 1970, in and of themselves, warrant thorough examination of the functioning of the secondary market, particularly to see how the FHLMC and FNMA, which are creations of Congress, have performed. And, there is now the question of how these two entities should operate in light of the emergence of privately sponsored and owned secondary market entities, which are seeking their share to the conventional mortgage market.

The secondary market has been tremendously important to homebuyers and it is obvious that substantial sums of mortgage money will be needed to meet housing demands. Can the two federally sponsored secondary market entities with their existing statutory authority meet the challenge? What financial role, if any, will be required of the Federal Government? What about the emerging privately sponsored and owned secondary market entities? To consider these and other aspects of the basic public policy question of the role of the Federal Government in the unsubsidized mortgage market, I offered and withdrew an amendment in the full Banking Committee which would have established a congressionally appointed commission to study the secondary residential mortgage market. We need a congressionally appointed commission study to insure the fact that all possible solutions are considered before any recommendations are made. The chairman of the housing subcommittee has agreed to work with me on this matter and I look forward to pursuing the issue in the near future with him and his staff. The secondary mortgage market is going to play a major role in the future and I believe the issues should be studied by experts who then sit down with the appropriate committees of the Congress to give us their recommendations and the background for them.

□ 1600

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

Mr. TAUKE. Mr. Speaker, I yield 3 minutes to the distinguished ranking member of the subcommittee, the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, it has been estimated that upwards of $1.6 trillion will be needed to finance the expected housing demand between now and 1990, and that at least 50 percent of this demand will have to be financed in the secondary market. To help meet this demand and ensure that affordable housing remains available to our citizens, we must tap our capital markets through the issuance of mortgage-backed securities.

In recent years, interest has developed in encouraging increased private-sector participation in this growing market. Private issuers such as Norwest, GE Credit, and others have entered the market, and during 1983 sold almost $2 billion in mortgage-backed securities.

Yet structural impediments, such as State laws prohibiting insurance companies, State and local employee pension funds, and other State investment limitations have thwarted the growth of this market. S. 2040, which the House is considering today, will preempt these State limitations and will serve to increase the funds available to finance housing by increasing the participation of the private sector in the secondary mortgage market.

The need for this increased funding has arisen from the reluctance or inability of traditional mortgage lenders to hold long-term, fixed-rate mortgages in a volatile interest rate environment.

I believe that the passage of this legislation will mean an increase in the amount of funds available for home mortgages. It will result in the flow of capital to housing markets and help make it possible for young families to fulfill their dream of owning their own home.

The Subcommittee on Telecommunications, Consumer Protection and Finance has held hearings on this matter, and a number of amendments which decrease the risks associated with these securities were adopted by our subcommittee when it was considered in June. I urge my colleagues to join me in support of this legislation, which I feel is vitally needed and will be of tremendous economic benefit to the people of this Nation.

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

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

Mr. Speaker, I first wish to commend the distinguished chairman of the subcommittee and the ranking member of the subcommittee, the gentleman from New Jersey [Mr. RINALDO] for this legislation.

Mr. Speaker, the purpose of S. 2040 is to increase the flow of funds to housing by facilitating the participation of the private sector in the secondary market for mortgages. At present, federally sponsored agencies—the Federal National Mortgage Association [Fannie Mae] and the Federal Home Loan Mortgage Corporation [Freddie Mac]—pool loans originated by traditional mortgage lenders to back securities issued by the agencies which are sold in the capital markets. In 1983 alone, $72 billion of the $190 billion of new one-family to four-family home mortgages created were

financed through the sale of mortgage-backed securities. Almost all of these mortgage-backed securities were issued or guaranteed by Government-related agencies.

As the demand for housing continues to rise, the sale of mortgage-backed securities to provide housing credit will become increasingly important. This demand for housing credit is rising at the same time traditional mortgage lenders, such as thrift institutions and banks, are unwilling or unable to hold long-term, fixed rate mortgages in a potentially volatile interest rate environment. Although the pooling of these loans and the sale of mortgage-backed securities by Fannie Mae and Freddie Mac has increased the capital available to finance housing through the creation of a secondary market for mortgages, the existing Federal and quasi-Federal agencies will not be able to meet the anticipated demand without a significant expansion of their activities. Rather than solely rely on an expansion of the activity of these agencies, this legislation is designed to facilitate the growth of the private-sector's ability to issue mortgage-backed securities and increase the flow of funds to housing.

To enable and encourage the private sector to increase its participation in the secondary market for mortgages, S. 2040 amends existing Federal securities laws and State registration requirements, so-called blue sky laws, to remove impediments to the marketing of mortgage-backed securities by the private sector. The legislation also permits the States' to override the Federal preemption in these areas if done within 7 years after enactment of this legislation. This period is sufficient to accommodate any State that believes its investors will be better served by State legislation.

The amendments to Federal and State securities law contained in the legislation do not jeopardize the protection that these laws afford investors. Sensitivity to investor protection is reflected in the provisions of the legislation which do not exempt mortgage-backed securities from the registration requirements of the Securities Act of 1933 and the rules and regulations promulgated thereunder.

In addition, mortgage-backed securities, as defined by this legislation, must be rated in the top two rating categories. Moreover, the securities cannot be backed by second liens if these securities are to qualify under the bill's provisions which liberalize margin requirements, permit investment depository institutions to purchase such securities, and allow for the preemption of State law. The protection afforded investors by the disclosure provisions and the more stringent rating requirements will enhance investor confidence in the market for these securities and thus will contribute to the objective of enhancing the flow of funds to housing through this investment vehicle.

For these reasons I urge my colleagues to join me in support of this legislation.

Mr. TAUKE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. I thank the gentleman from Iowa [Mr. TAUKE] for yielding time to me.

Mr. Speaker, I rise in strong support of S. 2040. This legislation makes several important changes in the secondary mortgage market. Among those changes is a section that allows Freddie Mac to purchase loans on a manufactured home even when the home is considered personal or mixed property under State law.

This change will correct an ambiguity in the law. Under current law, Freddie Mac may purchase loans secured by manufactured homes that are considered to be real property under State law. In some States, however, manufactured homes are considered to be personal or mixed property and, thus, ineligible for coverage by Freddie Mac. This bill will achieve uniform eligibility and assure that coverage includes all manufactured homes, regardless of whether or not those homes are considered to be real property under State law. Fannie Mae already has this authority.

Fannie Mae and Freddie Mac play a very important role in the mortgage market serving lower and middle income home buyers. Manufactured housing provides a lower cost housing opportunity for those home buyers. Consequently, it is necessary to clarify the definition of property, as this bill does, so as to specifically include loans secured by manufactured homes.

Manufactured housing was pioneered in southern California and continues to provide an important source of housing for families of all income levels. Therefore, I strongly support S. 2040 and urge its passage.

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

Mr. TAUKE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Speaker, I rise in support of the House amendment to S. 2040, the Secondary Mortgage Market Enhancement Act of 1984 and ask to revise and extend my remarks.

When the bill was introduced last November, I never thought I would stand in the well of the House and urge my colleagues to vote for its adoption for the bill had serious equity and Federal credit budget problems.

For instance, the original bill called for a change in the charter of the Federal National Mortgage Association so that it could provide direct and permanent financing to home buyers. This proposed policy change set off alarms for those of us who believe that Fannie Mae's traditional function as a provider of supplemental assistance to the secondary market should be preserved.

Wisely, the bill was amended to take care of the direct and permanent financing problem. Additional attempts to have Fannie Mae and Freddie Mac use their preferred presence in the credit market to subsidize affluent home buyers were not made.

The use of the secondary market as a residential housing finance mechanism has grown rapidly in recent years. Seventy-two billion dollars of the $190 billion in primary home mortgage loans was channeled through the secondary market in 1983. Their continued growth is assured.

The work done by the Energy and Commerce Committee in streamlining and updating the securities section of the bill will encourage additional private participation in the secondary housing market. The changes affected by the Banking Committee in the original bill will assure that the basic public policy aspects built into both Fannie Mae and Freddie Mac will be retained.

The bill we debate today is a prime example of how Congress can help meet the Nation's housing finance needs. I urge my colleagues to cast their votes in favor of its adoption.

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

● Mr. ST GERMAIN. Mr. Speaker, last November after the housing bill passed without the FNMA and FHLMC Charter Act changes originally incorporated into H.R. 1, I introduced H.R. 4557 which included not only those Charter Act changes but a number of changes to the securities laws that we believe would enhance the development of the secondary mortgage marketplace.

Today, I am pleased that we have under consideration an amendment to the Senate bill, S. 2040, that incorporates many of the provisions that were included in H.R. 4557, and I urge my colleagues to support this amendment.

The Banking Committee over the years has been very sensitive to the Nation's mortgage credit requirements, and in this time when the demand for mortgage credit is expanding, I am pleased that we have been able to continue to respond positively to this need through the provisions in this amendment.

The changes in the FNMA and FHLMC Charter Acts, which are incorporated in title II of this amendment, will enable them to continue the very important role that they have played over the years in providing housing credit for our country's home buyers. And, the changes in the securi-

ties laws, which were considered and amended by the Energy and Commerce Committee and are part of title I of this amendment, will greatly enhance the ability of mortgage-backed securities to play a more competitive role in the capital markets.

The issues incorporated in this amendment have been under consideration by both the Banking Committee and the Energy and Commerce Committee for well over a year and have been thoroughly reviewed and debated. Thus, I urge my colleagues to support this amendment that will further enable the secondary mortgage market to meet the demands of the homebuying public.●

Mr. TAUKE. I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

Mr. WIRTH. 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 Iowa [Mr. TAUKE] that the House suspend the rules and pass the Senate bill, S. 2040, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Securities Exchange Act of 1934 with respect to the treatment of mortgage backed securities, to increase the authority of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and for other purposes."

A motion to reconsider was laid on the table.

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 S. 2040, the Senate bill just passed.

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

There was not objection.

IMPLEMENTATION OF U.S. OPPOSITION TO TORTURE BY FOREIGN COUNTRIES

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 605) regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government, as amended.

The Clerk read as follows:

H.J. RES. 605

Whereas international human rights organizations have investigated and reported on the use of torture in many countries throughout the world;

Whereas the Department of State in its annual country reports on human rights practices has reported that torture is all too frequent in many countries of the world;

Whereas torture knows no ideological boundaries and is practiced in countries in every region of the world;

Whereas torture is absolutely prohibited by international legal standards;

Whereas in those countries where torture is practiced systematically, it is possible to identify laws, institutions, and other forms of politically organization that contribute to the practice and allow its continuation;

Whereas legal, medical, religious, and other groups seeking to combat torture emphasize that access to detainees, the civil and criminal prosecution of torturers, and the rehabilitation of victims of torture are critical steps in reducing the practice and effects of torture;

Whereas the United States Government has supported the work of the United Nations Commission on Human Rights in developing the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which is intended to reduce the practice of torture and lead to its eventual abolition, and the United States Government is supportive of the United Nations Voluntary Fund for Victims of Torture; and

Whereas the good will of the peoples of the world toward the United States can be increased when the United States distances itself from the practice of torture by governments friendly to the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress reaffirms that it is the continuing policy of the United States Government to oppose the practice of torture by foreign governments through public and private diplomacy and, when necessary and appropriate, through the enactment and vigorous implementation of laws intended to reinforce United States policies with respect to torture. The United States Government opposes acts of torture whenever they occur, without regard to ideological or regional considerations, and will make every effort to work cooperatively with other governments and with nongovernmental organizations to combat the practice of torture worldwide.

SEC. 2. (a) The President is requested—

(1) to instruct the Permanent Representative of the United States to the United Nations to continue to raise the issue of torture practiced by governments; and

(2) to continue to involve the United States Government in the formulation of international standards and effective implementing mechanisms, particularly the draft Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(b) In order to implement the policy expressed in the first section of this resolution, the Secretary of State is requested to issue formal instructions to each United States chief of mission regarding United States policy with respect to torture, including—

(1) instructions—

(A) to examine allegations of the practice of torture, particularly allegations concerning the existence of secret detention, extended incommunicado detention, and restrictions on access by family members, lawyers, and independent medical personnel to detainees; and

(B) to forward such information as may be gathered, including information regarding any efforts made by the host government to reduce and eliminate the practice of torture, to the Assistant Secretary of State for Human Rights and Humanitarian Affairs for analysis in preparing the Department's annual country reports on human rights practices;

(2) in the case of a chief of mission assigned to a country where torture is regularly practiced, instructions to report on a periodic basis as circumstances require to the Assistant Secretary of State for Human Rights and Humanitarian Affairs regarding efforts made by the respective United States diplomatic mission to implement United States policy with respect to combating torture;

(3) instructions to meet with indigenous human rights monitoring groups knowledgeable about the practice of torture for the purpose of gathering information about such practice; and

(4) instructions to express concern in individual cases of torture brought to the attention of a United States diplomatic mission including, whenever feasible, sending United States observers to trials when there is reason to believe that torture has been used against the accused.

(c) The Secretary of Commerce should continue to enforce vigorously the current restrictions on the export of crime control equipment pursuant to the Export Administration Act of 1979.

(d) The heads of the appropriate departments of the United States Government that furnish military and law enforcement training to foreign personnel, particularly personnel from countries where the practice of torture has been a documented concern, shall include in such training, when relevant, instruction regarding international human rights standards and the policy of the United States with respect to torture.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. 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 Florida [Mr. FASCELL] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

□ 1610

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

Mr. Speaker, I rise in support of House Joint Resolution 605, as amended, regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

At the outset, I would like to commend all of the cosponsors of the resolution, which now number 189, for their support of this crucial resolution. Such broad bipartisan support is an important demonstration of U.S. seriousness and commitment to eliminating the use of torture around the globe. In particular, I wish to commend the Honorable GUS YATRON,

chairman of the Subcommittee on Human Rights and International Organizations for his efforts and his subcommittee's hearings on the issue. Further, I would like to note the important contributions made by Amnesty International in promoting public awareness on the range of aspects of the torture problem.

House Joint Resolution 605 is supported by the administration. The amendment approved by the Committee on Foreign Affairs in no way affects the substance of the resolution. It is a reworking of language to accommodate the administration which supports the resolution.

Torture is an insidious practice of brutality which is the most egregious example of man's inhumanity toward man. Torture is antithetical to our respect for the rights and dignity of the individual—it is violent; it is abhorrent; and it is illegal.

The exercise of torture is not a unique nor isolated occurrence—it is pervasive throughout the world. It is utilized by governments of the left and by governments of the right; by nations which are friendly and by nations which are our adversaries. It is applied systematically and indiscriminately. Wherever it occurs, it must be eliminated.

Prevention of torture is a multilevel responsibility. No one sector can be expected to singlehandedly abolish it. Torture must be attacked through a multiplicity of channels, both public and private. International fora, regional organizations, governments, intergovernmental organizations, nongovermental organizations and individuals must all be involved. Each has a role to perform.

Effective torture prevention must address the root of the problem. Not only is a general awareness of torture necessary, but there is a need to inculcate basic values and respect for individual rights at the grassroots level. In instances where torture is reported, pressure on offending governments or institutions must be applied to deter it. Amnesty International believes such pressure on offending governments or institutions can be highly effective in combating torture.

Eradicating torture poses a unique and challenging dilemma. Torture is never proclaimed to be a government's policy. Rather, it is shielded from public view, conducted in secrecy, and its existence denied. Therein lies the dilemma—how to combat a practice which is universally condemned, yet clandestinely practiced.

One means of addressing the problem is through the banning of secret or incommunicado detentions. Such types of detention are often a "precondition for torture." During initial hours of such custody a detainee is most vulnerable to torture. In addition, access to detainees by family, lawyers, and medical personnel must be granted. A further preventative measure is the proper training of security forces. Instruction in interrogation techniques as well as familiarization with human rights principles would help foster respect for the dignity and rights of the individual.

There are various international and regional instruments prohibiting torture. Some focus specifically on that brutality. Numerous others have components dealing with particular aspects of torture or condemning its use in broader terms. Furthermore, these legal instruments and codes of conduct are buttressed by national laws and activities of intergovernmental and nongovernmental organizations.

To eliminate torture will require a sustained commitment to confront, publicize, and work to abolish it. Governments must play their part by enunciating clearly their opposition to torture and their determination to assiduously combat it. Adoption of legal and procedural safeguards is essential. Ratification and adherence to relevant international instruments, and formulation of domestic laws making torture a criminal offense subject to prosecution, are important in demonstrating commitment. Subsequent measures can eliminate a milieu which permits torture to occur—banning secret detentions, permitting access to the detained by family, legal and medical personnel, training security officials, and promoting respect for individuals and their rights. All of these conditions will serve to forestall the practice of brutal violations. In the long run, however, it is necessary to internalize basic values which promote respect for individuals and their rights.

Mr. Speaker, I urge adoption of House Joint Resolution 605.

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

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 605, regarding the implementation of U.S. policy in opposition to torture. As a cosponsor of the resolution and as the ranking minority member of the Subcommittee on Human Rights and International Organizations, I want to commend the chairman of the Foreign Affairs Committee [Mr. FASCELL], for bringing this measure before the House and would also like to recognize the chairman of the subcommittee [Mr. YATRON], for holding 2 days of hearings on the problem of torture last May. I am pleased to note that a similar resolution has been introduced in the other body by the chairman of the Senate Foreign Relations Committee and am hopeful both bodies can complete action on this measure as expeditiously as possible.

The Department of State has expressed its support for House Joint Resolution 605 and Assistant Secretary of State for Human Rights, Elliott Abrams, testified before the Subcommittee on Human Rights and International Organizations last May that the United States is "profoundly and unalterably opposed to any and all forms of torture." As a policy, the U.S. Government, under Republican and Democratic administrations alike has expressed this opposition in many ways.

House Joint Resolution 605 seeks to reinforce existing U.S. policy against torture and calls on the President to instruct our Ambassador to the United Nations to continue to raise the issue of torture. It also calls on the President to continue to involve the United States in efforts to develop and implement international standards against torture particularly the draft convention on torture.

I am pleased to say that the United States has played a major role in the development of the new draft convention on torture and am hopeful for its early adoption by the United Nations.

The United States has also supported the establishment at the United Nations of a Voluntary Fund for Victims of Torture and although the United States has not, to date, made a contribution to the fund, the foreign aid authorization bill (H.R. 5119) as passed by the House on May 10, 1984, proposed that a $100,000 contribution be made in the next fiscal year. Hopefully, the United States will soon be able to make a modest contribution to this worthwhile effort to help victims of torture in a very practical way.

The resolution also requests the Secretary of State to issue certain instructions to our Embassies around the world to investigate allegations of torture, to report on actions taken by foreign governments to deal with the problem, to report also on United States Embassy efforts to oppose torture in such countries, to meet with local human rights groups, to send observers to trials and to directly raise individual torture cases with foreign government officials. Many of these steps are already being taken in one form or another but can be done with greater rigor and emphasis.

Finally, the resolution also calls for the continued enforcement of U.S. law limiting exports of crime control equipment to countries engaged in human rights abuses and for the incorporation into military and law enforcement training programs instruction on international human rights standards and U.S policy on torture.

Hopefully, House Joint Resolution 605 will be but the first of a series of steps which Congress will take to deal with the problems of torture. Congress has an obligation to take a careful

look in the near future at U.S. policy regarding the admission into the United States of those who have been found to have engaged in torture. We also have an obligation to look at proposals to clarify the right of torture victims to sue their torturers in U.S. court if those torturers are either visiting or now living in the United States. A third area which needs to be examined is the subject of training of military and law enforcement personnel and the feasibility and effectiveness of discouraging the use of torture through training programs or other incentives. The United Nations has already developed a Code of Conduct for Law Enforcement Officials and has a number of regional institutes for research and training in the field of crime prevention and criminal justice.

Finally, I want to join in the commendations of Amnesty International for its tireless humane efforts on behalf of torture victims worldwide. These private citizens who have acted with an imprimatur of conscience, rather than government, warrant the gratitude of all who are concerned with the rights of individuals to life and liberty.

Mr. Speaker, I urge my colleagues to give this resolution their unanimous support. Thank you.

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

Mr. FASCELL. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to commend both the chairman, the gentleman from Florida [Mr. FASCELL] and the gentleman from Iowa [Mr. LEACH] for the leadership roles that they have played in bringing this issue of torture to the forefront.

Mr. Speaker, I rise today to support House Joint Resolution 605, legislation regarding U.S. policy in opposition to the practice of torture by any foreign government.

Millions of individuals throughout the world experience acts of cruelty too brutal to imagine. They are victimized by their governments, the very institution which should protect them. In addition to the inhumanities these people have to endure, they must endure yet another obstacle—the unwillingness on the part of well-meaning people outside of their government to look at or listen to their story. Seeing proof of torture is too difficult for many to face, but face it we must.

The Subcommittee on Human Rights and International Organizations, which I chair, held a series of hearings on the phenomenon of torture. Thanks to the efforts of Amnesty International and various other human rights organizations, we were able to look closely at this heinous crime, to see how it affects human life, and to plan specific actions to combat this cruelty.

Torture is a brutal and powerful enemy. We can combat and ultimately defeat this horrifying practice by supporting positive measures such as House Joint Resolution 605. Our fight to eradicate this universal tragedy, torture, must be a continual and determined one. We in the United States have been spared the endless agony torture victims throughout the world are realizing, but we have not been spared the responsibility of fighting against this injustice.

I would like to commend Mr. FASCELL, the distinguished chairman of the Committee on Foreign Affairs, for introducing this very worthwhile legislation.

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

Mr. Speaker, let me just say in response to the gentleman from Pennsylvania [Mr. YATRON], if I may, that I would like to commend the gentleman and his subcommittee for their continued interest, dedication and perseverance they have shown on all of these human rights subjects. It is so easy to either be frustrated or just to say that they are motherhood issues and we should not even be bothered with them. The truth of the matter is that, as with torture, violation of human rights are pernicious and our best defense is to expose them. We must make it possible for these issues to be discussed openly and try to shame people into changing their actions. There is no such thing as official torture; it is always done very clandestinely. It takes the kind of action that the subcommittee has taken with respect to hearings, and that this Congress will take in passing the resolution, to call attention to problems that most people do not think really exist.

● Mr. LEVINE of California. Mr. Speaker, I am pleased to join my colleagues in support of House Joint Resolution 605, which reaffirms that it is the continuing policy of the U.S. Government to oppose the practice of torture by foreign governments through public and private diplomacy. I would like to commend the distinguished Chairman of the House Committee on Foreign Affairs, on which I sit, for introducing this important resolution and for bringing it to the floor.

Mr. Speaker, article 1 of the Declaration Against Torture, adopted unanimously by the United Nations on December 9, 1975, defines torture as:

> Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed, or intimidating him or other persons.

The definition also says that torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Torture can take almost any form. In fact, it is limited only by the imagination, and people all over the world have been subjected to mental and physical cruelty of such proportions that it nearly defies comprehension by humane and civilized people.

Amnesty International, a highly respected organization with which we are all familiar, issued a report in April titled "Torture in the Eighties." This report contains everything you need to know about the practice of torture in the world. Torture, this report tells us, is usually part of the state-controlled machinery that suppresses dissent. It is practiced in more than 60 countries in the world—more than a third of the world's governments. Torture knows no ideological bounds, and victims of torture include virtually all social classes, age groups, trades and professions. Reasons differ for why people are tortured, but there is no question that whatever the reason, or the method, torture is a vicious, heinous practice, and one which must be condemned and condemned in the strongest terms.

There appears to be an increasing awareness of the practice of torture. The United Nations and other intergovernmental organizations and several nongovernmental organizations have worked to develop international standards against torture and machinery to combat its use. A growing number of domestic human rights groups are working in their own countries to document and publicize torture used by their governments. The news media carry many more news items about torture and other human rights abuses than they did a decade ago.

With the passage of House Joint Resolution 605 the Congress itself will go on record as taking a strong stand against the practice of torture and in support of enactment and vigorous implementation of laws intended to reinforce U.S. policies with respect to torture. With the passage of the resolution before us the U.S. Government clearly declares that it opposes acts of torture wherever they occur, without regard to ideological or regional considerations, and that we will make every effort to work cooperatively with other governments and with nongovernmental organizations to combat the practice or torture worldwide.

It is important that a country like the United States, with our long history of respect for human rights and the freedom of our own citizens and of citizens everywhere—support the policy declared in this resolution. I

strongly support its passage and I urge my colleagues to do so as well.

Thank you.●

● Mr. FAUNTROY. Mr. Speaker, I rise in strong support of House Joint Resolution 605, which expresses the Congress' concern with the widespread use of torture by governments around the world.

Specifically, this resolution calls for a coordinated effort with other governments and nongovernmental organizations, including the United Nations, to eliminate torture.

Additionally, the resolution would reinforce the Department of State's efforts to monitor and report on allegations of torture and to work with indigenous human rights organizations.

Finally, the resolution urges continued enforcement of restrictions on the export of crime control equipment and requires instructions in human rights principles and U.S. antitorture policy for foreign authorities receiving military or law enforcement training under U.S. auspices.

Mr. Speaker, the need for this legislation is well documented in the Amnesty International publication Torture in the Eighties. I urge my colleagues to support House Joint Resolution 605.●

● Mr. WIRTH. Mr. Speaker, today I would like to urge my colleagues to join me in supporting House Joint Resolution 605. This resolution calls on the United States to base its foreign policy on an unyielding opposition to the use of torture throughout the world. The resolution also directs U.S. ambassadors to monitor and investigate allegations of torture in the countries in which they are representing our country.

Some of my colleagues might argue that America's commitment to the abolition of torture is clear. After all, our country subscribes to article 5 of the United Nations Universal Declaration of Human Rights, which states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." However, it is not enough for America, with her unyielding commitment to human rights and democratic freedoms, to proclaim her opposition to torture and then do nothing to halt the spread of this unjustifiable crime against humanity.

Treaty phrases ring hollow when they stand next to the testimony of torture victims from around the world. Few are aware of the extent to which torture is practiced. According to reports gathered by Amnesty International, the international human rights organization:

In India, people have had their eyes speared by bicycle spokes and then soaked with acid pads;

In El Salvador, torture victims have reported that they were sexually abused, burned with chemicals and subjected to mock executions by paramilitary organizations and the national militia;

In Afghanistan, since the Soviet Union invaded in 1979, detainees have been deprived of food and sleep for weeks, and beaten and subjected to severe electric shock treatment;

In Turkey, one woman among many told of being tied to ceiling pipes and being left hanging in a crucifixion position. She told a representative of Amnesty International, that "the pain became so bad that my screams drowned (the torturers') voices. It was as if my arms were coming off." She was also subjected to falaka, in which her torturers beat the soles of her feet, and to electric shock torture.

Torturers do not rely on brute force alone to cow their victims into submission. Torture has taken a more subtle and sophisticated form in countries that do not want the world to know of their immoral methods of population control. In the Soviet Union, for example, political dissidents are forcibly committed to psychiatric wards where doctors inject them with hallucinatory and debilitating drugs until their will to express their deepest beliefs, and sometimes their will to live, is snuffed out.

The testimony of torture victims is seemingly endless, and the countries it streams from are many in number. In Amnesty International's recently released report, Torture in the 80's, the organization has documented that over one-third of the world's countries engage in the systematic use of torture.

Despite this bleak assessment, human rights groups know that torture is not an irreversible practice. Time after time, the world has seen that international pressure combined with internal opposition to a government's use of torture against its own people has ousted those governments which predicate their rule of a country on brutal coercion. All one has to do to see this truth is look at Argentina's rejection and prosecution of military government leaders responsible for the deaths and disappearances of thousands of innocent Argentine citizens. Amnesty International has learned of the success of this strategy on a smaller scale, through working on behalf of individual torture victims. Consider the moving testimony the prominent South Korean dissident, Lee Shin-Bom, recently gave to Amnesty. After repeated beatings and deprivation of sleep for long periods of time, Mr. Shin-Bom was called in to see the head of the torture camp. Wielding a thick stack of hundreds of letters from Amnesty and other human rights workers (and feeling the pressure of international awareness of South Korea's use of torture), the chief informed Mr. Shin-Bom that he was being removed from his torture regimen.

The United States can lend its considerable political and moral influence to the international campaign to abolish torture. Although the United States does combat torture by publishing reports on human rights in countries around the world and engaging in diplomacy to free political detainees who might be tortured, it is essential that the United States move beyond this limited role. The United States must renew its role as an outspoken and forceful opponent of government-sponsored torture, wherever it may occur. House Joint Resolution 605 begins this renewal by raising the official level of American concern about torture to the top of each American embassy; the detention and torture orders made by foreign government and military officials will no longer be scrutinized by political officers in U.S. embassies, but by the ambassadors themselves. The resolution also provides the first step toward enacting further legislation which will limit the ability of the United States to aid governments and individuals that torture—for example, legislation might be passed which prevents any acknowledged torturer from residing in the United States.

I urge my colleagues to join the House Foreign Affairs Committee in unanimously supporting this important resolution and accelerating the international movement, spearheaded by Amnesty International, to end the use of torture.●

● Mr. BROOMFIELD. Mr. Speaker, I strongly support this joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture. As we approach the end of the 20th century and boast of man's accomplishments in science, medicine and space flight, we fail to realize that man's inhumanity to man is a barrier we have not yet broken. In certain countries in the world, primitive and barbaric torture is a common practice. Let us face the facts. Gross violations of human rights are occurring at this very moment. While the existence of physical and emotional cruelty is rarely acknowledged by governments, it continues to inflict almost unimaginable suffering on victims of every age, religion, ethnicity, and sex.

The U.S. Government has always taken a strong stand against the practice of torture. Our Government has eagerly supported the U.N.'s Commission on Human Rights in developing a Convention Against Torture as well as the U.N.'s Voluntary Fund for Victims of Torture. It is fitting that the Congress reaffirms the continuing policy of our Government to oppose the practice of torture by foreign governments. Our Government can work

through public and private diplomacy and can enact laws intended to reinforce U.S. policies with respect to torture.

Under this proposed legislation, the President is requested to instruct the permanent representative of the United States to the United Nations to continue to raise the issue of torture and to continue to involve the U.S. Government in the formulation of international standards and effective implementing mechanisms. In addition, the Secretary of State is requested to issue formal instructions to our chiefs of mission around the world of our Government's policy regarding torture.

I am confident that my colleagues will join me in saying that favorable consideration of House Joint Resolution 605 will show the American people and the world that we are committed to eliminating from the face of the earth this terrible scourge. As a cosponsor of this measure, I urge my colleagues to adopt this important piece of legislation.●

● Mr. BROWN of California. Mr. Speaker, today we will consider House Joint Resolution 605, a bill expressing the opposition of Congress to the use of torture in foreign countries. I feel strongly that everyone should be tried under a fair and just legal system: such a legal system has no room for torture.

Progress has been made in several regions throughout the world to reduce governmental, political and societal torture, but we have a long road to travel. Amnesty International, a group whose extensive work for human rights is well respected, has launched a worldwide campaign to reduce the incidences of torture. According to their 1984 report, 90 countries still allow or ignore various forms of torture within their judicial systems. These practices range from the cruel to the bizarre; from systematic torture during interrogation to abusive treatment of convicted prisoners; from limited occurrences to rampant abuse.

To Americans living in a society where physical abuse is strongly rejected, it is difficult to conceptualize torture as a common occurrence in other societies. Yet torture is still very much a reality.

This legislation, House Joint Resolution 605, would reaffirm U.S. commitment to the reduction of torture. It will send a message throughout the world that we will not allow physical abuse to go unnoticed. Aside from expressing the concern of Congress, the resolution would also request the President to instruct the U.S. Ambassador to the United Nations to continue to raise the issue of torture practiced by other governments, request the State Department to issue formal instructions to every U.S. mission overseas, require the mission to examine allegations of torture and illegal imprisonment and to express official United States concern about any use of torture. The resolution also calls on the Commerce Department to vigorously enforce current restrictions on the export of crime control equipment.

Some feel that since these abuses occur far from our soil, the United States can do little to stop these activities. However, I choose to differ. By ignoring these practices, we are silently condoning torture and other unjust activities. By expressing official opposition to the use of torture, we are notifying these governments that these practices bring disapproval from the international community. In addition, our reprimands teach citizens of these countries that torture is not a universally accepted practice, nor does it have to be tolerated. It is only through pressure from the international community that improvements will be realized.

Mr. Speaker, the elimination of torture is the goal of many. Several constituents of mine urged me to cosponsor this legislation, and I have. Churches and international organizations, such as Amnesty International, are working to help those who have been the subject of abuse and unjust treatment. It is imperative that the U.S. Government reflect this concern to our international neighbors.

I commend those who have supported House Joint Resolution 605. I would like to urge the administration to carefully consider the proposed policies.●

● Mr. CONTE. Mr. Speaker, I rise in support of House Joint Resolution 605, which reaffirms U.S. policy in opposition to the practice of torture by any foreign government.

Torture—in whatever form and wherever practiced—can never be tolerated if a humane world order is to be achieved and maintained. The sad reality is, however, that the practice of torture is both widespread and persistent throughout the world. It has been reported by the State Department and Amnesty Inernational that torture is practiced in nearly 100 countries and occurs habitually in over 60, although secrecy and censorship make a complete accounting impossible.

Eradicating this inhumane menace poses a formidable challenge, but we must not be deterred, either by its dimensions or by the considerable commitment required to prosecute its elimination. The United States has been active in this regard, supporting the United Nations Commission on Human Rights in developing the draft: "Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and the United Nations Voluntary Fund for Victims of Torture." The restrictions on the export of crime control equipment pursuant to the Export Administration Act is another important example of past involvement.

House Joint Resolution 605 complements these past undertakings and suggests a framework within which our efforts may be expanded. In that vein, House Joint Resolution 605 is more than a symbolic statement about the evils of torture; it is also a practical statement on the options we should pursue in implementing our policy in opposition to these methods.

In this age of mass communication, we have all seen and heard too vividly, too often, countless examples of man's inhumanity to man. House Joint Resolution 605 addresses one of the most blatant and tragic violations of internationally accepted principles of human rights—prohibitions on the practice of torture—and I hope my colleagues will join me in lending their support to this measure.●

● Mr. LUNGREN. Mr. Speaker, I rise in support of House Joint Resolution 605, regarding the implementation of the policy of the United States in opposition to the practice of torture by any foreign government. It is my understanding that the other body is proceeding expeditiouly in considering an identical resolution, Senate Joint Resolution 320, in the Senate.

As a cosponsor of this important legislation, I am pleased that we have an opportunity to consider legislation that reflects a strong commitment to reinforce our policy with respect to human rights—because the very meaning of our Nation is human rights. House Joint Resolution 605 is an initial step toward addressing the problem. The resolution delineates specific guidelines to help shape our policy toward combating the practice of torture around the world.

I would like to commend the full committee chairman, Mr. FASCELL, the subcommittee chairman, Mr. YATRON, and the other Members who have worked so diligently in bringing House Joint Resolution 605 to the floor. This bill contains many worthy policy initiatives.

It is equally important that we recognize the fine contribution that Amnesty International has made in publicizing cases of human rights abuse. Perhaps no other nongovernmental human rights organization has been so effective in increasing public awareness of this issue than Amnesty International.

According to their recent report, "Torture in the Eighties," prisoners have been tortured or cruelly treated in at least one out of every three countries within the past 4 years. The numerous recommendations contained in this publication and their other documents on human rights practices have shown to be invaluable and of great

assistance to the application of this administration's human rights policy.

Mr. Speaker, human rights is certainly an important part of foreign policy, since the present struggle for the world is about liberty, and indeed the survival of liberty for the foreseeable future of our civilization. It should not be forgotten that the United States fought its bloodiest war not for territory, but to free the slaves. In fact when the United States recommitted itself to active involvement with the outside world—whether in wars for the liberty of Europe or in the Marshall plan—it has done so because it felt called to the defense of human rights.

As Ambassador Jeane Kirkpatrick wrote in 1981:

> If the United States is "the most destructive power in the world," if we are "capable of genocide," if we are a "graceless land," then the defense of our national interest could not be integrally linked to the defense of human rights or any other morally worthy cause."

The United States of course, does not fit any of those awful descriptions. And we should make this abundantly clear in word and deed. House Joint Resolution 605 makes a real contribution in that effort.●

● Mr. PORTER. Mr. Speaker, I join with my colleagues in expressing my strong support for House Joint Resolution 605. This resolution, of which I am an original cosponsor, sets forth specific recommendations for actions to combat torture.

The resolution outlines three general areas of policy for the U.S. Government to undertake to combat torture in foreign countries. The first of these focuses on the United Nations. The President is requested to instruct the U.S. Representative to the United Nations to raise the issue of torture and to cooperate with efforts to formulate international standards and effective implementing mechanisms, including the draft "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment."

The second policy involves the Secretary of State, and requests the Secretary to instruct all Ambassadors to examine allegations of torture, to forward this information to the Assistant Secretary for Human Rights and Humanitarian Affairs, and to meet with indigenous human rights groups knowledgeable about the torture and express U.S. concern over the use of torture whenever feasible.

The last of these policy areas is the broadest, and calls upon the heads of all departments of the U.S. Government which supply military and law enforcement training abroad to include instruction regarding international human rights standards and the policy of the United States with respect to torture.

The combination of these three policy areas in House Joint Resolution 605 represent a major step toward establishing a U.S. position against torture, and for implementing a policy combating this problem.

I would like to take this opportunity to commend the activities of Amnesty International in calling attention worldwide to the problem of torture. As my colleagues may be aware, last spring AI launched a 2-year campaign to combat torture. Earlier this year the Congressional Human Rights Caucus—which I chair with my colleague, the gentleman from California [Mr. LANTOS] sponsored a briefing for Members and their staffs on AI's campaign against torture, and on possible actions for Members to undertake. Through their research, AI has attempted to learn what types of institutions exist within governments that allow for torture to take place, and what corrective measures need to be undertaken to eradicate the use of torture. The findings of that research, along with documentation of the use of torture around the world is the subject of a book recently published by AI, "Torture in the 80's."

The research by AI, and other human rights organizations, clearly documents an alarming degree of torture being practiced around the world. In fact, studies show that 1 out of 3 countries has practiced torture in the past 3 years, yet many of these countries are signatories to international agreements outlawing the use of torture, including the Geneva Conventions, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

During recent hearings by the House Subcommittee on Human Rights and International Organizations and by the Senate Foreign Relations Committee, victims of torture presented their own tragic tales. The details included in their testimony and that of other torture victims are gruesome and at times emotionally difficult to listen to. Unfortunately, it is all too easy for us in the United States to ignore the problem of torture since it does not exist here in our country. But it is important that we not ignore this problem, and that we turn our efforts abroad and call upon other governments to cease torture activity.

In the past the U.S. Congress has already shown compassion toward the problem of torture by supporting the United Nations Voluntary Fund for the Victims of Torture which provides worldwide humanitarian assistance for victims and their families. I support our commitment to the plight of the victims of torture through this contribution, and hope that in the future we will continue to contribute to this fund.

Mr. Speaker, I urge my colleagues to lend their support to the fight against torture. It is not an easy battle, yet this resolution, House Joint Resolution 605, provides a great opportunity for the U.S. Government to work with other governments in calling for a halt to this practice. I hope my colleagues will join together in unanimously supporting this resolution.●

Mr. FASCELL. Mr. Speaker, I have no further requests for time on this side.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. BENNETT). The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House suspend the rules and pass the joint resolution, House Joint Resolution 605, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

CONCERN REGARDING PLIGHT OF ETHIOPIAN JEWS

Mr. YATRON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 107) expressing the grave concern of the Congress regarding the plight of Ethiopian Jews as amended.

The Clerk read as follows:

H. CON. RES. 107

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantees to all persons the right to freedom of religion, the right to hold opinions without interference, the right to freedom from expulsion, and the right to emigrate;

Whereas Ethiopian Jews are among the oldest continuous Jewish communities in existence, their history extending back for three thousand years;

Whereas this community once numbered several hundred thousand persons, but the scourge of wars, pestilence, persecution, and famine over the years has reduced it to some twenty-five thousand people, several thousand of whom have sought refuge in nearby countries;

Whereas the American people are becoming increasingly aware of the difficulties facing Ethiopian Jews and are seeking ways to assist them as well as all other Ethiopians who suffer difficult conditions, including religious persecution; and

Whereas the plight of Ethiopian Jews demands that the American people and all people of good will do everything possible to

alleviate their suffering: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should—

(1) use all appropriate channels to maintain our dialog with the Ethiopian Government on the issue of the welfare and rights of Ethiopian Jews, as well as of other Ethiopians, including those of other religious faiths;

(2) express to relevant foreign governments the United States concern for the welfare of Ethiopian Jews, in particular their right to emigrate,

(3) seek ways to assist Ethiopian Jews through every available means so that they may be able to emigrate freely, and

(4) express the concern of the American people for the welfare of the Ethiopian Jewish community in every appropriate forum.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. 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 Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

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

Mr. Speaker, on May 8, the Subcommittee on Human Rights and International Organizations unanimously approved House Concurrent Resolution 107 which expresses the grave concern of the Congress regarding the plight of the Ethiopian Jews. On September 7, the Foreign Affairs Committee unanimously approved the resolution with an amendment sponsored by my good friend from New York [Mr. SOLOMON] which enhances the resolution. The amendment calls on the President to use all appropriate channels to maintain our dialog with the Ethiopian Government on the issue of the welfare and rights of Ethiopian Jews, as well as of other Ethiopians, including those of other religious faiths. Sponsored by my good friend and colleague the gentleman from New York [Mr. SOLARZ], House Concurrent Resolution 107 engenders bipartisan support and is cosponsored by 158 Members.

In 1982 the subcommittee, under the chairmanship of Congressman BONKER, conducted a series of extensive hearings on religious persecution as a violation of human rights. Of the great many injustices and degradations experienced by religious and ethnic groups at the hands of ruthless regimes, the cruel treatment of the Falashas by the Marxist government of Ethiopia is clearly one of the most serious cases of persecution and religious intolerance in the world today.

Mr. Speaker, it is certainly a sad commentary about modern civilization that there are governments today which espouse doctrines based on religious indifference. The Marxist regime in Ethiopia, through a policy of forced assimilation, is actively seeking to destroy the faith, customs and traditions of the Falashas. However, at great risk to their personal safety, the 25,000 remaining Jews in Ethiopia continue to proudly observe their spiritual beliefs.

House Concurrent Resolution 107 directs the President to promote greater international awareness of the plight of the Ethiopian Jews and specifically calls for ways to assist these people in their ongoing efforts to emigrate freely. The resolution is not opposed by the administration. I commend the sponsor of the resolution and the sponsor of the amendment for their leadership on this issue and I urge my colleagues to unanimously approve both measures.

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Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 107, regarding the plight of Ethiopian Jewry. As a cosponsor and supporter of this legislation, I want to commend the author, Mr. SOLARZ, for bringing this human rights issue before the House and also to commend my colleagues Mr. YATRON and Mr. SOLOMON, for their efforts to strengthen the text of the resolution.

Just recently, the Subcommittee on Human Rights and International Organizations held a hearing on human rights in several African countries including Ethiopia. Assistant Secretary of State for Human Rights and Humanitarian Affairs Elliott Abrams testified that the human rights situation in Ethiopia is bleak and that the Jewish community in that country is subject to human rights violations including arbitrary arrest and imprisonment. According to the 1983 State Department human rights report for Ethiopia, other religious groups in Ethiopia have also been subjected to substantial official harassment. Accordingly, by this resolution the Foreign Affairs Committee seeks to make clear the concern of the Congress for the harassment within Ethiopia of all minority groups and religions. No individual is truly free unless all individuals are accorded equality before the law.

Mr. Speaker, I urge my colleagues to give this resolution their unanimous support.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON] for his comments.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

First, let me also commend both the gentleman from Pennsylvania and the gentleman from Iowa for the work that their Subcommittee on Human Rights has done in this area and in working in conjunction with our Subcommittee on the African Continent.

Mr. Speaker, I rise in wholehearted support of this resolution and urge its adoption.

In August of last year, members of the Subcommittee on Africa visited the Falasha village of Ambober in the Gondar Province of northern Ethiopia. It was a very moving experience to see the deep faith exhibited by these suffering people, a faith that no ideology or tragedy has been able to undermine. In fact, the various calamities that have befallen Jewish people in Ethiopia and throughout the world have served only to strengthen their faith and commitment.

It is particularly appropriate for this resolution to be considered today. Yesterday, the ruling military regime in Ethiopia announced the establishment of a Communist party as the sole vehicle for political activity within that country. If history teaches us anything, it is that Communists will not tolerate any source of inspiration and instruction among the people that does not conform to the brutal dogmas of Marx and Lenin.

Mr. Speaker, the particular focus of this resolution is with the Falasha people. But during the deliberations on this resolution at the subcommittee and full committee levels, the gentleman from New York [Mr. SOLARZ], agreed to some changes in the wording which would make mention of the broader problem of religious persecution within Ethiopia and I thank the gentleman for his interest and cooperation.

Since the revolution in Ethiopia in 1974, all property owned by Christian churches, including hospitals and schools, has been confiscated by the regime. The patriarch of the Ethiopian Orthodox Church and many other prominent clerics were arbitrarily imprisoned after the revolution. The fate of many of these people, including the patriarch, remains unknown, 10 years after the revolution.

Aside from the officially sanctioned persecution in Ethiopia, the regime has established numerous neighborhood associations called "kebeles." These groups, comprised of the regime's political cadres, have spread an atmosphere of suspicion and terror among the people. There are many reports of local cadres confiscating and destroying Bibles and other religious articles. Families have even been assaulted while on their way to church,

with the children being hauled off to attend political indoctrination classes.

Mr. Speaker, a monumental human tragedy has unfolded in Ethiopia these last 10 years. But just as the Communists in Poland have been unable to quench the faith of the people, so the Communists in Ethiopia will ultimately fail. I hope this resolution today will advance the cause of all those who seek release from spiritual oppression in Ethiopia.

Mr. YATRON. Mr. Speaker, I yield 3 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I thank the distinguished chairman of the subcommittee.

Mr. Speaker, I rise in support of House Concurrent Resolution 107, which expresses the grave concern of the Congress regarding the plight of the Ethiopian Jews. I would like to commend the sponsor of the resolution, Mr. SOLARZ, and the chairman of the subcommittee, Mr. YATRON, for seeking expeditious action on this measure, of which I am a cosponsor.

In 1982, the Subcommittee on Human Rights and International Organizations, which I had the honor to chair, conducted an extensive series of hearings on the problem of religious persecution as a violation of human rights. During those hearings, the subcommittee had the opportunity to learn about the suffering of the Falasha community in Ethiopia. The Falashas, which means "stranger" or "alien" in the Ethiopian language, have steadfastly clung to their faith for almost 3,000 years. Since the 1974 revolution in that country, however, the Ethiopian Jews have been subject to increasingly severe repression. The Government's policy of "Ethiopia First" has spurred attempts of forceful assimilation of the Falasha community, and allowed the local authorities in the Gondar region inhabited by the Falashas to pursue discriminatory policies against the Jewish population there.

The 1983 State Department Country Reports on Human Rights observes: "it is not possible to speak with assurance about the condition of the Ethiopian Jews because access to them is so restricted and carefully monitored by the authorities. . . . Friction between the Ethiopian Jewish community and the authorities continues owing to government efforts to prevent their emigration to Israel, the lack of Hebrew instruction and the evident resistance of the Ethiopian Jews to Marxist-Leninist indoctrination."

Mr. Speaker, the Falasha community has demonstrated a courageous will to maintain its faith and tradition. House Congressional Resolution 107 provides us the opportunity to reaffirm our commitment to ending their persecution because of their religious beliefs. I urge my colleagues to support this important resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time to me. I want to commend the gentleman from Pennsylvania, the chairman of our Human Rights Subcommittee, and the gentleman from Iowa, our ranking member, for helping to bring this measure to the floor at this highly appropriate time, at a time when the Falasha Jews were having an extremely difficult time in emigrating from that part of the world.

Mr. Speaker, I rise in strong support of the pending resolution. House Concurrent Resolution 107 expresses in the strongest possible terms, the great concern of this Congress for the well-being of Ethiopian Jewry. Although efforts on their behalf continue every day, it is important that our official position on this important human rights matter be relayed to the White House, and all relevant foreign governments.

In the past, Ethiopian Jewry comprised one of the largest Jewish communities in the world; at its height, their numbers were estimated to be over 1 million, and these men and women enjoyed political and economic independence and had their own kings and queens. However, with Muslim forces working against them, their numbers quickly dropped to only 250,000 by the end of the 18th century. By the time Emperor Haile Selassie took the throne, only 50,000 remained, and during his 44-year reign, their situation continued to deteriorate. In the years that have followed, their numbers have been even further decimated. Compounding this serious situation is the famine that plagues the entire region, and which threatens the lives of all Ethiopians.

Unfortunately, however, the Falashas have been singled out for harsh treatment. Individuals were imprisoned and tortured in recent years, charged with being Zionists or CIA agents, and contact with the Falashas in their own villages was extremely limited.

Because of the dangers being faced by the Ethiopian Jewish community, and because their unique culture is in danger of being eradicated forever, it is important that our efforts on their behalf be increased. As an early cosponsor of House Concurrent Resolution 107, I recognized the need to expand the avenues currently being used to alleviate their plight. House Concurrent Resolution 107 asks the President to do all in his power to express to appropriate foreign governments the severity of the dangers being faced by the Falashas, and the need to assist Ethiopian Jews through every available means to secure the right to emigrate freely. This last point is especially important, as the Ethiopian Government made emigration to Israel a treasonable offense in 1981. By adoption of the pending resolution, the House of Representatives can express its official concern of this serious situation, and I urge my colleagues to join us in this important human rights effort.

● Mr. BROOMFIELD. Mr. Speaker, now is the time for the American Congress to go on record expressing our concern about the plight of Ethiopian Jews. I strongly support the resolution before us calling the attention of the world to the unfortunate conditions of the Falashas of Ethiopia.

The Falasha, the Jews of Ethiopia, have maintained their Jewish faith and traditions against incredible odds. As one of the oldest, continuous Jewish communities in existence, they have persevered in that faith despite centuries of wars and oppression by various Ethiopian rulers. They have also been faced with pressures of absorption into the dominant culture. The Falasha, however, have always wanted to return to their homeland—Israel.

The once large group has shrunk to only 25,000. Today, this small group faces drought, disease, and increased instability in their section of Ethiopia.

Under the dictatorial rule of Lieutenant Colonel Mengistu, the Falasha can own land and enjoy the same precarious rights as other citizens. Ethiopia, however, remains a nation under a repressive government which has recently declared the Communist Party as the official party of the state. There is no freedom of speech or press. There is no freedom of assembly and association. Religious denominations have been restricted since the revolution. Some synagogues in Falasha villages have been closed. Visits to Jewish villages are infrequent and controlled.

Today, there is no freedom of emigration in Ethiopia. Anyone attempting to flee the country faces criminal charges with no guarantee of a public trial with counsel.

During the past 10 years. 1 million Ethiopian refugees fled from Ethiopia. Among their ranks were a few thousand Falasha. They were determined to take risks to win the right to practice their religion. Since 1981, however, emigration to Israel has become a treasonable offense.

This resolution recognizes the basic right of the Jews of Ethiopia to their full civil and human rights to include the right to practice their religion and to freely emigrate. Other Ethiopian groups are also suffering under the current regime, and also need our help.

Today is the opportunity for all of us to stand up and offer our support for this important resolution. I call upon my colleagues to join me in this effort.●

● Mr. SHANNON. Mr. Speaker, I rise to join my colleagues in support of House Concurrent Resolution 107, on behalf of Ethiopian Jews. House Concurrent Resolution 107 instructs the President to express the grave concern of Congress and the American people for the welfare and rights of the Falashas, to maintain dialog with the Ethiopian Government, and to assist the Falashas' free emigration.

Ethiopian Jews are members of one of the oldest and most devout religious communities. Yet the majority of Ethiopians, unfamiliar with the practice of Judaism, regard the Falashas as an alien people, as their name, meaning "stranger" implies.

In 1982, the Foreign Affairs Committee Subcommittee on Human Rights and International Organizations held hearings on religious persecution as a violation of human rights. With one witness after another, those hearings documented the pattern and extent of discimination against Ethiopian Jews. Severe economic and social discrimination has reduced the population of Falashas from 250,000 in the 19th century to less than 30,000 today.

I am aware that our diplomatic contact with Ethiopia is limited. Simcha Jacobovici, writing in the New York Times on April 23, 1983, suggested that the Ethiopian Government would be influenced by Western public opinion. American influence is urgently needed to ease repressive conditions and press for substantial reforms. I urge my colleagues to support House Concurrent Resolution 107 so that this important opportunity to communicate our concern will not be lost.●

● Mr. BIAGGI. Mr. Speaker, I rise in support of this resolution which expresses congressional concern over the welfare of Ethiopian Jews and calls on the relevant foreign governments to allow Ethiopian Jews to emigrate freely. As a cosponsor of this resolution I urge all of my colleagues to support this measure as a display of our continued support for and solidarity with both the Falasha community in Israel and those Jews still in Ethiopia.

The Jewish community of Ethiopia is one that has survived for over 2,000 years. It has persevered despite centuries of numerous conflicts, tribal wars, persecution and oppression; and it continues to survive in a land of stark poverty and rampant disease. The Jews of Ethiopia continue to live in a country wrought with internal strife and political insurrections. It is a country that has been devastated by a 2-year drought.

The Ethiopian Jews are a hardy community—one dedicated to preserving its religious traditions and way of life. Despite the fact that some 7,000 have already found greater religious freedom in Israel, a small Jewish community remains in Ethiopia, unable to join their loved ones in Israel and unable to realize their dream of freedom and greater religious liberty. As one who recognizes the courage and perseverence of these people—both those who have already made the trek to the promised land, Israel, and those who remain in Ethiopia—I am proud to be a cosponsor of this resolution.

The Jewish community of Ethiopia is one that yearns to emigrate to Israel to join their loved ones and live a life of freedom and religious liberty. The dreams and aspirations of this brave community must not be forgotten and I feel honored to express my solidarity with these devout and courageous people.●

● Mr. FRANK. Mr. Speaker, I am very pleased that the House is considering House Concurrent Resolution 107; this is an urgently needed expression of the sense of Congress regarding the Ethiopian Jewish community. I and many of my colleagues have long been concerned for the preservation of this ancient community. There are now 7,000 Ethiopian Jews resettled in Israel, 10,000 to 14,000 languishing in refugee camps in adjacent countries, and 7,000 to 8,000 still in Ethiopia.

It is thought that those remaining in Ethiopia are primarily the young, the old, and the sick. These are individuals who cannot survive without the support of their community. In addition, the Gondar region, in which most of the Ethiopean Jews reside, has for a long time suffered under a devastating drought. In addition, it is the tenth anniversary of the revolution in Ethiopia, and security has been tightened; there is apparently heightened guerrilla activity in the region. All of these condition serve to exacerbate the preexisting antipathy which the rest of the Ethiopian population holds for their Jewish compatriots. Though the Jewish communtiy in Ethiopia goes back for many centuries, they are referred to by some as Falashas, which means strangers.

It was at one point hoped that much of the pressure on the Ethiopian Jewish refugee population could be alleviated over the past summer. I am very sorry that this has not proved to be the case. Therefore, it is incumbent upon this body to pass House Concurrent Resolution 107. It should be clear U.S. policy to do everything we can to aid this community, and enable them to emigrate freely and settle in Israel. I urge my colleagues to support this needed measure.●

● Mr. ACKERMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 107, a measure expressing concern for the plight of the Ethiopian Jewish community. These beleaguered people have clung tenaciously to their faith despite the most adverse conditions, both in Ethiopia and in the neighboring countries where they eke out an existence in squalid refugee camps. The community, which once numbered 250,000 at its peak has been reduced to less than 25,000 today, and the grim conditions the valiant Ethiopian Jews must endure create an almost insurmountable challenge to their survival.

As this Congress is well aware, the Horn of Africa has been plagued by a severe drought and famine over the past several years. This factor, combined with the political instability within Ethiopia, has caused a large flow of people over the Ethiopian border. Naturally, this includes a significant number of Ethiopian Jews who now need assistance in leaving the refugee camps. Mr. Speaker, the resolution we are passing today calls on the President to utilize his office to make certain that the United States, in cooperation with other governments, takes every necessary step to assist the Ethiopian Jews in securing their dream of reaching Israel. The passage of this resolution should be taken as a clear signal that the people of the United States are firmly committed to the rescue of all Ethiopian Jews.

Mr. Speaker, these brave individuals have cried out for help to reunify their families which remain tragically divided among Ethiopia, the refugee camps and Israel. By passing this resolution today, we can focus greater attention on the imperative of resolving this critical situation. We cannot afford to ignore the pleas of these courageous people. Each individual and government with the capacity to assist the Jews of Ethiopia must do every thing possible to help this desparate community. To do anything less will result in the meaningless loss of life for individuals who are merely seeking to fulfill their basic right to live freely and to practice their faith in peace. I am proud to speak out today in support of House Concurrent Resolution 107 and for the Ethiopian Jews who have struggled valiantly to attain their freedom.●

● Mr. LANTOS. Mr. Speaker, I wish to join my colleagues who have spoken in favor of the passage of the resolution we are considering here today—House Concurrent Resolution 107 expressing the grave concern of the Congress regarding the plight of Ethiopian Jews. I also wish to commend my colleagues from New York, Mr. SOLARZ, for his consistent efforts in bringing this issue before the House.

Mr. Speaker, as a survivor of the nightmare of the Holocaust, I am determined that I will not be a passive bystander to the annihilation of a very special and unique branch of Judaism. The Ethiopian Jewish community

have maintained their beliefs and principles through centuries of persecution and isolation, through poverty and slaughter through perhaps greater suffering even than their brothers and sisters endured in Europe and the Middle East.

As recently as the beginning of this century, the number of Ethiopian Jews was estimated at over 100,000, but today all that remains is a remnant numbering about one-quarter that size. As appalling as these numbers are, they do not indicate the full extent of the persecution that plagues these dedicated people. Current estimates indicate that about 8,000 still remain in their native Eithiopia—unable to leave the land that does not want them. Even if individuals receive permission to immigrate, family members and friends who remain behind are subject to still greater persecution. As one young Ethiopian Jewish boy explained the problem in a recent issue of Hadassah magazine: "We cannot leave. If we do, our parents must suffer for it. But we cannot stay."

The Ethiopian Government has pursued a policy of systematic assimilation of its Jewish population and has vigorously opposed instruction in Hebrew. There have been frequent burnings of Hebrew books, the incarceration of teachers, and the closing of schools where Hebrew has been taught.

Persecution, however, is only one of many problems that face these long-suffering people. The continuing drought in Northern Africa is also exacting a high toll among the Ethiopian Jews. Those located in isolated villages are particularly subject to its effects, and the Jewish community in Ethiopia inhabits precisely such isolated villages. A second additional problem is the domestic unrest and insurgency that currently infest Ethiopia. The State Department's Country Reports on Human Rights Practices for 1983 notes that "Ethiopian Jews are situated in areas of insurgency and they are getting caught in the crossfire."

Those who have risked their lives and lost their meager possessions through leaving their native Ethiopia have found continuing problems in Sudan, where they have fled. At present it is estimated that some 10,000 to 14,000 Ethiopian Jews are living in camps in the Sudan. Conditions there are also appalling and the prospect for improvement is not good. The numbers who have been able to leave Ethiopia for the Sudan recently are very small.

Mr. Speaker, history has shown again and again the tragic outcome, the vicious injustice that results when religious and racial oppression and persecution are ignored. We are fortunate indeed that many committed individuals continue to work to remind us of the Ethiopian Jews. My good friend Nate Shapiro has been a leader in the effort to remind us of the plight of this people and to take concrete action to help them.

The resolution we are voting upon today is not a solution, but it does indicate the concern of the Congress for the Ethiopian Jews. I urge the administration to take careful note of this resolution that we are approving today, since the administration can take action in many important areas to assist in alleviating the suffering and dislocation of this group.●

● Mr. BROWN of California. Mr. Speaker, I would like to rise in strong support of House Concurrent Resolution 107, which expresses the concern of Congress regarding the plight of Ethiopian Jews.

The Beta Yisrael, also known as the Falashas, have been living in Ethiopia and in refugee camps outside of Ethiopia. These people suffer from poverty, sickness, persecution and neglect. They have been restricted from emigrating to Israel to be reunited with family and friends. Many regions of Ethiopia have suffered from a prolonged drought. The almost complete failure of the secondary harvest several months ago has intensified the difficult conditions under which the Ethiopian Jews live.

This resolution reflects the concerns of many of my constituents and myself. It encourages the President of the United States to maintain a continuing dialog with the Ethiopian Government on the issue of the welfare and rights of all Ethiopian citizens including Ethiopian Jews. The resolution calls on other governments to allow for the free emigration of Ethiopian Jews, and requests the President to seek ways of assisting the Ethiopian Jews in their efforts.

It is easy for many of us to forget that not all people are able to pursue the religious freedom that we enjoy. Everyone should have the right to practice their religion without restrictions and fear of persecution. The Ethiopian Jews do not have this freedom. It is important that the United States express concern for these peoples.

I urge those in Congress, the President, and the American people to send our message to the Government of Ethiopia to give freedom to those wishing to emigrate and to those wishing to practice their religion.●

● Mr. FEIGHAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 107.

Throughout history, the Falashas' struggle to survive has been perilous. Once a powerfully independent family of 1 million faithful, they first felt the harsh sting of persecution some 500 years ago. Christian and Muslim forces plundered Falasha villages, stole their land, enslaved the weak and outlawed the practice of Judaism. Poverty stricken, illiterate, and forbidden from following their faith or from owning land, the Ethiopian Jews became outcasts, forced to scrape out a meager existence from sharecropping and small-scale craftwork. By 1948, there were only 40,000 Jews left in Ethiopia. Today, that number has fallen to 25,000.

Despite this hardship, the Falashas have clung to their faith with a certainty and tenacity that we can only admire. Judaism still survives in Ethiopia, even though synagogues have been closed, the teaching of Hebrew has been banned and rabbis have been imprisoned and tortured. The Marxist government of Mengistu also forbids emigration of any kind.

Falasha means "stranger" or "one who does not own land." More than anything else, the Jews of Ethiopia wish to live where they will not be strangers, on the Jewish land of Israel. This resolution will tell the world that we have not forgotten the Falashas and their dreams, and it reaffirms our pledge to do all we can to help ancient Jewish community of Ethiopia unite with their people in the Jewish State of Israel.

I urge all of my colleagues to support House Concurrent Resolution 107.●

● Mr. FAUNTROY. Mr. Speaker, I rise in strong support of House Concurrent Resolution 107, expressing the grave concern of the Congress regarding the plight of Ethiopian Jews.

I was pleased to be a cosponsor of this legislation which states that the President of the United States of America should utilize our diplomatic capabilities to secure the welfare and human rights of the Ethiopian Jews as well as Ethiopians of other religious faiths.

It is imperative that we pass this resolution placing the Congress on record in its concern for the plight of the Ethiopian Jews.●

● Mr. PORTER. Mr. Speaker, I am pleased to lend my support to House Concurrent Resolution 107, which calls attention to the current plight of Ethiopian Jews.

As a cosponsor of this resolution, I strongly support efforts to assist the Ethiopian Jewish community, the Falashas. The word "Falasha" means stranger, and, unfortunately, that is a very symbolic description of the Ethiopian Jewish community.

The details of the Falasha's history are unclear. Until the 19th century, the existence of the Ethiopian Jewish community was a mystery to all other Jewish communities. There has been some speculation on the origins of the Falashas, and some uncertainty on the exact date of their arrival in Ethiopia. However, most sources agree that by

the 10th century 1 million Jews lived in Ethiopia.

Many historians have been awed by the ability of the Falasha community to adhere to the teachings of their faith despite centuries of isolation from other Jewish communities, anti-Semitism, enslavement, and forced conversion. These Jews closely follow the Torah, including the celebration of the Sabbath and dietary laws.

In recent times the Falashas have continued to face persecution at the hands of their government, despite their location in isolated villages. During the 44-year reign of Emperor Haile Selassie, the Jews were permitted limited religious freedoms, yet faced ongoing harassment by government officials, which included efforts to force the Falashas to convert and denying them permission to emigrate to Israel. Following the 1974 Marxist revolution, the Falashas situation was again in jeopardy. Although the Jews have not been singled out for persecution by their government, the government's antireligious policies have led to the closing of many synagogues, and the Falashas are still denied the right to emigrate to Israel.

Today it is estimated that 20,000 Falashas live in Ethiopia. The drought in that region of Africa has led to a life-threatening famine. In addition, many Ethiopians are caught in the crossfire of the fighting between the Marxist government led by Col. Mariam Menguistu and antigovernment guerrillas.

As a result of the difficulties facing the Falashas, for years many Ethiopian Jews have tried to leave their homeland and live in Israel. Yet, their government has established an unfortunate policy of denying these Jews the right to be repatriated to what they believe to be their ancestral homeland. In response to this obstacle, many determined Falashas have risked their lives to escape Ethiopia. Their paths have led them to refugee camps in neighboring countries and eventually to Israel. Today, several thousand Falashas are living in Israel and countless others are en route to join them.

I admire these people for their determination to leave Ethiopia and live in Israel. I support a course of action to assist these Jews in their desire to emigrate and urge government officials, here in the United States and abroad, to work together to assist this imperiled Jewish community. I hope that through the efforts of the U.S. Congress and human rights organizations to call attention to the plight of Ethiopian Jews, one day soon the Falashas will be safely resettled in Israel.●

□ 1630

Mr. LEACH of Iowa. Mr. Speaker, I yield back the balance of my time.

Mr. YATRON. 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 Pennsylvania [Mr. YATRON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 107, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

WILDLIFE PRESERVE FOR HUMPBACK WHALES

Mr. YATRON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 136) calling for a wildlife preserve for humpback whales in the West Indies.

The Clerk read as follows:

H.J. RES. 136

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall seek a treaty or other appropriate international agreement establishing a wildlife preserve for humpback whales in the West Indies, in the area encompassing the Turks Islands, Mouchoir Passage, Silver Bank Passage, Navidad Bank, and such additional areas as may be necessary to insure the protection of the breeding grounds of the humpback whales.

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

The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

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

Mr. Speaker, House Joint Resolution 136 sponsored by our good friend and colleague, Congressman WHITEHURST calls for the President to seek a treaty or international agreement to establish a wildlife preserve for humpback whales in the West Indies.

Mr. Speaker, the governing body in which the United States seeks to pursue its objectives on whaling matters is the International Whaling Commission. The IWC in its wisdom has classified the humpback whale as a protected species thereby prohibiting commercial whaling of this beautiful mammal. Although the IWC clearly defines a policy which calls for the protection of the humpback whale, the application of this policy has proven for the most part ineffective. First, the IWC has no enforcement mechanism. Therefore, it must rely on member nations to voluntarily implement IWC regulations. In the absence of a coordinated effort by member nations, policy application has been inconsistent with the mandate of the Commission. Second, several nations including the Dominican Republic are not members of the IWC and thus do not feel inclinded to abide by IWC regulations. As a result, the humpback whale population has dwindled from a high of 100,000 to an estimated low of 6,000.

Mr. Speaker, the establishment of an international sanctuary for the North Atlantic stock of humpbacks in the West Indies as called for in House Joint Resolution 136, is consistent with U.S. policy. This resolution authorizes the President to strengthen our efforts to protect the humpback whales. It was unanimously approved by the Foreign Affairs Committee and is not opposed by the administration. I commend the sponsor of House Joint Resolution 136, Mr. WHITEHURST, for undertaking a leadership role in this area and I urge my colleagues to unanimously support this measure.

Mr. Speaker, the Committee on Foreign Affairs recognizes that the Speaker has indicated to the Committee on Merchant Marine and Fisheries that if House Joint Resolution 136 had been reported by the Committee on Foreign Affairs that it would have been sequentially referred to the Merchant Marine Committee. By requesting that this resolution be placed on the Suspension Calendar the Committee on Foreign Affairs did not intend in any way to prejudice the jurisdiction of the Merchant Marine Committee. The Committee on Foreign Affairs appreciates the willingness of the Merchant Marine Committee to waive its right to sequential referral in this instance.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 136, calling for the establishment of a wildlife preserve for humpback whales in the West Indies.

The gentleman from Virginia [Mr. WHITEHURST], the newly bewhiskered Neptune of this body, and the gentleman from Pennsylvania [Mr. YATRON], are particularly to be commended for taking such strong leadership roles in Congress is support of maximum protection for whales.

The Department of State in written comments on this resolution had indicated that it supports the provision of as much protection as possible for whales, particularly those like the humpback, which are so endangered today. Thus, the administration has taken a position consistent with, although not in precise agreement with this bill. In fact, it favors an even stronger approach than this bill envisions. However, we have received no concern whatsoever from the administration on this particular resolution.

Clearly, the creation of an international sanctuary by the International Whaling Commission [IWC] to provide protection for the North Atlantic humpback is a step in the right direction. Such a sanctuary will work to complement the sanctuary that has been established in the Indian Ocean.

Scientific estimates calculate the current stock of Western North Atlantic humpback whales at between 2,300 and 4,100 and their habitation in shallow coastal areas puts them at grave risk as they are exposed to human activity. Sanctuaries of this nature may be the only hope to preserve the species.

Again, I want to express my support for House Joint Resolution 136 and a continued strong U.S. policy of maximum protection for the world's whales. I urge my colleagues to give this measure their unanimous support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. WHITEHURST].

Mr. WHITEHURST. Mr. Speaker, I thank my colleague for yielding. I just rise to take this opportunity to thank both the gentleman from Pennsylvania [Mr. YATRON] and the gentleman from Iowa [Mr. LEACH] for their willingness to see this legislation through the House this afternoon.

I also thank the members of the other committees who have contributed to the passage of this bill, as I presume it will be.

I would just close by saying that I cannot imagine a more majestic creature of the sea than the humpback whale. You are correct, this legislation is not going to save the humpback from extinction. But I think it is a major first step forward.

As one who has a maritime district and whose life has always been oriented toward the sea, I feel particularly sensitive about this particular mammal and want to do everything I can to preserve it. I think this bill, as I said, is a major step in that direction.

I thank my colleague for yielding and I yield back.

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

Mr. LEACH of Iowa. I am happy to yield to the gentleman from Washington.

Mr. BONKER. I would like to pose a question to the ranking member or to the sponsor of the resolution. I have no doubt that we should make every effort to protect the species. So my question is not with the intent of the legislation but with the approach.

It seems to me that the International Whaling Commission has been established and the United States is a participating member for the purpose of identifying those species that are endangered through technical committees, plenary sessions, attempts to set quotas, and indeed even provide for a moratorium on the capture or killing of whales. So why would it be necessary to call upon the President to seek new agreements or treaties that are outside an established mechanism for dealing with this problem?

Mr. WHITEHURST. Will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Virginia.

Mr. WHITEHURST. I would answer the gentleman in this way: that we have seen the precipitous decline of this species already. Through the established organization we have not been wholly successful in preventing the demise of the humpback whale.

I make no claim that this bill is going to totally solve the problem. It is just a different approach. For that reason, I believe that the bill has merit.

But I am totally in favor of parallel moves within the IWC if it will protect this mammal.

Mr. BONKER. It seems to me that the IWC back in the midsixties actually provided for full protection of commercial exploitation of the humpback whales. So I guess what you are saying to me is based on the data that is presented here, that the population is down from 100,000 to 6,000 and that the IWC is not doing its job that it is not monitoring this thing. And if there is a serious decline of the resource, is it because of commercial exploitation, is it because fishermen of these various countries are engaging in whaling, even though it is contrary to IWC quotas? Is that the problem?

□ 1640

Mr. WHITEHURST. I can only presume that, unless the whales themselves are contributing to it in some way.

Mr. BONKER. Well, in which case the treaty would not be necessary.

Mr. WHITEHURST. Absolutely. I do not think that is the case at all.

Mr. BONKER. Mr. Speaker, does the ranking member have any light to shed on this question?

Mr. LEACH of Iowa. Mr. Speaker, I would only stress to the gentleman that this resolution is neither designed to necessarily go beyond the IWC or to work within the IWC. It is intended to say that we will work with the IWC if it works; if it will not, we will not.

Mr. BONKER. If the gentleman would yield further, that is not what the resolution says.

The resolution calls upon the President to seek other treaties with appropriate international agreements. My question has to do with the mechanism that is now in place. I have attended all four or five IWC sessions and I think their track record is pretty good. When they set quotas, when they establish moratoria, when they call upon participating countries to cease whaling activity, generally everybody complies. And I do not know if it is necessary to call upon the President to seek new treaties or agreements under these circumstances.

Mr. LEACH of Iowa. I think from the perspective of the standpoint of the committee, the statistics tell the tale. We are prepared to go beyond the IWC if it is necessary but preferably to work within the IWC if it works. But there is nothing in this resolution that is intended to undermine the IWC. There is also nothing in this resolution that is intended to say that we cannot work to develop treaties with IWC leadership. I think that is implicit in the assumptions of those who drafted the resolution.

Perhaps the author of the joint resolution has a comment.

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

Mr. LEACH of Iowa. I yield to the gentleman.

Mr. WHITEHURST. The gentleman is absolutely correct. As I said it is a parallel move, it is an additional arrow in the quiver, if you will, to try to save this mammal.

Mr. LEACH of Iowa. If I may comment further, let me stress that the Dominican Republic is not a member of the IWC. That is one reason why there may need to be parallel efforts.

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

Mr. LEACH of Iowa. I yield to the gentleman.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I did not know the Dominican Republic was a whaling country. You know, at the outset all of the whaling countries actually belonged to the IWC. Then over a period of time the so-called conservation countries joined the organization.

Now I am not against the resolution. I am for protecting whales but I have to differ with my distinguished colleague that if you instruct the President to seek other treaties you are in effect undermining the IWC unless somehow they can explain why they cannot do the job of protecting the humpback whales.

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

Mr. LEACH of Iowa. I yield to the gentleman from Pennsylvania.

Mr. YATRON. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows I do support the IWC. But as I said in my statement, first the IWC has no enforcement mechanism. Therefore it must rely on member nations to voluntarily implement the IWC regulations, and in the absence of a coordinated effort by member nations policy application has been inconsistent with the mandate of the commission and second, several nations, including the Dominican Republic, are not members of the IWC and thus do not feel inclined to abide by IWC regulations.

Also in responding to the gentleman's [Mr. BONKER] question about the Dominican Republic as to whether they were a whaling nation, they are a fishing nation. But I think part of the problem is that some of the member nations have not been as cooperative as they could be.

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

Mr. LEACH of Iowa. I would be delighted to yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, insofar as I know almost all the participating members of the IWC do indeed comply with the quotas and with other restrictions that are imposed. That is why they fight so vigorously when these recommendations are put forth by the IWC, Japan being a case worth noting.

The only enforcement that we have presently is through the possible cutoff of fishing rights for countries that do violate those quotas.

That law applies I think to both participating and nonparticipating members of the IWC.

It is not worth raising many more questions at this point. I want to commend the author of the resolution [Mr. WHITEHURST] for drawing our attention to the plight of the humpback whales, and for that reason alone I will support the resolution.

Mr. LEACH of Iowa. I thank the gentleman.

Let me just conclude by stressing that what we are not dealing with here is the issue of quotas, we are dealing with the issue of a sanctuary. In establishing a sanctuary there are two prominent governments, the Dominican Republic and the United Kingdom, which have interests in this region and the Dominican Republic is not a member of the IWC. The IWC certainly provided an excellent role in establishing a sanctuary in the Indian Ocean. It would be our hope that they would establish a similar type of role here in this particular region of the world. We are not dealing within this resolution the issue of quotas, we are dealing with the issue of a sanctuary. It is a role that the IWC can play but in this particular region it might be helpful to bring in other parties.

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

Mr. LEACH of Iowa. I yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Speaker, I am pleased that the gentleman pointed out the IWC action to designate the Indian Ocean as a sanctuary.

Does the gentleman know whether there have been efforts made to the IWC or initiatives to the IWC to establish the West Indies as a sanctuary for this purpose? If not, would that not be a proper course of action rather than entering into new agreements?

Mr. LEACH of Iowa. Mr. Speaker, the administration has informed us by letter that they are willing to work with the IWC, very willing, in terms of making a sanctuary type of agreement.

But let me stress that whether or not the IWC is a part, the idea of a sanctuary stands in and of itself. What this resolution does is make sure that it is all-inclusive, that whether or not the IWC is involved, a sanctuary shall be our goal and that is not at all irrelevant.

Mr. LEACH of Iowa. Mr. Speaker, I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I see the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES] has entered the Chamber, and at this time I would like to thank the chairman for his cooperation in helping to bring this bill to the floor of the House at this time.

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

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 Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the joint resolution, House Joint Resolution 136.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, House Joint Resolution 136, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

ESTABLISHING THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5464) to establish a Chimon Island National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 5464

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

FINDINGS AND PURPOSES

SECTION 1. (a) Findings.—The Congress finds that—

(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plower;

(3) Falkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

(4) Sheffield Island is an excellent potential nesting habitat for heron.

(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

(1) to enhance the populations of herons, egrets, terns, and other shore and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

DEFINITIONS

SEC. 2. As used in sections 1 through 5 of this Act—

(1) The term "refuge" means the Connecticut Coastal National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Falkner's Island, and Sheffield Island in the State of Connecticut.

ESTABLISHMENT OF REFUGE

SEC. 3 (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Falkner's Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island.

(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters and interests therein, acquired under section 3 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There is authorized to be appropriated to the Department of the Interior $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended.

ATCHAFALAYA BASIN

SEC. 6. The lands and waters and interests therein acquired in the Atchafalaya Basin with funds provided under Public Law 98-396 shall be considered to be an area within the National Wildlife Refuge System; except that (1) the area shall be administered by the State of Louisiana after a mutually satisfactory cooperative agreement regarding the administration of the area is entered into with the United States Fish and Wildlife Service, and (2) during such time as the State of Louisiana administers the area, it shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the Refugee Revenue Sharing Act (16 U.S.C. 715s) to the local governments concerned.

EFFECTIVE DATE

SEC. 7. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later.

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 Washington [Mr. PRITCHARD] 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, the next bill before us today is H.R. 5464, legislation to establish the Chimon Island National Wildlife Refuge, consisting of approximately 140 acres.

The bill authorizes an appropriation of $2.5 million to purchase these islands including Chimon Island, Milford Point, Faulkner Island, and Sheffield Island.

These islands contain diverse wildlife habitat and this habitat is threatened due to the close proximity to New York City. There is a great deal of pressure to develop these natural areas due to the scarcity of undeveloped real estate in the vicinity.

The bill also makes those lands acquired under the recently signed Supplemental Appropriations Act and located in the Atchafalaya basin of Louisiana a part of the National Wildlife Refuge System and states that such lands will be managed by the State of Louisiana under a cooperative agreement with the U.S. Fish and Wildlife Service.

The Merchant Marine and Fisheries Committee reported this measure by a unanimous voice vote.

I urge my colleagues to pass H.R. 5464.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. RATCHFORD].

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman from North Carolina for yielding time to me.

Mr. Speaker, I am pleased to rise in support of H.R. 5464 as an original cosponsor of this legislation to create a National Wildlife Refuge from several properties along the Long Island Sound. On behalf of the Connecticut congressional delegation and the people we represent, I would like to thank Chairmen WALTER JONES and JOHN BREAUX for moving this bill forward as quickly as they have.

For those of us in Connecticut and elsewhere who are concerned about quality of life, this legislation clearly is worthy of our support. The Connecticut coastline and the islands that are sprinkled along its edge have long been known as a tremendous natural resource, full of shorebirds, wading birds, and the habitat required to sustain them.

With time, however, has come tremendous pressure on the vital nesting places, rookeries, and other sites needed to keep these bird species thriving. If the habitat needed for these birds is not preserved now, it, and the birds that depend on it, will soon be gone forever.

H.R. 5464 will set aside four tracts of land—Chimon Island, Falkner Island, Sheffield Island, and Milford Point—to keep them protected from encroachment by the bulldozer. It is a small but greatly needed step toward preserving the vanishing natural heritage of the Long Island Sound.

Mr. Speaker, I know of no opposition in Connecticut to this legislation. I know of no opposition to it here in Congress. I do know the administration has objections to it at this time, but I believe they can be persuaded. This bipartisan legislation which is supported by Connecticut public officials at the local, State, and Federal levels, deserves our support.

If we are willing to authorize the creation of this refuge, the funds required to purchase the properties will be available. An amendment of mine in H.R. 5973, fiscal year 1985 appropriations for the Department of the Interior, sets aside $2.5 million for land acquisition if this authorizing bill is enacted.

Mr. Speaker, this bill merits quick action and quick passage. I urge my colleagues to give it their full support.

□ 1650

Mr. PRITCHARD. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. Mr. Speaker, as the author of H.R. 5464, the Chimon Island National Wildlife Refuge Act, I rise today to urge the adoption of this important conservation measure.

On behalf of the citizens of Connecticut, I would like to thank my colleagues in the State delegation, particularly the gentleman from Connecticut [Mr. RATCHFORD] of the Appropriations Committee, and particularly the Governor of the State of Connecticut, William O'Neill, for the overwhelming support they have given to this effort.

I also would like to thank the distinguished chairman of the Merchant Marine and Fisheries Committee, the gentleman from North Carolina [Mr. WALTER JONES], for his prompt attention to this legislation, and the subcommittee chairman, the gentleman from Louisiana [Mr. BREAUX], for all of his help.

This has been a bipartisan effort from the start and one which will surely enhance the quality of life in southwestern Connecticut.

As amended by the Subcommittee on Fisheries, Wildlife Conservation, and the Environment, H.R. 5464 would establish the second national wildlife refuge in Connecticut. Encompassing the islands of Chimon, Sheffield, and Falkner's as well as the 10-acre barrier beach at Milford Point, the new refuge would total 145 acres and be called the Connecticut Coastal National Wildlife Refuge. This refuge is designed to enhance the populations of herons, egrets, terns and other shore and wading birds. And is by many considered to be the second or third most important such breeding area on the east coast of the United States. Its creation would be a great step for wildlife preservation not only in Connecticut, but also our Nation. The lands to be pro-

tected clearly are of national significance, particularly for many of these endangered species.

The urgent nature of this legislation is underscored by ongoing attempts to purchase these coastal sites for real estate development. With land values in southwestern Connecticut among the highest in the country, and with a serious lack of undeveloped coastal land within a reasonable proximity to New York City, there is immiment danger that these lands will be lost for future generations. Serious offers have been made for Chimon, Sheffield, and Milford Point—offers that, if accepted, would level an irreversible blow to the habitat of the Northeast's shore birds. Unless action is taken soon, this critical coastal habitat will be lost forever.

Presently, only three-tenths of 1 percent of Connecticut land is federally owned, the smallest percentage of Government-owned land in the 50 States. We in Connecticut have waited 15 years for the chance to create our second Federal refuge. Now, the House-passed version of the Department of the Interior appropriation bill for fiscal year 1985 includes $2.4 million for acquisition of the proposed refuge. Expenditure of funds, however, is of course contingent upon enactment of this measure. Since the entire $2.4 million will be nontax money taken from funds not otherwise appropriated from the Land and Water Conversation Fund and, therefore, will not add to our mounting Federal deficit or be a drain on the U.S. Treasury, I am eager to see this legislation become law.

Mr. Speaker, I must also add that there is an individual by the name of Mr. William Garafalo who has been a constituent of mine and a native of Norwalk, CT, for all of his life.

He is the gentleman who owned Chimon Island and he has, in truth, given this country quite a gift because he has been offered as high as $2.6 million for that one island alone and has agreed to sell it to the Nature Conservancy which will transfer it to the Federal Government for $1.3 million so that this priceless asset, which, by the way, is zoned for development, which is cut up on the plat plan, will never fall prey to the developer and be lost to the birds that make it such a beautiful and incredible area just a few miles away from one of the major interstate highways and three major cities in the lower part of Connecticut.

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

Mr. McKINNEY. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. I thank the gentleman for yielding.

The gentleman is absolutely correct. If this land is gone, it is gone forever, because throughout this entire area what we have seen is development after development after development spring up right on the edge of the coast and that then means that coastal area is not available.

Second, it needs to be said that the funding is in place, at least as far as the House is concerned. We have already passed through this body the Interior appropriation which provides the funding for this critical area of land.

We face a crisis and that is the onslaught of the bulldozer. But we have an opportunity and that is an opportunity to say to our children and their children we have done something to preserve quality of life in southern Connecticut.

I think this unique combination is one that sought to be taken advantage of and this bill provides that opportunity.

Mr. McKINNEY. I thank the gentleman.

Mr. Speaker, I would simply add that it is very seldom that we are able in this body to do something that will be permanent. So many of the things that we do are transitory in nature, but I think that it is a great accomplishment for us to be able turn around and say to the State of Connecticut and the people of the Northeast that forever this land will be there as we see it today.

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

Mr. Speaker, I am pleased to support H.R. 5464, which establishes a Connecticut Coastal National Wildlife Refuge and provides that lands and waters acquired in the Atchafalaya Basin, LA, with the $10 million appropriated under the fiscal year 1984 supplemental appropriations, shall be considered to be an area within the National Wildlife Refugee System to be managed by the State of Louisiana under cooperative agreement with the Fish and Wildlife Service.

Testimony before the Merchant Marine and Fisheries Committee dramatically underscored the need for the establishment of a Connecticut Coastal Wildlife Refuge as proposed by the Connecticut congressional delegation. The lands and waters included in this bill represent a valuable wildlife habitat resource which, at present, is subject to extremely active urban development.

The gentleman from North Carolina has already described the value of the resources of the Atchafalaya basin in Louisiana. It is appropriate that we begin the process of acquisition which was contemplated in a plan developed by the Corps of Engineers for the basin. It is also appropriate that these lands and waters be managed by the Louisiana Department of Wildlife and Fisheries, since they will be responsible for the rest of the area which will be acquired for public access. Inclusion of these lands and waters in the National Wildlife Refugee System will ensure that the refuge will be administered in a manner consistent with the rest of the areas in the National Wildlife Refugee System.

Mr. Speaker, I believe that both of these areas will be worthy additions to our protected wildlife habitat, and therefore urge my colleagues to support H.R. 5464.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the chairman for his leadership and initiative in helping to move this bill so promptly through his committee to consideration on the floor.

□ 1700

As my two colleagues from Connecticut, Mr. McKINNEY and Mr. RATCHFORD, have both pointed out, this is a critical move that I hope we will make in approving this legislation.

We have in my district two pieces of property that are covered by this legislation, both of which are critical to the wildlife which survives along the coast of Connecticut despite the enormous development activities that have gone on there. Falkner Island, which is located off the town of Guilford, is perhaps the easiest to preserve of the properties that are contained in this legislation. Falkner Island already belongs to the Coast Guard; so what is involved is a transfer of ownership.

On the other hand, without this transfer of ownership we have no guarantee that the Coast Guard might not develop in the future other plans for this land rather than to preserve it as a wildlife refuge.

Milford Point, which is in the city of Milford, is right now threatened with development, and through the vehicle of this legislation it can be preserved forever. Yet if this legislation were not to pass and if time were to pass instead with this property continuing in private hands, we are certain that this land will be turned to development. This is some of the very last land that exists in the city of Milford that has not already been built up, and it is critical land for a great variety of species of wildlife, in particular birds that otherwise may become extinct in our area of the country if not in the whole world.

Connecticut has so far, as has been mentioned, had very little assistance from the Federal Government in the creation of parklands and lands set aside for wildlife. It is extremely important and appropriate that we at this time get this assistance from the Federal Government out of funds that are set aside for this purpose in order that the people of Connecticut may

benefit from the continuation of the wildlife and the birds, in particular, that are so rare, and also that the whole country be benefited by these lands being set aside, these species being protected, and the onslaught of development which is otherwise inevitable being kept at least within some reasonable bounds.

With respect to Milford Point, right now there is litigation in the Connecticut courts that could result in 22 condominium units being built on this 10 acres of land, totally obliterating the opportunity of the birds to nest there and the wildlife to exist there. It is just this kind of threat that this legislation is aimed to cure.

I would like to once again thank the chairman of the full committee, as well as the chairman of the subcommittee, the gentleman from Louisiana [Mr. BREAUX], for their support and assistance, along with the ranking minority members, and I would like to commend my colleague from Connecticut [Mr. MCKINNEY] for his initiative in moving this bill, and my colleague [Mr. RATCHFORD] for his work in the appropriations process which has put in our House-passed legislation the funds to make this purchase possible. I would also like to commend the Nature Conservancy in Connecticut which has played a key role in assembling the information to support the presentation before this House to allow this legislation to gain approval at the committee level and, I hope, very shortly, in the full House.

I thank the chairman again.

● Mr. BREAUX. Mr. Speaker, H.R. 5464, would establish a National Wildlife Refuge consisting of several small islands and a barrier beach along the Connecticut coast. These islands are valuable habitat for a number of species of wildlife, most notably herons, terns, and other shore and wading birds. The refuge would become part of the National Wildlife Refuge System and would be managed by the U.S. Fish and Wildlife Service pursuant to the National Wildlife Refuge System Administration Act of 1966 and other applicable statutes. The legislation contains an authorization of $2.5 million for acquisition of the refuge.

Mr. Speaker, the areas that would be included in the National Wildlife Refuge System following the passage of this legislation will be worthy additions to a system that now includes over 400 national wildlife refuges. Chimon Island, the largest of the areas that would be included, supports Connecticut's most significant heron rookery and one of the largest wading bird colonies on the northern seaboard. Falkner's Island, currently owned by the Coast Guard, supports Connecticut's only breeding population of roseate terns and most of the nesting population of common terns. Milford Point is one of the few nesting areas remaining for the piping plover and other shore birds. Sheffield Island also has great potential as habitat for shore and wading birds.

The legislation was amended in committee to change the name of the proposed refuge to the Connecticut Coastal National Wildlife Refuge to reflect the fact that the refuge contains a number of units along the Connecticut coast.

H.R. 5464 also includes a provision to clarify the use of funds appropriated to the Fish and Wildlife Service under the Supplemental Appropriations Act, recently signed by the President, to acquire lands within the Atchafalaya Basin in Louisiana. That act appropriated $10 million to the U.S. Fish and Wildlife Service to acquire lands under the Fish and Wildlife Act of 1956 and other authority.

For those of you not familiar with Louisiana, the Atchafalaya Basin is one of the great natural areas of this Nation. It is essentially a huge river swamp, encompassing more than 500,000 acres of wetlands that may produce as much wildlife as any area in the country. It is home to an astonishing diversity of wildlife, including herons, egrets, and other wading birds; mallards, wood ducks, and countless other waterfowl; black bears, deer, bobcat, muskrat, and other mammals; and countless alligators. From its wasters comes the Louisiana crawfish, an indispensable part of cajun cuisine, as well as bass, catfish, and other fish.

The debate over conservation of the Atchafalaya Basin has been going on for years in Louisiana. Flood control, agriculture, energy development, recreation, and other interests in the basin were difficult to reconcile. Recently, however, all of the parties involved developed an agreement that resolves the major disputes. The agreement, which is incorporated in a plan developed by the Corps of Engineers for the basin, specifies flood control measures, water flow rates, and the purchase of flowage easements designed to keep the basin in a natural state while providing flood protection for surrounding communities.

The plan also calls for the acquisition and management of 90,000 acres within the basin for public access. The Dow Chemical Co. has donated 40,000 acres. The acquisition of the remaining 50,000 acres is to be split between the State of Louisiana and the Federal Government. All of the public access lands are to be managed by the State of Louisiana. The State has recently purchased approximately 10,000 acres and has plans to acquire additional lands in the near future.

Authorization for the implementation of the comprehensive plan for the Atchafalaya, including the acquisition of public access lands by the Corps of Engineers, is included in the water resources legislation that has passed the House.

The provision relating to the Atchafalaya included in H.R. 5464 simply clarifies how the Service is to use funds contained in the fiscal year 1984 Supplemental Appropriation Act. Lands acquired will become part of the national wildlife refuge system but will be managed by the State under a cooperative agreement with the Fish and Wildlife Service. The National Wildlife Refuge Administration Act requires that refuges are to be administered by the Secretary of the Interior through the Fish and Wildlife Service. However, it would make little sense to split the management responsibilities of the basin between Federal and State agencies. Since the State is already managing in excess of 50,000 acres in the basin, it is only sensible that they should be the management authority. It is our intent that the area be managed by the State in a manner consistent with the provisions of the National Wildlife Refuge Administration Act and other applicable statutory authority.

The legislation, as amended, also provides that the area is to be considered as part of the refuge system for the purposes of the Refuge Revenue Sharing Act. This act provides in lieu of tax payments to local governments. This is consistent with the policy for other refuges managed under cooperative agreements, such as Matagorda Refuge in Texas.

Mr. Speaker, I would like to congratulate the members of the Connecticut delegation, al of whom cosponsored this legislation and all of whom have worked diligently to assure its passage. Through their efforts, we will protect one of the few remaining natural areas in Connecticut for future generations.●

● Mrs. KENNELLY. Mr. Speaker, I rise in strong support for H.R. 5464, the Connecticut and Louisiana wildlife refuge bill. This legislation establishes a Connecticut Coastal National Wildlife Refuge on Chimon Island, Milford Point, Faulkner's Island, and Sheffield Island in the State of Connecticut. In addition, the legislation directs that Public Law 98-396 lands in the Atchafalaya Basin in Louisiana be included in the national wildlife refuge system.

The wildlife refuge proposed in this bill is important to the State of Connecticut. Our State, in the middle of the Boston-New York corridor, is highly urbanized, the cost of land is high and open spaces are at a premium. Although there is a great appreciation of nature and a strong commitment to the conservation and preservation of environmental resources among the residents of Connecticut, the pressures to develop open land increase daily, and fewer and smaller

ecologically valuable properties remain.

Given these circumstances, it is little short of incredible that the Federal Government has the opportunity to designate as a wildlife refuge such outstanding areas in Connecticut as the three islands and the tombolo included in H.R. 5464. Chimon Island, the largest of the four sites, is Connecticut's most important heron rookery and, according to the U.S. Fish and Wildlife Service, the site of one of the three largest wading bird colonies on the northeast coast of the United States. In addition, it is a breeding ground for several species that nest nowhere else in Connecticut. Milford Point, a barrier beach, provides a nesting site in Connecticut for two rare birds, the piping plover, a candidate for the endangered species list, and the least tern, a species considered to be on a long-term decline throughout North America. Likewise, Faulkner's Island provides a habitat for the roseate tern and for the State's only major colony of common terns. Sheffield Island, like Chimon Island within commuting distance of New York City, is an undeveloped area with the potential to be an important nesting habitat for Chimon Island herons.

Time is running out for the preservation of land in Connecticut. On the local level, the Nature Conservancy is to be commended for having embarked on an ambitious program to purchase and conserve irreplaceable environments in the State of Connecticut and the Audubon Society is to be commended for its scientific research providing information on the ecological importance of many of these areas. The Federal Government also has a responsibility in the preservation of critical areas. Chimon Island, Sheffield Island, Faulkner's Island, and Milford Point are of national significance and well worth being held in public trust through designation as a Federal wildlife refuge. I urge the House's favorable consideration of H.R. 5464.●

Mr. PRITCHARD. 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. 5464, 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 the Connecticut Coastal National Wildlife Refuge, and for other purposes."

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 the bill just passed.

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

There was no objection.

GENERAL LEAVE

Mr. NATCHER. 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 therein extraneous material, on the subject of the special order today by the gentleman from South Dakota [Mr. DASCHLE].

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

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock a.m. on tomorrow.

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

There was no objection.

HOUR OF MEETING ON THURSDAY NEXT

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow it adjourn to meet at 11 o'clock a.m. on Thursday.

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

There was no objection.

LEGISLATION ON REGULATION OF PORNOGRAPHY TRANSMITTED OVER LOCAL CABLE TELEVISION

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

Mr. NIELSON of Utah. Mr. Speaker, today Mr. ECKART and I are introducing legislation to ensure that local and State government authorities continue to have power to regulate pornography transmitted over cable television systems.

Earlier this summer, the U.S. Supreme Court ruled that the Federal Communications Commission in Washington, DC, has the exclusive power to regulate the content of programing transmitted over cable TV.

Unfortunately, the Supreme Court's decision has the effect of nullifying hundreds of State laws, city ordinances, and local cable television franchise agreements around the country which give local and State officials the power to regulate pornography.

In my own State of Utah, for example, a group is attempting to get a Federal district court to nullify a Utah State statute that regulates pornography on cable television because of the Supreme Court's ruling.

The bill we are introducing today is quite simple. It merely states that, notwithstanding the Supreme Court's decision, local and State governments may continue to regulate pornography just as they do today.

I include in the RECORD at this point the text of our bill.

H.R. 6220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Communications Act of 1934 (47 U.S.C. 152) is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this Act shall be deemed to affect the criminal or civil liability of programmers or operators of cable television systems pursuant to the Federal, State, or local law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that operators of such systems shall not incur any such liability for any program carried on any channel designated for public, educational, or governmental use or on any channel designated for commercial use by persons unaffiliated with the operator.".

GENERAL CONAWAY CITED FOR ZUCKERT MANAGEMENT AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, I want to add my name to those who have already congratulated Maj. Gen. John B. Conaway, Director of the Air National Guard, for his selection as the 1983 winner of the Eugene M. Zuckert Management Award.

General Conaway's work in the force modernization and in improving mission readiness of the Air National Guard as part of the total force has been an outstanding contribution to the overall capability of the Armed Forces of the United States.

General Conaway has been a strong and decisive leader within the National Guard Bureau and I am proud to know that his efforts have not gone unnoticed. I want to include the text of the citation which accompanied this fine award and again, I offer my congratulations on a job well done.

The citation reads:

CITATION TO ACCOMPANY THE 1983 EUGENE M. ZUCKERT MANAGEMENT AWARD TO MAJ. GEN. JOHN B. CONAWAY

Major General John B. Conaway, as Director, Air National Guard, demonstrated superior management ability in improving the Air National Guard as a vital element of the Total Force.

With personal expertise, outstanding initiative, foresight and direction, General Conaway concentrated his talents on force modernization and mission readiness. His management accomplishments extend to every functional area and his credibility as an astute manager of resources is known and accepted throughout Congress, OSD, the Air Staff, States and ANG units. His many achievements contributed significantly to insuring the Air National Guard can achieve its goals as part of the Total Force and that as a nation we can meet our worldwide commitments. His actions dramatically increased the combat readiness and sustainability of units nationwide and led to attainment of the highest state of equipment modernization in the history of the Air National Guard. His efforts to emphasize recruiting, retention, training, ground and air safety, operational, logistical, and facility support are indeed commendable and will have a lasting favorable impact both on the national and international scene. Numerous programs he developed, guided, or directed have been acknowledged and accepted Guard and Air Force-wide. Additionally he improved many programs affecting human relations and employee motivation.

These distinctive achievements of Major General Conaway demonstrated his outstanding management talents and reflect great credit upon himself, the Air National Guard, and the United States Air Force.●

JUVENILE INDIAN ALCOHOL AND DRUG ABUSE PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota [Mr. DASCHLE] is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, last Thursday, September 6, Congressman DOUG BEREUTER and I introduced the Juvenile Indian Alcohol and Drug Abuse Prevention Act.

Even though alcoholism is the No. 1 health and social problem among Indian people, the Federal Government has made only scattered and noncoordinated efforts at preventing and treating alcohol and drug abuse. Substance abuse is a serious problem in all of American society, but it is even more grievous in Indian country, where extreme poverty and unemployment rates up to 90 percent prevail. It is estimated that alcoholism is at least 8 times more prevelant among Indian people than the Nation as a whole.

Alcoholism is a tragedy for its victims, but its manifestations and effects on other people, especially children, is almost beyond comprehension. One of the manifestations is child neglect and abuse. Parents are role models, negative or positive, for their children. Many Indian families are now into their third or fourth generation of alcohol abuse.

I have seen many children in South Dakota who have been neglected or abused physically and sexually by alcoholic parents. And although it is difficult to accept, I also know that these children may, as adults, emulate their parents behavior. There are homes at Pine Ridge where people, thankfully, take in young children because the children's parents, victims of alcoholism are not able to help them get fed, dressed and off to school. Many children are born with fetal alcohol syndrome. I know that Congressman BEREUTER, who coauthored this legislation, visited a special education school for Indian children last week where 25 percent of the children have fetal alcohol syndrome. And I have received letters and phone calls about the use of lysol on Indian reservations.

I have been told of school yards littered with lysol cans. In some instances grocers now have to keep lysol behind the counter, as though it was a prescription drug. Even this, however, is not a sure way to keep lysol from being abused.

It is important for us to be cognizant of the fact that the Indian population is very young. Indian people have the highest birth rate in the Nation. They also die the youngest. The average age of death for Indian people is 45. Among the Oglala Sioux, the median age is only 18. These statistics point to the importance of focusing efforts on the prevention of alcohol and drug abuse at an early age, not just the sporadic treatment after the fact.

I received a letter recently from an Indian woman from California, Roxanne Villa, whose 15-year-old daughter, Shannon, died last year at a BIA boarding school of ethanol poisoning. This dedicated mother wrote to offer her assistance in getting legislation passed to help prevent future tragedies such as happened in her family. Mrs. Villa is also beginning an organization to help young people, especially Indian youth, through recreational activities. There are, tragically, many such incidences of preventable deaths of young Indian people.

Our legislation aims to focus on youth by requiring that all BIA and contract schools have alcohol and drug curriculums, developed at the school level, for grades K through 12. We also hope to bring a much more sensitive and learned reaction to alcohol and drug problems by requiring that a wide range of Government employees on reservations whose jobs bring them into contact with substance abuse receive training in this area. And our bill would also offer to school board and child protection committee members and others this same training.

Very importantly, the legislation requires Indian Health Service, within 2 years to integrate the treatment and followup care of alcoholism into their health services. While IHS funds nearly 200 tribal alcohol programs, they are, by and large, programs to deal with people in the late stages of alcoholism and they do not focus on prevention. IHS medical personnel do not receive training in the No. 1 health problem of Indian people—alcoholism. Our legislation will change that.

As we hold hearings on this legislation, there will be more information forthcoming regarding the human tragedy, incidence, and cost of alcohol and drug abuse. I will share the contents of these hearings with my colleages. I would ask of my colleages with Indian constituencies to solicit comments on this legislation and participation in hearings. This effort should serve to increase the sensitivity of Members of Congress to the causes and effects of alcohol and drug abuse in Indian country, and will also serve to strengthen our resolve to provide appropriate assistance to Indian people in their efforts to gain control of their lives and their future by preventing substance abuse among their youth.

George Hawkins of the National Indian Board on Alcoholism and Drug Abuse said in his testimony in April of this year on the Indian Health Care Improvement Act about alcoholism:

> If a disease caused uncounted preventable deaths . . . if that disease ranked at the top in cases but at the bottom in support per victim, if that disease reduced life expectancy by at least two decades, was responsible for abused and battered spouses, children and broken homes, if that disease accounted for untold number of homocides and suicides—would not the medical and political world declare an emergency.

I hope Mr. Hawkins is right. There is such a disease in our country. It is not cancer or heart disease. It is alcoholism, and we should all work together to end its ravage.

I include a summary of the Juvenile Indian Alcohol and Drug Abuse Prevention Act at this point in the RECORD:

SUMMARY OF JUVENILE INDIAN ALCOHOL AND DRUG ABUSE PREVENTION ACT, H.R. 6196

Section 101. Memorandum of Agreement to be made between Secretaries of Interior and Health and Human Services to share resources and coordinate programs dealing with the prevention, identification, treatment and follow-up care of alcohol and drug abuse. Memorandum will include authority for agency level BIA Superintendents and IHS Service Unit Director to enter into agreements with tribes regarding alcohol/drug abuse efforts.

Section 102. At the request of a tribe, IHS Service Unit Director and BIA Superintendents will enter into agreement with the tribe to share resources and coordinate programs dealing with the prevention, identification, treatment and follow-up care of alcohol and drug abuse.

Sections 201, 202 and 203. Amend the Indian Education Act to:

(a) include as Part A eligible activities drug and alcohol abuse counselling

(b) earmark in Part B fellowships a 10 percent setaside of fellowships for people pursuing degrees in counselling with an emphasis on alcohol and drug abuse counselling.

(c) include as Part C eligible activities alcohol and drug abuse counselling.

Section 204. Require the Secretary of Interior to keep open some BIA schools in the summer to be available as recreation and counselling centers.

Section 205. Require all BIA and Contract schools to provide alcohol and drug education curricula in grades K-12.

Section 206. Secretary of Interior shall publish, in cooperation with the Secretaries of Education and HHS, a quarterly alcohol and drug abuse newsletter to report on tribal alcohol and drug abuse projects and programs. Publication shall be circulated free of charge.

Section 301(a). Community Health Representatives shall receive, as part of their regular training, one week of training regarding alcohol and drug abuse, which shall include education in crisis intervention and family relations.

Section 301(b)(1). IHS shall provide, directly or through contract, alcohol and drug abuse training to the following people: BIA Education Superintendents, BIA Agency Superintendents, IHS Service Unit Directors, BIA social workers, IHS doctors, nurses, nurses' aides and paramedics.

Section 301(b)(2). IHS shall offer, directly or through contract, alcohol and drug abuse training to the following people: BIA, Contract and public school boards (on or near reservations, including Oklahoma and Alaska) and parent advisory committee members, child welfare protection committee members, Urban Indian Center counsellors, home-school liaison personnel funded under the Indian Education Act, supervisors of emergency shelters and tribal college educators (unless the college already offers this service to its employees).

Section 401. BIA shall provide, as part of its training for law enforcement personnel, education regarding alcohol and drug abuse.

Section 402(a)(1). Indian juveniles arrested by any tribal, federal or BIA law enforcement officer shall, whenever possible, be detained in a temporary emergency shelter, foster home, or community-based treatment facility in lieu of incarceration. Where states exercise criminal jurisdiction in Indian country, law enforcement personnel are encouraged to place juveniles in above mentioned places in lieu of incarceration.

Section 402(b)(1). BIA shall establish a program to compensate families to serve as temporary emergency shelters for juveniles apprehended for alcohol and drug related offenses.

Section 501. IHS shall, within 6 months, report to Congress on the size of the juvenile Indian population in need of residential alcohol or drug treatment, where such facilities should be located, and the cost of providing such treatment.

Section 502. IHS, within 2 years, shall provide comprehensive alcohol and drug treatment services, including detoxification and counselling.

Section 503. IHS is authorized to construct or expand existing facilities to serve as regional residential juvenile alcohol and drug treatment centers.●

TARGET DATE FOR METRIC CONVERSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. WIRTH] is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, the Congress passed the Metric Conversion Act of 1975 with the intention of bringing America's measurement system in line with that of the rest of the world. Then and now, it has been clear to many Americans that one of the most effective ways of improving our country's trade prospects, integrating our military into the NATO alliance, and simplifying the learning of science and mathematics by our schoolchildren is the complete adoption of the metric measurement system. Yet, voluntary implementation of the metric system, which is called for in the 1975 act, has taken place at an extremely slow pace.

Part of the responsibility for this delay rests with the Congress. In its consideration of H.R. 5172, the House amended the bill to delete a modest appropriation for a study of ways in which American business can more easily and effectively convert their measurement systems to metric. The House deleted this study even though many American businesses desired the guidance that such a study would supply. Any momentum toward further metrification has also been hampered by administration efforts to weaken the authority of the U.S. Metric Board.

Accordingly, Mr. Speaker, I commend to you and my colleagues the following resolution passed by the U.S. Metric Association, calling on the Congress to set a target date for the implementation of the metrification of America's measurement system, a step which is long overdue.

[From the U.S. Metric Association, Inc.]

RESOLUTION

To Members of the Congress of the United States of America:

Whereas, President Ronald Reagan has stated, "Let me assure you of my support for the policy of voluntary metrication expressed in the Metric Conversion Act of 1975;" and

Whereas, The U.S. Deputy Secretary of Commerce stated recently, "Metric is a key for competing in world markets (and) the lack of widespread production of metric products in the U.S. has had a negative impact on sales both at home and abroad;" and

Whereas, The Assistant Secretary of Commerce for Productivity, Technology and Innovation concluded, "To compete in the metric world we have to be metric . . . it is baffling to me that not everyone understands the need to use metric;" and

Whereas, The acting director of the Office of Metric Programs in the Department of Commerce stated, ". . . there appears to be a growing recognition in the marketplace of the advantages of an international system of units, and if U.S. industry is to compete effectively in the international marketplace, more widespread use of the metric system will become necessary;" and

Whereas, The Executive Secretariat, Metric Committee, of the Department of Defense pointed out, "Our country is shifting to the (metric) system . . . in order to be able to better compete in the world marketplace and to enhance the allied defense position;" and

Whereas, In this time of educational crisis, the education of today's youth who will be the workers in industry tomorrow, would be greatly enhanced and simplified if the decimal-based metric system which is the language of science and technology, were taught as the principal measurement system in the nation's schools; and

Whereas, An increasing number of foreign countries are requiring imports to be manufactured and labeled in metric dimensions and it is not cost effective for industry to manufacture in two measurement systems, and

Whereas, Companies that have already implemented metric conversion are reporting long-term economic gains as a result of metric conversion and improved manufacturing processes adopted concurrently; and

Whereas, Accelerated depreciation allowances and investment tax credits for modernizing plants and equipment are now in place, these incentives are important to metric conversion, because the retooling and rebuilding process is an ideal time to change to metric.

Therefore be it resolved, That the U.S. Metric Association Board of Directors strongly urges that the Congress set deadlines for completion of the metric transition to ensure that the best interests of industry and the consumer are served. ●

THE LATE HONORABLE CARL D. PERKINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. NATCHER] is recognized for 60 minutes.

Mr. NATCHER. Mr. Speaker, one of the nicest things that has happened to me during my lifetime is the opportunity that I have had to serve in the Congress with CARL D. PERKINS.

I will remember him as a friend, an outstanding legislative leader, a symbol of strength, and an example of the character and accomplishment that our legislative branch of Government should always stand for. Few public servants have held such a warm and well-loved place in the hearts of their constituents. The country has lost one of its greatest patriots. I have lost one of my close friends.

CARL PERKINS always believed that if you keep your eyes on the people, you will never lose your way. To CARL PERKINS, there was no limit to the greatness, the glory, and the grandeur of America. He was proud of the privileges he had of serving that country he loved so much. He lived his beliefs; he was a rock of integrity; he was a monument of decency; he was a tower of principle; he was a pillar of compassion and concern for his fellow man.

He was a man of high integrity, a man of conviction, a man with determination and firmness, a man with sure knowledge, a man who cherished and protected the prerogatives of the

House, and a man endowed with the qualities of greatness.

He was a practical man. He knew that politics is the art of the possible. He knew also that at times, it is better to bend than to break; that if you want a rose, at times you must put up with the thorns. He also knew extremely well the traditions and the history of our great country. He realized that if you do not know the mistakes of history, you have to live those mistakes all over again.

To CARL PERKINS, there was no such thing as the impossible. He was a gifted man, possessing courage and stubborn determination. He will be missed by his colleagues, but more importantly, he will be missed by the entire Nation.

During the 20th century, Kentucky has not sent a Member to the House of Representatives that established a better record than CARL PERKINS. He was elected chairman of the Committee on Education and Labor in 1967 and served in this capacity for 17½ years. His seniority was No. 4 in the House of Representatives. Among his legislative achievements, he always counted the Vocational Education Act of 1963, the landmark Elementary and Secondary Education Act of 1965, and the provisions for black lung benefits in the Coal Mine Health and Safety Act of 1969. These are only a few of the major bills that he sponsored and succeeded in passing in the House of Representatives.

I recall back in the late 1950's when Gus Kelly of Pennsylvania would bring out each year, his school construction bill. This bill was turned back on a number of occasions and a great many Members in the Congress became discouraged over the failure of such legislation to be enacted. This discouragement did not apply to CARL PERKINS because he believed that the time would soon arrive when elementary and secondary education and higher education would be in order in the House of Representatives and in the U.S. Senate. This time arrived during the early 1960's and CARL PERKINS was one of the leaders in the move to enact such legislation.

CARL D. PERKINS' memorial will not be of bronze or marble. His memorial lives and breathes and walks among us. His memorial is every man and woman and child whose life has been improved as a result of the legislation and the programs he succeeded in enacting while serving as a Member of the House of Representatives. His memorial is to be found in every classroom in this Nation where young people are receiving a better education because of CARL PERKINS' understanding and compassionate handling of his authorization bills. His memorial is to be found in the programs that have benefited the working men and women in this country.

He served with eight Presidents and five Speakers of the House. During the 35 years that he served in the House of Representatives, he had an opportunity on more than one occasion to be elected to other offices, but he believed that he was in the right place to serve his people, his State, and his country, and he had no desire to change positions.

He was a giant in the center of national power, but at all times he remained a modest man. He was a good man who served his country well. He remained always a man's man and he kept the common touch. He was a man who could be compared to the giant, sturdy oak that grows on the rolling hillsides of Kentucky.

The Commonwealth of Kentucky has lost a distinguished son and dedicated servant. The Congress has lost one of its most effective legislators. The people of the United States have lost one of their great champions in the fields of education and labor. I remember his strong voice in behalf of the working people of his district and of the Nation.

His concept of public trust was without parallel and never did he hesitate to speak out against any proposal which he felt was not sound and not to the best interests of our people. In every position he held, either private or public, he achieved distinction. As a Member of Congress, he had those qualities that are essential for leadership, sound justice, patience, perseverance and unyielding adherence to the principles and policies advocated by his party for the welfare of the country. His character, his achievements and his faithful service will be an inspiration to generations yet to come.

□ 1710

Mr. Speaker, I deem it a great privilege and a high honor to have been a friend of CARL D. PERKINS. I have lost a true friend, and this country has lost a great statesman. To his lovely wife and family, I extend my deepest sympathy in their bereavement.

Mr. Speaker, at this time I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman for yielding to the gentleman from Kentucky, and I would like to first salute my friend from the Second District for having established this special order to honor our departed colleague, CARL PERKINS, and of course, to salute my friend as the new dean of the Kentucky delegation.

The gentleman from Kentucky who is now speaking came to the House 14 years ago, and my first committee assignment was the gentleman from Kentucky's committee, the Committee on Education and Labor. I served on the gentleman's committee for 4 years until I switched to another. If there were one individual who stands out as my political mentor, it would be CARL PERKINS. A more dissimilar person from the gentleman from Kentucky who is now speaking probably did not exist. I am from a city, I have never been on a farm. My people came to this country in relatively recent years. Mr. PERKINS is a man of the soil. He came to his area of Kentucky many generations ago, and yet, Mr. PERKINS took me under his wing and showed me the legislative ropes and enabled me to be a productive Member of Congress at an early age, and at an early time in my service.

If I could, just for one second, Mr. Chairman, perhaps illustrate, as we all have many stories about Mr. PERKINS, and I am sure the gentleman would remember that when he would engage with Mr. PERKINS in one of those treks to the floor, you did not escape that big, burly hand which would grab you just about the middle of your bicep and squeeze and steer you into a wall and away from a wall and bounce you off the place, because he was a very persuasive man and very physical in the way he could make his point.

The gentleman from Kentucky remembers one specific incident I would like to relate as perhaps crystallizing the entire service of CARL PERKINS. It was the conference, the very historic conference of 1972 in which we finally settled on a higher education bill. As my friend from Kentucky, Mr. NATCHER, remembers, Mr. PERKINS labored for week after week after week on that bill. He never could quite get the conference report written.

I will never forget this as long as I live. One day we met at 2 in the afternoon down in the old Supreme Court chamber, which had not been remodeled at that point. This was before the bicentennial. We met at 2 in the afternoon and I figured it would be another one of those desultory meetings that never quite reached home base. Came suppertime and we did not rise, we kept working. I got a little hungry, but they sent out for food, and I said, well, we will probably rise at 8:30, 9 o'clock. Eight-thirty, 9 o'clock came and we were still working. There was no sign or symbol that Mr. PERKINS was going to let up and we kept going. Ten o'clock, eleven o'clock, finally midnight and people starting kind of wilting. One o'clock in the morning, 3 o'clock in the morning, I could not believe it, but at 5 o'clock in the morning we got a bill.

I thought that illustrated something very important: Mr. PERKINS would sometimes not necessarily outscintillate and outerudite his opponents, but he would outwork them; he would outlast them; he would outpersevere them. No one could outwork, outlast, or outpersevere CARL PERKINS.

□ 1720

So, in that particular instance, more than any in the world, I remember how his tenacity as a human being got a bill which continues to serve to this day young people across America.

So, as a member of the Kentucky delegation, as a Member of the House of Representatives, but perhaps more particularly as a kind of political protege of our departed friend, I want to take this opportunity to extend my condolences, which of course the gentleman and I extended in person in Hindman at the time of the funeral to the family to express to them the wonderful, fond memories I will carry to my grave of the chairman, of his wonderful attitude as a human being, of the tremendous things he did for the poor, the impoverished, the young people, the mothers and babies of America, and to hope that though I do not expect that to happen soon that perhaps some day this House will be graced with a person like Mr. PERKINS.

His progeny and successor will be a very fine and effective Member of the House but there will be few ever to match our departed friend.

I want to thank my friend for yielding and to again wish him well in his new responsibilities as dean of our delegation.

● Mr. O'NEILL. Mr. Speaker, this morning I took part in a very moving and beautiful memorial service for our beloved friend and colleague, Chairman CARL PERKINS. I would like to share those remarks with my colleagues at this time:

Mrs. Perkins, Chris, my colleagues and friends. I am honored to take part in this ceremony honoring one of the truly great and special legislators of our time, Chairman Carl Perkins of Kentucky.

When I was elected to Congress almost 32 years ago, Carl was beginning his third term—having won his first election to the house the same year Truman defeated Dewey. It seems like such a long time ago when you put it that way—and yet it seems like the time passed on by effortlessly.

In 1965, Carl Perkins was chairman of the General Education Subcommittee and he was floor manager of the first major piece of legislation to provide aid to primary and secondary schools.

Two years later, he become Chairman of the full Committee on Education and Labor and he oversaw the drafting of the war on poverty bills and he guided them through the House.

The great strides made in the 1960's on behalf of the poor and the middle class—on behalf of the unemployed, the hungry the handicapped—all were guided by the expert and loving hands of the Chairman. His accomplishments were as big as his great Kentucky heart—and he fought for the needs of coal miners in Appalachia suffering black lung disease; and for the school lunch program and child nutrition throughout the nation.

Carl Perkins was a man of iron will. His stubbornness was unequalled!

Carl never gave up. He fought for what he believed in and he never gave up!

Carl was a deeply caring person. His heart went out to the poor, to the old, to the handicapped, and to the children—and where went his heart, there went his work—and his successes!

I miss Carl. We all miss him—the country, as well as the people of Kentucky. Carl and I shared many views and beliefs. Our political philosophies were fine-tuned in the 1930's and efforts on behalf of labor and the needy came naturally to us.

We shared something else, too—a belief in a simple truth: All politics is local.

Carl Perkins believed "all politics is local" and he lived his public service career with this in mind. No matter what the issue, no matter what the time—Carl Perkins remembered his friends back home.●

Mr. NATCHER. At this time I yield to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding and I will not take much time, although I could take a great deal of time to praise the memory of my dear departed friend, CARL PERKINS.

For those people in Kentucky who will read these remarks and for those who may be tuned in, I want to describe CARL PERKINS' work in this House with three D's. He was absolutely devoted to the wonderful people that he represented in his district in eastern Kentucky. Oftentimes describing them in ways which denoted affection for those whom he knew so well.

He was absolutely dedicated to the principles that he learned as a boy that are deeply rooted in the mountains of Kentucky and he was thoroughly diligent in the pursuit of the goals that he established for their interest that they help establish in the election process.

At his funeral, which I attended, many bills were recited that bore his name: I would say that those bills did not pass this Congress. CARL PERKINS made them happen and that the laws which bear his name are truly a monument to the great service of a great man whom I am pleased and proud to remember as my dear friend.

I thank the gentleman for yielding.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to join my colleagues today in expressing a few thoughts in memory of CARL PERKINS, and thank our distinguished colleague from Kentucky [Mr. NATCHER] and the other members of the Kentucky delegation for making this time available to us today. There is much to be said about the life and accomplishments of our departed colleague, not the least of which is the legacy CARL PERKINS left the American people.

Congressman PERKINS' long record of dedication to education began at the early age of 19, when, after 2 years of college, he began teaching. Later, having received his law degree from the Louisville School of Law, he practiced law, became the Knott County attorney, and served in the Kentucky General Assembly. Following Service in World War II, CARL PERKINS ran for office, and was elected to the Congress in 1949. For more than three decades he faithfully served the people of eastern Kentucky, a testament to his popularity and service.

The many years of his service on the Education and Labor Committee culminated CARL PERKINS taking over the chairmanship of that panel in 1967. Under his leadership, Congress enacted legislation and expanded social and labor programs so important to the fabric of this Nation. CARL's legislative abilities were sometimes underestimated by some of his colleagues, yet the seemingly unsophisticated country lawyer was almost always able to achieve successful passage of measures he had crafted. I remember well the early years of the seventies, when as a freshman Member, I looked to Chairman PERKINS for guidance on the many important issues of the day, including measures authorizing Federal aid to education, college-student assistance, child-nutrition requirements, aid to handicapped children, and the many complex laws pertaining to our labor force. Throughout consideration of these bills, Chairman PERKINS set high standards for promoting American educational advances and maintained a long record of leadership and advocacy for the working man and woman. These outstanding efforts and contributions continue to stand as important examples of congressional concern and action.

All of us in the Congress, and many throughout our land will miss CARL's leadership. The education and labor communities mourn his passing with us, as do the residents of CARL's congressional district in eastern Kentucky. I join in extending our sincerest condolences to his wife, Vera, and to his son, Chris, a Kentucky State legislator. CARL PERKINS left a legacy of achievement that will long endure in this Nation. We will miss him dearly.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the distinguished gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding to me.

Mr. Speaker, you know upon the death of a Member, we almost always say, well, he cannot be replaced. Sometimes I do not think we really mean that, but in this case every single Member really means it when they say there is no way to fully replace this late departed colleague of ours.

I served on the committee with him beginning in January 1961. I remember at that time the National Defense Education Act was about the only education act or any of those acts of that nature that was on the books. And

since that time almost every one of this long list of acts have had his mark on them.

I remember when they first started considering black lung a number of people said: "Well, that could never pass." Certainly that is not a national problem but he certainly made us aware that it is a national problem as soon as it passed.

He came to me, and probably the gentleman in the well, and he said: "Is not there some way we can fund this right away?" As I remembered, it was like July or August. "We cannot wait until there is money in the bank or money in the trust fund before we start funding it," and I went to the subcommittee that day.

It happened to be we were meeting that day to mark up the bill and with the help of the gentleman in the well we borrowed some money from the Social Security Trust Fund for 1 year to fund that black lung bill until they could get some money from the trust fund.

He never stopped working on something that was his objective and that was just one example of how effective he was.

I saw him here three or four times on the floor the 2 or 3 days before he died, and we all knew that he was not feeling well, but we certainly did not assume that he would be taken as soon as he was.

I went to his funeral. I would not have missed that for anything. We saw there how he was loved by the people as he should have been and I considered him to be a personal friend and I consider it to be a great loss not only to this body but to the country as well and so I extend my condolences to his family.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. I thank the distinguished gentleman from Kentucky for yielding.

Mr. Speaker, Mr. Vocational Education, Mr. School Lunch, Mr. Title I, and Mr. Equal Access, and I could go on and on, using titles such as these in describing our late beloved Chairman CARL PERKINS. CARL had a philosophy which became his guiding principle as chairman of the Education and Labor Committee. That philosophy embodied his belief that if children were going to live in dignity and contribute to the greatness of this Nation they must have the very best education possible no matter who they are or where they live. He also believed that good nutrition is very closely tied to good learning.

I had the privilege of visiting with CARL in the northwestern part of his district on several occasions but had never visited his home area until I attended the funeral. From these visits I can only say that if we all represented our constituents as well as CARL did we certainly should receive "A" on our report card. CARL could fight as hard or harder than anyone for what he believed in, but the beauty of CARL as a leader was that he did not seek confrontation and in fact with Jack Jennings as his emissary, sought to work things out in a bipartisan fashion because he believed that children were too important to get caught up in some political battle on Capitol Hill. CARL and I had another common interest in that he loved having thoroughbred brood mares and raising and selling yearlings and I have always dreamed about doing both. We talked at great length about this common interest even at times when people were earnestly testifying before us.

I thank you, CARL for the opportunity to sit by your side during the last 10 years so that I could learn from the master. For millions of Americans who were once children I say thank you for fighting so long and so hard to ensure equal educational opportunities and good nutrition for all. We'll miss your leadership as well as those brisk walks we took from the floor back to the office; when you would say: "Let's walk rather than ride," as your firm grip lifted us a foot off the ground and propelled us onto the walkway rather than onto the subway. You fought a good fight and won a place in the hearts of all who believe that equal education opportunities and good nutrition are a must for all no matter who they are or where they live. Thanks CARL for a job well done. Thanks Verne and Chris for sharing a wonderful man with us.

□ 1730

Mr. NATCHER. At this time, Mr. Speaker, I yield to the distinguished gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. I thank the gentleman for yielding.

Mr. Speaker, I had the great pleasure of coming to Congress at the same time as CARL PERKINS came. We were in the same class and our families were close together. Our first children were born about the same time and we really were close friends.

In life, not many people are blessed like we in Congress are with the tremendous opportunity to be of benefit to mankind and to the people we represent. It is a rather rare and exciting and wonderful privilege we have, and nobody that I have served with in Congress in the 36 years I have been here more adequately and fully used that for other people than CARL PERKINS.

He thought of his constituents constantly. He thought of America, for which he had a deep and abiding love because of what he had done abroad fighting for our country and the upbringing he had and the way he presented himself here on the floor of the House was truly warm and personal every time. I remember times when I would introduce a bill and he would say: "Well, CHARLIE, let us work on that a little bit more and come up with something we can really pass," and finally it would come through because of his great knowledge and experience in passing legislation.

Finally, I would just like to say that the memories we have of great people like CARL PERKINS are among the most treasured memories we have in life. To serve with a man like him, with his great spirit, his great dedication to mankind, and to his God, and to his fellowman has certainly been a tremendous inspiration to me.

When I went back, as so many of you all did, too, to his funeral in those beautiful hills, we could not get there all the way by airplane, we went on a bus, I could not help thinking that if any man every really represented the area from which he came, this man did. I can see why his character had that special quality of a frosty early morning, pure, and the sunlight coming down, a real inspiration to be with him every time I was with him. I am blessed that I had the opportunity to serve with him.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER. pro tempore (Mr. SMITH of Iowa). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. NATCHER. Mr. Speaker, at this time I yield to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. I thank the gentleman for yielding and for taking this special order to give all of us an opportunity to pay tribute to our departed colleague and friend, CARL PERKINS.

Mr. Speaker, it was an honor to serve on the Education and Labor Committee under Chairman CARL PERKINS. He was a man of honor and a man who pursued his commitments with a quietly fierce tenacity.

CARL PERKINS was committed to the American dream of education. It is a unique dream, even an amazing dream. It seems so impractical and so difficult to realize that we are at times tempted to surrender it for the easier systems of other nations. The American dream of education is that each person, regardless of color, of social status and parental income, regardless of "IQ" or disability, each person will be educated to reach the fullest possible personal potential. We do not winnow our students early on, deeming this one suited for further academic pursuits and that one suited for training in a

trade. We seek, instead, to offer a variety of opportunities and directions to try. We try to help our youth shape their dreams of who they are not according to who their parents are, or what their family income is, or even according to what the supposed limits of disability they may have are. We try to offer each student a chance to discover potentials within himself or herself and to build upon that discovery.

It would be a lot easier on all of us—on teachers and school boards, on us in government struggling to find money to pay for the special programs to meet the special needs, and even, I suspect, on our youth—if we opted for an easier path of winnowing our youth at an early age, of offering the possibility of post-10th grade or postsecondary education only to those who showed promise, as measured by success on a test or two.

CARL PERKINS rejected that easier path and sought the harder one of the American dream of universal education, a dream that he insisted must prevail in rural Kentucky classrooms and in inner-city classrooms.

When he believed in a program, when he had determined that this approach as opposed to that was the one to follow in pursuit of the American dream of education, CARL PERKINS would not be turned aside. Not by the furor in the committee, not by delay, not by opposition on the House floor. He had a quiet tenacity of purpose for which he has my deepest respect.

That tenacity was clear, too, in his representation of his district. His people came first. He knew them, he respected them, he wanted to do all that he could to ensure their quality of life.

Education in our Nation has lost a great friend in CARL PERKINS, and his constituents have lost an outstanding representative and spokesman for their needs. His example will be before us as we continue his work in education, recommitting ourselves to the American dream of universal education, and his example will be before us as we seek to represent our constituents with his dedication and tenacity of purpose.

I would like to take this opportunity to provide for the record a copy of an outstanding tribute to Congressman PERKINS written by Congressman Mike Blouin, who represented Iowa's Second District before me. Mike's fine tribute was published in the Cedar Rapids Gazette.

The letter follows:

TRIBUTE TO PERKINS

(By Michael T. Blouin)

A good friend of mine died the other day—Carl Perkins. That name might not mean anything to most people, but it should, because in the 71 years he walked this earth, he accomplished a great deal that affected the lives of all of us.

He was the "gentleman from Kentucky"—the "third senator" of that state—a member of Congress for 39 years, and in this day when public officials are held in such low esteem, Carl Perkins stood out as an example of everything right with government.

When I first met him nearly 10 years ago, he was chairman of the House Education and Labor Committee and I was a freshman member bent on voting out as many sitting chairmen in the House as I could justify. I researched the backgrounds of the chairmen, looking for reasons to vote against them. In Perkins, I thought I'd find a strong-armed domineering dictator who was completely entrenched in the system and insensitive to others. Instead, I found a warm, personable, caring human being who ran his committee in as open a fashion as anyone in Congress. . . .

He surrounded himself with topnotch staff, most of whom joined him for an early morning prayer meeting in his office each day. His belief in God wasn't something he'd talk about; he just lived it.

Too often, when seniority begins to pile up, congressmen become too "national" in scope and forget about their constituencies. Not so with Carl Perkins. He grew up in Kentucky's hills and never forgot his people—and they never forgot him. . . . In trying to respond to what he saw as their needs, he left a legacy of legislative accomplishments few in Congress have ever measured up to—and for which the people of America should be extremely grateful. . . .

Without Carl Perkins, millions of young Americans would never have had the opportunities provided them these past few decades. For he understood, better than most, the connection between an empty stomach and the brain's ability to learn—between a reason for hope and a desire to grow.

Carl Perkins helped to make this world a better place. He was a shining star—a true beacon of hope for the bottom end of our society, for the downtrodden, the forgotten, the ignored, the abused. He was a true friend to millions. He was a friend of mine, and I shall miss him.

Mr. NATCHER. At this time, Mr. Speaker, I yield to the distinguished gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. I thank my friend for yielding to me.

Mr. Speaker, the Nation lost one of its most outstanding leaders, the House lost one of its able Members, and I personally lost one of my dearest friends with the untimely passing of the Honorable CARL PERKINS of Kentucky.

His service in Congress, spanning 35 years and the terms of eight Presidents, enabled CARL to gain a deep insight into our country's most pressing needs and he worked to fill those needs through prudent and beneficial legislative programs which will service our Nation well for decades to come.

Perhaps CARL's greatest contribution to America was the aggressive and effective legislation he championed in his position as chairman of the Education and Labor Committee in the House. Through CARL's chairing of that important committee since 1967 and due largely to his tireless efforts, Congress developed educational programs which reaffirms America's promise to its children the right to a meaningful and productive education belongs to all our people and CARL saw to it that our country was able to deliver on its guarantee of that education for all its citizens.

I remember just this past year, CARL and his committee worked to reauthorize our programs in the Vocational Education Act of 1963. As educators from around the Nation testified before CARL's committee, they told of story after story showing the success of these programs and the life changing effects they have had for millions of our citizens.

Equally important, the black lung benefits CARL fought hard to secure for this Nation's coal miners are today providing needed compensation to those whose health was damaged working in our mines. Each day I see the success of this program in my own Fourth District of Alabama.

CARL's concern for his fellow citizen was more than mere lipservice, he dedicated himself to helping all out citizens be able to participate in the greatness of America.

Each year, CARL would bring a number of his constituents to testify before my Subcommittee on Energy and Water Development. CARL's Seventh District of Kentucky was a victim of flooding and his constituents needed assistance in controlling the waters which ravaged their communities. CARL's efforts on behalf of the Yatesville Dam and Reservoir and the Levisa and Tug Forks of the Big Sandy and Cumberland Rivers will mean that flood control can be brought to that area of the country.

While CARL's loss will deeply diminish our House, he has left us and his district with a final gift—the son he was proud of, Chris Perkins. I know that Chris will continue to work to represent the Seventh District of Kentucky with the same dignity, love, and success that his father brought to that office.

At the funeral services for CARL in the small Kentucky town of Hindman, more than 5,000 of us gathered in the high school gymnasium to pay our respects to this truly great American. CARL's friend of more than 30 years and one of the most dignified and respected Members of Congress, the Honorable WILLIAM NATCHER of the Second District of Kentucky, paid tribute to this friend.

Mr. Speaker, I would like to insert BILL NATCHER's eulogy of CARL PERKINS in the RECORD. It is a fitting tribute for a man who loved his country and its people. We will all miss him dearly, but our land will grow strong because of the many contributions he made to his fellow Americans.

EULOGY DELIVERED BY HON. WILLIAM H. NATCHER AT FUNERAL OF CARL PERKINS

One of the nicest things that has happened to me during my liftime, is the opportunity that I have had to serve in the Congress with my friend, CARL PERKINS.

During my tenure in the Congress, I have served with about 1,500 Members. None more dedicated than CARL PERKINS and none more courageous.

He was born in Hindman, Knott County on October 15, 1912. He attended the Knott County Grade Schools, Hindman High School, Alice Lloyd College, Lee's Junior College and was graduated from Jefferson School of Law, which is now the University of Louisville Law School, Louisville, KY, in 1935. He was admitted to the bar in 1935 and began the practice of law in Hindman, KY. In 1939, he served an unexpired term as commonwealth attorney from the 31st Judicial District. He was a member of the Kentucky General Assembly from the 99th District in 1940 and in the year 1941, was elected Knott County attorney. He was reelected county attorney in 1945 and resigned on January 1, 1948 to become counsel for the Department of Highways in Frankfort, KY. He was elected to the 81st Congress in 1948 and was sworn in as a Member on January 3, 1949.

He loved his family. I can recall the many occasions when a big smile would result from a question as to how Chris and his wife were doing. He was proud of his son and his daughter-in-law.

During the 20th century, Kentucky has not sent a member to the House of Representatives that has established a better record than CARL PERKINS.

He was elected chairman of the Committee on Education and Labor in 1967 and served in this capacity for 17½ years. His seniority was number four, in the House of Representatives. Among his legislative achievements, he always counted the Vocational Education Act of 1963, the Landmark Elementary and Secondary Education Act of 1965 and the Provisions for Black Lung Benefits in the Coal Mine Health and Safety Act of 1969. These are only a few of the major bills that he sponsored and succeeded in passing in the House of Representatives.

He served with eight Presidents and five Speakers of the House. During the 35 years that he served in the House of Representatives, he had the opportunity to be elected to the Senate on more than one occasion and during this time, he could have been elected to the office of Governor. He believed that he was in the right place to serve his people, his State and his country and he had no desire to change positions.

He was a giant at the center of national power but at all times, he remained a modest man. He was a good man who served his country well. He remained always a man's man and he kept the common touch. A man who could be compared to the giant sturdy oak that grows on the rolling hillsides of Kentucky.

He was a fighter for social justice. He was a legislator for the common people he knew so well.

His concept of public trust was without parallel and never did he hesitate to speak out against any proposal which he felt was not sound and not to the best interest of our people.

In every position he held, either private or public, he achieved distinction. His character, his achievements and his faithful service, will be an inspiration to generations yet to come.

CARL PERKINS was good for the State of Kentucky and for the United States.

During World War II, he enlisted in the Army and saw service in a great many of the major battles in the European Theatre.

During the time that he served on the Committee on Education and Labor, he passed many of the social legislation bills of our history and these landmarks will serve as a living monument to him for years to come.

When first elected to this committee, he served with two men on the committee who later were elected to the Office of President. These two men were John F. Kennedy and Richard Nixon. Both later served in the Senate prior to their election as President. While on the Committee, John Kennedy had a great many speaking engagements, so he had to be away at times when the committee was in session. He believed in CARL PERKINS and he always left his proxy to vote with his friend. He trusted CARL PERKINS.

The committee staff and his office staff loved the chairman and they worked long hours to make their committee and their office the best on the Hill.

No Member has served in the House during the past 35 years that knew more about the Education acts passed in the 1960's, than CARL PERKINS. The same applies to all of the major agriculture bills, higher education, school lunch, child nutrition, head start, adult education, VISTA, student grants and loans, job training and many others.

CARL PERKINS believed that our children are our greatest asset. I remember back during the 1981 reconciliation days when each legislative chairman was called upon to go back and reduce authorizations in order to bring down Federal spending and the deficits. CARL PERKINS had all kinds of difficulty in bringing into line authorizations pertaining to the children in this country, the poor and the helpless and the acts pertaining to the working people in our country.

I deem it a great privilege and a high honor to have been a friend of CARL PERKINS. I have lost a true friend and this country has lost a great Statesman.

To his lovely wife and family, we extend our deepest sympathy in their bereavement.

□ 1740

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I appreciate the distinguished gentleman yielding.

I cannot think of a more distinguished host for this special few minutes to remember our esteemed colleague.

As I have been listening, I am quite confident that I am the youngest colleague who has had an opportunity to speak thus far. I must tell you that when we all heard the tragic news and since then have had the chance to reflect upon the life and the meaning of CARL PERKINS to all of us and in particular to me, I could not help but reflect that we were looking at a person who was a country lawyer, but also a national leader, a person who was in the truest sense a liberal, but yet one of the strongest advocates of equal access, a person who was as comfortable in the hills of Kentucky as he was in the hierarchy of our National Government, a person who was a strong partisan Democrat, but one of the more bipartisan committee chairmen of the people we had in the Congress when it came to working for the goals which he believed in.

I had the opportunity over the last two sessions to work on the Education and Labor Committee with Chairman PERKINS, particularly on four different issues. The most important issue I guess in my opinion would have been vocational education. We had a common interest, a common interest because we both came from rural parts of this country. We never wanted to forget the impact of our national programs and our national formulas and our national rules and regulations on those small schools and their ability to also provide an opportunity for education for their people.

Likewise, we saw that same commitment to title I of the School Nutrition and Equal Access, where CARL PERKINS would do anything he found necessary to bring reasonable people together and put together some kind of a bipartisan bill. CARL, as partisan as he was in believing the values of the Democratic party, wanted education to always be a bipartisan effort.

I suppose that I will never forget CARL because as a freshman colleague in our last session of Congress I will never forget the day when there were no Democrats in the committee room and the chairman had to go and make a speech here I believe on the floor, so he turned the gavel over to me and as a young freshman member of the minority party, all of a sudden I was chairing an Education and Labor Subcommittee dealing with home economics and consumer education and preparation.

That is the kind of guy he was. He had his job to do and he wanted to get what was done for education and he certainly was not going to in any way put partisanship in front of the goals that he was after.

The last time that I talked to CARL PERKINS happened to be as CARL was sitting back here near the back of the aisle on the Republican side. I thought when I heard the tragic news of his death that for me it was appropriate, the last time I talked to CARL PERKINS was on the Republican side of the aisle because here was a man who was willing to work with people on both sides.

About a month ago the Milwaukee Journal carried a story on the progress on each Member of the Wisconsin delegation, a performance report card, so to speak, on what each and every one of us had done. The reporter that did the article on me went to CARL PER-

KINS and asked him what he thought of STEVE GUNDERSON. CARL said some very, very nice things.

I came up to CARL that week after, the last week of CARL's life, and I said, "Mr. Chairman, you didn't have to say those kind things about me, but I want you to know I appreciate it."

He said, as he always did in that southern Kentucky accent, and he never pronounced the "D" in my name, he said, "Mr. GUNDERSON, I want you to remember that whether you are a Republican or a Democrat, if you are for education, I'm for you."

I think that is really what CARL PERKINS' legacy on the floor of the House of Representatives was all about.

You know, I must tell you again that CARL serves not only in life, but also in death, because so many of you have talked about that day as we traveled to Hindman, KY, and I as a young legislator was taught that day something very important and that was, never forget, no matter how appealing those foreign trips may be, those national positions might be, never forget where you come from, because if you never forget where you come from and the people you are elected to serve, as CARL never did, you will then have that opportunity to truly be a national leader. That is what CARL PERKINS did. That is what I will remember. Most important, that is what this country will benefit from.

I thank the gentleman very much.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Texas [Mr. KAZEN].

Mr. KAZEN. Mr. Speaker, I thank the distinguished chairman for yielding to me.

Although few had the privilege and honor of knowing him as well as we in the House of Representatives and his constituents in Kentucky, the people of my district in south Texas—and all Americans—lost a friend, an ally and a leader in the untimely passing of the honorable CARL PERKINS of Kentucky.

No job was too large or too small for this plain-spoken, strong and honest gentleman from Kentucky. He believed that Government was meant to serve the people, and he was a master in seeing that it did.

The Nation knew him as the tenacious chairman of the House Education and Labor Committee, a position from which he endeared himself to all persons who believe that the strength of our Nation is built upon the foundation of a good education for all of its citizens.

Time and again, as he managed the myriad of problems that go into this great endeavor, he took the time to meet with local educators and school officials from across the country on scores of local problems. He listened and he felt compassion, he saw his duty and he helped. Although I was not privileged to serve under his leadership on the Education Committee, I went to him many times on problems in my area, particularly on the subjects of impact aid and bilingual education. He never turned me away without an answer, whether it was a hearing, support for an amendment, or simply telling me the right button to push.

I must add that he was more than an effective legislator and a leader in this House. He was a good, decent man who was a friend to us all. He loved his native Kentucky, but he also felt a responsibility to the entire Nation.

I will miss him, and the Nation is poorer because of his passing, but I believe he has left a legacy for future generations that will serve them well. It is our great fortune to have known him.

I know all of my colleagues join me in offering heartfelt condolences to his wife, Verna, and his son, Carl.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from the First Congressional District of Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, today I join with my colleagues in paying tribute to our late colleague, CARL DEWEY PERKINS, who represented the Seventh Congressional District of Kentucky in the House of Representatives from his election in 1948 to his death on August 3, 1984.

To those of us who knew and respected CARL PERKINS, he epitomized the dual role of the Congressman: his devotion to his constituents and his service to the Nation.

There was hardly a citizen of eastern Kentucky who did not know CARL PERKINS personally, and CARL never forgot his roots in the Appalachian Mountains. As Pamela Glass of the Ottaway News wrote in her eloquent article:

> In towns like Hazard, Mousie, Neon, Quicksand, and Lost Creek, PERKINS had been in their homes. He had eaten their apple pie, gone squirrel hunting with them, often stayed overnight in their spare rooms. He knew their daddies, their granddaddies, their aunts, uncles, cousins, sons, and daughters.

Yet, on the other hand, his colleagues in the House of Representatives knew CARL as one of our most savvy leaders in his capacity as chairman of the Committee on Education and Labor and on the House floor. CARL's ironclad knowledge of the legislative process and his compassion for the people provided him with the zeal and energy to spearhead the enactment of virtually every piece of social legislation passed by the Congress during his generation. Let me cite just a few of the landmark laws that bore the stamp of CARL PERKINS: the Elementary and Secondary Education Act of 1965, the Coal Mine Health and Safety Act of 1969, and the Occupational Safety and Health Act of 1970.

CARL PERKINS won his first congressional term in 1948, the year Harry S. Truman became President. CARL faced few serious challenges after that, and drew no opposition in this year's Democratic primary. He was reelected for his 18th term in 1982, winning with nearly 80 percent of the vote. During his years of office, he worked with 8 Presidents, cast more than 20,000 rollcall votes and promoted the political philosophies of Franklin D. Roosevelt and Lyndon B. Johnson in the House of Representatives.

One of CARL's last legislative battles was his fight for enactment of legislation favoring prayer in the public schools. His efforts for prayer in school and to allow religious meetings after school hours caused him a lot of hard work and effort during the last 2 weeks. Indeed, I sincerely believe that the last 2 weeks of CARL's life were his finest hours in Congress.

Many of us realize his favorite Congressman was WILLIAM H. NATCHER of Kentucky.

To many of his constituents in eastern Kentucky who had voted for CARL PERKINS throughout their entire adult lives, and whose social and economic condition was elevated and dignified by CARL's tireless efforts, CARL's memory will remain for generations to come. And to his colleagues in the House of Representatives, CARL PERKINS' memory will remain enshrined in the legislation he fought for and serve as a beacon to guide us in our future deliberations.

My wife Carol and I both were represented by CARL PERKINS in our earlier years. My wife Carol grew up in Whitesburg, KY. I grew up at Ashland, KY.

My wife and I were very fond of CARL PERKINS. When we married, CARL PERKINS and his son, State Representative Chris Perkins, were in attendance.

We extend our sympathy to his lovely wife Verna, his son Chris and daughter-in-law Cathy.

□ 1750

Mr. NATCHER. Mr. Speaker, at this time I yield to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for organizing this special program this evening.

Mr. Speaker, CARL PERKINS was a special kind of man. When he believed in something he was tough as nails. But always he was able and willing to listen to both sides of the question, able and willing to compromise and find the best solution possible.

CARL was always a gentleman. He had civility in superabundance and he displayed a deep wisdom and common sense of the Kentucky hill country from whence he came. The memory he

leaves behind is a good and decent one, for CARL PERKINS was a good and decent man.

CARL cared deeply, as others have said, about the people he represented. I once had the opportunity to participate in committee field hearings in his district in Kentucky where we met some of the people served by the Great Society programs that Chairman PERKINS was so instrumental in passing. Often field hearings move at a rather leisurely pace but not those conducted by CARL PERKINS. We were up at dawn and moved around the district so fast that he literally wore all of us out. And at every stop it was apparent how much CARL PERKINS cared about his constituents and their problems, and how much they appreciated his work in their behalf.

CARL PERKINS' concern was not limited to eastern Kentucky. He sought to help all Americans, especially those most vulnerable to neglect or exploitation in our society.

I was proud to have had the opportunity to welcome and have as my guest Chairman PERKINS for hearings in my district in the Sixth District of Wisconsin, and traveled across that district in typical winter Wisconsin weather. In Kentucky it was beautiful and balmy and warm, and in Wisconsin in February the snow was about 6 or 7 feet deep and we had to go practically by caravan from Fond du Lac to Cleveland, WI, to make the different hearings that we had agreed to have.

Chairman PERKINS stayed at my house as a houseguest and had the opportunity to spend an evening with my family. I very much appreciated the opportunity to work under him as chairman of the Education and Labor Committee from the first day of my service here in the U.S. House of Representatives.

There are those in this House who had political differences with Chairman PERKINS. But CARL was a man with many friends and with no enemies. Perhaps in the end that is enough to remember a man by, the way he treated his fellow human beings.

I am glad I had the opportunity to know CARL PERKINS, and I am proud that we were friends.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank my chairman in the well.

I think the first time I ever heard the name CARL PERKINS was right after I came here and I had a conversation with Larry O'Brien who was, as people will remember, or used to be, among other things, the Democratic National Chairman. He was also head of the congressional relations for Jack Kennedy when he was President.

When I was elected Larry said to me, he said, "You know one fellow you ought to get to know is a fellow by the name of CARL PERKINS because" he said, "he has a district a lot like yours." And he said, "If you really want to know how to get things done and get things out of the system," he said, "just watch CARL for a while."

□ 1800

He said, "Now I can remember the first time that I was lobbying on the Hill for Jack Kennedy after I was appointed. I would go and I would see a Member about something that I was trying to persuade them on and they would have something that they wanted to talk to me about." After they were finished they would say "Oh, by the way, CARL PERKINS knew you were coming by and he asked me if I would mention that he has such and such a problem in his district and I would really appreciate it if you can help CARL."

He said, "My God, by the time I got off Capitol Hill that day I had 17 different requests from CARL PERKINS."

I think that pretty well sums up the way CARL operated. He never hesitated to push as hard as he could for things he believed in and people he cared about.

This place is a very human institution and I think CARL exemplified that to a fantastic degree.

I think everybody who knew about it appreciated and respected the friendship that CARL had with the gentleman in the well [Mr. NATCHER].

I know that was a deep and abiding friendship with tremendous respect on both sides. When you see those kinds of friendships it strengthens your feeling about this place because as we all know our service here is temporary and friendships which we gain here are friendships which are often lost as people leave the institution or as conditions change within the House. It is always inspiring to see a friendship that stays and a friendship that is strengthened throughout time.

I also remember a night in the Longworth cafeteria when we were at the Texas party, I believe it was, and we were playing a little bluegrass music and CARL wanted us to play "Amazing Grace," which we did. We kind of butchered the tune but we got through it. He liked that and he mentioned it several times.

A lot has been said about morality lately in the country. And I think one of the unique things about CARL PERKINS is that not only did he believe in practicing his religion in his daily life and not only did he believe in trying to further the ability of people to engage in religion in their lives, but he also brought his religious beliefs to bear on issues such as education, child nutrition, and other programs.

So, in the fullest sense I think he represented his deep and abiding faith.

I know I will miss him. He is one of those rare people here who comes, who does his job, who never brags much about it; you could truthfully say of him that he never forgot who he was, where he came from, and who sent him.

I think that is probably the finest compliment you can pay any person in this institution.

Mr. Speaker, I thank the gentleman [Mr. NATCHER] for his time.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I thank my distinguished friend from Kentucky for yielding and for giving us this opportunity to pay special tribute to our very dear friend, CARL PERKINS.

Mr. Speaker, it was my privilege to have CARL PERKINS not only as a colleague but as a neighbor across the hall in the Rayburn Building. His passing has thus been a particularly painful loss for me and my entire staff. It has become customary for our staffs to share holiday and birthday parties, and we had grown used to the happy visiting back and forth across the hall. This year's highlight, of course, had been the legendary Derby Day party in CARL's office. Amid the sometimes austere formalities of Washington life, it has become a special blessing to share in the kind of gentle neighborliness that CARL PERKINS expressed as naturally as breathing.

To me, that was what was so extraordinary about CARL—how clearly and simply he followed the precept of the master, that, "He who loves his neighbor will fulfill the whole law." It seemed so easy for CARL to make everyone his neighbor. He genuinely loved people, with such immensity and warmth that he was compelled to express that love, not just in ordinary speech, and gesture but in a lifetime of action. Not only his family knew that love, but innumerable people in his beloved home State of Kentucky; and in the wider world many millions of Americans will continue to experience the effects of his caring for them, particularly those who have been limited by life's circumstances and who needed a champion on their side.

He not only loved people but he loved their possibilities—and so he loved principles as well, especially the principle that in this abundant land it was wrong for a person to have to remain choked by poverty and lack of opportunity. Though he was gentle and caring by nature, his unwavering dedication to that principle made him tough and extraordinarily effective in the political arena. That arena was, for so many years of his life, this legislative body. He loved this institution of the people's House, and his exem-

plary energy as a legislator will continue to honor this body and to inspire those who were privileged to serve with him.

The American educator Horace Mann once said, "Be ashamed to die until you have won some victory for humanity." By any definition, CARL PERKINS was not only a winner but a great champion, but the definition I like best, for its simple eloquence, is that of his dear friend and Kentucky colleague, BILL NATCHER: "CARL PERKINS was a good and kindly man whose delight in life was working for his district, his State, and his country."

I know I will continue to feel his presence any time we gather to celebrate life and its goodness its possibilities. And I can almost feel CARL whispering to me, especially on Derby Day!

I thank the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, at this time I yield to the distinguished gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, Mr. NATCHER, I was privileged to come to serve in this body in January 1963 and was assigned to the Committee on Education and Labor by the House.

It was there that I first met CARL PERKINS. I remember our first meeting; the offer for cooperation, the friendship which seemed sincere and friendly.

As I watched him work I realized I had found a great and true friend and a wonderful man.

Mr. PERKINS ultimately became the chairman of the House Committee on Education and Labor.

When he took it over it was a very difficult task for him because the committee was in disarray and its staff had become dispirited.

But CARL PERKINS was a good leader. He organized the committee members, both Democrats and Republicans; he organized the staff and got it going again.

In his kindly but firm and determined manner he became a great leader in the education works of this Nation and of the world.

He believed in protecting the people who needed help. He believed in fighting for the people who shared the miseries that so many people of lesser financial means have.

He fought for the people in eastern Kentucky and as he fought for them he fought for all the poor people and disadvantaged people of the Nation.

He realized that education was the great hope of mankind and I believe he was inspired in this work not only by his love for education but by his great love and respect for his wife who was also a teacher.

He inspired me to try to do better in all of the things that I have been privileged to participate in here in the House. He was a skillful parliamentarian, he was a skillful bargainer, always keeping in mind that it was not so much in the winning but in the quality of the fight that you put up and what you stood for.

He stood for raising up America, for lifting its goals, for helping its downtrodden and its handicapped.

When word was released about his death, even though I live a thousand miles away from his district, I received a great many phone calls from concerned constituents of mine who had known or had been touched by CARL PERKINS, who had received something of an inspirational gift from him because of his concern.

□ 1810

The Nation is poorer for his passing, but all of us are richer for having associated with him.

I thank the gentleman.

A TRIBUTE TO THE HON. CARL D. PERKINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. SNYDER] is recognized for 60 minutes.

Mr. SNYDER. Mr. Speaker, With the passing of CARL PERKINS, the Nation lost a great man, the House of Representatives lost an outstanding Member and I lost a very dear friend.

CARL was never much of a socializer. He didn't spend much time on the reception circuit. He didn't dine out a lot. But whenever the House was in late for an evening session, he would stop by the office and we would talk.

It didn't matter to him that my political affiliation was different than his. Not a bit.

It didn't matter to him that my political philosophy was different than his. Labels didn't mean much to CARL. We became close friends.

Sometimes we would just sit and watch the proceedings on the floor. Or we would try to find some country music show on the cable. Sometimes we would call up Bob Jones, the former chairman of Public Works, whom CARL and I both like a lot and we would chat with him in Scottsboro, AL. But most of the time we would just talk.

In those evening chats, I learned a lot. I learned a lot about how Congress works—because few people knew it any better than CARL PERKINS. In his 36 years of service, under eight Presidents there wasn't much CARL hadn't seen—and there wasn't anything that he had forgotten.

In those chats I also learned quite a bit about the history of the Seventh District of Kentucky. CARL had a fabulous memory and he never missed a detail.

And I got quite a geography lesson too. He knew every nook and cranny of the Seventh District—and there are a lot of nooks and crannies in the Seventh District. But he knew them because he had been out in his old "Galaxie" as he called it and driven every inch of that district countless times. He knew the people. He knew their names. And he knew their sons and their daughters. And he loved to talk about them.

You didn't have to sit through many of these office chats to learn one thing about CARL PERKINS and that was that his love of his native State and his love of her people dominated most of his thought.

That's probably why he didn't care much about labels. His was not a philosophy hammered out of the stone of political dogma—His was a philosophy of the heart.

He knew his district. He knew his people and he cared.

It was that love—that compassion for "his" people—the people of Knott County—the people of Kentucky—and just people in general—that motivated CARL. That and a great faith in the ability of the Federal Government to solve the problems of those people, if it sets its mind to do it.

And that is exactly what he set his mind to do—36 years ago and the legislative record he achieved in those 36 years is one that will be hard to ever match again.

Education, agriculture programs, health and safety programs. He had a hand in weaving just about every piece of legislation that we now call the safety net, all of it was motivated by that deeply felt concern for "his people."

Because of that compassion and his singleminded persistence. Because of his patience and hard work, millions of Americans have been educated. Millions have been trained for jobs. Millions have received health care that they might not have received otherwise. In fact, his compassion has touched the life of virtually every American in some way and made those lives a little brighter.

Of course, compassion alone cannot explain his accomplishments. He also had great ability. Because of his rambling country boy walk and drawling down home talk, many people would doubt it and underestimate him—once. Never twice. Once you had seen him in action, you knew that CARL PERKINS knew the ropes, knew the rules and knew how to use them both.

CARL never believed in pretense. He didn't get into Gucci loafers or fancy suits just because he had been in the big city of Washington for so many years. Those things didn't matter to him. In 36 years, a good many fads and trends came and went but they didn't affect him too much.

He didn't care whether he was in fashion or not. A rumpled suit and white socks were good enough for him. He said, his wife Verna, finally put her

foot down and convinced him the white socks were out but he would often mention to me that it still seemed downright wasteful to have a whole drawer of white socks and not be able to wear them.

But these things were simply not important to him. All he cared about was getting the job done.

He had the same disdain for changing political trends. Like fashion—a good many political trends and fads came and went in his 36 years. But they didn't have any more affect on CARL than clothing styles. Like the rugged hills that he came from, changing times had little affect on CARL PERKINS.

He didn't care what the political "in thing to do" was each passing moment. He held a straight course, apologizing to no one for it, and did what his heart told him was right every step of the way.

He was like the man described by John Greenleaf Whittier when he wrote:

> Formed on the good old plan a true and brave and downright honest man loathing pretense, he did with cheerful will what others talk of while their hands were still.

On Wednesday evening, August 1, 2 days before his death, the House of Representatives was in late. CARL PERKINS stopped by the office. He had been there the night before. He wasn't feeling well then. He had what he thought was "an awful cold." He could still muster a gleam in his eye and a big CARL PERKINS grin when you mentioned the equal access bill. He was still enjoying his victory on that battle.

But it was obvious that he felt terrible.

I suggested that he ought to get home and get some rest. He wouldn't have any of it. He said, "GENE, there's just so much to do."

Yes, we still have much to do but, I hope and pray that we never forget how much we have accomplished because CARL PERKINS was here.

Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentlemen from Kentucky [Mr. SNYDER and Mr. NATCHER] for having this special order.

My roots go deep in the hill country of the poverty area of southwest Arkansas, southeast Oklahoma. Mr. PERKINS was my kind of Congressman. Mr. PERKINS was a country Congressman who loved to represent his people. He was a Congressman of the soil of that hill country of Kentucky and his roots remain very, very deep there. I do not think any of his constituents ever doubted that.

I visited with him on the floor many times. First, I always enjoyed to visit and swapping stories about the hill country and also the problems and concerns and needs of constituents, like constituents, that maybe did not have as much as a lot of other people.

Also, Mr. Speaker, I learned at his knee. I listened and occasionally he would slap my knee and occasionally I would slap his. I learned a great deal.

The last time I visited with CARL PERKINS was the Thursday afternoon before his death. In fact, I kindly remarked, GENE, that I though he kind of looked a little bad and he kind of looked at me with a strong look out of his eye that I thought first might have meant, "You young whippersnapper, why don't you just kind of mind your own business."

But, he said, "Well, you know I kind of got the croup or a cold, one."

I asked him he should go get him a syrup cloth for his chest, because we always talked about those old time remedies.

□ 1820

And the next morning, when I flew to Oklahoma, when I got off the plane in Oklahoma City, I was going to have to drive the hour and a half more on down to my district in rural Oklahoma, my staff member asked me if I had heard the news about CARL PERKINS, and he told me about the death of our friend and a man who has accomplished a great deal for this country.

There are two things that I would like to share that I learned: CARL PERKINS, I do not know whether he ever twisted anyone's arm, but he had a powerful grip, and he would just lead you down to the well or out to wherever he wanted to do a little counseling with you. He was a fighter for his folks, and you could look in his eye and you knew he was genuinely speaking from the heart about his concern and about the needs of his people. I shared a mutual problem of having a water project on the hit list, and he and I teamed up to try to make sure that Yatesville, as he said, "WATKINS, I have got a hole down there that needs to be filled up," and he would grab my arm and he would shake my arm and, let me assure you, I cast every vote that I could to help CARL PERKINS fill that hole up down at Yatesville on that particular water project.

Also, his personal love for the unfortunate. And when you really analyze and think about what our responsibilities and duties are that I think our Creator put us on Earth here to do, whether it is in this Congress or whether it is a minister, a teacher, a housewife, if I interpret the Scriptures correctly, it is try to help those who are less fortunate.

The second thing I remember of CARL PERKINS long ago is that he was recognized as the—and I underline "the"—leader in America for vocational education.

Mr. Speaker, I am a product of vocational education. I would not be standing here today if it had not been for vocational education. I would not be standing here today if it had not been for vocational agriculture and a Future Farmers of America organization. And I know that there have been many hundreds of thousands of young men, and now women, who wear the blue and gold FFA Jacket who have had their lives molded and shaped because the FFA and vocational education was a tool that helped mold them as a product in their lives. They may not know it today, but as they sit in their giant corporations, or whether it is in the various leadership capacities around the world, they had their start because of a man, CARL PERKINS, who cared.

In the Good Book, in the Scripture, John, 15th chapter, 13th verse, it says the greatest gift of love that anyone can have is when they lay down their life for their friends and for others. I think CARL DEWEY PERKINS exemplified that Scripture, John 15:13. And I want to thank his family for sharing CARL PERKINS with all of us. I want them to know and his constituents to know that America is a lot better place for many young persons who grew up in the hill country and in poverty because he passed this way.

Mr. SNYDER. Mr. Speaker, I will be glad to yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding, and I thank him and Chairman NATCHER for arranging this special order to pay tribute to our very good friend, CARL PERKINS.

CARL PERKINS spent as much time in Congress as many years as I am old. And while I am sure the good Lord takes you when He is ready for you, He does not always take you when your friends are ready to have you leave.

One of the things I enjoyed about serving on the Education and Labor Committee with CARL PERKINS was that he was a teacher and you were able to sit and to watch and to listen and learn more than you could ever learn by any other means. And to watch CARL PERKINS in action is something that nobody else who comes to this body will ever be able to observe because he is gone. And we will be poorer for it.

The career of CARL PERKINS, as mentioned by previous speakers, is written across this land. It is written across this land in that the American public is so much better for his having been here. To me, CARL PERKINS embodied the best of what we like to believe a government should be, because he clearly understood that while the

people of Kentucky were independent, while the people of Kentucky were tough and fearsome, he understood that there were things that had to be done that they could not do for themselves because they did not have the resources to do those things. He understood that a government could build bridges, a government could contain streams, a government could clean up the mines, a government could pay for the wrecked health of those individuals who mined the coal to turn the wheels of industry of this country and that those were debts that this Government had to its citizens and that were obligations that had to be met.

I do not think CARL really understood or cared about the fashion of politics that the gentleman from Kentucky has just mentioned, and that was when our party went through a little spat here with neoliberalism and those people who were trying to run away from the tenets of the Democratic Party and what they stood for, and I remember an article was written in the Washington Post suggesting perhaps that people like CARL PERKINS had become an anachronism, that they were not really relevant to this new political fashion, to this new political reform. And I remember telling a reporter, "Well, let's just see at the end of the term who has got all of the chips when it is time to get up from the table." And I dare say that tribute was paid by one of the Republican Senators who said that they were afraid to go to conference with CARL PERKINS because they were afraid they would go back to their office and find all the furniture was gone.

Many, many people sat down to play poker with CARL PERKINS; very few got up with any chips. I had the privilege of attending those all-night conference sessions while he would wait them out and while he would wait for them to come around to his point of view. I think it was a tribute to conviction, because those convictions were so strongly rooted they would not be swayed by public opinion polls, they would not be swayed by the popularity or the gimmickry, they were rooted in the belief about the Government and about the people which that Government served.

I think it was rather interesting, when this administration came to town and many people ran for cover, CARL PERKINS said, "No, let's invite them up to the committee." And he was famous for very, very long hearings, maybe 3, 4 days on a particular subject. He would say, "Let's invite them all up here." Well, of course, that meant that somebody had to sit there all day. Well, CARL PERKINS would sit there, and he would have the cabinet secretary, the assistant secretary and the assistant to the assistant secretary, and all of the organizations, to talk about the ideas of this administration. He would lean over and he would grab your elbow and he would say, "Now, we are going to sit here as long as they want to talk, but we are not going to do a thing they want." And that was kind of the way it was, because he did not believe in what they wanted to do. He believed in the Government that understood the plight of the unfortunate. As the gentleman from Kentucky has said, what has become known as the safety net is the tribute that will go on to protect American citizens long, long after CARL PERKINS has left this Congress.

I also think that there is another side that we all enjoyed, and that was the friendship between CARL PERKINS and BILL NATCHER. Again, as a young Member of Congress, and up until CARL's death, I used to try to get to the lunch room on time so I could sit at that table where inevitably BILL NATCHER would stir up trouble by telling a story on CARL PERKINS. No matter now often that story was told, CARL would start to say, "Now, BILL NATCHER, don't go telling that story." Pretty soon that story would come out, and there would be people there who perhaps had not heard it before, and the laughter and the friendship was a part of, I guess what makes this a great institution for those of us who are privileged to serve here and fortunate enough to serve here. But that kind of friendship is not often shared with so many others to their enrichment, and we will clearly miss that.

Lastly, many people have commented on CARL's strong grip when he grabbed hold of you and he told you that you were going to walk along with him, because he would never use the underground subway that connects the office buildings here. I think I was here 4 terms before I found out a young Member of Congress could use that tram. I thought you had to walk with CARL PERKINS from time to time. But I will tell you again that in that short journey you could find out more about what was going to happen in the Education and Labor Committee and what was not going to happen in the Education and Labor Committee. While we had some disagreements on legislation from time to time, when I did, I would always go overground so I would not run into the chairman in the tramway there, because I was afraid that he would change my mine immediately.

We are going to miss him, but we will never forget him because I am not sure that there will be others to replace that style or that conviction. It is difficult in this day and age to stand as fast as CARL PERKINS did. But I will say that there is no tribute, there are no words that we can utter here today that will outshine what CARL PERKINS accomplished. It is a debt of all Americans because whether they know it or not, they have all been touched by his actions in this legislative body to try to better society in this country and to better the lives of those who perhaps did not get out of the starting block with the same speed as other.

□ 1830

It was a rare opportunity, it was a joyous opportunity, I only wish sometimes perhaps that I had taken his invitation to join the gentleman from Kentucky in his office in those late night sessions. I heard about those phone calls to Bob Jones, but I wish that sometime I had been there, because this was a wonderful man who I simply, there is no way that you can talk about CARL PERKINS without a smile coming to your face. I would expect as we reminisce around here among his friends, the laughter and the knee slapping and the stories will continue on until clearly those who come here after all of us will remember the name of CARL PERKINS.

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

Mr. GONZALEZ. I thank my colleague from Kentucky, as well as our distinguished chairman, Mr. NATCHER, your colleague from Kentucky, for this opportunity to evoke the memory of CARL PERKINS. He was certainly a great Congressman and a great American who has been called to death's dateless night.

It seems strange to be here evoking that memory. It just seems as if CARL PERKINS is still among us. Those of us that had worked with CARL, had been blessed with his friendship, I think share that feeling that death really has very little meaning when it comes to the case of a CARL PERKINS. His spirit certainly hovers here even now. Even in this area where you, the distinguished Members from Kentucky, and some of us would congregate during a rollcall or during a heated debate.

When we do evoke, reverentially, the memory of this great American, I think one must stress the fact that CARL PERKINS was a wise man to know, and very bold to perform. Here was a man that over the span of three decades served his constituents; upheld his sworn oath of office faithfully, honorably, and most effectively. At the same time, he transcended that purely local, parochial responsibility and served every single nook and cranny of this Nation who had any kind of education need.

I, for one, for instance, must give testimony to the debt we have to CARL PERKINS in our areas. We have great dependency on those very programs that CARL PERKINS initiated, authored and worked desperately hard over a period of 30 years to erect and construct as national policy.

I say he is bold to perform because in the fact of very adamant challenge and opposition and determined effort to undo those 30 years of labor with the current attacks on those programs that the Congress had in its wisdom enacted as national policy, CARL PERKINS, even despite those odds, bold to perform, efficient in that boldness, safeguarded, preserved, and we continue to transmit those programs. Even against those odds.

I think that in my case, I must go back to the point in time when I arrived on the scene as a Member of the House of Representatives in midterm of the 87th Congress. I was most anxious to gain a seat on the Education and Labor Committee. Even though political pressures were great, and great political issues were raised about the fact that I should seek membership on the Armed Services Committee, given the nature of the stake in defense that my district has. But I could not there, and I could not on the Labor and Education Committee for the plain and simple reason that the chairman then, Adam Clayton Powell, refused adamantly to accept any kind of new addition to the committee.

That is how I met CARL PERKINS; he was then one of the higher ranking members of the committee. I met him here on the floor when he came and introduced himself. He admitted that he had knowledge of the fact that there was some pressure to have me join that committee. He expressed his willingness to do anything he could to help. I explained to him that I did not work that way. I had had the privilege of serving 5 years in the State Senate of Texas, and I knew and was respectful of the precedents, the rules, written and unwritten, seniority and the like.

The Speaker called me and asked me if I would force the issue. That he could, with the help of the Texas colleagues, since Texas did not, and for many years has not had a Member on the Education and Labor Committee, and again, I said no. But CARL PERKINS came to me and he said something that I will never forget. He said, "Young man," even though I came here at the age of about 44, he still called me a young man, he said, "you know, you are a long-distance runner, aren't you?" He said, "You are very wise. Had you made an issue, you would not only have antagonized your own colleagues in the Texas delegation, but you would have found it a little difficult, even in the new assignment to this committee."

The truth of the matter was that I was lucky even at that. For there were three of us sworn in simultaneously at that midterm point. Lucien Nedzi from Detroit; Joe Wagner from Louisiana. Of the three of us, I was the only one that obtained an assignment to a full standing committee, which was the Banking Committee, because in the meanwhile, the ranking member then from Texas, Wright Patman, interceded. He did so after he had conversed with CARL PERKINS. So that is the history of my present committee assignment.

Had I indicated, the fact is that CARL PERKINS assured me that he would have done everything in his power, and I think at that time, though he was not the immediate ranking member, if I recall correctly, it was considerable. Ever since then, and after many, many occasions of importuning him on behalf of the district, on behalf of adjacent and neighborly school districts, and his coming through on basic programs, there is no way that the RECORD could show the depth of feeling of gratitude, the high respect, the warm feeling of affection that one has for CARL PERKINS, and that many, many educators in my district, upon knowledge that he had passed, called to express. I would like the RECORD to show that I am speaking also for the many, many voices of very, very impressive pedagogues, educators, and leaders in Texas, in my area and out that forever will have enshrined in their hearts the memory and affection for CARL PERKINS.

Politics and fame in politics is transitory at best. Our foot prints are on sand.

□ 1840

But the real memories, I think, are reflected in the case of CARL PERKINS and what Chairman NATCHER told me upon his return from the funeral services in which he reported the outpouring of expression from neighbors and others in Kentucky.

I think the monument in the hearts of constituents living and dead and the monuments in our hearts, those still remaining will be there, of course, the length and extension of our lives. But CARL's contribution as a legislator, faithful first in his trust to his own district reflected nationally is most permanent and I conclude as I started by thanking the two gentlemen from Kentucky for giving us this chance to place into the RECORD our feelings and our thinking about CARL PERKINS.

Mr. SNYDER. Mr. Speaker, I am pleased to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, it is with a heavy heart that I pay tribute today to one of the giants of the U.S. House of Representatives, my friend and long-time colleague, CARL D. PERKINS of Kentucky.

CARL PERKINS was elected to Congress in 1948 and served with great wisdom for 36 years. A strong believer in the ideals of the Democratic Party, he was a compassionate legislator who saw an active and vital role for Government in improving the quality of life for those in his Kentucky district and for the people of this Nation. A champion of quality public education, CARL PERKINS strove to improve our Nation's educational system so that all of America's children might reach their education potential. As the Chairman of the House Committee on Education and Labor, he was the guiding force behind a number of landmark education and child nutrition bills during the 1960's and 1970's. He knew the intimate details of the bills before his committee and fought bravely to protect crucial education and social programs from the budgetary knife.

He also worked diligently to protect the health and safety of the many families in his district whose livelihoods depended upon the coal mines. The people of Kentucky have lost a dedicated and very talented public servant.

Countless schoolchildren owe their education and knowledge to this man of vision. I will miss his wisdom, his knowledge and his down-home humor. I extend my most sincere sympathies to his family and to the people of Kentucky's Seventh Congressional District.

Mr. SNYDER. I thank the gentleman, and yield to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Speaker, if there has ever been a Member who came to Congress and remained the same person in spite of all the pomp and the prestige and the honor bestowed on him as a Member of Congress, it was CARL PERKINS.

After 35 years, CARL PERKINS was absolutely the same down-to-earth, hard-driving, hard-working, unpretentious man who never forgot the average citizen he represented, many of whom were hard-pressed workers in Kentucky.

As chairman of the Education and Labor Committee, his influence was keenly felt in the legislation on education, labor, health and the environment and the other great issues of our time. It is no understatement to say that every piece of social legislation passed over the last 25 years has a strong influence of CARL PERKINS imprinted upon it.

He was far-seeing, kind, loveable but he was as tenacious as a bulldog. CARL just kept advancing good legislation and he never let anyone come up for air until he had passed the bill. If we ever had a man who came from the common people, it was CARL PERKINS.

Now, from a personal standpoint, Mr. Speaker, I am in debt to CARL PERKINS for the help he gave me in my district in maintaining the Gary Job Corps Program in my district.

Whenever a problem arose, CARL PERKINS came roaring out of the mountains of Kentucky and in a defi-

ant manner, and he challenged anybody that stood in his way that wanted to change that program.

I remember one time the Gary Job Corps was threatened in my district. The administration at that time had indicated they wanted to cut back on it and they were going to either reduce it or maybe eliminate the job corps program.

That got the ire of Mr. CARL PERKINS worked up and he let them know in no uncertain terms that if they attempted to do that he was going to call them here to the Hill and he was going to have hearings from now until Doomsday and he was going to make them eat every word they ever said against this program.

And I thought he stated himself very clearly but before we could even clear your throat, he started in on them again. And about the third or fourth time he was shouting so loud that they literally ran for cover, trying to get out the door and get away from CARL.

Well, he was that kind of individual. If he was for you and with you and believed in your program, he stood up and fought for you just as he did for the people in his district. He was not a gentleman. He was very blunt and very straightforward. If he wanted your attention, he would grab you on the floor by the elbow and it was not just a nudge; a little grip to say that I want to chat with you. He would grab your elbow in a vice and he would hold you and he would literally steer you in a chair and he would hold you there until he could talk to you, until you finally agreed that you would help him.

I can still feel the grip on my elbow now, on any matter that he was interested in, because he was determined that he would get your attention and determined in some way to help people.

Well, we have lost a great friend and a great man. If a person can say that he was part of our times, CARL PERKINS was a vital part of the times of the last 30 years in this country.

He made a great influence on this country and his influence will be felt for years and years and years, and we are better people because the Lord sent us a good man like CARL PERKINS.

I personally am indebted to this good and thoughtful man for his tireless efforts, a man who left his good will imprinted on the hearts and minds of our Nation. CARL PERKINS is a man who's life did make a difference—not just for his constituents, but for everybody.

Mr. ANDERSON. Would the gentleman yield?

Mr. SNYDER. I will be glad to yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman [Mr. SNYDER] for yielding, and Mr. Speaker, I don't think it is any exaggeration on my part to say that no congressional district in the United States has been as well served during the last 36 years as the Seventh District of Kentucky. CARL PERKINS was born, raised, and recently laid to rest in the same small town in eastern Kentucky that he lived in all his life. He was truly one of this State's favorite sons and one of this Assembly's most effective and honored Members.

Having been elected to the House of Representatives in 1948 after serving with distinction on the front lines in World War II, CARL PERKINS saw the history of post-war America unfold from the privileged vantage point of Capitol Hill. More importantly, he took a leading hand in shaping our future. He served in this Chamber during the Korean conflict, the McCarthy hearings, and when the Supreme Court made its historic ruling in Brown against Topeka Board of Education that segregation in our public schools is unconstitutional. This historic decision marked the beginning of the modern era of American education, so much of which our departed colleague has personally shaped.

He was one of only 11 Southern Democrats in the House to vote for the Civil Rights Act of 1984. As chairman of the Subcommittee on Elementary and Secondary Education, he authored the Elementary and Secondary Education Act and pushed it to the House floor. After 3 weeks of hard work his unprecedented bill was signed into law by President Johnson. In 1967 he ascended to the chairmanship of the Committee on Education and Labor, a year before I joined the ranks of U.S. Congressmen.

In the intervening 16 years, I have seen CARL steer through the House a mind-boggling amount of major legislation to help protect the workers and educate the children of this Nation. I am proud to be able to stand here today and say that I had the opportunity to support such landmark legislation as the Occupational Safety and Health Act, the Older Americans Act, the Higher Education Act, the Vocational Education Act, the Employee Retirement Income and Security Act, and others. All of these precedent-setting initiatives trace their beginnings to our departed friend.

It may be redundant to say that CARL PERKINS was a great friend of the rank-and-file American but I am saying it anyway. His departure has left a tremendous vacancy that we will have to work together to fill. I am honored to have been a friend and colleague of CARL'S. He will be sorely missed here, in Kentucky, and across the country.

● Mr. JONES of North Carolina. Mr. Speaker, I can't think of anything I could say which would increase the high regard that all Members of Congress had for the late CARL PERKINS. We are all familiar with his strong leadership and his dedication to legislation to make life better for our middle- and low-income citizens.

Sometimes one is more impressed with the little things than with the great activities of an individual. Some years ago while serving as chairman of the House Subcommittee on Tobacco, I conducted field hearings in Lexington, KY, and after the hearings had begun, in comes my friend CARL with some 15 or 20 constituents of his, and he seated himself in the audience with his constituents. I interrupted the proceedings to invite Chairman PERKINS to come to the platform and sit with the other Members of Congress. He thanked me very much, but said he much preferred to sit with his own people.

This devotion to his constituents made it possible for him to serve more than 35 years in the U.S. House of Representatives. His strength and leadership will be sorely missed. To his family, I share with them a sense of loss and feel privileged to have served some 18 years with a man of his caliber.●

● Mr. RODINO. Mr. Speaker, the death of CARL PERKINS took from us a kind and generous man and one of the most masterful legislators of this century.

It was an honor and a privilege to work closely with him over the years in the enactment of many, many laws in the areas of civil rights, social welfare, education, and labor. These laws will remain forever his legacy not only to the poor people of his district in the heart of Appalachia but to all Americans who seek a leg up from an active and compassionate government.

CARL PERKINS was a caring man, and his quiet demeanor gave small indication of the fervor inside him as he brought about enactment of some of the most important legislation of the last quarter century. The laws he shepherded through the Congress in such areas as health, education, food, job training, and worker safety are testament to his skill as legislator, politician, and parliamentarian; to the great affection and high regard he had for working men and women, and to his abiding concern for their well-being and that of their children.

Although he was a Member of Congress for more than three decades, CARL PERKINS never forgot or lost touch with his background or the people in it.

He visited his rural Kentucky district often, and it was on such a visit that he died—denied the chance to see his beloved hills and their people one more time.

CARL PERKINS and I had been friends and allies almost from that day we arrived in Congress together more than 35 years ago. He came to this body as a

country teacher, a country lawyer. I shall remember him as a leader with heart, a counselor of wisdom and sympathy, a staunch ally, and a valued friend. Through his triumphant years and those sad, recent times, when he saw so much that he fought for decimated, he was a wonderful, warm human being. His passing is a great loss to his legion of friends and admirers, his colleagues in this body, and to the Nation.

We shall miss him.●

● Mr. HOPKINS. Mr. Speaker, I rise in tribute to the life and service of our departed colleague and friend, CARL DEWEY PERKINS, whose unwavering dedication and personal integrity earned him a place of honor among the greatest of those who served in the U.S. House of Representatives.

While we must mourn the passing of a valued legislative craftsman of historic proportions, we gratefully celebrate his life's work as a faithful, tireless, productive public servant and true representative of those he affectionately accepted as his people.

In a career which spanned more than three decades, CARL PERKINS never lost touch with the needs and aspirations of his beloved eastern Kentucky constituents.

Yet his vision extended far beyond a home district and State to encompass the cares and concerns of an entire Nation. His faith in that Nation and his compassionate understanding of America's fundamental commitment to public education and equal opportunity were the inspiration of his passionate, relentless support of those causes.

Our colleague was both a pilgrim and pioneer whose efforts as a Member of this House touched and brightened the lives of millions now living and yet unborn who may never know of the useful life and revered name of CARL D. PERKINS.

It is enough, however, that we who remain after him today dedicate ourselves to keeping alive the spark of hope he kindled in the hearts of the disadvantaged and downtrodden that they, too, might attain freedom's fullest blessings.●

● Mr. CONYERS. Mr. Speaker, we all share the grief over the loss of Representative CARL PERKINS. A public servant of the highest order, CARL PERKINS will be remembered by working men and women, students, the elderly, and the humble throughout the Nation as a person of compassion and warmth, a champion of labor, a friend of education, and a leader among those who would extend a hand and heart to uplift all sectors of humanity.

As a veteran of 35 years in Congress, and the dean of the Kentucky delegation, Representative PERKINS chaired the Education and Labor Committee since 1967 at a time when President Lyndon Johnson and the Nation called upon his wisdom and skill to advance the most far-reaching social legislation since the New Deal.

Not only did CARL PERKINS answer that call with an enthusiasm and commitment that persisted throughout his life, but he counted among his major successes other great social measures including the Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965, and the black-lung benefits in the Coal Mine Health and Safety Act of 1969. Some will remember CARL PERKINS for his struggle for school lunch programs, the aid to crippled children, and the Federal aid to schools. Others will recall his name in efforts to establish assistance to college students, or nutrition programs for needy youth.

In addition to all those awards, I remember him simply as a great human being who would not sit by, as Edmund Burke warned the good people of his day, and let evil prevail by doing nothing. I remember his warmth and his smile, and I am happy to have shared the same space with the gentleman from Kentucky who in his quiet way has made our world a better place to live in.●

● Mr. ROGERS. Mr. Speaker, I thank the gentleman from Kentucky, my colleague and good friend Mr. NATCHER, for holding this special order so that those of us who knew and loved CARL PERKINS could say a few words in his memory.

Mr. Speaker, I know I speak for many on my side of the aisle when I say that CARL PERKINS was not only an outstanding lawmaker, but, more importantly, he was also a caring and warm human being. Here was a man who cared deeply about his people and his call to their service. From humble beginnings in the hills of eastern Kentucky, CARL PERKINS became a giant in the Halls of Congress.

CARL's imprint on national issues, particularly education, will be a lasting one. But he was also an able and articulate spokesman for coal, an issue which ties our two districts together and which is of primary importance to our State.

From the days when he was young, CARL spent countless days, weeks, and months out on the road, visiting with his constituents and working to help them pull themselves out of the poverty which still lingers today in Appalachia. This close personal contact with his people was a mater of great pride to CARL, and the rest of us can only try to emulate his willingness to devote nearly all his time to the personal problems of his people.

For over three decades, CARL PERKINS' deep sense of commitment, his total honesty, his dedication to his people and their welfare, and his tireless work on behalf of America has been a shining beacon for this House.

On a personal note, I want to also speak briefly about CARL PERKINS the man: Someone who I counted as a good friend, who shared our love for Kentucky and our Nation. I recall those events back home which we shared in our adjoining districts—many in bad weather and outdoors. CARL never let the elements, or anything for that matter, stand between him and his people. They adored him, and he them. He never left his roots in Hindman, KY, where he was born, lived, and worked; and was laid to rest.

The great poet perhaps said it best when he wrote:

He walked with kings, nor lost the common touch.

I think that says it all about CARL, about his love for his people, and about the hard work and dedication which he gave to his people and to the Congress.

All of us feel the loss of CARL PERKINS. His contributions to education, to the less fortunate, and to our Nation will long be remembered by those of us who had the honor and privilege to work beside him.

In his memory, I would hope that all of us will rededicate ourselves to the continuation of the high standards which CARL PERKINS set for this Congress. Our hearts go out to his wife and family at their loss. Yet even as we speak here today, you can still feel CARL's presence among us.

His spirit will live on in our hearts and in these Halls and in those Kentucky hills for many, many years to come.●

● Mr. DE LA GARZA. Mr. Speaker, last week, the schoolchildren in south Texas lost a great friend, one who has had a major influence on their lives; our friend and respected colleague, chairman of the Committee on Education and Labor, CARL PERKINS. While those of us who had the pleasure to know him and work with him will miss Chairman PERKINS, it is for the youth of the country that I am saddened.

I doubt there are more than a handful of men and women under the age of 30 who have not directly or indirectedly benefited from Chairman PERKIN's efforts in this body. Wherever students enrolled in a Head Start, took advantage of school lunch programs, or were able to pursue a college education with student loans or grants, we see the hand of CARL PERKINS. Few among us could ever dream of having such a positive and lasting impact on our Nation.

Many of us speak about the "American dream," but CARL PERKINS dedicated his life to providing young people the means of pursuing it on their own. Untold numbers of young people were the first in their family to complete a high school education, or obtain a college degree because CARL PERKINS helped provide the tools they needed.

While others may worry about the deindustrialization of the United States and its need to be competitive in world markets, proposing new tax policies, trade policies, or even industrial policies, CARL PERKINS knew that education is key. Machines may wear out or become obsolete, and ore deposits may be exhausted, but more important than all, our greatest resource, is our people. Chairman PERKINS knew that as long as we invested in our people, new and better machines would be built. It is a lesson we should all remember.

A number of my constituents in south Texas had the pleasure of meeting CARL PERKINS, or testified before him on education issues. I wish many more of my constituents and people throughout the country had had the opportunity to meet this great man for they too would be saddened by his death. On behalf of the people of the 15th Congressional District of Texas I extend condolences to his wife, Verna, his son Carl Christopher, to all his family and friends, to the people of the 7th District of Kentucky, and to the Nation. We have lost a leader and good friend to us all.●

● Mr. FORD of Michigan. Mr. Speaker, the death last week of our friend and colleague CARL PERKINS is a deep loss to all Americans and especially to those who cherish fairness and opportunity.

For the better part of two decades Mr. PERKINS served as chairman of the Education and Labor Committee. And from my point of view, as one who had the good fortune to work with him on that committee for most of his chairmanship, I don't think it was ever served so well.

We all knew Mr. PERKINS as a skillful representative who deftly brought legislation before us. We admired these skills, but I, for one, more admired his abiding concern for the people of this land. I never knew him as anything but a gentleman who cared deeply about his country and the welfare of its people.

Even when it was unpopular to do so, he remained an unswerving champion of social legislation ranging from job training to school lunches. During the past 3 years he devoted his enormous energies to protecting programs for education assistance, employment, and child nutrition from reckless budget cuts.

In his heart he understood that Americans from disadvantaged families could share in our Nation's economic progress only through education. And he made the goal of equal educational opportunity a personal crusade.

He was, as well, a steadfast friend of working men and women, convinced that they are the source of America's greatness.

He understood the ravages of poverty because he was from a poor area of eastern Kentucky where both jobs and educational opportunities were often scarce. Even though he spent 33 years in this body and was the dean of his State's delegation, he never forgot his own origins or the people he represented.

He never lost touch with his people. And he did it the old-fashioned way, getting out to meet with them whenever he could at their homes, in stores, and around the countryside of his rural district.

When he died he was flying home.

His death is indeed a great loss. Men of his skill, style, and compassion come this way all too infrequently.●

● Mr. JONES of Oklahoma. Mr. Speaker, despite his quiet demeanor and soft-spoken delivery, CARL PERKINS was among the brightest and most effective legislators with whom I have had the privilege of serving in this body.

All his life he had one agenda: to defend the oppressed and poor in Kentucky and our Nation. Because he knew what he wanted, and most importantly, knew how to achieve it, he was most tenacious and successful in protecting his position, particularly in conference committee meetings with the other body.

His achievements in increasing the education level of all Americans are far too numerous to list. While he represented a district which is primarily rural, the education programs he advocated have brought greater opportunities to children in all parts of our country, from the hills of Appalachia to the streets of New York and Chicago.

I am certain my colleagues will agree that CARL PERKINS worked so hard and achieved so much that he must be ranked with President Lyndon Johnson as one of the most important public figures in this century to provide quality education to America's youth.

As we in Congress search for ways to ensure that our Nation's educational needs are met fully, I know that that quest will be all the more difficult without the guidance and wisdom of CARL PERKINS.●

● Mr. MONTGOMERY. Mr. Speaker, I am honored to participate today, with so many of my colleagues, in this tribute to the late CARL PERKINS.

He was a fixture on Capitol Hill, having served here since 1949. CARL PERKINS never forgot his Kentucky roots and worked for the people of the Seventh District with distinction.

As chairman of the Education and Labor Committee, CARL PERKINS was a driving force behind so many pieces of legislation over the past two decades and his pleasant manner won the respect of Members on both sides of the aisles, as evidenced by the fact that so many of his colleagues took the time to attend his funeral.

I know the people of Kentucky, who had come to count on his leadership over these years, will miss CARL PERKINS. He will certainly be missed here on Capitol Hill as well.●

● Mr. ROE. Mr. Speaker, I take great pride today in rising to join my colleagues in commemorating the memory of our dear friend, the Honorable CARL D. PERKINS of Kentucky.

For 35 years CARL PERKINS served with distinction and honor in this great body and his achievements during that period of time are legendary. Perhaps no other man in recent congressional history has been more responsible for advancing our Nation's educational programs than CARL PERKINS.

His work as chairman of the House Education and Labor Committee, a post he held since 1967, and as chairman of the Subcommittee on Elementary, Secondary and Vocational Education, insured that millions of Americans would have the opportunity to receive an education.

Among the legislation that he developed and led through the political process were bills dealing with job training and school lunch programs, remedial education for the disadvantaged, vocational education, school libraries, child care, and nutrition, adult education and math and science education programs.

His crowning achievement, the landmark Elementary and Secondary Education Act of 1965, benefited the lives of millions of American school children. And think of millions of others who received a school lunch, perhaps their only hot meal of the day thanks to CARL PERKINS.

Mr. Speaker, despite the fact that his achievements have affected the lives of nearly every American, the fact of the matter is that CARL was not very well known outside the House and his beloved Kentucky congressional district.

If ever a man truly fit the job description of "Representative" it was CARL PERKINS. Rather than seeking national news coverage for his outstanding achievements in the field of education and aid to the rural parts of our Nation, CARL was more interested in returning home each weekend to the little town of Hindman, KY, where he could sit down with his constituents and find out how they were doing and what he could do to make their lives a little better. No problem in Appalachian Kentucky was too small for him to pay attention to, for he was truly one of the people he served.

He knew that the coal miner in Pike County, KY, had the same problems as the poorly paid farm workers in southern California and that both needed the on-the-job health protec-

tion that only Federal legislation could provide.

We have lost both a dear friend and a great leader. Our best wishes go out to CARL's wife Verna and the other members of the Perkins family.

They can rest assured that the legacy that CARL PERKINS left us will never be forgotten. It is my prayer that his memory will inspire us as we move toward solving the enormous problems facing our great Nation.●

● Mr. YATES. Mr. Speaker, CARL PERKINS and I were both elected to this House in 1948 and he was my dear friend for all of those years. I will miss him very much and the entire House, which he served with endless dedication and rare legislative skill, will miss him, but it will be the people of his district and people like them everywhere who will miss him the most.

CARL PERKINS was their champion. He understood in the most fundamental way that this country is stronger, safer, and richer when the policies and resources of the Government are utilized to assist those who need the help and opportunities that an enlightened Government can provide. His was a practical and humane approach to Government that was as fair and decent as the man himself. CARL PERKINS believed in what he was doing and he was right. It saddens me that we will not have the opportunity to work together again and I can say that I am proud to have known CARL PERKINS and to have served with him. I extend my most sincere condolences to Mrs. Perkins and to all of his family.●

● Mr. BOLAND. Mr. Speaker, the death of Congressman CARL D. PERKINS was a tremendous loss for the people of our country and the Members of this House.

CARL PERKINS came to Congress in 1949 as a representative of the people of eastern Kentucky. He never lost sight of the needs of the people who sent him to Washington, but in his 35 years in the House of Representatives he assumed a much broader constituency. The people whose cause he championed were the people in need in our society; the poor, the undereducated, the sick, and those who worked in unsafe conditions. He worked for their interests tirelessly and effectively, not in a way which sought publicity but in a way which focused on results. His ability to persuade was legendary in the Halls of Congress, and his skill as a legislator was well known and appreciated far beyond Capitol Hill.

It is impossible to estimate how many lives were positively affected by the work of CARL PERKINS. The Vocational Education Act of 1963, the Coal Mine Health and Safety Act of 1969, and the Elementary and Secondary Education Act of 1965 were shaped by his hand and they have eased the burden of, and expanded opportunities for millions of Americans. His legacy is one of commitment to the ideals on which this country was founded and his career is a testament to the things Government can do for its people, rather than to its people.

I want to express my deepest sympathies to CARL's wife, Verna, his son Chris, and the other members of his family. I hope that in the days ahead their sorrow will be lessened by the knowledge that the contributions made by CARL PERKINS to the quality of life in this country will never be forgotten.●

● Mr. GORE. Mr. Speaker, I join with my colleagues today to pay tribute to the Honorable CARL PERKINS, a champion of people young and old—children, working men and women, senior citizens, and all who needed a tireless leader to work on their behalf.

CARL PERKINS was committed to making our country a better place in which to live and a true land of opportunity. His legislative guidance in the areas of education, labor, and welfare have brought our Nation closer to the ideal he envisioned.

I feel deeply privileged to have had the opportunity of knowing and working with Congressman PERKINS. He is one of those rare persons of whom it can be said: "he leaves our world a better place than he found it."

He will be deeply missed.●

● Mr. HUGHES. Mr. Speaker, it is with a deep sense of sadness and loss that I join my colleagues in honoring our respected colleague, CARL PERKINS.

All of us who had the opportunity to serve with Chairman PERKINS will always remember it as a true learning experience in shrewd and aggressive lawmaking. CARL PERKINS believed deeply in the Government's obligation to help the helpless, and throughout his 18 terms in the House of Representatives, he remained dedicated to the expansion of human dignity and equal opportunity. He never stepped back, never accepted defeat, never gave up, and never abandoned his principals or his commitment.

As a result, countless measures to enhance the social welfare bear Chairman PERKINS' imprint. He impressed his colleagues not only with his extraordinary tenacity, but also with his real compassion for our Nation's disadvantaged. He truly cared about people as individuals, and in caring about them, he took the trouble to understand them, to know their problems, and to do everything he could to help them.

Throughout this Congress, the State of Kentucky, and the Nation, there are many thousands of people who know what CARL PERKINS did for them, and they will never forget him. There are many millions more, though, who have benefited from his life's work without even knowing it, perhaps without ever having heard of him. This is the true measure of his contribution to our Nation.

His leadership, courage, and commitment will be sorely missed by all who had the honor of working with him.●

● Mr. MITCHELL. Mr. Speaker, I deeply value the honor at this moment of paying tribute to our colleague and good friend, CARL DEWEY PERKINS.

Through dedication, diligence, and determination, CARL PERKINS set forth many efforts that resulted in great achievements. CARL PERKINS was a moving force behind the House Committee on Education and Labor where he forged the landmark Elementary and Secondary Education Act of 1965 through his subcommittee, led a strong commitment of Federal support in the Vocational Education Act, and encouraged the cause that resulted in an expanded Federal role in child nutrition and school feeding programs.

In addition, CARL PERKINS became an active voice in the field of industrial safety. He sponsored the fight for passage of the Federal Coal Mine Health and Safety Act of 1969 and managed the passage of the Occupational Safety and Health Act in 1970.

Few words can describe this prime architect of existing Federal social programs. We came to know CARL PERKINS as a leader in the poverty fight. His consistent voting record of social legislation in the House helped us to recognize his cause as one for the people. I am delighted to acknowledge his dedicated support of civil rights legislation which displays clearly that his struggle was dedicated to all people.

CARL PERKINS was not only involved in legislative measures. He was well known among his constituents in the Seventh District of Kentucky as he traveled and recognized the causes of his people. He was often present whenever a disaster struck, usually offering comfort and resources to those suffering.

These are only a few of his accomplishments and we shall not dwell upon them individually put recognize them as the results of an illustrious character of social legislation and a pioneer of merit. The passing of CARL PERKINS, marking the end of a dedicated 36 years in the U.S. House of Representatives, is a great loss for us all. However, spiritually these 36 years of dedication will not be forgotten because, as quoted by his son, "our tribute to his memory shall be a dedication to his cause."●

● Mr. QUILLEN. Mr. Speaker, I wish to join my colleagues in saluting the life and work of our friend CARL PERKINS who passed away on August 3.

Congressman PERKINS served with distinction in the House of Representatives since his election to the Congress in 1948. His death is loss to the people of his eastern Kentucky dis-

trict, his family and we who worked with him here in the House.

Congressman PERKINS served as chairman of the House Committee on Education and Labor since 1967 and he certainly made his mark on many important Federal programs under his committee's jurisdiction. But for me, my lasting impression of CARL PERKINS is that of a good and decent man who worked diligently for what he believed was in the best interest of the people he represented in the Congress.

I wish to extend to his entire family my sorrow at CARL's passing and my condolence and deep sympathy at this sad loss.●

● Mr. JONES of Tennessee. Mr. Speaker, it is with great respect that I join with my colleagues in paying tribute to our late friend and colleague, CARL PERKINS. He was truly a great man who made many contributions to this Nation yet never lost the unassuming manner that characterized his many years of service.

I know that his constituents will miss the hard work he put in for his district, but I also know that this Nation will greatly miss his work on behalf of education and the working people of this country. There are many young people today who have promise for a better future because of the programs he advocated and guided through this body.

There is no greater legacy that anyone can leave than to offer hope for a better tomorrow to the generations that follow after them. CARL PERKINS has done that through his unfailing advocacy of strong public education. For that, this Nation can be proud of his service and mournful of his absence.

It was with deep regret that I learned of the death of CARL PERKINS back in August. I extend to his family my deepest sympathy.●

● Mr. WAXMAN. Mr. Speaker, for more than 35 years the people of the Seventh District of Kentucky sent to Washington one of the ablest and most progressive Congressmen ever to serve in the House of Representatives. CARL PERKINS, who came from one of the country's poorest and most isolated regions in the heart of Appalachia, became a leading authority and advocate of Federal educational and social programs that have changed the course of this Nation's history.

As chairman of the Education and Labor Committee, CARL was one of the major influences on the antipoverty programs of the 1960's. The educational assistance programs he sponsored changed the concept of education in America by giving students from every background educational opportunities beyond any previous generation's highest dreams. The school lunch and employment programs he created and strengthened have improved the lives of millions of Americans, from rural east Kentucky to urban west Los Angeles.

CARL's efforts in Congress were guided by principle, not the tides of political change. His vision for a better America which he brought with him from the hills of Kentucky remained constant throughout his career. During a conversation in 1981 when virtually every social, educational, and health program was under siege by the new administration, CARL told me that times may change, but principles do not, and that those who shared his broad view of America would prevail.

We all will miss CARL's brilliant leadership. He was a statesman, a model legislator, and an inspiration to us all.●

● Mr. JEFFORDS. Mr. Speaker, I regret that I could not be present for the special order of the House honoring the late CARL D. PERKINS, the distinguished chairman of the House Education and Labor Committee and a Member of this body for 36 years. Unfortunately, this special order came on the day of my State's primary elections.

My absence is something I think CARL would understand. He knew politics, and was not reluctant to use the means at his disposal to get things done. As chairman, he made no secret of his goals and eagerness to reach them. And he got things done.

During his leadership of the Education and Labor Committee, he created a long and proud record of service and concrete results. He was certain of what he wanted to do, and wasted no time getting there.

On more than one occasion, we in the minority differed with his views and were soundly and quickly defeated in the committee. Good naturedly we would joke about the "Perkins Express," the locomotive that powered legislation through the committee on a remarkably smooth and fast track.

Now and then we all get a little cocky, and on occasion some of us thought we had CARL beaten, only to find we had overlooked some parliamentary procedure or the dozen proxies in his pocket. The Perkins Express rolled right over us.

But CARL PERKINS was too decent and kind a person to get too upset about such setbacks. And behind all of his actions, there was no question as to his motives. He seemed to have little use for personal gain, and a large devotion to the public good.

The Perkins Express is a long, crowded train. Its cars are filled with the less fortunate people of his district and our country; the disabled, the poor, the elderly, and the ill. And it is filled with our brightest hopes, the children who fill our classrooms from kindergarten through graduate school.

CARL PERKINS has left a legacy that is the envy of any Member of this body. His mark is on dozens of programs that serve Americans, from child nutrition to the Older Americans Act. His career was one of great achievement.

I was one of the many Members of Congress who traveled to CARL's district for his funeral. Most of us had never been to eastern Kentucky. Riding on the bus, I sensed that a lot of Members better understood CARL after seeing the land and people he represented. A bus ride is not a very scientific survey, but the signs of economic distress were everywhere. If before you had thought that black lung benefits or child nutrition programs were overgenerous, you could not help but understand why CARL PERKINS fought for every last penny.

Vermont and eastern Kentucky are a lot alike in many respects. Especially in northeastern Vermont, we have many of the same problems as those that faced CARL. The similarities of our districts made it even easier to respect his views and work with him. I will miss doing so. I have lost a good friend, as have the people of Kentucky, Vermont, and the Nation. His family and many friends have my condolences.●

● Mr. LEHMAN of Florida. Mr. Speaker, I was most saddened about the loss of Congressman CARL PERKINS. As chairman of the House Education and Labor Committee, he was the chief proponent for the best of our Federal social programs.

During my first two terms the Education and Labor Committee, under the leadership of Congressman PERKINS, provided the best congressional training a new Member could receive.

CARL PERKINS was an outstanding example of unselfishness, integrity, dedication, and hard work. He was our best advocate for those most vulnerable and those less fortunate. He was always aware of and moved by the deprivations and sufferings of others.

In our congressional forest, a great tree has fallen.●

● Mr. ANNUNZIO. Mr. Speaker, like so many of my colleagues in the House of Representatives, I was shocked at the untimely death of our distinguished colleague, the Honorable CARL D. PERKINS. His death is a tremendous loss to his constituents from the Seventh Congressional District of Kentucky, and to all people of this Nation.

CARL was a good friend of mine during the period we had served in Congress together. I am proud I had the honor to have worked with him, and I shall always cherish his wise counsel, advice, and good will. CARL PERKINS dedicated his life to public service, and throughout his career worked toward improving the quality of life for all working men and women. He graduated from the University of Louisville Law School, and began the practice of law in 1935. In 1941 and in

1945, he was elected to the office of Knott County attorney, and served in the Kentucky General Assembly and as counsel to the Kentucky Department of Highways. He also served our country with distinction in Europe during World War II.

Elected to the 81st Congress in 1948, CARL PERKINS served in the House of Representatives for 18 consecutive terms, and was dean of the Kentucky delegation. As a Member of Congress, he compiled an outstanding record of achievement, and was the architect of some of the most important social legislation passed during the last 25 years. The Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965, and the Coal Mine Health and Safety Act of 1969 to provide black lung benefits, all bear his mark. Serving as chairman of the House Education and Labor Committee since 1967, he handled the bulk of President Johnson's antipoverty legislation.

CARL PERKINS was a champion of social welfare programs, and as chairman of the House Education and Labor Committee, he moved legislation through his committee to improve the quality of education, provide Federal college student loans and free school lunches, and he also initiated many labor reforms. He tirelessly worked to protect the interests of all working men and women, of the underprivileged, and the uneducated. Most recently, he passionately fought the many budget cut proposals which tore deeply into the worthwhile social programs he helped to create.

Born in the small Kentucky town of Hindman, CARL PERKINS ably represented his constituents in Congress for almost 36 years. He was a soft-spoken man, known for his fairness, honesty, and integrity. His dedication to the highest standards was an inspiration to his friends and fellow citizens, and he was highly respected as one of the ablest Members of the House. He will long be remembered by those of us who had the privilege to serve with him in the Congress of the United States.

Mr. Speaker, CARL PERKINS was an outstanding American. He will be missed by both those whom he served and those who had the privilege of knowing him. Mrs. Annunzio and I extend our deepest sympathy to his wife, Verna, his son, Carl Christopher, and the other members of his family who survive him.●

● Mr. ERLENBORN. Mr. Speaker, I rise to honor the memory and legend of CARL DEWEY PERKINS in this Chamber, and the mark of this man on the scores of laws which bear his name and the imprint of his hand and his heart.

A trade publication, in writing of CARL's precipitous death on August 3, quoted me as referring to him as a "bulldog." Having worked with him for almost two decades on the Education and Labor Committee, where he served as chairman for 17 years, I believe I knew CARL well enough to know he would have felt it an honor to be likened to a bulldog.

A bulldog is usually a stubborn critter, and CARL was the most tenacious in the pursuit of his legislative objectives of any of the people with whom I have served and, perhaps, of any who have served in this House. That is why, or at least one of the reasons why, he was one of the most successful in achieving the goals in which he believed.

CARL was not only a legislator par excellence. He practiced what he preached, especially about the rights of minorities. In allowing the committee minority to manage their own funds, he was a rarity among committee chairmen.

CARL put forth a special effort to maintain a spirit of cooperation with the minority. Shortly after I became the ranking Republican on the Education and Labor Committee, I suggested to him that we reestablish the "Perkins-Quie Principle" regarding staff travel. He replied, "* * * in tribute to the expected harmony of this era, I would like to suggest a rechristening to be known as the 'Erlenborn-Perkins principle'."

I have no hesitation to predict that CARL PERKINS will go down in history as having played as great or greater role in education in this land of ours than any who have been known formally as educators. Members of this body need not be reminded that the stamp of his devoted, personal, pioneering, and persevering leadership can be found in every education program passed by Congress over the past 35 years.

Another of the memorable characteristics of CARL that I must touch upon is his love for his family and the people in the hills of Kentucky. The dean of his delegation said it best: "CARL PERKINS was a good and kindly man whose delight in life was working for his district, his State, and his country."

CARL must have known much delight in life. He worked tirelessly for all of them, as we—his colleagues, his office, and committee staff, both majority and minority—can attest.

Along with you, Mr. Speaker, CARL's loyal staff, and all who have served here during CARL's three and one-half decades in office, I feel fortunate to have been associated with him. His family can find much comfort in knowing that CARL DEWEY PERKINS' service in the House will live after him.●

● Mr. O'BRIEN. Mr. Speaker, we have yet to realize the extent of the loss to the advancement of education that follows the death of our sage and valued companion, CARL PERKINS, the veteran Kentucky legislator.

Perhaps CARL PERKINS' last legacy to a fruitful 20-year tenure as chair of the House Education and Labor Committee was his effort to bring us together in support of Federal funding for training and retraining schoolteachers in mathematics, science, computer education, and foreign languages.

No doubt, CARL PERKINS was a staunch believer in the cooperation and compromise that best represents our constitutional system. And he continually showed this from before the time of the enactment of the first major Federal programs to aid elementary and secondary schools, almost 20 years ago.

One only need look at his work on education legislation in the 1960's to see how today's policies on funding for education on the local, State, and Federal levels have evolved. And his influence on the lives of all school children is demonstrated every day, not only in our better schools, but even in the breakfast and lunch programs that feed our most needy youngsters.

For his district as well, CARL PERKINS was a crusader for those in need and a champion of the dispossessed. Kentucky's mine-oriented Seventh Congressional District, whose economy swings with coal demand, nonetheless was the fastest growing congressional district in the 1970's of all those in Kentucky.

Please join with me in recognizing CARL PERKINS' distinguished 33-year career as one of our most trusted and competent lawmakers in recent history. He will be missed.●

● Mr. MINETA. Mr. Speaker, I rise with so many of my colleagues to pay tribute today to one of the very special people who have walked these halls—our good friend CARL D. PERKINS.

CARL was a man who earned such respect and stature among his colleagues that we all addressed him as nothing other than "Mr. Chairman." But behind his back, we showed our deep and abiding affection for the man we really knew as "PAPPY PERKINS."

At his funeral, we stood under cloudy skies and watched hundreds and hundreds of ordinary people come in mourning and in sadness to pay tribute to man they loved so deeply. There was humanity, a sense of caring and committment that day that stands as the model of all of the chairman's life.

No Member of Congress has ever worked harder, or more successfully for the people he loved and the values he honored.

As the Almanac of American Politics says of the chairman, on reason for his great success was his own strength of character. The almanac goes on to say of the chairman "far from fashiona-

ble, he is one of those old fashioned liberals—Sam Rayburn was another—who know their legislation cold, negotiate like master poker players, and refuse to compromise their principles."

We were all richer because of the chairman's old fashioned uncompromising devotion to principle. And the Nation will reap the fruits of his work for decades to come.

We all have our fond memories of the chairman. One memory I am glad I do not have is having to sit across from him in a conference committee. As we all know, the chairman was a tough negotiator. He just did not want to give up when he knew he was right.

And most of the time, he knew he was right and he was correct in that belief.

We will all miss the chairman. He was one of those rare men whose mark will last on this House and this Nation for years to come.

Thank you.●

● Mr. CLAY. Mr. Speaker, the Congress of the United States, the Nation, and the people of the Seventh District of Kentucky have suffered a great loss in the death of our late and highly respected colleague, CARL D. PERKINS.

I, personally, feel a very special loss for since I first entered the Halls of Congress over 15 years ago, CARL and I had developed a long, profitable, and stimulating working relationship.

His life was a genuine profile in courage, the epitome of decency and integrity.

He came from one of our Nation's poorest constituencies, and though he gained and wielded great power in the Congress, he never lost the common touch.

CARL PERKINS was indeed a people's Representative and he exemplified the best of a public servant: Gentle, respectful, unassuming, thorough, a nononsense approach, and high commitment to the task at hand.

CARL did not talk compassion, he demonstrated it; he not only talked about the need for education as a passport, he was an unceasing advocate for it; he did not verbalize about civility and courtesy, he served as a living example of it in this Chamber and across the country; he not only talked about justice, he was the personification of it in his daily interaction with his colleagues and his constituency in the Seventh District of Kentucky; he not only talked about the need for economic justice, he was in the forefront working for legislation to provide full employment for our Nation's work force. He was a marvelous example of one who believes that a public office is indeed a public trust that should be used to enhance and ennoble human kind.

CARL PERKINS believed in Government as an advocate for the people. He transformed that belief into effective legislative service that benefited the 235 million who comprise our Nation. At all times, he strived to make Government an instrument for hope, opportunity, and justice for all.

If any Member of Congress could be said to personify what is in the best interest of public education in this Nation, then CARL PERKINS would be in the forefront.

For over 16 years as chairman of the Education and Labor Committee, with vigor, he stood for and fought for the children and youths enrolled in our public schools. Every major piece of education legislation, over the last 16 years, bore the imprint of CARL D. PERKINS. He was a strong, untiring advocate for our Nation's workers, and he was a leading proponent of the landmark workers' health and safety legislation of the late sixties and early seventies.

He worked inspirationally, long before it was fashionable, to assure all people access to all facets of the public education network.

Mr. Speaker, while I grieve the death of the distinguished chairman from the Seventh District of Kentucky, I also rejoice that I was privileged to work with such a remarkable and caring individual.

His passion for promoting educational opportunity, his concern for the workers of our Nation, his deep love and affection for this august body, his fondness for his constituents in the Seventh District, and above all his gentility and loving manner mark him a colleague extraordinaire.

We suffer an immeasurable loss because he no longer walks, talks, and works among us.

CARL PERKINS' works are monumental and pervasive. He was a modest and just man, and I am reminded of him when I think of the principles expressed by Longfellow in one of his poems: "Ah to build, to build! That is the noblest art of all the arts."

I bid farewell to a master builder, a gentleman, and an advocate of the improvement of the quality of life for all of our citizens.

I know that all of my colleagues in the House join me in expressing sincere condolences to his wife, his son, and other family members. May they find strength and peace in the days ahead.●

● Mr. GAYDOS. Mr. Speaker, today we are paying homage to our late colleague, the Honorable CARL D. PERKINS of Kentucky, who, through 36 years in this Congress, devoted his entire energies to making life a little better for the people of this country.

CARL never claimed to be a great legislator; he never claimed to be a hero; but he was both a great legislator and a hero to people who didn't even know him.

It's no secret that CARL labored in anonymity, making great progress for America's coal miners, our schoolchildren, those who lived in rural areas, without drawing attention to himself.

CARL probably didn't care about fame or fortune. He was concerned with the well-being of Americans.

And that concern, that caring, can be seen in the important legislation he personally guided through the House Education and Labor Committee and directed through the House as a whole.

Billions of American schoolchildren have learned to read and to experience the joy of learning because of CARL's efforts in passing the Elementary and Secondary Education Act of 1965, a measure that insured heavy concentration on developing reading skills for our disadvantaged children, enhanced school library services, and so forth.

Millions of American schoolchildren ate a hot lunch in our schools because CARL promoted and pushed through the school-lunch program.

Thousands of mineworkers and their families have been rescued from danger because of CARL's work in passing mine health and safety legislation and measures to help those with black lung disease.

Untold numbers of American high school graduates have been able to attend college and receive their education because CARL PERKINS was instrumental in securing passage of student-aid programs that paid the way.

Hundreds of thousands in this Nation's rural areas have been able to experience the joy of reading because of CARL's constant interest in providing special assistance to public libraries in the rural parts of America.

CARL's contributions to America and its people are legendary, but are probably best known only by those of us who worked with him and, often in the face of overwhelming odds, passed those bills that made life for all Americans, but especially our forgotten Americans, a little bit better and broadened the opportunity for those disadvantaged to achieve a better life.

For 17 years, CARL chaired the House Education and Labor Committee and, even though he didn't receive the publicity for the tremendous successes of the committee in passing landmark legislation, we who worked with him day in and day out are well aware of his impact on the final products of that committee.

When an issue arose that would have a great impact on the lives of Americans, it would be no surprise to any one of us in the House that CARL would be ready to speak on behalf of those who couldn't speak for themselves, for those who had no advocates.

CARL spoke quietly—and convincingly—knowing that what he was supporting was right for all Americans.

CARL served this body with dignity and integrity. I doubt that he would have defined himself as a great legislator or a hero, but, if we look at two of Webster's definitions of greatness—"remarkable in magnitude, degree, or effectiveness" and "markedly superior in character or quality"—then surely he was describing CARL PERKINS.

But, perhaps, the definition of greatness that would appeal most to CARL would have been one by Bernard Baruch in August 1964, at a press conference on the occasion of his 94th birthday. Asked who was the greatest man in his time, Baruch replied:

> The fellow that does his job every day. The mother who has children, and gets up, and gets the breakfast, and keeps them clean, and sends them off to school. The fellow who keeps the streets clean—without him we wouldn't have any sanitation. The unknown solider. Millions of men.

CARL would have appreciated that definition of greatness because it symbolizes CARL himself. It symbolizes the love of mankind for each other through the little things that count—like learning to read, getting a hot lunch, saving a life, and so on.

Perhaps this body would be better if we all followed CARL's approach to legislative work: Worry about the people and forget about grabbing the headlines.

This body will surely feel the loss of CARL PERKINS as much as his family and many of us individually already do.●

● Mr. ROYBAL. Mr. Speaker, in paying tribute to our esteemed colleague and good friend CARL PERKINS, we must recognize above all else that he was a legislators legislator. He will be sorely missed.

I can't think of another Member of Congress who worked as tirelessly and effectively for the benefit of his district as did CARL PERKINS. His accomplishments on behalf of Kentucky's Seventh District, one of the Nation's poorest, were remarkable. That his people came first is clear from the long list of what CARL considered his proudest achievements—dams, flood control projects, hospitals, schools, and roads.

The greatness of CARL PERKINS was his ability to translate his concern for his constituents to a concern for all the underdogs in this Nation. Seeing the conditions under which the coal miners in his district labored, he sponsored and/or supported Federal programs to aid those suffering from black lung disease, as well as to improve worker health and safety generally. The legislation he supported benefited workers nationwide who had been working in unsafe and unhealthy conditions and often paying with their lives.

Seeing the lack of opportunity for many of his constituents, CARL was a tireless advocate of Federal aid to education at all levels. He was instrumental in shaping such programs as Federal aid to libraries, vocational training, Head Start, student loans, adult education and job training programs. As chairman of the Education and Labor Committee, he was able to secure passage of these programs he knew would prove invaluable. How many millions of Americans have benefited from this dedication and vision?

Even those who didn't agree with CARL's views could not doubt his motives. He never forgot his origins, never lost his humility and never compromised his principles. All of us admired his legislative prowess. We loved and respected CARL PERKINS, both as a colleague and a friend. And we will miss him very much.●

● Mr. KILDEE. Mr. Speaker, I appreciate this opportunity to participate in the honor being paid to my late chairman, colleague and personal friend and advisor—the Honorable CARL D. PERKINS of Kentucky.

It was with great personal sadness and a sense of loss that I heard of the passing of Chairman PERKINS. In the 7½ years I have served as a Representative in Congress, he was always generous and helpful toward me, as he was with everyone, and I benefited greatly from his advice and assistance as a member of the House Education and Labor Committee.

Chairman PERKINS loved the people of the Seventh Congressional District of Kentucky, and they loved him. He personified the highest ideals of public service, working untiringly on behalf of the people he represented and on behalf of the entire Nation. He understood that education was the weapon with which to break the cycle of poverty, and no one else was as effective as he in working to ensure that education was made more available to all. For education to be most effective, good nutrition for the children also was vital, and Chairman PERKINS saw that clearly and worked to ensure that good nutrition was available to the children of economically deprived families. He was the unquestioned champion of making education programs more effective so that the level of education in our country could be raised. He was fearless and unshakeable in his opposition to those who felt that our Nation should cut back on its financial commitment to education, strongly believing that such action was the most false of all economies.

I am proud to have had the privilege of serving with such a great man. He will be greatly missed by all of us on the committee and in the Congress. His legacy to us must be the example he set for us to continually strive to improve the educational system of our Nation, to see education as an investment instead of as a cost, and to recognize that education is one of our greatest resources in our effort to ensure that all of our citizens can live in dignity and in decency.●

● Mr. RUDD. Mr. Speaker, I join with my colleagues in expressing deep sorrow at the passing of our friend and colleague, the dean of the Kentucky delegation, the Honorable CARL PERKINS.

As Representative of Kentucky's Seventh District for 36 years and as distinguished chairman of the Education and Labor Committee, CARL made major contributions to the improvement of his district, his State and to American society at large.

We did not always agree on policy, but I admired so good and kindly a man as was CARL PERKINS for his forthrightness and his ability as an outstanding Congressman.

He will be sadly missed by all of us.●

● Mr. SCHULZE. Mr. Speaker, I rise in tribute to one of this body's most dedicated public servants and chairman of the important Committee on Education and Labor, the Honorable CARL D. PERKINS.

> Who, then, do I call educated? First, those who control circumstances instead of being mastered by them; those who meet all occasions and act in accordance with intelligent thinking; those who are honorable in all dealings, who treat good-naturedly persons and things that are disagreeable; and furthermore, those who hold their pleasure under control and are not overcome by misfortune; finally those who are not spoiled by success.

Those words were said in another age by, perhaps, this world's greatest educator, Socrates. And yet those words apply to our colleague, CARL PERKINS, the man, the politician and the educator.

CARL certainly took control of events and never let himself be directed by them. He was, indeed, a sensible and wise individual. He was a man true to his word and was known by all to stand by it. His sense of humor saw him through many acrimonious debates; he kept a tight reign on his public and private demeanor and was a gentleman at all times; and it certainly never occurred to him to complain to others of his misfortunes, knowing they had many of their own to face. By any measure, CARL was a successful man— he set his goals to serve the people of Kentucky and he did not waiver in his direction in all the years he was in Congress. He was neither spoiled by the easy election victories nor impressed with the heady politics and personalities of Washington, DC. Yes, he was a successful man who was humbled by his success rather than overcome with the importance of it.

Finally, and certainly on an equal par with all of this, CARL PERKINS not only lived those Socratic words, he tried to impose upon this country that quality of education which would instill those ideals within each child taught so that our future strength

through knowledge would be ensured. He wanted education to be more than book knowledge. He wanted the system to encourage inquisitiveness and imagination. And he wanted it to support the moral fabric of family values. I know he was proud of what we have achieved over the years, but there was so much left to accomplish. He left us a legacy of hope for the future through our children and we will honor him by building upon the goals that he set.●

● Mr. HAYES. Mr. Speaker, I had the sad duty to attend the funeral of our friend and colleague, the honorable Representative of the Seventh District of Kentucky, CARL DEWEY PERKINS. Although I have only been a Member of this body for slightly less than a year, I have had the honor and fortune to serve under CARL's leadership on the Committee on Education and Labor. I realized early on that behind his quiet approach and soft manner, was a master politician, and legislator, whose dedication and compassion for his fellow man ran deep and unwaivering.

While I have had the great personal privilege and honor to work with and know CARL PERKINS, there are millions of Americans who did not have that opportunity. Nevertheless, in one way or another, they indeed had the privilege to benefit from his dedication, compassion and good will. His 1963 Vocational Education Act and the 1965 Elementary and Secondary Education Act have literally changed the lives of untold numbers of our young people. While they may not know who was responsible for the programs they participated in, they will forever benefit from his leadership.

I know CARL PERKINS was a friend of many Members of this body. I am certain he was a friend to many of "his people" as he fondly called the residents of the Seventh Congressional district of Kentucky. He was indeed my friend, and I will miss him.●

● Mr. DWYER. Mr. Speaker, it is an honor for me to take part in this special order paying tribute to one of the most distinguished Members of this House, CARL PERKINS. I want to thank my good friend and chairman, Mr. NATCHER, for calling this special order. There is no one in this House more familiar with the many contributions of the man we are honoring today, both in this House, and in his beloved home State of Kentucky.

Education had no greater friend and advocate than the chairman of the Education and Labor Committee here in the House. Chairman PERKINS steadfastly and effectively championed some of the most important education initiatives of our time.

He never wavered in his commitment that all Americans be afforded a good education and a fair chance to earn a decent wage and provide for their families. The chairman's sense of fairness was equally evident in the employment area as well, as he took the lead in such vital areas as job training, worker health and workplace safety.

I am proud to have had the opportunity to serve for a short time during the chairman's tenure at the helm of the Education and Labor Committee. He had a vision for the future early in his career that has served to inspire us now in shaping the priorities of the coming decades. CARL PERKINS knew long ago the intrinsic value of education to our people, and he generously gave of his time and many talents as a legislator and statesman to see this goal realized.

We still have a long way to go in educating our children and retraining our work force for the challenges of the future. The Perkins legacy will serve us well in these pursuits. He will be missed, to be sure, but remembered always for his courage, conviction and sense of fairness concerning the great issues of our time.●

● Mr. HUTTO. Mr. Speaker, I did not get to know our beloved friend, Congressman CARL PERKINS, as well as those who served on his Education and Labor Committee. However, I did have the opportunity to visit with him on several occasions and to observe him in action on the House floor. My observations, I believe, accurately reflect the depth of this great man. He was, without doubt, one of the kindest and warmest Members of Congress. I gained a strong impression that he never allowed Potomac Fever to deter him from the grassroots. His compassion for people transcended his own district in Kentucky, and he was instrumental in bringing relief to the downtrodden and sought to ease the plight of those who could not help themselves. CARL PERKINS is gone from this body, but he left his mark and he will be missed. I'm only sorry I did not get to know him better.●

● Mrs. ROUKEMA. Mr. Speaker, I join my colleagues today in expressing a sense of loss over the passing away of one of the great legislators of our day. CARL PERKINS was a friend, a leader and a teacher.

How fitting a monument to his leadership and statesmenship that he fashioned a successful bipartisan coalition to pass the equal access bill. If there was one person in the House who was most responsible for overcoming the many obstacles toward passage of equal access, it was without question CARL PERKINS, who took on his own leadership to shepherd through a bill that he believed in.

Equal access was a battle that I and a lot of my colleagues joined CARL to fight. But, a year ago, there was another job that needed to be done which was of a more personal interest to me. A New Jersey paper had just run a shocking series concerning allegedly scandalous practices by the Department of Education of my own State of New Jersey.

I was stunned at these allegations. I knew something had to be done. But, in all frankness, as a member of the majority side of the Education and Labor Committee, and one who was just entering her second term, I felt lost. How could I ever convince the majority to do anything about these allegations, which involved accusations against a Democratic administration at both the Federal and State level?

Nevertheless, I knew I had to at least try. I owed it to the people of New Jersey. Mr. Speaker, the response I received from CARL PERKINS convinced me that on matters of principle, CARL PERKINS rose above political implications. CARL not only agreed with me that the committee should respond, but he ordered a full-blown, no-holds-barred investigation. He immediately assigned the issue as a top priority to one of his ablest staff members who was joined by a minority staff member in the investigation. And, Mr. Speaker, this investigation was no cosmetic exercise in whitewashing. CARL eventually scheduled four hearings in New Jersey and Washington, for which the committee exercised its subpoena power for the first time in many years, and order committee staff to prepared a lengthy report.

The findings of that investigation were not easy for CARL. They showed misspent funds under education programs which were very near and dear to him. For many, they raised serious questions about the effectiveness of Federal education programs in general, at a time when the Federal role is the subject of considerable debate. CARL never waivered. The committee pulled no punches.

When I look back on my own career, I will always remember that investigation as my maiden voyage in learning the potential effectiveness and limitations of congressional power. I will also remember what CARL PERKINS taught me about bipartisanship and statemanship and how reassuring his example was to me.

We have lost a man of principle, whose magnificant stature never diminished his gentle humanity. CARL's legacy is one to the generations of those, young and old, who's hardships were eased because of his dedication and compassion. ●

● Mr. RAY. Mr. Speaker, among the 435 Members of the U.S. House of Representatives, there are a few individuals who have, through years of diligence and hard work, come to symbolize effective, compassionate representation. The man we honor tonight was such an individual.

Congressman CARL PERKINS made friends easily with his unassuming

manner, but House colleagues soon learned that behind his Kentucky drawl was one of the keenest minds in the Congress. CARL was an aggressive and tenacious opponent when he disagreed with you, but one of the strongest and most effective supporters a Member could have when he was on your side. CARL PERKINS was indeed a force to be reckoned with in the House of Representatives, and his leadership will be solely missed in this body.

Congressman PERKINS has left his mark on this Congress and on our Nation. This is a mark, however, that we can proudly wear, for it is a mark of compassion, a mark of concern, and a mark of love for humanity.

In his early years in the Congress, CARL PERKINS had a dream—a dream that seemed impossible at the time. He believed that it was the right of every American citizen, even the poor and the handicapped, to have a solid education. CARL knew that education was the key which all Americans use to unlock their potential.

Years of hard work made this dream a reality. In 1965, the landmark Elementary and Secondary Education Act was passed, and for the first time Federal resources were steered toward education. Throughout his career, Congressman PERKINS continued his fight for proper education for handicapped and disadvantaged children, and many of our programs today are a direct result of his efforts.

Vocational education grew in the United States with the assistance of Congressman CARL PERKINS. He championed education and educators, for he believed America should have the finest educational system in the world. CARL was a fighter for "excellence in education" long before the phrase became the catchword it is today. As his stature and reputation grew, the name of CARL PERKINS became synonymous with persistence and by his example he showed us that a cause we believe in is worth all the effort we can muster.

Although we will sorely miss Congressman PERKINS in the Congress, the Seventh District of Kentucky bears the greatest loss, for these are the people that he loved most. His efforts and his thoughts were always for the district he served and he represented the people of eastern Kentucky with expertise and empathy.

CARL PERKINS served a long and distinguished career in the U.S. Congress and he will be sorely missed by all of us. There is no more fitting tribute to this man who cared for his fellow man than to say that our world and our Nation are truly better for the time that he spent here.●

● Mr. DUNCAN. Mr. Speaker, CARL D. PERKINS was a man who cared about the people of his district, loved his country, and tried to help the needy. One can hardly ask for more from a Member of this body.

It was because of his concern for the people of Appalachia that he sought social changes to reduce the suffering of hungry children, unemployed workers, and coal miners crippled with black lung disease. Through his leadership the Education and Labor Committee took on increasing importance.

One could never doubt his sincerity or concern. While his colleagues were always struck by his disarming grin, they also knew that he would fight for what he believed with stubborn pride and determination. He was able to win because of his perseverance, yet he never allowed animosity to creep into his character.

We will miss his shy grin, and his shrewd legislative mind. But we will miss most the example he left us of dedication to his job, his country, and his district.●

● Mr. OTTINGER. Mr. Speaker, I am pleased to join my friend and colleague, BILL NATCHER, in this statement in memory of my friend and late colleague, CARL PERKINS. I thank him for giving us this opportunity.

CARL PERKINS spent his life working for the improvement of human condition, particularly of the poor and disadvantaged in our society. As chairman of the Education and Labor Committee, he was responsible for much of the progressive job and education legislation which President Reagan is now trying to destroy. CARL PERKINS probably helped the lives of more of our citizens than any other Member of Congress.

CARL PERKINS was the classic example of the "country boy." He spoke with the native accent of his rural Kentucky constituents and always played the role of the modest country bumpkin who didn't have the answers to the Nation's complex, sophisticated social problems. Behind that simple facade, however, was the keenest of minds and the ablest of strategists. His simple mannerisms allowed him to achieve more than he ever could have with a more sophisticated demeanor. Anyone who entered negotiations with him on substantive issues soon learned that this was no country pushover—he was just as keen and persistent and knowledgeable as a person could be in the areas of his interest.

CARL will be missed by his family, many friends and his colleagues in Congress from whom he well earned overwhelming respect.●

● Mr. SUNIA. Mr. Speaker, it is with great respect that the territory of American Samoa pays tribute to the Honorable CARL PERKINS of Kentucky. Throughout his career of public service he offered assistance to many whom he never knew, but who held him in great regard.

The people of the territory of American Samoa are specially appreciative of the work that he did for them during his tenure as chairman of the House Education and Labor Committee. For many years to come, our youth will be enjoying much of the outstanding social legislation championed by Mr. PERKINS. Such things as the Vocational Education Act of 1963 and the Elementary and Secondary Education Act of 1965 have been most beneficial to our local Department of Education.

While I did not know Mr. PERKINS as long as I might have liked, I have a great deal of respect for the work that he did. He was one legislator who cared a great deal for the little people. Not only did he rise as a leader of the education field, but he has surpassed many in his concern for the poor, underprivileged and those who seldom have a voice where important Federal decisions are made.

I will always admire the conviction he displayed in 1981 when he fought a long but losing battle against budget cuts proposed by the Reagan administration in Federal education assistance, employment programs and child nutrition. His rebuttal was always sincere, not just for the sake of argument.

In my pursuit of better representation for the people of American Samoa I will always remember the example set by CARL PERKINS. He fought ethically for his enthusiasms and was accustomed to besting his opposition. He served his country well and his district well. While both his family at home and his family across the United States will miss him very much, we will always be very proud of his achievements and will always remember his service to others.●

● Mr. ACKERMAN. Mr. Speaker, this legislative body takes this time out from our deliberations to honor the late CARL D. PERKINS, a truly decent and dedicated colleague. Chairman PERKINS was a man of exceptional sincerity and tireless effort on behalf of this great Nation and his beloved State of Kentucky.

Although I am one of the more junior Members of this Congress and of the Committee on Education and Labor, CARL PERKINS greatly influenced my perception of the legislative process and the workings of this House. He always strove, with great leadership and dedication, to take the morally correct and appropriate step. He has set a lofty standard for me and the other new Members of Congress to emulate.

"PAPPY" PERKINS, as he was affectionately called, has left us a legacy of unparalleled commitment to equality of educational opportunity, and an equally strong quest for safety in the workplace. Through the chairman's tireless and meticulous stewardship, the Congress enacted such monumen-

tal legislation as the Elementary and Secondary Education Act, the Vocational Education Act, the School Lunch Program, and the black-lung benefits in the Coal Mine Health and Safety Act of 1969. These major programs reached out to children and adults who had been left behind in the wake of educational progress and economic prosperity.

Of course, CARL PERKINS' work remains unfinished. There would be no greater memorial to him than to continue the special work he began: to strive to educate those children who have been left out of the educational system, and to protect those workers who have been harmed by and who remain exposed to industrial hazards.

Mr. Speaker, our Nation will deeply miss CARL PERKINS. The Congress of the United States will be at a loss to find someone as capable, as committed and as compassionate to fill the void his death created. Congressman PERKINS was a distinguished gentleman and an inexhaustible crusader who was an inspiration to all of us in this House.

I extend my sympathies to his entire family at this difficult time. They can take comfort in knowing that his life was full of accomplishments, and that this Nation can never forget the important contributions that CARL PERKINS made to the people of the United States.●

● Mr. PENNY. Mr. Speaker, when you think of the title chairman—you think of someone like Mr. PERKINS.

He was a grandfather figure. He elicited the respect and exhibited the wisdom that comes with years of experience.

He was firm. No one doubted the authority of this chairman. Everyone trusted his word.

He was committed. He knew the importance of his role as chairman. He fought hard to protect and to promote the "people" programs under his jurisdiction.

He took care of his district. You had only to travel his district to understand the benefit of his work on education, health care and economic development programs.

He was true to his roots. Through his long tenure in Congress—he remained a "man of the mountains" of eastern Kentucky. He loved his district and its people and they loved him.

"He was a faithful friend;

"He was a loving husband and father;

"He was a noble, dedicated public servant;

"He was a good and honest man."

Thank you Chairman PERKINS for the example you set. Every time I hear or speak the title chairman—I'll think of you and miss you.●

● Mr. MILLER of Ohio. Mr. Speaker, I want to join my House colleagues today in paying tribute to a man who had great impact on the educational, health and welfare of this Nation over the past two decades.

CARL PERKINS was much more than a House colleague, since we shared a common interest in the concerns which historically involved the Bluegrass and Buckeye States. We shared a genuine interest in the economic strength and future of the entire Ohio Valley and a special interest in such monumental projects as the Gallipolis Locks and Dam undertaking. Citizens who reside in my congressional district worked in his. Constituents who lived in CARL PERKIN'S counties of Kentucky worked in the industrial plants of southern Ohio.

The bond between CARL and I in this Chamber was a common bond. The bond is strong, as well, between the people of his district and the people of mine. Our loss, then, is their loss. And in a much greater sense, our loss is the loss to a nation that knew CARL PERKINS cared simply because he placed the concerns of people, and the needs of America, before any consideration of personal or political benefit.

I extend my deepest sympathy to his family.●

● Mr. MURPHY. Mr. Speaker, last month this Congress, and the American people, lost a great leader, the Honorable CARL D. PERKINS.

For those of us familiar with CARL PERKINS' long and distinguished record of having fought to alleviate the suffering of others—hungry children, unemployed workers or coal miners crippled by black lung disease—we will deeply miss his leadership and his faith in the Government's ability to help people.

As a member of the Education and Labor Committee throughout his 18 terms and its chairman since 1967, CARL PERKINS worked to protect the rights of the handicapped and the disadvantaged. Through his efforts as chairman of the Education and Labor Committee, the 1978 amendments to the Rehabilitation Act added new programs to expand employment opportunities and a new and innovative program was established to promote independent living of persons with severe disabilities.

CARL PERKINS would not shrink from any challenge if he believed in the human value of a particular program. For example, PERKINS forged ahead to help create Federal education, employment and antipoverty programs, despite the constant attacks on these programs by this administration. It was his commitment to improving the quality of education that led Congress to pass, nearly two decades ago, the first major Federal program of aid to elementary and secondary schools.

Mr. Speaker, I know this Congress mourns the passing of one of its great leaders. I share the sadness of this Congress, and extend my sympathy to Verna Perkins, CARL'S wife, and his family and friends.

As chairman of the Subcommittee on Select Education, I developed a great deal of admiration and respect for CARL PERKIN'S work in improving the lives of handicapped adults and children. Chairman PERKINS was dedicated to the cause of protecting the rights of our disabled individuals.

Chairman PERKINS had been a major contributor to the growth and improvement of the National Vocational Rehabilitation Program through his legislative activities. The following list contains just a few of Chairman PERKINS' outstanding achievements:

First, in 1968, Chairman PERKINS was the principal sponsor of legislation which became Public Law 91-61, which provided for a National Center on Educational Media, and materials for the handicapped.

Second, in 1971, Chairman PERKINS was the principal sponsor of a bill to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation service and other purposes. The bill which passed Congress on October 14, 1972, was vetoed by the President. On May 23, 1973, Chairman PERKINS sponsored a bill similar to the previous bills which was signed into law by the President.

Third, in 1974, Chairman PERKINS was one of four cosponsors of the bill which led to Public Law 93-516 which: extended authorization of appropriations in the Rehabilitation Act of 1973 for 1 year and transferred the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare; amended and strenthened the Randolph-Sheppard act for the blind; and provided for a White House conference of handicapped individuals.

Fourth, through his efforts as chairman of the Education and Labor Committee, the 1978 Amendments to the Rehabilitation Act added new programs to expand employment opportunities and a new and innovative program was established to promote independent living of persons with severe disabilities.

As a member of the Education and Labor Committee throughout his 18 terms and as the chairman of the committee since 1967, CARL PERKINS had been an active participant in the struggle for the rights of disabled individuals. He has proven to be one of the strongest allies of Vocational Rehabilitation Services during the 1981 battle to prevent the inclusion of rehabilitation programs in a proposed block grant. He was essential to the successful vote to maintain the Vocational Rehabilitation Program as a separate and identifiable entity.

Chairman PERKINS' invaluable leadership helped promote and expand vital programs for our Nation's handicapped and disadvantaged. The effective and creative leadership of Chairman PERKINS will be missed by this Congress, and the American people. CARL PERKINS' deep concern for the dignity of those who suffer in our society, and his determination to alleviate this suffering, will continue to inspire us to protect and preserve the fundamental rights and protections of our most vulnerable citizens.●

● Mr. WEISS. Mr. Speaker, the Congress is lesser today with the passing of Congressman CARL D. PERKINS.

CARL PERKINS was a man of wisdom, skill, and compassion. As a former member of the Education and Labor Committee, I quickly came to admire and respect this slow-talking, unobtrusive Kentuckian as a shrewd and effective legislator who remained unswervingly devoted to the highest principles.

But it is not only the Congress that has suffered with his passing. The people of Kentucky have lost a friend who rose from their ranks and who always remained committed to their needs and their views. And students, workers, and poor people across America have lost an invaluable ally who stood for them when others would not.

Under the leadership of CARL PERKINS, the Education and Labor Committee produced some of the most important and far-reaching social legislation this country has ever known. Less than a year after assuming the committee chairmanship in 1967, he shepherded President Johnson's antipoverty program through the House without major alteration. His other important successes included the Vocational Education Act of 1965 and the Appalachian Regional Development Act of 1965. Millions of Americans have directly benefited from his work, including coal miners with black lung disease, lower- and middle-income college students, Social Security and medicare beneficiaries, and children who participate in school feeding programs.

During the first years of the Reagan administration, CARL PERKINS saw many of his most important achievements offered up as sacrifices on the budget-cutting altar. I shared his sense of frustration and outrage as the progressive achievements of many years suffered devastating cutbacks that resulted in nothing but misery and hardship, and I joined him in his attempts to salvage and rebuild these programs into what they were meant to be. With the passing of CARL PERKINS, the cause of compassion and fairness has been deeply wounded.

On this sad occasion, I wish to express my profound sorrow at the loss of my cherished colleague and to extend my deepest sympathies to the family, friends, and constituents of CARL D. PERKINS.●

● Mr. HARRISON, Mr. Speaker, last month the board of the Association of Urban Universities received a report from its Washington director, Jim Harrison, entitled "Crossing Troublesome Creek." That report was in the nature of a eulogy for our departed colleague, CARL D. PERKINS. It merits inclusion in today's RECORD for its insight into the late great chairman:

CROSSING TROUBLESOME CREEK

As I am sure most of you have heard by now, Carl Dewey Perkins, Member of Congress from the 7th District of Kentucky, and 17 years Chairman of the House Committee on Education and Labor, died on August 3rd.

The commonplace observation will be that education, or labor, or the people of the Kentucky hills, or the coal miners have lost a friend. And all these commonplaces will be accurate. The sophisticated observer of the Congressional scene will supplement those observations by remarking on Carl Perkins' "shrewd use of parliamentary procedure" or his "seniority-based influence" to explain his monumental record of legislative accomplishment. I hope that those who, as I do, love Carl Perkins and will honor his memory forever, will not take it amiss if I suggest that those journalistic shortcuts are mostly nonsense.

Carl Perkins was not a student of the minutiae of parliamentary procedure, (though he knew well how the House functioned), nor was his unquestioned influence engendered by some kind of unthinking respect for seniority (though only two other present Members of the House have served the House longer than he).

No, when Carl Perkins won a legislative battle against the odds, when he whipped an unfriendly Administration, insolent bureaucrats and tough and sophisticated pressure groups (and he did all of that a lot), he unually did so because he was usually right!

One of my fondest memories of Carl Perkins, as a parliamentarian, was that of a full Committee markup some years ago on a Black Lung bill. The chairman had moved an amendment to make it easier for those suffering from black lung to demonstrate that a lifetime spent in the bowels of the Kentucky earth had some connection with the shortness of their breath—and their lives.

One of Mr. Perkins' distinguished colleagues, opposed to the amendment, made a very eloquent, a very learned and, to be honest about it, a logically and legally impeccable argument that the amendments were out of order. Mr. Perkins presided over the discussion with the gentle patience and good humor which were his trademark. He offered no parliamentary rebuttal, probably because there was none. He had made his case earlier on the facts of the tormented lives black lung sufferers know.

When his colleague ended listing the citations, analyzing the precedents and quoting the cases, Chairman Perkins simply said "The gentleman may well be right. Is there objection to the adoption of my amendments?"

There was none, of course. In the silence that ensued, as the Chairman waited patiently for objection, it became perfectly clear that no one could bring himself to fight against Carl Perkins' compassion for the dying on the basis of parliamentary considerations alone.

Similar, perhaps less well encapsulated stories can be told about Carl Perkins' lifelong effort to bring education to the educationally deprived, school lunches to hungry children, student assistance to those for whom college had never been even a dream, safety in the mines and construction sites and—the list is long and moving. He did what he needed to do to accomplish what a nation needed to have done.

Another commonplace I have noticed in the obituaries is that much of what Carl Perkins did is "no longer fashionable". Unfashionable may be the mot juste, but it was a never a word to bother Carl Perkins. Those whose compassion begins and ends with the tax returns of the very-well-to-do may find a concern for the necessitous and a penchant for wearing white socks and brown shoes on the House floor to be equally unfashionable. And those gentlemen may well be right. But the Recording Angel will probably spend more time looking at the statute books than at Carl's socks.

There are two kinds of legislators—and we need both of them. There are those—you know some of them—who will appeal convincingly to your intellect, jabbing their index finger into your chest as they make each statistically unassailable point. And there are those who will fold you in one great arm, hugging you to their great heart, while simply relying on your sense of decency. The world's intellect often needs to be prodded by the jabbers. But enough can be enough. In the long run, it is the huggers who do the great things. In the long run, they are irresistible.

I have tried, in these pages, to sum up a man who defies summation. Could it be that he was just not complex enough to be easily characterized and filed away? Perhaps the closest anyone has come to a definitive statement came from one of his neighbors back home.

Carl was buried just across Troublesome Creek, in Knott County, Kentucky. Hundreds of his colleagues, political figures whose lives had touched his, labor leaders, educators, and the people of the hills came to the funeral. It was, according to the Troublesome Creek Times, the biggest such event in Knott County history. The front pages and editorial pages of the Troublesome Creek Times were filled with the usual quotes from the usual notables. But in the back pages, where for years, Bertha Gayheart and Daisy Hall and Martha Baldridge have reported about the lives of their neighbors in Garner and Beaver Creek and Caney and Red Fox and Mousie, they all paused among their account of the births and deaths and church socials, to comment on how their neighborhoods were affected by Carl's life.

Bertha Gayheart said this: "Carl was raised poor just like the rest of us, but he never got above his raising." In the press galleries and cocktail parties, this could be taken as a put-down. God knows it was not.●

● Mr. RANGEL. Mr. Speaker, our dear friend, CARL PERKINS, was truly a stalwart and distinguished Member of our House of Representatives. His leadership of the House Committee on Education and Labor for the past 17 years enabled the House to pass some of the most valuable social legislation of this century. His efforts on behalf

of the homeless, the poor, and the disadvantaged served to benefit all Americans. And his valuable contributions stand as a hallmark of how much can be achieved by hard work and sheer determination.

He was a big man, both in body and spirit. And he was an ally to all who would address the concerns and needs of the less fortunate among us. He represented his district as well as any Member of Congress, and he stayed in touch with those he so ably represented.

Mr. Speaker, CARL PERKINS' legacy was one of progress and hope. We can give no greater tribute to him than to pursue most diligently those principles that he so vividly etched for us in this House.●

● Mr. JACOBS. Mr. Speaker, in doing this tribute to our dearly departed colleague, CARL PERKINS, BILL NATCHER does honor to this House and one of its historic giants.

CARL PERKINS began his congressional service in 1949 when my father, Andrew Jacobs, Sr., came to Congress. CARL and my father became friends forever. And CARL was like a father to me when I arrived in 1965.

When the Federal programs which reflected the best instincts of all Americans were under forceful attack early in this decade, CARL kept the faith and stood at the bridge to defend them.

Generations yet unborn will be in CARL's debt as they live in an ever-better America because of his vision of education and therefore liberty and justice for all.

He was a friend of mine. And I hurt at his loss.●

● Mr. KASTENMEIER. Mr. Speaker, I firmly believe that every governmental body, every organization, every collection of people brought together for a specific purpose, needs individuals who are there to remind them that, above all, one must not forget basic human values in making decisions.

This governmental body lost such an individual when we lost CARL PERKINS last month.

The Congress of the United States, I suspect like legislative bodies everywhere, deals mainly in the abstract. We deal with blueprints for programs, statistics to verify needs, and hope that somehow our vision is ultimately vindicated by the results of the programs we enact.

CARL PERKINS was unique. The abstract, for him, was of least concern. His focus was always on people—children who go to bed hungry at night, coal miners crippled by black lung disease, working families suffering as a result of unemployment, the youth of our country who deserve the best possible education we can provide them.

This has been particularly evident in the past 4 years as he fought relentlessly as chairman of the Education and Labor Committee, to preserve programs targeted for serious reductions or total extinction. Programs to feed children, to help provide a college education for millions of young people, jobs programs for the millions unemployed as a result of economic policies of the past 4 years. His persistence and dedication to those human values which he so cherished, played an enormous role in reversing some of the cuts of recent years in these programs and warding off even further reductions in other programs.

For this special man very little was abstract; virtually everything took on a very personal meaning.

I recall this characteristic when dealing with him back in 1978 on the matter of adding the city of Ashland in his congressional district as an additional place of holding Federal court in the eastern district of Kentucky. The Judiciary Subcommittee on Courts, which I chair, has jurisdiction over authorizing new places for holding court.

It is common practice for the staffs of subcommittees to work closely with the staffs of the particular Member of Congress whose district is potentially affected by legislation. It is also common practice for the Member of Congress to make contact with the subcommittee chairman to express personal interest in the legislation. But, CARL PERKINS was not a common man insofar as representing the needs of his constituents.

My subcommittee staff relates the instance whereby one morning a tall, lanky gentleman came into the subcommittee office, asked for the staff person handling the court reorganization bill, walked over, sat down at that person's desk, who at first did not recognize the gentleman from Kentucky, and patiently waited until he finished a lengthy phone call. In a most unassuming, but persuasive manner, he made his case and ultimately the addition was made in the final bill. In this personal manner, without pretense, CARL PERKINS served as a quiet giant in the House of Representatives.

Mr. Speaker, this quiet, but forceful voice for social justice has been silenced. But CARL PERKINS left behind a legacy of programs for the poor, disadvantaged, children, working families, and countless others for whom he worked so hard that will live as testament to his kind heart and strength as a legislator.

My sympathies are extended to his family. We will miss CARL PERKINS.●

● Mr. HAWKINS. Mr. Speaker, I want to express my profound satisfaction with the passage of the House Talented Teacher Act, which will encourage and inspire students to pursue a teaching career and to keep talented teachers in the profession.

I am especially pleased that the scholarship program will be named after our great colleague, CARL PERKINS, whose untimely death was a shock to all of us. CARL PERKINS leadership on the Education and Labor Committee opened the way for significant and lasting opportunities for our Nation's citizens. He was continually seeking to make America a better place for all Americans, and consistently and tirelessly sought alternatives to the social and economic deprivations experienced by those who at times were leaderless and friendless.

Among CARL PERKINS' legislative triumphs were landmark measures such as the Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965 and the provision for black-lung benefits in the Coal Mine Health and Safety Act of 1969.

He helped to spearhead Lyndon B. Johnson's war on poverty and took on the task of eradicating human conditions of illiteracy, malnutrition, and joblessness. He revered the words of John F. Kennedy that "a child miseducated, is a child lost" and set into motion a number of sweeping education measures to combat ignorance and poverty.

CARL PERKINS left this Nation a treasured legacy—one which we will continue to honor in his memory.

● Mr. BONKER. Mr. Speaker, the news of CARL PERKINS' passing comes as sad news to me personally, and it is a heavy loss for this House, the people of Kentucky and the Nation as a whole.

Chairman PERKINS will be remembered as a truly great Member of the U.S. Congress. He leaves behind a legacy of social, educational, health, and job-training programs, many of which he personally authored in his 16 years as chairman of the House Education and Labor Committee.

His personal gifts will be sorely missed as well. CARL PERKINS was a tough, formidable chairman, but he was also fair-minded, compassionate and a deeply principled man. Everyone in the House loved and respected the gentleman from Kentucky.

Recently, I had the privilege of working side by side with Chairman PERKINS to enact equal access legislation to protect high school students' free speech rights, particularly in the area of religious speech. Without the tenacity, faith and near genius leadership of CARL PERKINS, this measure would never have become law.

On the week he died, I wrote to Chairman PERKINS to express my appreciation for his work on the equal access bill. Here is what I said:

> All of us who believed in equal access are indebted to you, Mr. Chairman, for your tenacity and adroit handling of the issue. There is simply no way this proposal could make it to the President's desk without your faith and unrelenting efforts.

I am personally grateful for the occasion to work closely with you. Having seen a master at work, I am much wiser of the ways of the House than before.

CARL PERKINS possessed the energy and enthusiasm of a new Member while displaying the shrewdness and authority of his 36 years in Congress. His work of 2 weeks was a testimony to his effectiveness. He won passage of the equal access measure, steered legislation through the House to preserve many critical education programs, secured $1 billion to boost math and science education, and was actively involved in the complex floor battle over school prayer.

As so often is the case when someone close has died, I regret not having taken the initiative to tell CARL PERKINS how much I appreciated him as a colleague an as a friend. Hopefully he knew and understood how many of us felt about him. We in the House and the American people are far richer for his many years of distinguished public service.●

● Mr. RAHALL. Mr. Speaker, from the time I came to the House of Representatives in 1977, I valued CARL PERKINS as one of my closest friends and advisors. We shared similar congressional districts, even though they were in two different States, that produced one of the world's greatest resources—coal.

The coal miners of Kentucky and West Virginia have always held a special place in their hearts for CARL PERKINS, for he was the man who fought and won for them compensation and protection from the chief hazard of their profession, black lung disease.

I am honored to have joined CARL PERKINS in his fight, because we both knew of the horrible effect this disease could have on these brave individuals. But it was not the only fight CARL PERKINS waged.

As chairman of the House Education and Labor Committee, CARL PERKINS held firm against budget cuts, regulatory redtape, and nearly every other attempt of various administrations to gut valuable social programs. He carried out this task as a labor of love, because he knew he was serving not only his constituents, but people all over this great land who needed someone to take up their cause, and CARL PERKINS did it with delight.

To show the depth of love and respect the people of West Virginia for their neighbor, I would like to share with my colleagues an editorial that appeared in the Huntington, WV, Herald Dispatch, on the day of CARL PERKINS' funeral:

CARL PERKINS NEVER STOPPED WORKING FOR FOLKS BACK HOME

Funeral services will be conducted today for a Kentucky legend—Rep. Carl D. Perkins.

The 71-year-old Hindman, Ky., native, who died Friday, had served in the House for 36 years, making him one of that body's most senior members. But despite his long tenure on Capitol Hill, he never forgot his Kentucky roots—and never stopped working for the people he represented.

As Kentucky Gov. Martha Layne Collins has said, his strength "was that the people he represented always came first. He never sought headlines. He remained unassuming. He retained the ways of his native Hindman."

Born Oct. 15, 1912, Perkins was first elected to Congress in 1948 after twice serving as county attorney in Knott County and in the Kentucky House of Representatives. But it was with his appointment as chairman of the House Education and Labor Committee in 1967 that he truly came into his own.

As chairman of that key committee from the liberal spending days of Lyndon Johnson through the belt-cinching years of Ronald Reagan, Perkins authored legislation designed to bring improved education, job training and medical care to poverty-stricken Eastern Kentucky. Much of that legislation eventually became national in scope.

The Vocational Education Act of 1963, the Secondary Education Act of 1967 and the Coal Mine Health and Safety Act of 1969 are but three of the landmark bills that Perkins pushed to enactment.

Perkins was stricken by a heart attack Friday while flying from Washington to Kentucky. The trip was a typical one for him—a visit to a mountain school at Blackey, Ky. As an aide explained: "There is a little school up there and they were having a ceremony of some kind and wanted the congressman to attend. It was nothing formal but he wanted to go by and visit them."

That was the kind of congressman Carl Perkins was. And that's why he will be sorely missed.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, CARL PERKINS was certainly a man who truly believed that Government could help people obtain the American dream, and he made that dream a reality by making Government work.

From the School Lunch Program, to providing education for the disadvantaged and assistance for those seeking higher education, CARL PERKINS and the work he did as a member and chairman of the Education and Labor Committee touched literally hundreds of thousands of lives.

As author of the Elementary and Secondary Education Act and the Vocational Education Act, CARL PERKINS' efforts have enabled millions of young Americans from disadvantaged areas to obtain useful educations.

Most recently, Congress approved legislation authorizing scholarships—named in honor of CARL PERKINS—to draw bright students into teaching and to keep good teachers in the profession.

His commitment to our Nation's coal miners was evidenced through his authorship of Federal black lung legislation which enables coal miners who have sacrificed their health to receive just compensation.

Mr. Speaker, all of our colleagues are aware of CARL PERKINS' contribution to this body which strengthened our Nation's commitment to the disadvantaged and disabled. But I have a great personal affection for the man, who when I arrived in Washington, took the time to guide me through the intricacies of the legislative process.

CARL PERKINS will be missed by everyone who looks toward Congress as a body of compassion and good will, by our colleagues who value leadership and understanding, and by those whose lives CARL PERKINS touched as a man, a legislator, and a friend.●

● Mr. CHAPPELL. Mr. Speaker, I commend the gentleman from Kentucky [Mr. NATCHER], for calling this special order to honor our dear late colleague, CARL PERKINS.

CARL was truly a giant of the House of Representatives. He came from Kentucky to this body in 1949, as part of a great class of freshmen that included my good friend from Florida, CHARLIE BENNETT, the chairman of the Judiciary Committee, PETER RODINO, and Clem Zablocki, the chairman of the House Foreign Affairs Committee who passed away less than a year ago. In this class of outstanding freshmen who went on to greatness, CARL stood out for his leadership as chairman of the Education and Labor Committee over the last 17 years. Most Federal programs in the areas of education and labor today bear witness to his strong concern for children and working men and women.

As chairman, CARL PERKINS was instrumental in managing many of President Johnson's antipoverty initiatives on the floor of the House. These programs were vital to the well-being of the people in CARL's district, located in the mountains of eastern Kentucky. His constituents were mindful of this, and since 1968 he received over 70 percent of the vote in every election but one.

CARL recently received widespread attention for his instrumental role in congressional passage of the equal access bill. I know it was not easy for him to buck the leadership on this issue; CARL had learned the value of party unity from Sam Rayburn. However, he felt that the issue of allowing student religious groups the same right to gather as other student groups was important enough for him to take this step, and the Equal Access Act, which has been signed into law, is a monument to CARL PERKINS' legislative skills and his common sense approach to Government.

Finally, I would like to say in closing that I feel a deep sense of personal loss over the death of CARL PERKINS. Having served together since 1969, I was deeply saddened and shocked to learn of his passing. Incidentally, CARL and I shared a strong love for horses; his home State of Kentucky being prime horse country, as is the Marion County region of Florida in which I

was born and raised. We often discussed this topic during quiet moments on the House floor, and I felt a special kinship with him.

CARL was always a pleasant, amiable man with a kind word for everyone, and I know that I speak for my colleagues, past and present, when I say that we all benefited from his friendship. My sympathies go out to CARL's widow, Verna, and his son, State Representative Chris Perkins, who has been nominated to succeed him. Our condolences must especially go to the good people of eastern Kentucky, who have been deprived of his outstanding representation in Congress, and to the students and workers of all the United States, who have lost a great champion.

I thank the gentleman for permitting me this opportunity to pay tribute to CARL PERKINS, and I appreciate his calling this special order.●

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from Kentucky and chairman of the House Labor, HHS, Education Appropriations Subcommittee, Mr. NATCHER, for reserving this time to pay tribute to our colleague, the late Chairman CARL D. PERKINS. Mr. Speaker, I was shocked and saddened to learn of the passing of CARL PERKINS on August 3. With his death, this House and this Nation lost a great leader and a good friend.

Upon learning of CARL's death, I thought a great deal about his career in public service which spanned over four decades. I know that Members of both sides of the aisle will agree that CARL PERKINS was truly a great statesman.

Since his first election to the House of Representatives in 1948, CARL D. PERKINS worked vigorously to strengthen this Nation and particularly its disadvantaged citizens. Most of the great society programs, antipoverty programs, and job training programs such as the Humphrey-Hawkins bill would not have been enacted if it had not been for CARL PERKINS. For that, the American people and the people of the Seventh District of Kentucky have much to be proud and thankful.

Mr. Speaker, when I first came to the Congress, my initial committee assignment was on the House Education and Labor Committee. CARL PERKINS was chairman of the committee. Although I served on the committee for only 2 years, I had a firsthand opportunity to get to know CARL PERKINS. As a result of that association, I formulated a high regard for CARL's legislative ability. Moreover, Mr. Speaker, I developed a deep sense of respect for CARL's compassion and commitment to the American people.

After I left the committee, I still had the occasion to make appearances before Chairman PERKINS and the Committee on Education legislation which I sponsored. I also appeared before the committee, on many occasions, to introduce my former superintendent of schools, Dr. Bridges. Each time, CARL PERKINS was courteous, considerate, and patient.

He was that kind of individual. He was always concerned about his fellow man whether they resided in his home of Hindman, KY, or walked the streets of any city of America.

Through the years, my respect and admiration for CARL grew. I know that many of my colleagues share that assessment of CARL.

I will miss his compassion and dedication to the Congress, to America, and to the people. At this time, I send my condolences to his family and his constituents.

Again, thank you Mr. Speaker and Mr. NATCHER for allowing me to join in this tribute to my friend, the late CARL D. PERKINS.●

● Mrs. BURTON of California. Mr. Speaker, I would like to join my colleagues in paying tribute to CARL PERKINS.

CARL and I were friends for many years before I came to Congress and he was my subcommittee and full committee chairman over the past year. My husband Phillip served with CARL on the Education and Labor Committee for almost 20 years.

As a legislator, he had few equals. His record of achievement in education is historic; his commitment to education was strong long before it became the latest political trend.

CARL PERKINS was champion of the powerless—he used his influence and power for those who had little of their own. His mighty ambition was to ensure that these people worked in safe places, that they had adequate nutrition, and that they had good schools for their children. Millions of families throughout this country live better lives because of his work.

This body will miss him. We look forward to his son, Chris, carrying on his fine tradition in the House.●

● Mr. CARR. Mr. Speaker, I am truly saddened over the passing of our friend and colleague CARL D. PERKINS. He was a good man, a fine and able Congressman, and truly a man of the people from the rolling hills of Kentucky. His life was dedicated to the belief that government should be a positive force reaching out to help the less fortunate in our society. The great improvement in the quality of the lives of the people in the Seventh District of Kentucky is a monument to his achievements.

Millions of Americans have benefited enormously from CARL PERKINS' efforts on their behalf. Students from disadvantaged areas have gained a valuable education, and been given the means to better themselves, by the 1963 Vocational Education Act and the 1965 Elementary and Secondary Education Act. CARL PERKINS wrote and played an instrumental role in the passage of both of these acts. He had a strong commitment to the goal of improved educational opportunities for all Americans and great strides were made under his leadership.

Education was not the only area where CARL PERKINS worked to help those in need. Coal miners in Kentucky and elsewhere across the Nation who suffer from black lung disease now receive deserved compensation, largely thanks to CARL PERKINS. The Johnson administration's War on Poverty programs were passed under his guiding hand. Always a man of principle, he was 1 of only 11 Southern Democrats in the House to vote for the Civil Rights Act of 1964. In this and so many other ways, CARL PERKINS demonstrated what a great man he was. I have nothing but praise for him, and we are much the poorer for his absence.

I wish to express my sincere condolences to his family and to his wife Verna. He will be missed by all of us.●

● Mr. LONG of Louisiana. Mr. Speaker, during his 35 years as a Member of the U.S. House of Representatives, CARL D. PERKINS served a constituency far broader than his own. His eastern Kentucky mountain district strengthened the Nation by providing an effective spokesman and tireless worker for the poor, the old and disabled, the educationally deprived, the hungry, and those whom the economic system left behind.

He was born and brought up among the poor. Although a long career of distinguished public service brought him many honors and gained him wide recognition in the world, CARL shunned the trendy sophistication of the hour. He held fast the simple beliefs and direct action of his heritage.

CARL PERKINS was an early advocate of Federal aid to education, a position spurred by his firsthand knowledge that the children of the poor were triply handicapped by inadequate schools, poor nutrition, and limited career opportunities. After years of stalemate in a hostile Congress, CARL finally prevailed when the landmark Elementary and Secondary Education Act was signed into law in 1965. Also, he sponsored the Vocational Education Act of 1963 which expanded and unified prior Federal programs in that field. And 5 years later, he steered to passage the 1968 amendments which authorized Federal support for vocational education on a scale never before thought possible. His long-fought-for Adult Basic Education Act became law in 1964.

CARL was an early and enthusiastic supporter of President Lyndon Johnson's War on Poverty and a key sponsor of the Economic Opportunity Act

of 1964. During the early years of the Office of Economic Opportunity's efforts to stimulate jobs, training, health care, and organization of the underprivileged of society, CARL was the agency's champion in the House. Some of the more conservative interests of the House and of the country were unnerved by OEO's success, and the agency was threatened with extinction when it came up for reauthorization in 1967. CARL worked endless hours during the first months of his chairmanship of the Education and Labor Committee and glued together a successful coalition that astounded OEO's friends as well as its enemies.

When the Nixon administration came to power in 1969 with the announced intention of dismantling the antipoverty program, it was the silhouette of CARL PERKINS that appeared on the battlements to rally the troops and wave the banner of the poor against the attack.

CARL's advocacy and strong leadership in enacting student aid legislation made it possible for thousands of poor young people to attend college and move on to successful, contributing careers.

He is recognized throughout the Nation for his work in support of child nutrition and school feeding programs which immensely benefitted poor children.

He has been a strong force for area development legislation which he viewed as a tool to provide jobs, decent public facilities, and an end to the isolation that weighs so heavily upon poor people.

Because he has seen hundreds of coal miners in his native Appalachia sicken and die with pulmonary diseases induced by coal dust in the work place, CARL wrote and literally hammered to passage the black lung benefits provision of the Coal Mine Health and Safety Act of 1969. He thereby brought recompense to thousands of American miners and their families for whom industrial disability would have meant the end of income and the rapid descent into poverty and want.

There is no way to adequately reiterate the accomplishments of CARL D. PERKINS. But his eminent role in the Congress is very clear: The No. 1 public servant of the poor.●

● Mr. KINDNESS. Mr. Speaker, the death of our colleague, CARL D. PERKINS, is an inestimable loss to the Congress of the United States. There are no words to describe the breadth of his influence in this Chamber.

CARL PERKINS will be remembered as a friend of the working man and a friend of education; but his devotion to the people of eastern Kentucky, to the people of his country, and to the institutions which protect our freedom reached far beyond the interests of any specific constituency. Among the many men and women who have served so well in this body, he was truly a giant.

Many of CARL's constituents were descended from the settlers who came to Kentucky with Daniel Boone, and everything about CARL, from his soft voice to his perpetual grin, reflected his mountain heritage. Is it any surprise that he was a major figure, a pioneer, in the fields of education, social services, and labor?

The many laws and programs that bear his imprint will assure that CARL PERKINS will not be forgotten. But those of us who were privileged to serve with him will not only remember his accomplishments, we will remember his friendship as well. CARL was determined and tenacious, but he was also gentle and kind.

CARL PERKINS was the embodiment of all that is honorable and upright in public service.●

● Mr. FUQUA. Mr. Speaker, it was with great shock and sadness that I learned of the passing of our colleague, the Honorable CARL PERKINS on August 3, 1984. CARL PERKINS was both a personal friend and a friend of the Committee on Science and Technology. He was a man of unswerving integrity and of dedication to the programs in which he believed whether or not they were in fashion with an administration. There never has been and may never be again a more knowledgeable and articulate spokesman for Federal education programs. In his 17 years as chairman of the Committee on Education and Labor he did as much as anyone to invent and fashion the current Federal role in education. He was a leader in the development of employment and antipoverty legislation and a strong advocate for the use of coal. Those of us who survive him have lost a mentor and a legislative force to be reckoned with. The fact that he did not have a serious challenger in almost 30 years in a bipartisan State says much about the respect and admiration that Representative PERKINS enjoyed both at home in Kentucky and here in the Nation's capitol.

We on the Committee on Science and Technology were honored to work with Representative PERKINS many times over the years on matters of lasting importance. I remember with gratitude in the early 1970's Congressman PERKINS' effort to help launch a synthetic fuels industry. He was cosponsor with our great former chairman, Olin Teague, in the 93d Congress of the first serious effort to establish loan guarantee programs for new technologies using our vast coal resources. Representative PERKINS supported these programs with equal tenacity during the early years when the technologies were emerging into public awareness, during their popular years when they were touted as the primary answer to our energy problems of the future, and in the latter years when they had lost some of their popularity. CARL PERKINS had been around Washington long enough to know what he believed in and he stuck to his guns.

He also exerted strong leadership in those problems directly affecting his district, coal mining health and safety, and flood control. When he came to Congress there was no Federal legislation on health, and only very limited requirements for mine safety. He was among the first to push for stronger coal mine health and safety legislation, and worked very hard in the 1970's to assure that the legislation then on the books was implemented for coal miners and their families.

He was well aware of the enormous benefits of proper flood control in the area of eastern Kentucky which was plagued by floods. Through his unrelenting efforts the Tug Fork River and others along the Big Sandy were dammed. As a result, millions of dollars in property losses did not occur and many lives have been saved.

It also has been a great pleasure over the years to work with CARL PERKINS in an area of crucial importance to both of us, scientific and technical education. For these programs, Representative PERKINS' last year was one of his most effective. He was a moving force behind the recently enacted legislation to boost the quality of math and science curricula and teacher training that were considered both by the Education and Labor Committee and the Committee on Science and Technology. He is the father of this year's vocational education amendments that will make sure that the Nation's vocational schools participate fully in the current technological revolution. He also was a prime mover behind the computer literacy bill which may soon be considered on the floor of the House of Representatives. We can all be grateful that this work was well underway before Representative PERKINS was taken from us.

Mr. Speaker, as you and I well know from years of firsthand experience, CARL PERKINS was one of the true giants of the House of Representatives and he is sorely missed by those of us who knew and respected him.●

● Mr. SAM B. HALL, JR. Mr. Speaker, for over 35 years our dear friend and cherished colleague, CARL PERKINS, was an imposing figure in the Congress. His name is synonymous with landmark social legislation that has had a monumental impact on the body politic. His success as a legislator is legend, and an incredible amount of statutes bear his name as author.

When CARL PERKINS departed this life he was in the process of doing what he had done for 35 years; namely, returning to eastern Kentucky to meet with his friends and constituents. He loved the people of eastern Kentucky and he fought tena-

ciously for them. His people loved him too, and the proof is found in the overwhelming majority he received every other November at election time.

CARL PERKINS was the epitome of the Kentucky gentleman. He was courtly, generous, and kind. As he moved about the Halls of Congress, no one was a stranger to him. He knew no class or priority of class. He was an egalitarian in the classic sense, a man who loved democracy, preached democracy, and practiced democracy.

As I pointed out, so much legislation bears his name until a recapitulation would be almost impossible. He awakened the Nation to the plight of the poor. He fought for the working men and women. He believed in education, quality education and universal education for all our citizens, and again, far-reaching, landmark educational measures bear his name and his genius. In short, he knew how to legislate, and when the future historian writes the utimate handbook on how to legislate that historian can use CARL PERKINS as his role model.

Kentucky, the Nation, and Congress will sorely miss CARL PERKINS. He was a giant of a man, the kind of man that can only be produced by a free society that places ultimate value on the wealth and dignity of its citizens. He excelled in every aspect of citizenry and public service—a combat soldier, elected official, community leader, family man and a person of deep and abiding faith in the Almighty.

Mr. Speaker, the CARL PERKINS kind of man is not easily replaced, and in the months and years ahead, we'll all realize this more and more. We've lost a great friend, and I for one will cherish his memory.●

● Mr. NICHOLS. Mr. Speaker, I would like to thank Bill Natcher for this opportunity for Members of Congress to say good words about our friend CARL PERKINS.

Good words are all I know to say about CARL PERKINS, because he was that sort of Congressman. Whether you agreed with him or not he never lost his temper in dealing with his colleagues on the floor.

CARL had special feelings, special love, and special devotion for the people he represented in the great State of Kentucky. He was especially mindful of those individuals throughout America, through no fault of their own, were not privileged to get an education, and he spoke for them continuously in the Halls of Congress.

I was not privileged to attend his funeral because of other commitments, but I understand there was a tremendous outpouring of affection from all walks of life, and that the numbers were so large that many had to stand on the outside.

Mr. Speaker, poets have written, "lives of great men all remind us, we too can make our lives sublime and departing leave behind us footprints on the sands of time." CARL PERKINS left footprints—great footprints—deeply imprinted on the hearts and lives of those of all races, creeds, and colors, who because of his untiring efforts, received a better education and a better place to live. He did all of these things because CARL PERKINS cared. I extend my deepest sympathy to his entire family in their time of need.●

● Mr. RUSSO. Mr. Speaker, the sudden death of Congressman CARL PERKINS is a great loss to us all. This fine gentleman and highly respected Congressman for over 35 years served his constitutents, his State, and his country with wisdom and unflagging commitment to his work as a representative of the people. It's hard to believe he won't be here anymore, to guide us, inspire us, and demonstrate the finest skills of legislative work.

Someone once said that there is no outward sign of true courtesy that does not rest on a deep moral foundation. Representative PERKINS' courtesy indeed came from the heart, and it was a pleasure to know him and be the recipient of his kindness and consideration. In his personal relationships and in his work he always acted with respect for the opinions and feelings of others and this served him as well as the process well.

He will be greatly missed, but he leaves behind a rich legacy of legislation that benefited many and will serve as a lasting memorial to this good man.●

● Mr. SEIBERLING. Mr. Speaker, I rise today to pay tribute to an outstanding Member of Congress and a good personal friend, the late CARL D. PERKINS.

CARL PERKINS devoted most of his professional life to improving education in this country. Few Congressmen have had a greater impact on their colleagues and this Nation. As dean of the Kentucky delegation, and as chairman of the Education and Labor Committee since 1967, CARL PERKINS was the driving force behind Federal aid to education and to students. His legislative accomplishments are well known. He was the author of the landmark Elementary and Secondary Education Act of 1965 and the Vocational Education Act of 1963. He was an outspoken advocate of student aid programs, including Federal scholarships, work-study, and student loans. In 1978, he engineered passage of the Middle Income Student Assistance Act which for the first time extended Federal education benefits to students from middle income families. And he was the primary founder and a fierce supporter of the School Lunch Program. If anyone in Congress deserves the title of "Mr. Education," it is CARL PERKINS.

Early this year, CARL accompanied me back to my district, where he met with educational leaders, parents, students, and others interested in education issues. Through similar discussions around the country, Congressman PERKINS kept in touch with the concerns and needs of the people most directly affected by the decisions we make here in Congress. He always spoke up for providing educational opportunities to the poor and disadvantaged so that they could improve their chances of sharing in the "American Dream." He never forgot the people whom he was elected to serve.

In addition to his many professional achievements, he was a compassionate, genuine, unpretentious, warm, and sympathetic person. He was a close friend and an admired colleague. With his death, this Nation lost a great Member of Congress and an outstanding human being. It is a privilege to join with so many colleagues in honoring this humble, great man.●

● Mr. WHITTEN. Mr. Speaker, I can add little to the many, many fine statements made about our late friend and colleague, CARL PERKINS of Kentucky. I merely say that I concur with those statements and when the record is written of the thousands of Members of Congress, CARL PERKINS will stand out as one of the most effective Members; one who never lost sight of the people he represented nor of the rightness of his position as their spokesman.

CARL leaves a deep imprint on our country and thousands of people are better off because of his service.

We extend to his family our sympathy and understanding. We have lost a friend and the country has lost a great man.●

● Mr. DINGELL. Mr. Speaker, I rise to express my great sadness at the loss of our great colleague, CARL PERKINS of Kentucky. I want to thank my good friend from Kentucky, Mr. NATCHER, for arranging this special order; there is no Member and no chairman more deserving of the thoughts expressed by our colleagues than CARL.

Ever since I first came to Congress nearly 30 years ago, CARL PERKINS served as a model for me and for other Members of this House. He was always honest, always honorable and always caring.

CARL PERKINS worked unstintingly for Americans in need. The list of his legislative accomplishments is extremely long, and I must say that his view of what our Federal Government should do for our people was invariably consistent with my own.

CARL PERKINS believed, deep in his heart, that there is a covenant between our Government and our people, that there is a faith which must be kept.

In education, in workplace safety and workers' health and compensation, in black lung benefits, and in

hoards of other areas, CARL PERKINS acted on his beliefs. More, of course, he acted fairly and successfully. Over the years, I should add, CARL PERKINS assembled a superb staff who shared completely his sense of fairness and his vision for our country.

CARL PERKINS was a great Member of Congress and a great committee chairman. More than that, he was a great American. I will miss him, and want to express my deepest sympathy to his family, for I grieve at their loss.●

● Mr. McDADE. Mr. Speaker, I commend my colleague from Kentucky for taking this special order to commemorate our late colleague, CARL PERKINS.

The House of Representatives has lost one of its truly great humanitarians. Congressman PERKINS devoted his life to improving the lot of others, particularly his constituents from the hollows of Kentucky.

CARL PERKINS was determined to make life better for succeeding generations and to improve opportunity for everyone, particularly the physically handicapped, economically disadvantaged and poorly educated.

Every major piece of legislation coming through the House of Representatives dealing with education or rehabilitation in the last 36 years bore his stamp. While it would take hours to review his entire legislative record, I would like to remind my colleagues of just a few of his legislative contributions.

Significant improvements were enacted in the Vocational Rehabilitation Program as a result of his efforts. He helped enact the war on poverty which established many new innovative programs to help the economically disadvantaged. He played a major role in the enactment of the National Defense Education Act which ultimately led to expanded student grant and loan programs for higher education so that no one would be denied higher education due to the lack of financing. He was the major sponsor of the Education of All Handicapped Children Act—Public Law 94-142. This act opened public education's door to physically and emotionally handicapped children and provided assurance that their educational needs would be met.

Congressman PERKINS was also a strong supporter of the School Lunch Program and spearheaded the drive to provide free and reduced-price lunches as well as initiating the Breakfast Program.

The Seventh District Congressman can certainly be used as a role model for those Members who place top priority on serving the needs of their own constituents. However, it was not only the residents of the Seventh District of Kentucky who profited from the programs that resulted from Congressman PERKIN'S work, but economically and educationally disadvantaged across the Nation.

With these major programs in place, it is up to those of us who follow him to make sure that they live up to his expectations.●

● Mr. DANIEL. Mr. Speaker, our friend and colleague, CARL D. PERKINS, left a lasting imprint not only on the memory of those who served with him but on the history of America.

His devotion and dedication to the cause of education are reflected in the legislation which bears his name or which came out of the Education and Labor Committee, which he so ably chaired. CARL took pride in his roots. He was an able representative of rural America; yet he recognized that education is perhaps the single most valuable asset a young person can have. He strove hard to make education more available to the average person—and insisted on making that education of the highest possible quality.

In his quiet, unobtrusive way, CARL became one of the most effective legislators in Washington. The reservoir of respect which he built over the years started with a solid foundation of basic values. Whether it was education, tobacco, labor legislation, or any of the other host of areas in which he maintained an interest, he was zealous in behalf of those he represented and recognized his role in behalf of the national interest.

CARL is missed by all those who knew him, but his family can take consolation in knowing that he left his imprint for good.●

● Mr. BIAGGI. Mr. Speaker, more than a month has passed since the stunning news came of the sudden death of our beloved friend and colleague CARL PERKINS. Yet, as I participate in this special order today with so many of my colleagues—I still grieve over the enormity of this loss—to this institution—to this Nation and to me as an individual.

CARL PERKINS was returning home to his Kentucky district on Friday, August 4, when he was struck with the fatal heart attack. He was doing what he had been doing for each of the almost 36 years that he served the people of the Seventh Congressional District—he was going home to them. CARL PERKINS served longer than any other Member of the House of Representatives from Kentucky. History may well record that no one served any better.

On this occasion we try and discuss the individual relationships we had with the gentleman from Kentucky, CARL PERKINS. Mine was an especially close and rewarding one for I served with CARL in the arena where his influence was the greatest—on the House Education and Labor Committee. When I began my service in the House in 1969—CARL PERKINS was the chairman of the House Education and Labor Committee, a position he held until his death on August 4. Literally and figuratively—he was Mr. Chairman to me for all of these 15 years.

An appreciation of CARL PERKINS cannot be accomplished just by reciting his enormous list of legislative accomplishments. Rather one should view his legacy as an ongoing one—that can be seen in each of our congressional districts. It can be seen in the eyes of a young schoolchild receiving a school lunch or on the day that a college or university student graduates helped by the student grant or loan that helped provide him with the opportunity to pursue his higher education. Perhaps it will be seen in the eyes of a handicapped person who has been able to effectively mainstream him or herself into society through the passage of legislation to end discrimination against them. The CARL PERKINS legacy will be seen each and every day in senior citizen centers where millions of senior citizens are able to get one hot meal a day 5 days a week from the Older Americans Act. This list could go on and on but suffice it to say that CARL PERKINS will be remembered not for being a skilled legislator—but for what he legislated.

Let us recall for a moment the last days of CARL PERKINS. On the very day before he died one of the last insertions in the CONGRESSIONAL RECORD of August 2 was a motion by Chairman PERKINS for the House to go to conference with the Senate on H.R. 1904, the Child Abuse Prevention and Treatment Amendments of 1984. It was one of several bills which were reported out by the Education and Labor Committee that were awaiting conferences with the Senate. It is tragically ironic that Chairman PERKINS died during an especially productive year for his Education and Labor Committee. The committee seemed to have renewed energy and purpose as reflected in its ambitious legislative agenda which included new initiatives to improve math and science teaching in our schools to providing equal access to groups meeting in our schools—to reauthorization and expansion of such landmark laws as child abuse prevention, vocational education, the Older Americans Act, and a host of others.

CARL PERKINS was an activist chairman. He saw to it that he knew all facets of the work of his committee. No issue was too small for him—no issue too complex for him. He was a fair, determined and even a noble chairman for he always had the good of the people as his paramount concern.

As we remember CARL PERKINS tonight—we all have anecdotes of this man. It seems they are easy to recall because they were so much a part of our lives in this town. I recall so many markup sessions in the House Educa-

tion and Labor Committee when CARL would not only preside—he would display an awesome ability to prevail. Yet he did not do this by intimidation—he did it largely through the immense influence he had over the committee which came from his knowledge and commitment to the many causes and issues which came before him on the committee. He combined this knowledge with his unique brand of congeniality which resulted in people being cajoled rather than coerced into supporting the chairman. I know this because there were times when I might not have been disposed to support the chairman but more often than not—a word from the chairman accompanied by the strong right arm around your shoulder did the trick.

Those of us with increasing seniority in this body realize that we are sometimes measured by the quality and relationship we have with our staffs. CARL PERKINS both on the Committee on Education and Labor and in his personal office had staff who were loyal to him and who cared for him so much. They gave him many years of productive service and CARL PERKINS in turn gave each and every one of them something in return—a unique learning experience—himself and his work.

CARL PERKINS was a warm, friendly, and dedicated man. He was a man not prone to be unduly casual to his fellow colleagues—he would always call me Mr. BIAGGI over the years but that was more his sign of respect than formality. We all remember his unique characteristics—his rambling walk—his mountain drawl and his incredibly strong right arm which he would use to wrap around you to gain support for a position—or to gavel the committee into session—or to end a vote expeditiously.

How does one pay the proper tribute to CARL PERKINS? I was one of those who traveled to Hindman, KY, that warm day in August. I remember the trip and the awesome but simple beauty of the parts of the Seventh Congressional District that we traveled through. It was easy to see why CARL loved it so much—and why he felt honored to represent its people in the Congress of the United States.

What I also saw that day at the packed funeral service was the genuine love and respect which the people of CARL's district felt for him. They knew that despite more than three decades in the city—that he never lost touch with them. They realized that when he was championing a cause—he was fighting for them. They realized as his seniority increased—so too did his influence on their behalf.

I remember in the audience that day were coal miners and their families. What better example was there of CARL's commitment to the people of Kentucky. He made coal mine safety and black lung benefits personal crusades that he followed through to their fruition. The result of this is, of course, a reduction in the number of mine deaths in America—and the provision of benefits to victims of black lung as well as their families.

CARL DEWEY PERKINS—a quiet statesman—a gentle giant—a good and caring man. CARL PERKINS—a man of courage, competence, commitment, and compassion. CARL PERKINS—a legislator's legislator, both in terms of his tenure in Washington and his service to the people of his District. CARL PERKINS, devoted family man—many of us had the good fortune to meet and know his lovely wife, Verna—who for some 45 years was more than a wife to CARL—she was a partner in all aspects of their lives. His son, Carl Christopher, who has announced his intention to run for his father's seat, was also such an important part of CARL's life. I extend to them again my deepest condolences and assure them that their loss is felt by the House and the Nation.

I in my own way will work especially hard as a senior member of the House Education and Labor Committee to see to it that the many initiatives which have emerged from the committee under the leadership of our late chairman reach their final legislative status. What more effective and meaningful tribute could we pay to this great man than to allow the programs he loved and sheparded so well in the House be continued and expanded to help those in need as well as those who cannot help themselves.

Thomas Hardy once wrote: "Measurement of life should be proportioned rather to the intensity of its experience than to its actual length." If one applies that measurement to the life of CARL PERKINS—what a marvelous productive and rewarding life this great man had.●

● Mr. CONTE. Mr. Speaker, at this time I wish to remember my long-time friend and esteemed colleague, CARL D. PERKINS. When I first arrived in Congress, CARL had already been here for some years. I soon recognized him for what his other colleagues already knew him to be—a forthright and honest person, and a skilled legislator.

CARL was a devoted and caring man, and his soft-spoken charm combined with his limitless energy made him a pursuasive legislator. As chairman of the Committee on Education and Labor, he was both sponsor and prime mover for the bulk of this country's social welfare legislation. He frequently spent long hours preparing a single bill and convincing his colleagues to support it. The issues of education and public health and safety were closest to his heart, and it was his gains in these areas of which he was proudest. During the numerous times we worked together on various education bills, I was impressed by his tireless labors and endless concern for the plight of others.

CARL never forgot those he was elected to represent. Even after over 35 years in Washington, you could tell that he hadn't ever really left Kentucky. When he returned home, CARL would tour the countryside by car, often alone, stopping to visit with friends and strangers alike. There were few people in his constituency who didn't know CARL. And though he felt a responsibility to the entire Nation, he never forgot his Appalachian roots. These people were not merely voters, but also his friends and his inspiration. It was clear to me while attending the funeral service held for him in Hindham, KY, that CARL's constituents felt the same way about him. In a touching tribute, over 5,000 people crowded into the local high school gymnasium to pay their final respects to this great man. It has been an honor and a privilege for me to have had CARL PERKINS as a friend and colleague.●

● Mr. PATMAN. Mr. Speaker, one of the giants of our Congress, CARL D. PERKINS, will be remembered by his colleagues not only for the number of important bills that bear his name, but also because of the strong leadership and dedication to moral principles that he provided.

I had a great admiration for the late distinguished chairman of the Education Committee because he was such an outstanding person apart from his legislative achievements. He was always truthful and frank in expressing his views, yet he was also always a gentleman through and through. His integrity could never be questioned. He was a man we could depend on to provide leadership in the important field of education.

The programs that CARL D. PERKINS succeeded in enacting will provide generations of schoolchildren an opportunity to achieve their potential. Every classroom in America has benefited from his devotion to encouraging education.

The wise counsel and concern for education expressed by the life of CARL D. PERKINS will remain an inspiration for those who follow in his path. We shall all miss him, a truly outstanding man.●

● Mr. EDWARDS of California. Mr. Speaker, it was with immense shock and sadness that I learned of the passing of our beloved colleague, CARL PERKINS. His death will be mourned by millions of Americans, but those of us who were his friends are desolate.

When I came to this great House of Representatives in January 1963, CARL PERKINS was not yet the chairman of the Education and Labor Committee, but even then he was referred to as "Mr. Public Education." The school-

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children of America had a friend in high places who was making certain that their education needs were being addressed.

In the late 1970's, I was privileged to occupy a congressional office in the Rayburn Building next door to CARL PERKINS. My staff and his competent and friendly staff became friends as well as neighbors. Their door was always open to us. I personally spent many congenial hours chatting with CARL and the splendid men and women who worked with him.

Earlier this year, CARL and I had our first disagreement. It was regarding the legislation known as "equal access." CARL, in his most sincere and honest way, wanted it enacted. I didn't, and I worked to defeat it. CARL won, of course, and equal access is now Federal law. It was a hard fight, involving considerable emotion and pressure from outside groups, but CARL and I, while each ardently pursuing our goals, never had an angry word. Many days we walked together to the House Chamber, with CARL in that inimitable friendly way of his, holding my arm.

It seems fitting to mention, that even as CARL and I fought a spirited battle on one issue, we were engaged in another equally spirited endeavor—working closely together this time—to obtain approval of the Civil Rights Act of 1984. This bill to reaffirm civil rights laws which prohibit Federal aid to institutions that discriminate was passed by the House on June 26, in no small measure due to the diligent efforts CARL made. Its approval by the Senate and enactment into law will be a fitting tribute to CARL's outstanding tenure in Congress and to his decades of service to the cause of quality education.

Mr. Speaker, we miss CARL. The children and teachers of America miss CARL. He was truly a giant.●

● Mr. MCEWEN. Mr. Speaker, I am proud to join with my colleagues, friends, and neighbors from Kentucky today to honor one of America's great legislators and a champion of our Nation's poor and disadvantaged. CARL PERKINS' influence in this Chamber and across our land has been felt over the course of five decades.

In 1948, the good people of Kentucky's Seventh District elected CARL PERKINS to represent their concerns in Washington. For the next 36 years he did not disappoint them—for while CARL PERKINS will be remembered by most Americans for his efforts on behalf of the disadvantaged and disabled in our country, he will be remembered by the citizens of northeastern Kentucky as a kind and gentle man who responded to their needs and represented their views to the best of his ability. That is a lasting tribute.

CARL PERKINS was a people's Congressman who went about his work here with quiet dignity. He was a principled man who stood up for what he believed in, even if those beliefs flew in the face of so-called "traditional political wisdom." CARL PERKINS didn't do things simply because that was "what was expected." He did what he felt was right and good for the people of Kentucky and the Nation.

CARL PERKINS was an advocate for social justice and a leader in the education field. During his 16 years as chairman of the Education and Labor Committee, CARL left his mark on American history through programs designed to help our Nation's children, poor and elderly and others who could not help themselves.

For more than a quarter of a century, Congressman PERKINS was at the forefront of health and education reform in our Nation. From the school lunch program to education for the disadvantaged and assistance for higher education, he always led the fight for the needy in America. His 1963 Vocational Education Act and the landmark 1965 Elementary and Secondary Education Act are but two examples of CARL PERKINS' historic accomplishments.

Just a week before his death, CARL PERKINS led another fight for fairness and justice in our Nation's schools. By bringing the equal access bill to a vote on the House floor, Congressman PERKINS assured that generations of schoolchildren will have the same simple freedoms of speech and assembly granted to others in the United States. The equal access bill exemplified what CARL PERKINS was all about—fairness, equal opportunity and a helping hand for the young, elderly, poor, disabled and disadvantaged.

CARL PERKINS will be missed in this Chamber, but he will not be forgotten because he has left his gentle and kind touch on the very fabric of our society through his legislation.●

WHAT MR. MONDALE DID NOT DETAIL IN HIS PLAN TO CUT THE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I was not going to take a special order today. I would just like to start off by saying I wish I had known CARL PERKINS better. I have listened with a great deal of interest to all of the remarks that were made about him today and he must have been a giant of a man and I have only been here one term and I did not have a chance to get to know him better. But I think I would like to be a lot like him and I would like to say that to his friend and relatives who are with us today. I wish I had known him a lot better.

Mr. Speaker, we are in an election year and there is a great deal of rhetoric that is going to be heard by the people of this country regarding this administration, and what they have or have not accomplished and along with that, unfortunately, there will probably be a lot of demagoguery and that concerns me a great deal because I think that the people of this country want to hear the issues discussed and what should or should not be done for America in the coming 4 years and not listen to a lot of political rhetoric that is designed to scare various segments of our society.

Now, the reason I took this special order tonight is because the Vice Presidential candidate on the Democratic Party ticket, Ms. FERRARO of New York, indicated the day before she came to my district in Indiana that she was very fearful that the President of the United States was going to, in effect, let the Social Security system go down the drain, cause the demise of it.

And that, Mr. Speaker, is nothing but pure political rhetoric and demagoguery and it should not be allowed in the campaign this political year, this presidential year. Everybody knows, Mr. Speaker, that this Chamber and the Chamber down the hall is not going to allow Social Security to go down the drain. And the President of the United States is not about to let Social Security become a thing of the past.

As a matter of fact, we all know that the President was the person who appointed the bipartisan Committee on Social Security to come up with a program and a plan to save that system and it was done during this last year.

So for the Vice Presidential candidate GERALDINE FERRARO to indicate that President Reagan is going to be the author and finisher of the Social Security System is just irresponsible and I would like to ask her to refrain from that kind of rhetoric throughout the remainder of this campaign.

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Former Vice President Mondale just yesterday announced his program for solving the economic problems facing America. He came up with a deficit-reduction program and he said that was going to be the cure-all for this country for the coming 4 years. I think it is important that we talk to the American people about that tonight and let them know what the Mondale-Ferraro ticket has advocated and how that will stack up against the Reagan program.

There was a headline in the paper today here in Washington that said, "$85 billion tax hikes: Mondale's solution for the United States," the cure-all for the United States. The middle class is targeted for much of the cost,

and I would like to read just a few excerpts from this newspaper article:

"Walter F. Mondale's newly unveiled deficit reduction plan relies almost exclusively on higher taxes, with much of the burden falling quietly on the middle class. $85 billion in new taxes. The Democratic presidential candidate apparently rejected any sweeping proposals for tax simplification, some of which originated within his own party. By doing so, Mr. Mondale risked evoking criticism from both Democrats and Republicans that he lacks initiative and boldness in tackling stubborn economic problems that persist, despite a 23-month-old economic recovery. There was no consideration of a new and creative tax scheme," said Robert Gough, a senior vice president at Data Resources Inc. in Lexington, Massachusetts.

"He, Mr. Mondale, is dealing with the traditional pieces of the tax code, and you don't get a lot of bang for the buck by playing with the traditional pieces," said Mr. Gough, a self-described, middle-of-the-road Democrat.

Mr. Mondale's plan, announced at a news conference yesterday, would postpone beyond January indexing—a plan that protects lower- and middle-income workers from creeping into higher tax brackets as inflation increases their income.

Rough calculations indicate the delay in indexing would raise about $50 billion of Mr. Mondale's proposed $85 billion tax hike, Mr. Gough said.

Throughout the 1970's, inflation pushed all but the wealthiest taxpayers into higher tax brackets.

And this is very important.

For example, it now requires about $25,000 to purchase what in 1970 could be bought with $10,000.

But a worker who earns $25,000 today finds his tax burden more than double that of a $10,000 wage earner in 1970 because he is in a higher tax bracket.

Other things being equal, a worker today takes home less of his paycheck, can purchase less and has a lower standard of living than he did in 1970.

So Mr. Mondale's proposal is going to cause a larger burden on the already over-burdened middle-income taxpayer.

I would like to do a summary of Walter Mondale's proposals that he made in January and then contrast that with what he advocated September 10, yesterday.

In January, Walter Mondale repeatedly emphasized the need to reduce budget deficits through a combination of tax and spending action and to that end he set forth a plan in January 1984 that he claimed would reduce deficits by more than one-half by 1989. At the Democratic National Convention this July, he pledged to reduce deficits by more than one-half, up to two-thirds, by 1989, but just yesterday was the first time he came up with a plan to do that.

The present study, and they are talking about the one based upon his January proposal, details the dimensions of the Mondale budget problem based on information published to date and assesses the impact on the American taxpayer. The basic conclusions are as follows:

No. 1, Mondale has already made campaign promises that would increase spending by at least $69 billion per year and by as much as $176 billion per year, and I am going to enumerate those increases in just a few moments.

No. 2, Mondale's proposed spending reductions would realistically save only $26 billion, and certainly no more than $40 billion.

No. 3, in proposing to cut deficits which he projects at $200 to $263 billion by two-thirds, Mondale would have to reduce deficits to between $67 and $88 billion.

No. 4, since his spending cuts do not even finance all of his proposed spending increases, Mondale would have to achieve all of his deficit reduction—all of his deficit reduction—through tax increases, and that would require an average tax hike—and I hope everybody in America gets this—of between $1,890 per family to $3,350 per household.

These conclusions are summarized, and I am going to summarize those right now.

The projected deficit that he talked about in the Mondale budget was, on the low estimate, $200 billion, and the highest, $263 billion. The spending increases that he talked about were $69 to $176 billion. The spending reductions were $26 to $40 billion.

So the pretax deficit, after you take into consideration the spending increases and spending reductions, would be between $243 and $399 billion.

Less the deficit goal that he talked about, $67 to $88 billion, that leaves a required tax increase that Walter Mondale is advocating of between $176 billion and $311 billion. When you figure that based upon 92.9 million households in this country, it would cost $1,890 on the low end per family to $3,350 on the high end.

I think the American people ought to know that, because the Democrat Party, which embraces Walter Mondale and GERALDINE FERRARO, must stand responsible for the projected tax increases that they are advocating because they are going to have to implement the programs that Mondale has talked about during this campaign season.

Now we are going to go into this in detail. Mondale spending increases are as follows:

In social spending he advocated an increase on the low end of $1.4 billion for AFDC. For nutrition programs he advocated a $3.5 billion increase. For social community services, he advocated $1.1 billion in increases. For health care he advocated on the low end $6.8 billion in increases, and on the high end $11.8 billion in increases.

Housing assistance, $1.4 to $5.4 billion.

Education, elementary and secondary, between $8.5 and $22.7 billion in increases.

Higher education, between $2.5 and $3.3 billion in increases.

In the area of labor, public service jobs, he advocated increasing that area at $13.6 to $20.4 billion.

Federal pay policy, an increase of between $3.3 and $10.3 billion.

In the area of commerce and trade, Walter Mondale advocated increasing spending to the tune of $8.5 billion.

Export subsidies, between $9 and $50 billion in export subsidies.

As far as the infrastructure of the country is concerned, he advocated increasing spending by between $5 and $33 billion.

In the area of energy, he advocated increasing spending by $2 billion.

In the area of the environment he advocated increasing spending by $2 billion.

In the area of agriculture, which is a very important area, I might add, he advocated spending by one-tenth of a billion dollar to three-tenths of a billion dollars. I wonder why he slipped up there and kept that so low?

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I would like to note here that Mondale has defended himself by arguing that he has set forth only general objectives and therefore cannot be charged with particular spending increases, the ones I have just enumerated, but he is either telling the truth when he promises to enact these programs or he is making empty promises and we would like to assume that he means what he says and we therefore have attempted to provide reasonable conservative estimates of the costs to implement the promises that he has actually made.

Now, these figures that I just gave you are based upon the program that he set forth in January of this year.

Now, let us look at what he promised yesterday. Mr. Mondale did not detail his plan—this is what he did not detail in his plan to cut the deficit. He did not talk about these things. Mondale called for raising taxes by $85 billion. That is $25 billion more than he advocated in January; but that was for 1 year alone, 1989.

According to preliminary Treasury estimates, the 1985 to 1989 tax hike implemented by the Mondale plan would be $250 billion in new taxes. That is twice as large as TEFRA, which was $98 billion for 3 years.

The Mondale cap of 10 percent growth on medicare expenditures implies a $32 billion cut in medicare from the CBO baseline over the period 1985 to 1989. The President's January budget called for $13 billion less in savings over the same period and Mon-

dale accuses the President of unfair deficit reduction. That is sheer hypocrisy. He is advocating a $32 billion reduction in this program and the administration has talked about $13 billion less in savings over the same period.

Nothing new in Mondale's plan. Cut national security and national domestic spending. It is incredible, but Mondale's plan would add more to domestic spending than it would cut. The net increase in domestic spending in Mondale's plan as articulated yesterday, the increases in this plan are $30 billion and decreases are $29 billion. That is a net increase in spending of $1 billion, or if you look at the second way you can interpret his promise yesterday, promises as of January were $45 billion in new domestic spending and the decreases he promised yesterday were $29 billion. That is a $16 billion increase, or the platform promises at the Democrat National Convention were $91 billion in new spending and you take into consideration his $29 billion decrease yesterday, that leaves us $62 billion increase.

The grossly speculative claim of $51 billion in outlay savings from the net interest cost in the latest Mondale budget is either a charbroiled number or a return to the high inflation policies of the Carter-Mondale administration of 4 years ago.

There is plenty of detail about tax increases in Mondale's plan, but where are the details on spending cuts?

Unspecified smoke and mirrors deficit reductions in the Mondale plan are as follows: He talked about management savings of $5 billion. He does not tell how.

He talks about agricultural savings of $4 billion. He does not tell how.

Nondefense discretionary savings, he talks about $8 billion, but he does not tell how.

Medicare savings, $12 billion, but he does not tell how.

Growth, he projects at $17 billion in revenues, but he does not explain how he came to that figure.

And interest he said would save $51 billion and that is pure speculation because he is talking about getting the Federal Reserve Board to go along with reducing interest rates because he came up with a deficit reduction plan and that is pure speculation. There is no way of telling whether or not he could get any kind of a concession from the Fed, which is an autonomous agency.

So his total unspecified reductions are $97 billion, which is 55 percent of his total overall reduction plan. I do not know where he came up with the rest of the $180 some billion that he said he was going to cut.

In fact, there is so little detail to the Mondale plan, no budget office in Washington, DC, could even tell you what Mondale would do year by year during his first term. All his plan lists are some broad goals for the first year of his second term.

The biggest nonsequitur of the entire campaign is this. On the one hand, Mondale's plan says a trust fund would be created so his tax increases would have to be used to reduce the deficit. On the other hand, it says that any new spending would be subject to the pay as you go principle.

Does that mean his $30 to $90 billion of new spending for 1985 would require an added tax increase of $30 to $90 billion over the $85 billion he claims will be used to reduce the deficit?

I think the American people are entitled to answers, Mr. Mondale and Ms. FERRARO. I hope in the weeks to come you will explain this in detail, because as a Member of the House of Representatives who has studied your proposal very thoroughly, I am totally confused.

Mr. Speaker, I include the Washington Times newspaper article of September 11, referred to, as follows:

$85 BILLION TAX HIKE MONDALE RX FOR U.S.—$75 BILLION IN SPENDING CUTS IN PLAN

(By Alan McConagha)

PHILADELPHIA.—Walter Mondale, charging President Reagan with ducking the issue of budget deficits, yesterday disclosed his plan to boost taxes by $85 billion at the end of four years to reduce federal red ink.

Mr. Mondale's plan is to bring the deficit down to $86 billion by 1989. The tax increases would be earmarked specifically for cutting the deficit, which is expected to be about $170 billion for this fiscal year.

The plan also includes net spending reductions of $75 billion and an estimated additional $17 billion in anticipated revenue resulting from economic growth.

Assailing Mr. Reagan for conducting "a happy-talk campaign," the Democratic presidential nominee challenged the White House to "respond to the most important economic problem facing the country."

"I'm putting my plan on the table. Mr. President, where's yours?" Mr. Mondale asked. Asserting he is leveling with the nation, the Democrat said the president is a "radical" spender in serving a debt created by a tripling of the deficit.

In a press conference here, Mr. Mondale added: "Listening to Mr. Reagan, you'd never know that our economy faces a crisis. In fact, the economic Dunkirk Mr. Reagan once warned of has arrived—and on his watch."

"Enough is enough, Mr. President," Mr. Mondale said, calling for debates on the issue. The former vice president added: "You can't hide your red ink with blue smoke and mirrors. Let's tell the truth about the future."

Mr. Mondale also led a teleconference here on the effects of the deficit on the American family. By satellite he conferred with his wife, Joan, in Chicago and his running mate, Rep. Geraldine Ferraro, in Lexington, Ky.

After discussing with three families at those locations the families' economic situation, the Democratic candidate charged that the administration has no sense of the pressures it is creating for average Americans.

In another appearance here, the candidate took a walk with Philadelphia Mayor Wilson Goode through the heart of the city's commercial district. Today he begins a four-day swing through the Midwest and the South.

The Mondale campaign contends its plan will lead in four years to 3.5 percent annual economic growth with an inflation rate of 4.85 percent. Interest rates are projected to drop to 7.5 percent and unemployment is expected to fall to 5.8 percent.

The Mondale program would not raise taxes for families with annual incomes of $25,000 or less—an estimated half of federal income taxpayers this year. It would, however impose a 75 percent increase on the wealthiest 14 percent of American families.

The tax hike would reduce the 1989 federal deficit from the Congressional Budget Office's projected $263 billion to $86 billion, according to Mondale associates.

The Mondale program contemplates a reduction in federal spending that hits hard at defense outlays. It proposes to save $25 billion by a variety of measures including tightened spending procedures and an end to funding for the MX missile and B-1 bomber.

Mr. Mondale contended this reduction of defense spending by 1989 would be consistent with annual real growth of between 3 and 4 percent in Pentagon budget authority.

Other savings proposed by Mr. Mondale include: a health-cost containment program that would save $12 billion; scaling back of farm programs to save $4 billion and better management of those programs to save an additional $5 billion, and lower borrowing and interest rates resulting from his overall deficit-reduction program, which would save $51 billion.

Under the Mondale recommendations, all of the increased revenues would be placed in a trust fund earmarked by law for deficit reduction, and they would not be used for increased spending or new programs.

The Mondale proposal stesses the adoption of a "pay-as-you-go" principle, with no new spending for which a source of revenues has not been identified. However, it continues to advocate a $30 billion increase in spending for domestic programs outlined in January.

By proposing to place the new revenues in a trust fund limited to deficit reduction, Mr. Mondale apparently seeks to sidestep opposition charges that the tax hike is yet another measure designed to facilitate the easy spending of the Democratic Party's past.

Mr. Mondale's tax hike would fall most heavily on upper-income wage earners.

He would eliminate future benefits from the final installment of Mr. Reagan's tax cut for individuals earning more than $45,000 and couples making more than $60,000. Those taxpayers would be permitted to keep the tax cut they received in 1984 and will receive in 1985, but then their tax rate would revert to the higher level that existed before the final tax cut took effect.

The plan also would permit tax indexing to take effect for families making $25,000 or less. It would protect families above that amount only to the extent that inflation exceeds 4 percent.

There also would be a 10 percent tax surcharge for individuals with incomes over $70,000 and couples making more than $100,000.

Mr. Mondale would impose a 15 percent minimum corporate tax on economic

income, and limitations on "tax shelters, loopholes and accounting abuses."

MIDDLE CLASS TARGETED FOR MUCH OF COST

(By Willis Witter)

Walter F. Mondale's newly unveiled deficit-reduction plan relies almost exclusively on higher taxes, with much of the burden falling quietly on the middle class.

The Democratic presidential candidate apparently rejected any sweeping proposal for tax simplification, some of which originated within his own party.

By doing so, Mr. Mondale risks evoking criticism from both Democrats and Republicans that he lacks initiative and boldness in tackling stubborn economic problems that persist despite a 23-month-old economic recovery.

"There was no consideration of a new and creative tax scheme," said Robert Gough, a senior vice president at Data Resources Inc. in Lexington, Mass.

"He [Mr. Mondale] is dealing with the traditional pieces of the tax code, and you don't get a lot of bang for the buck by playing with the traditional pieces," said Mr. Gough, a self-described middle-of-the-road Democrat.

Mr. Mondale's plan, announced at a news conference yesterday, would postpone beyond January indexing—a plan that protects lower- and middle-income workers from creeping into higher tax brackets as inflation increases their income.

Rough calculations indicate the delay in indexing would raise about $50 billion of Mr. Mondale's proposed $85 billion tax hike, Mr. Gough said.

Throughout the 1970s, inflation pushed all but the wealthiest taxpayers into higher tax brackets.

For example, it now requires about $25,000 to purchase what in 1970 could be bought with $10,000.

But a worker who earns $25,000 today finds his tax burden more than double that of a $10,000 wage earner in 1970 because he is in a higher tax bracket.

Other things being equal, a worker today takes home less of his paycheck, can purchase less and has a lower standard of living than he did in 1970.

Beginning next year, Republicans say workers will receive some protection because tax brackets are slated to be indexed to the inflation rate.

That is, unless Mr. Mondale is elected and keeps his campaign promise to delay indexing for taxpayers earning more than $25,000.

Assuming a 4 percent annual inflation rate, a family earning $25,000 today can look forward to a $1,000 tax hike by 1989 under the Mondale plan.

"The whole thing is silly," said Arthur Laffer, the supply-side guru associated with the 1981 Reagan tax cuts.

"We'd be a lot better off if we went for the Bradley-Gephardt plan which moves in exactly the opposite direction," Mr. Laffer said. "It just shows how far out of sync he [Mr. Mondale] is with the Democratic party's thinking."

The Bradley-Gephardt measure, proposed by Sen. Bill Bradley, D-N.J., and Rep. Richard Gephardt, D-Mo., drastically simplifies the current tax code.

It reduces the top tax bracket from the current 50 percent to 30 percent while eliminating numerous exemptions.

Under the new Mondale plan, the top tax bracket increases to 55 percent for individuals earning more than $100,000.

Besides raising taxes, the former vice president's plan calls for spending cuts of just $11 billion and assumes the government will save $51 billion from reduced interest payments on the national debt.

"He [Mr. Mondale] is specific, he wants to cut the deficit on the tax side," said Barry Bosworth, an economist at the Brookings Institution who was director of the Council on Wage and Price Stability in the Carter-Mondale administration.

"From an economist's point of view, you have to do something about the deficit," Mr. Bosworth said. "The issues of where to cut are more political than economic."

Analysts say the federal budget deficit—the amount by which government spending exceeds taxes—threatens the nation's long-term economic health because it pushes up interest rates.

THE COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1984

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BATEMAN] is recognized for 15 minutes.

● Mr. BATEMAN. Mr. Speaker, today I am introducing, with the gentlelady from Louisiana [Mrs. BOGGS], the Competitive Shipping and Shipbuilding Act of 1984.

Few would dispute the fact that our Nation's security depends on shipbuilding and shipping resources capable of responding to the demands of mobilization. Yet almost 15 years have gone by without meaningful congressional action while these resources have disappeared at a growing and alarming rate.

We have tried many times to solve bits and pieces of this problem. As a result, our policies are a patchwork of responses to small problems, while the principal issue, survival of national defense resources, remains unresolved.

In just the last 3 years, 19 American shipyards have closed. Almost 40,000 American workers have lost their jobs. And this trend is continuing.

At the same time, the American cargo fleet continues to dwindle and we go on losing our pool of skilled seamen. It is critical that we have available for emergencies not only merchant ships, but those mariners whose experience and availability are vital to national security.

Last month Exxon signed a contract for construction of two Alaska-trade tankers with National Steel & Drydock in San Diego. It was the first order for a deepwater commercial ship placed in an American yard in about 3 years. Until the order was placed, there were no oceangoing commercial vessels either under construction or on order in any U.S. yard. No one can remember when the situation was as bad as this.

It is painfully obvious that we no longer can rely on existing commercial policies and programs to maintain the shipbuilding and shipping resources necessary for mobilization. American shipyards cannot compete with foreign yards that pay no taxes, pay their workers only $2 an hour, build ships with materials bought at subsidized prices, and enjoy subsidized financing at depressed interest rates. American ship operators cannot compete with nations whose ships sail with new equipment and small, low-paid crews.

In the bulk trade, American operators could not compete even if they were given new ships for free. More and more nations have restricted access to cargo from their ports to their own merchant ships.

I believe a comprehensive answer to this problem must be enacted quickly. The Competitive Shipping and Shipbuilding Act is such an answer.

Under this bill, a bulk trading market is created for U.S.-built, U.S.-crewed ships. In the first year after enactment, American importers and exporters are required to move on U.S. ships at least 5 percent of their bulk and neobulk cargoes—chiefly grain, coal, oil, ores, steel, and automobiles. The amount reserved will increase by 1 percent per year until it reaches 20 percent.

Right now, America's bulk shipping fleet carries only about 4 percent of our international trade. We have only about 21 ships in these trades. Under this bill, over 300 ships would be built.

This legislation is crafted to ensure that the ships qualifying to trade will be of high military utility in time of mobilization and war. About 214 of the 330 ships estimated to be built under this bill will be geared vessels—capable of loading and unloading themselves—of 35,000 deadweight tons or less, according to a study by the center for naval analyses. Nearly all the remainder will be gearless oil-bulk-ore carriers of 60,000 to 80,000 ton class, which are easily convertible into ships useful in sealift.

The expanded market for bulk cargo vessels will result in ship production and operation requiring 20,000 shipyard workers and about 6,000 shipboard jobs for American mariners. The need for this pool of skilled workers in time of war is clear, and without this bill they will not be there.

But how can we pay the cost of this proposal? We cannot do what has been suggested in the past—we cannot make our farmers, our miners, our oil producers, and our consumers alone bear the cost of our merchant marine. We cannot say to them, "America is willing to sacrifice your industries for the benefit of the Nation." Because such a sacrifice would be just as damaging as the decline of the merchant marine. We cannot make American exports too expensive to compete for world trade, nor can we ask American consumers to pay for the merchant marine in higher-priced imports.

What we can do is to finally say, the cost of the merchant marine is a cost of national security. It must be paid for by all Americans.

To do this, this bill provides for a tax credit to offset the additional cost of shipping on U.S.-flag ships. The credit is designed to go directly to the importer or exporter—the person who pays the ship operator to carry his goods. In this manner, the tax credit would offset the additional cost without causing any rise in the price of imports or exports.

Last year, some 140 Members of the House joined in cosponsoring H.R. 1242, introduced by the gentlelady from Louisiana [Mrs. BOGGS]. I was pleased to be among the cosponsors of that measure, upon which the legislation I am offering today is based. The gentlelady from Louisiana is among the Members who have joined with me in sponsorship of the new measure which adds the mechanism of the tax credit to her concept of an expansion of the bulk cargo fleet.

In these days of high deficits, we dare not overlook the fiscal consequences of any legislation. Fortunately, there should be little or no impact upon the deficit as a result of this measure. Estimates of the revenues which can be expected from increased employment and corporate activity in the shipping and shipbuilding industries under this bill indicate that they will completely or almost completely offset the loss of the Treasury resulting from the tax credit.

It is estimated that about 100,000 jobs in shipbuilding, ship operation and related industries will be created by this bill in the years ahead. And all the people holding those jobs will pay taxes.

To put this another way, the measure I am introducing should not result in any real loss to the Treasury. It will, to be sure, deny the Treasury new revenues, but that denial is necessary in the name of equity to those who will be shipping in new American-flag vessels.

Mr. Speaker, I am convinced that a bulk cargo fleet expansion program, with a tax credit for our shippers, is an important forward step in rebuilding the American merchant marine. I urge my colleagues to support prompt enactment of this important measure.

In conclusion I am including at this point in the RECORD a statement of Mr. M. Lee Rice, president, Shipbuilders Council of America with respect to this measure Mr. Rice's statement is as follows:

STATEMENT OF M. LEE RICE, PRESIDENT, SHIPBUILDERS COUNCIL OF AMERICA, CONCERNING THE "COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1984"

We applaud the efforts of the authors and cosponsors of H.R. 6222 in focusing the attention of Congress, on the emerging crisis in national security caused by the parlous state of our shipbuilding and shipping industries.

If we are to be able to meet the demands of mobilization, significant commercial shipbuilding and ship repair industries must be maintained because construction and repair of naval vessels alone will not sustain capabilities required to mobilize for and fight a global war.

Eleven of America's 15 top trading partners, including the top seven nations, engage in cargo reservation to protect their own fleets.

The Warsaw Pact nations reserve their cargoes for large state-owned fleets that are used for military, political, and other noncommercial purposes.

In this atmosphere, an American company wishing to operate profitably in the world market for bulk vessels faces the insurmountable obstacle of a market which has no reserved place for him. With the higher costs attendant to domestic ship construction and operation, his only hope rests on the willingness of the United States to act as many of its major trading partners have in reserving a place in the market for its own fleet.

We strongly support a systematic process, as envisioned by H.R. 6222, whereby U.S.-flag ships—built in American shipyards with American labor and American equipment and materials—will be enabled to transport a modest share of U.S. bulk exports and imports as a means of ensuring the availability of maritime and shipbuilding resources in time of crisis.●

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. BARTLETT) to revise and extend their remarks and include extraneous material:)

Mr. BATEMAN, for 15 minutes, today.
Mr. DANNEMEYER, for 60 minutes, today.
Mr. GINGRICH, for 60 minutes, today.
Mr. WALKER, for 60 minutes, today.
Mr. WEBER, for 60 minutes, today.
Mr. LOEFFLER, for 5 minutes, today.

(The following Members (at the request of Mr. NATCHER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. ALEXANDER, for 5 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.
Mr. DASCHLE, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. GAYDOS, for 15 minutes, today.
Mr. GONZALEZ, for 60 minutes, today.

Mr. ALEXANDER, for 5 minutes, on September 12 and 13.

Mr. DOWNEY of New York, for 60 minutes, on September 25.

Mr. STARK, for 60 minutes, on October 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BARTLETT) and to include extraneous matter:)

Mr. LENT.
Mr. MCCAIN.
Ms. SNOWE in three instances.
Mr. BROOMFIELD.
Mr. O'BRIEN in two instances.
Mr. SHUMWAY.
Mr. MCKERNAN.

(The following Members (at the request of Mr. NATCHER) and to include extraneous matter:)

Mr. SYNAR.
Mr. LANTOS.
Mr. REID.
Mr. FAUNTROY.
Mr. MARTINEZ.
Mr. ACKERMAN.
Mr. OTTINGER.
Mr. MACKAY.
Mr. MRAZEK.
Mr. HOWARD.
Mr. STOKES.
Mr. LELAND.
Mr. EDWARDS of California.
Mr. FOWLER.
Mr. FORD of Michigan.
Mr. YATRON.
Mr. LEVINE of California.
Mr. FLORIO.
Mr. MARKEY.
Mr. KOSTMAYER.
Mr. CLAY.
Mr. SKELTON.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 743. An act for the relief of Theda June Davis, and

H.R. 2387. An act for the relief of Benjamin B. Doeh.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 12, 1984, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred to as follows:

4000. A letter from the Secretary of State, transmitting notification that during the month of August the Commodity Credit Corporation made payments to the U.S.

creditors on credits guaranteed by the CCC for which payments had not been received from the Polish People's Republic, pursuant to Public Law 97-257, section 306; Public Law 98-151, section 101(d); to the Committee on Appropriations.

4001. A letter from the Director, Office of Management and Budget, transmitting a report on the status as of September 1, 1984, of 9 rescission proposals and 65 deferrals contained in the first 12 special messages of fiscal year 1984, pursuant to Public Law 93-344, section 1014(e) (H. Doc. No. 98-258); to the Committee on Appropriations and ordered to be printed.

4002. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for Ambassador-designate Harvey J. Feldman, as Alterntive Representative of the United States of America for Special Political Affairs in the United Nations with rank of Ambassador pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4003. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for William L. Eagleton, Jr., Ambassador-designate to Syrian Arab Republic, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4004. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for Melvyn Levitsky, Ambassador-designate to the People's Republic of Bulgaria, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4005. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for William A. Rugh, Ambassador-designate to the Yemen Arab Republic, pursuant to Public Law 96-465, section 304(b)(2): to the Committee on Foreign Affairs.

4006. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions for Carl Edward Dillery, Ambassador-designate to Fiji, Kingdom of Tonga, Tuvalu, and the Republic of Kribati, pursuant to Public Law 96-465, section 304(b)(2); to the Committee on Foreign Affairs.

4007. A letter from the Executive Director, American Historical Association, transmitting a copy of the audit of the Asssociation for the year ended June 30, 1984, pursuant to Public Law 88-504, section 3 (36 U.S.C. 1103); to the Committee on the Judiciary.

4008. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to repeal the provision exempting aircraft owners or operators from reimbursing the Federal Government or any agency thereof for certain Sunday and holiday overtime services; to the Committee on Public Works and Transportation.

4009. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed disposal of land, without structures, at the Lyndon B. Johnson Space Center, pursuant to Public Law 85-568, section 207 (87 Stat. 175); to the Committee on Science and Technology.

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. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3082. A bill to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands by the acquisition of wetlands and other essential habitat, and for other purposes. Supplemental (Rept. No. 98-440, Pt. IV). Ordered to be printed.

[Pursuant to the order of the House on September 6, 1984, the following report was filed on September 7, 1984]

[Omitted from the Record of September 10, 1984]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1511. A bill to provide for jurisdiction over common carriers by water engaging in foreign commerce to and from the United States utilizing ports in nations contiguous to the United States; with an amendment (Rept. No. 98-1007). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. H.R. 4028. A bill to amend the Drug Abuse Prevention, Treatment, and Rehabilitation Act to revise the authority of the Office of Drug Abuse Policy, to establish a Deputy Director for Drug Abuse Prevention and a Deputy Director for Drug Enforcement in the Office, and for other purposes; with amendments (Rept. No. 98-1008, Pt. I). 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. BENNETT:

H.R. 6211. A bill to authorize the Secretary of Health and Human services to provide assistance for drug abuse prevention, treatment, and rehabilitation and related programs and to authorize the use of drug forfeiture funds for such purpose; to the Committee on Energy and Commerce.

By Mr. BOUCHER:

H.R. 6212. A bill to amend title 18 of the United States Code to extend the protections of certain assault and homicide provisions to probation officers and members of the intelligence community; to the Committee on the Judiciary.

By Mr. BREAUX (for himself and Mr. YOUNG of Alaska):

H.R. 6213. A bill to establish a National Fish Hatchery System within the Fish and Wildlife Service, and for other purposes; to the Committee on Merchant Marines and Fisheries.

By Mr. BREAUX:

H.R. 6214. A bill to amend the Coastal Zone Managment Act of 1972, and for other purposes; to the Committee on Interior and Insular Affairs and to the Committee on Merchant Marine and Fisheries only for consideration of section one.

By Mr. DUNCAN:

H.R. 6215. A bill to amend title II of the Social Security Act to treat great-grandchildren, nieces, and nephews in the same manner as grandchildren in applying the 1-year dependency test to adopted children in determining entitlement to child's insurance benefits; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself, Mr. RODINO, Mr. FISH, Mr. HYDE, Mr. SAWYER, Mr. SENSENBRENNER, and Mr. BOEHLERT):

H.R. 6216. A bill to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

By Mr. JACOBS:

H.R. 6217. A bill to amend the Federal Aviation Act of 1958 to permit smoking on board passenger-carrying aircraft in only one designated area; to the Committee on Public Works and Transportation.

By Mr. MOODY (for himself, Mr. SAM B. HALL, JR., Mr. MAZZOLI, Mr. FRANK, Mr. BERMAN, Mr. BOUCHER, Mr. KINDNESS, Mr. MCCOLLUM, and Mr. SHAW):

H.R. 6218. A bill to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States; to the Committee on the Judiciary.

By Mr. NELSON of Florida:

H.R. 6219. A bill to authorize the Administrator of the Federal Aviation Administration to impose additional restrictions on the use of airspace in the area of launches and landings of space vehicles, to increase civil penalties for violators of such restrictions, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. NIELSON of Utah (for himself and Mr. ECKART):

H.R. 6220. A bill to amend the Communications Act of 1934 to clarify the authority of State and local governments to regulate obscene and certain other programming distributed to the public over cable television systems; to the Committee on Energy and Commerce.

By Mr. SYNAR (for himself and Mr. WINN):

H.R. 6221. A bill to provide for the use and distribution of certain funds awarded to the Wyandotte Tribe of Oklahoma; to the Committee on Interior and Insular Affairs.

By Mr. BATEMAN (for himself, Mrs. BOGGS, Mr. PRICE, Mr. BIAGGI, Mr. PEPPER, Mr. DYSON, Mr. WHITEHURST, Mr. MCKERNAN, and Mr. LOTT):

Hr. 6222. A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag ships, to strengthen the defense industrial base, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. WAXMAN:

H.J. Res. 645. Joint resolution to designate the week of February 18 through February 24, 1985, as "CPR Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. DAVIS (for himself, Mr. MCNULTY, Mr. UDALL, Mr. SKEEN, Mr. RUDD, Mr. LUJAN, Mr. RICHARDSON, Mr. MCCAIN, Mrs. VUCANOVICH, and Mr. STUMP):

H. Con. Res. 353. Concurrent resolution disapproving the action of the President under title II of the Trade Act of 1974 with respect to import relief for unwrought

copper; to the Committee on Ways and Means.

By Mr. KINDNESS (for himself, Mr. DEWINE, Mr. OXLEY, Mr. APPLEGATE, Mr. GRADISON, Mr. HALL of Ohio, Ms. KAPTUR, Mr. KASICH, Mr. REGULA, Mr. WILLIAMS of Ohio, Mr. KEMP, and Mr. MARTIN of North Carolina):

H. Con. Res. 354. Concurrent resolution to congratulate Miami University, in Oxford, Ohio, on the 175th anniversary of its founding; to the Committee on Post Office and Civil Service.

By Ms. SNOWE (for herself, Ms. OAKAR, Mrs. MARTIN of Illinois, Mr. HAWKINS, Mr. FRENZEL, Mrs. SCHROEDER, Mr. LEWIS of California, Mr. FRANK, Mr. MCKERNAN, Mr. DICKS, Ms. FERRARO, Mrs. SCHNEIDER, Mrs. BOGGS, Mrs. KENNELLY, Ms. MIKULSKI, Mrs. BOXER, Ms. KAPTUR, Mrs. BURTON of California, Mrs. COLLINS, Mrs. HALL of Indiana, Mr. MRAZEK, Mr. WON PAT, Mr. RODINO, Mr. MITCHELL, Mr. RICHARDSON, Mr. DENNY SMITH, Mr. STOKES, Mr. BERMAN, Mr. KOLTER, Mr. HOYER, Mr. LELAND, Mr. FLORIO, Mr. GRAY, Mr. MOODY, Mr. JEFFORDS, Mr. O'BRIEN, Mr. PURSELL, Mr. OTTINGER, Mr. GREEN, Mr. MATSUI, Mr. FROST, Mr. WEISS, Mr. WISE, Mr. BEDELL, Mr. RATCHFORD, Mr. EDWARDS of California, Mr. GEJDENSON, Mr. SOLARZ, Mr. BATES, Mr. SCHAEFER, Mr. MORRISON of Connecticut, Mr. OBERSTAR, Mr. YATES, Mr. FISH, Mr. ROE, Mr. CROCKETT, Mr. MARKEY, Mr. DAVIS, Mr. EDGAR, Mr. EVANS of Iowa, Mr. SIMON, and Mr. LUNDINE):

H. Con. Res. 355. Concurrent resolution establishing a Commission to Study Wage Discrimination and Other Discriminatory Personnel Policies and Practices in the Legislative Branch; to the Committee on House Administration.

By Mr. RODINO (for himself, Mr. EDWARDS of California, and Mr. SENSENBRENNER):

H. Res. 577. Resolution authorizing the printing as a House document of the committee print entitled "FBI Undercover Operations"; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1473: Mr. WEAVER.

H.R. 1881: Mr. BLILEY, Mr. BURTON of Indiana, Mr. COATS, Mr. JACOBS, Mrs. JOHNSON, Mr. MCNULTY, Mr. MYERS, and Mr. RATCHFORD.

H.R 2300: Mr. DE LUGO and Mr. OBEY.

H.R. 2568: Mr. BONIOR of Michigan, Mr. NOWAK, and Mr. YOUNG of Missouri.

H.R. 3141: Mr. SCHUMER.

H.R. 3996: Mr. CAMPBELL, Mr. HARTNETT, Mr. DERRICK, Mr. SPRATT, and Mr. TALLON.

H.R. 4459: Mrs. KENNELLY and Mr. DAUB.

H.R. 4837: Mr. TOWNS.

H.R. 5031: Mr. PATTERSON.

H.R. 5107: Mr. HAYES, Mr. WILLIAMS of Montana, Mr. TALLON, Mr. KOSTMAYER, Mr. FAUNTROY, Mr. MATSUI Mr. MCCLOSKEY, and Mr. FORD of Michigan.

H.R. 5361: Mr. LAFALCE.

H.R. 5396: Mr. MCNULTY.

H.R. 5608: Mr. EVANS of Illinois.

H.R. 5725: Mr. AKAKA, Mr. CHANDLER, Mr. GUARINI, Mr. KASICH, Mr. KASTENMEIER, Mrs. KENNELLY, and Mr. LUNDINE.

H.R. 5727: Mr. HORTON, Mr. WILLIAMS of Montana, Mr. ACKERMAN, and Mr. ECKART.

H.R. 5918: Mr. TAUKE.

H.R. 5959: Mr. ACKERMAN, Mr. GOODLING, Mr. WEISS, and Mr. TAUKE.

H.R. 5964: Mr. CHANDLER.

H.R. 5990: Mr. DOWNEY of New York, Mr. LEHMAN of Florida, Mr. LAGOMARSINO, Mr. MILLER of California, Mr. BORSKI, Mr. WILLIAMS of Montana, Mr. DUNCAN, Mr. KILDEE, Mr. MARTINEZ, Mr. KOSTMAYER, Mr. HOYER, Mr. BOEHLERT, Mr. FAZIO, Mr. ACKERMAN, Mr. DE LUGO, and Mr. ECKART.

H.R. 6021: Mr. WEBER, Mr. CARR, Mr. SHAW, Mr. YOUNG of Florida, Mr. OXLEY, Mr. BEVILL, Mr. PETRI, Mr. O'BRIEN, Mr. ORTIZ, Mr. MONTGOMERY, and Mr. SHUSTER.

H.R. 6066: Mr. KOSTMAYER and Mr. MARTINEZ.

H.R. 6113: Mr. HYDE.

H.R. 6117: Mr. AUCOIN, Mr. BEDELL, Mr. BIAGGI, Mr. BOLAND, Mr. BRITT, Mr. BROWN of California, Mr. BRYANT, Mr. CLAY, Mr. CONYERS, Mr. COUGHLIN, Mr. COYNE, Mr. CROCKETT, Mr. DAUB, Mr. DELLUMS, Mr. DE LUGO, Mr. DORGAN, Mr. DOWNEY of New York, Mr. FAUNTROY, Mr. FRANK, Mr. FRENZEL, Mrs. HALL of Indiana, Mr. HAWKINS, Mr. HOYER, Mr. HUNTER, Mr. JEFFORDS, Ms. KAPTUR, Mr. KOSTMAYER, Mr. LEACH of Iowa, Mr. LEVINE of California, Mr. LOWERY of California, Mr. LOWRY of Washington, Mr. LUNDINE, Mr. MARTINEZ, Mr. MITCHELL, Mr. MOODY, Mr. MRAZEK, Mr. PANETTA, Mr. PARRIS, Mr. PATTERSON, Mr. ROYBAL, Mr. SAVAGE, Mrs. SCHNEIDER, Mr. SCHUMER, Mr. SILJANDER, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. SWIFT, Mr. WAXMAN, Mr. WEISS, Mr. WHEAT, Mr. WILSON, Mr. WIRTH, Mr. WON PAT, and Mr. WORTLEY.

H.R. 6163: Mrs. MARTIN of Illinois.

H.R. 6164: Mr. HORTON, Mr. ENGLISH, Mr. RAHALL, Mr. NOWAK, Mr. MCCURDY, Mr. KRAMER, and Mr. BOUCHER.

H.R. 6172: Mr. COELHO, Mr. DYSON, Mr. EDWARDS of California, Mr. ANDREWS of North Carolina, Mr. BONER of Tennessee, Mr. BURTON of Indiana, Mr. ENGLISH, Mr. BOSCO, Mr. EVANS of Iowa, Mr. DIXON, Mr. LUKEN, Mr. LUJAN, Mr. NICHOLS, Mr. STUMP, Mr. BEDELL, Mr. LEHMAN of California, Mr. WILSON, Mr. LEVITAS, Ms. KAPTUR, Mr. REID, Mr. SABO, Mr. MICA, Mr. BOUCHER, Mr. PENNY, Mr. COLEMAN of Texas, Mr. CHAPPELL, Mr. DREIER of California, Mr. BROYHILL, and Mr. FOGLIETTA.

H.R. 6210: Mr. CONTE and Mr. MATSUI.

H.J. Res. 392: Mr. HOYER, Mr. LENT, Mr. PATMAN, Mr. COELHO, Mr. ORTIZ, and Mr. PANETTA.

H.J. Res. 512: Mr. HOPKINS and Mr. SCHUMER.

H.J. Res. 514: Mr. WIRTH and Mr. MCKINNEY.

H.J. Res. 565: Mr. ARCHER, Mr. BARNARD, Mr. BONER of Tennessee, Mr. CARPER, Mr. FLORIO, Mr. GUARINI, Mr. JACOBS, Mr. KOSTMAYER, Mr. MOAKLEY, Mr. MURTHA, Mr. NATCHER, Mr. PAUL, Mr. ROWLAND, Mrs. ROUKEMA, Mr. RODINO, Mr. SCHUMER, Mr. STENHOLM, Mr. VANDER JAGT, Mr. VENTO, Mr. WHEAT, Mr. APPLEGATE, Mr. BIAGGI, and Mr. WALGREN.

H.J. Res. 580: Mr. LOWERY of California, Mr. DYMALLY, Mr. BERMAN, Mr. FROST, and Mr. LEVINE of California.

H.J. Res. 582: Mr. HYDE and Mr. RODINO.

H.J. Res. 595: Mr. BEILENSON, Mr. BONIOR of Michigan, Mrs. BURTON of California, Mr. BURTON of Indiana, Mrs. COLLINS, Mr. CORCORAN, Mr. CORRADA, Mr. GRADISON, Mr. GRAY, Mr. RALPH M. HALL, Mr. HARKIN, Mr. HOPKINS, Mr. JEFFORDS, Ms. KAPTUR, Mr. LUNDINE, Mr. MCCLOSKEY, Mr. MCKERNAN, Mr. MITCHELL, Mr. MOAKLEY, Mr. NATCHER, Ms. OAKAR, Mr. OBERSTAR, Mr. PEPPER, Mr. PURSELL, Mr. RATCHFORD, Mr. RINALDO, Mr. RITTER, Mr. SISISKY, Mr. STENHOLM, Mr. VANDERGRIFF, Mr. VOLKMER, and Mr. ROSTENKOWSKI.

H.J. Res. 605: Mr. ANDERSON, Mr. FAZIO, Mr. EDGAR, Mr. BATEMAN, Mr. SIMON, Mr. BORSKI, Mr. DWYER of New Jersey, Mr. FROST, Mr. EVANS of Illinois, Mr. CARPER, Mr. MCNULTY, Mr. MCGRATH, Mr. LEVIN of Michigan, Mr. MORRISON of Connecticut, Mr. NELSON of Florida, Mr. FISH, Mr. CONYERS, Mr. DAUB, Mr. HANSEN of Utah, Mr. YOUNG of Alaska, Mr. ROBERT F. SMITH, Mr. LUNGREN, Mr. MITCHELL, Mr. HERTEL of Michigan, Mr. WAXMAN, Mr. LEVITAS, Mr. MINETA, Ms. MIKULSKI, Mr. LEWIS of Florida, Mr. SHUMWAY, Mr. GOODLING, Mr. CHANDLER, Mr. ERLENBORN, Mr. SPRATT, Mr. RODINO, Mr. CORCORAN, Mr. WHEAT, Mr. SCHAEFER, and Mr. FORD of Michigan.

H.J. Res. 611: Mr. SMITH of Florida, Mr. MONTGOMERY, Mr. SHAW, Mr. BOSCO, Mr. HANSEN of Idaho, Mr. DURBIN, Mr. ANDERSON, Mr. MCDADE, Mr. ARCHER, Mr. BONIOR of Michigan, Mr. MOAKLEY, Mr. PHILIP M. CRANE, Mr. HOWARD, Mr. ROEMER, Mr. TRAXLER, Mr. SILJANDER, Mr. BOUCHER, Mr. BOLAND, Mr. SUNDQUIST, Mr. DYSON, Mr. CARNEY, Mr. ERDREICH, Mr. NICHOLS, Mr. PACKARD, Mr. KASICH, Mr. ORTIZ, Mr. HYDE, Mr. NEILSON of Utah, Mr. EMERSON, Mr. MAVROULES, Mr. AKAKA, Mr. MOLLOHAN, Mr. DONNELLY, Mr. LEVITAS, Mr. ST GERMAIN, Mr. SCHAEFER, Mr. BROWN of California, Mr. HAWKINS, Mr. MCKERNAN, Mr. SAVAGE, Mr. FEIGHAN, Mr. ALEXANDER, Mr. CROCKETT, Mr. ROYBAL, Mr. MARTIN of New York, Mr. REGULA, Mr. FLIPPO, Mr. CAMPBELL, Mr. SISISKY, Mr. LOWRY of Washington, Mr. KRAMER, Mr. BREAUX, Mr. KOGOVSEK, Mr. PANETTA, Mr. COUGHLIN, Mr. MINETA, Mr. VENTO, Mr. CARPER, Mr. SNYDER, Mr. CHAPPIE, Mr. FOLEY, Mr. BRITT, Mr. SKEEN, Mr. SABO, Mr. BURTON of Indiana, Mr. ANDREWS of Texas, Mr. OTTINGER, and Mr. VANDERGRIFF.

H.J. Res. 621: Mr. ACKERMAN, Mr. HALL of Ohio, Mr. DE LUGO, Mr. HILER, and Mr. GINGRICH.

H.J. Res. 623: Mr. FORD of Michigan, Mr. LEVIN of Michigan, Mr. MCCOLLUM, Mr. WYLIE, Mr. FASCELL, Mr. RAHALL, and Mr. MAVROULES.

H.J. Res. 624: Mr. HORTON.

H.J. Res. 631: Mr. RAHALL, Mr. HORTON, Mr. CROCKETT, Mr. BRYANT, Mr. BROOKS, Mr. VANDERGRIFF, Mr. BONIOR of Michigan, Mr. ROBERTS, Mr. ANDREWS of North Carolina, Mr. YOUNG of Alaska, Mr. ROE, and Mr. MARTINEZ.

H.J. Res. 637: Mr. LAGOMARSINO, Mr. HAYES, Mr. SCHEUER, Mr. TALLON, Mrs. HOLT, Mr. BRITT, Mr. FROST, Mr. FRENZEL, Mr. BRYANT, Mr. RANGEL, Mr. SHAW, Mr. ROBINSON, Mr. DEWINE, Mr. ANDREWS of North Carolina, Mr. FLIPPO, Mr. ARCHER, Mr. DYMALLY, Mr. RAY, Mr. DE LUGO, Mr. DIXON, Mr. HUCKABY, Mr. LELAND, Mr. CLAY, Mr. HOYER, Mr. TORRICELLI, Mr. LEWIS of California, Mr. MCNULTY, Mr. LONG of Louisiana, Mr. FASCELL, Mr. OWENS, Mr. REID, Mr. BATES, Mr. BERMAN, Mr. SPRATT, Mr. LANTOS, Mr. CARPER, Mr. WILSON, Mr. SISISKY, Mr. JONES of North Carolina, Mr. DELLUMS, Mr. DAUB, Mr. MORRISON of Connecticut, Mr. BATEMAN, Mr. DYSON, Mr. HORTON, Mr. RATCHFORD, Mr. FIELDS, Mr. BETHUNE, Mr. ERDREICH, Mr. FOLEY, Mr. WHEAT, Mr. GUARINI, Mr. BLILEY, Mr. MINETA, Mr.

CROCKETT, Mr. VANDERGRIFF, Mr. LOEFFLER, Mr. DUNCAN, Mr. FRANKLIN, Mr. RICHARDSON, Mr. BEVILL, Mr. MONTGOMERY, Mr. NEAL, Mr. BARTLETT, Mr. PATTERSON, Mr. EDGAR, Mr. KEMP, Mr. WORTLEY, and Mrs. COLLINS.

H. Con. Res. 107: Mr. BEREUTER and Mr. BROOMFIELD.

H. Con. Res. 260: Mr. FAUNTROY and Mr. LOWERY of California.

H. Con. Res. 344: Mr. JACOBS.

H. Res. 50: Mr. MOAKLEY.

H. Res. 170: Mr. CHANDLER.

H. Res. 518: Mrs. MARTIN of Illinois, Mr. CHAPPIE, Mr. EDWARDS of Oklahoma, Mr. HARTNETT, and Mr. MCDADE.

H. Res. 540: Mr. FAUNTROY, Mr. HORTON, Mr. CONYERS, Mr. MITCHELL, Mr. BARNES, Mr. ROE, Mr. RANGEL, Mr. LANTOS, Mr. FRANK, Mr. DE LUGO, Mr. COLEMAN of Texas, Mr. MONTGOMERY, Mr. YOUNG of Missouri, Mr. ST GERMAIN, Mr. PANETTA, Mr. BIAGGI, Mr. LEVINE of California, Mr. DYMALLY, Mr. EDGAR, Mr. LELAND, Mr. WILSON, Mr. SUNIA, Mr. COYNE, Mr. BERMAN, Mr. OWENS, Mr. KOLTER, Mr. BATES, Mr. DOWNEY of New York, Mr. MINETA, Mr. FISH, Mr. SIMON, Mr. EDWARDS of California, Mr. SYNAR, Mrs. BURTON of California, Mr. TORRICELLI, Mr. WON PAT, Mr. MARTINEZ, Mr. FAZIO, Mr. BONER of Tennessee, Mr. ORTIZ, Mr. WOLF, Mr. BATES, Mr. MINISH, Mr. STAGGERS, Mr. RANGEL, Mr. KILDEE, MR. DE LA GARZA, Mrs. HOLT, and Mr. FORD of Michigan.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3082

By Mr. JONES of North Carolina:

(An amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Wetlands Resources Act of 1984".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) wetlands play an integral role in maintaining the quality of life through material contributions to our national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and thus to the health, safety, recreation, and economic well-being of all our citizens;

(2) wetlands provide habitat essential for the breeding, spawning, nesting, migration, wintering, and ultimate survival of a major portion of the Nation's migratory and resident fish and wildlife, including migratory birds, endangered species, commercially and recreationally important finfish, shellfish, and other aquatic organisms, and contain many unique species and communities of wild plants;

(3) our Nation's migratory bird treaty obligations with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, require Federal protection of wetlands used by migratory birds for breeding, wintering or migration, and are needed to achieve and to maintain optimum population levels, distributions, and patterns of migration;

(4) wetlands, and the fish, wildlife, and plants dependent thereon, provide significant recreational and commercial benefits, including—

(A) contributions to a commercial marine harvest valued at over $10,000,000,000 annually,

(B) support for a major portion of the Nation's multi-million-dollar annual fur and hide harvest, and

(C) fishing, hunting, birdwatching, nature observation, and other wetland-related recreational activities that generate billions of dollars annually;

(5) wetlands enhance the Nation's water quality and supply by serving as groundwater recharge areas, sediment and nutrient traps and chemical sinks;

(6) wetlands provide a natural means of flood and erosion control by retaining water during periods of high runoff, thereby protecting against loss of life and property;

(7) wetlands constitute only a small percentage of the land area of the United States, are estimated to have been reduced by half in the contiguous States since the founding of our Nation, and continue to disappear by hundreds of thousands of acres each year;

(8) certain activities of the Federal Government have inappropriately altered or assisted in the alteration of wetlands, thereby unnecessarily stimulating and accelerating the loss of these valuable resources and the environmental and economic benefits that they provide; and

(9) the existing Federal, State, and private cooperation in wetlands conservation should be strengthened in order to minimize further losses of these valuable areas and to assure their management in the public interest for this and future generations

(b) PURPOSE.—It is the purpose of this Act to promote, in concert with other Federal and State statutes and programs, the conservation of our Nation's wetlands in order to maintain the public benefits they provide and to fulfill international obligations contained in various migratory bird treaties and conventions with Canada, Mexico, Japan, the Union of Soviet Socialist Republics, and with various countries in the Western Hemisphere by—

(1) intensifying cooperative efforts among private interests and local, State, and Federal governments for the management and conservation of wetlands; and

(2) intensifying efforts to protect the Nation's wetlands through acquisition in fee, easements, or other interests and methods by local, State, and Federal governments and the private sector.

TITLE I—REVENUES FOR MIGRATORY BIRD CONSERVATION FUND

SEC. 101. ADMISSION FEES AT CERTAIN NATIONAL WILDLIFE REFUGE UNITS.

(a) DEFINITIONS.—As used in this section—

(1) The term "admission permit" means a single visit permit provided for in subsection (c)(1)(A) or a group visit permit provided for in subsection (c)(1)(B).

(2) The term "designated unit" means any unit of the National Wildlife Refuge System that the Secretary designates, for purposes of this section, as a unit for which admission permits are required of the public for entry thereto.

(3) The term "duck stamp" means a migratory bird hunting and conservation stamp issued under section 2 of the Act of March 16, 1934 (commonly known as the "Duck Stamp Act", 16 U.S.C 718b).

(4) The term "related individuals" means, with respect to an individual holding a valid single visit admission permit issued under subsection (c)(1) or an unexpired duck stamp—

(A) all other individuals accompanying such individual in a single, private, noncommercial vehicle at the time of entry into a designated unit; or

(B) if entry into a designated unit is made other than by such a vehicle, the spouse, any child, and any parent accompanying such individual at the time of entry.

(5) The term "Secretary" means the Secretary of the Interior.

(b) IN GENERAL.—(1) Notwithstanding the provisions of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-4 et seq.), the Secretary shall charge reasonable fees for admission permits to designated units and shall pay the revenues accruing from the collection of such fees, less 10 per centum thereof which shall be used by the Secretary—

(A) to defray the administrative costs incurred in issuing such permits, and

(B) to carry out the purposes for which the respective designated units were established,

into the migratory bird conservation fund established under section 4 of the Act of March 16, 1934 (16 U.S.C. 718d). The Secretary may also sell, at designated units, Golden Eagle Passports and shall treat the revenues accruing from the sale in the same manner as are fees collected for admission permits under the preceding sentence.

(2) Notices that admission permits issued under this section are required for entry shall be prominently posted at each designated unit and, to the extent practicable, included in appropriate publications of the Department of the Interior.

(c) ADMISSION PERMITS.—(1) The Secretary shall have available for sale, and issue upon payment of the required fee, at each designated unit, and at such other locations he deems appropriate, the following permits:

(A) INDIVIDUAL VISIT PERMITS.—An individual visit permit for a designated unit authorizes the purchaser thereof and the related individuals unlimited entries into, and exits from, such unit during such period of consecutive days (but not exceeding fifteen consecutive days) as the Secretary considers appropriate taking into account the nature and size of, and other relevant factors pertaining to, the unit.

(B) GROUP VISIT PERMITS.—A group visit permit authorizes a group of individuals to make such number of entries into, and exits from, a designated unit within such period of time, and subject to such other terms and conditions, as may be established by the Secretary after taking into account the nature and size of, and other relevant factors pertaining to, the unit and the purposes for which the group visit is made.

(2) The fees charged by the Secretary for admission permits to each designated unit shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable fees charged by non-Federal public agencies, and the economic and administrative feasibility of fee collections and other pertinent factors.

(d) EXCEPTIONS.—(1) The Secretary may not require an admission permit, nor charge any fee, under this section with respect to the entry into—

(A) any designated unit by—

(i) any individual who has in his possession at time of entry a valid Golden Eagle Passport, Golden Age Passport, or any other lifetime admission permit issued in accord-

ance with section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 1-6a),

(ii) any individual who has in his possession at the time of entry a valid duck stamp issued to him,

(iii) any individual who is a related individual to any individual described in clause (i) and (ii), or

(iv) any individual who has been issued a special permit under subsection (e); or

(B) the Back Bay National Wildlife Refuge, during such time as it may be a designated unit, by any individual who has been issued a special permit under section 3 of Public Law 96-315 for that refuge.

(2) The Secretary may not require an admission permit, nor charge any fee, under this section with respect to travel over any national parkway or any road or highway established as a part of the Federal-aid highway system described in section 103 of title 23, United States Code, which is commonly used by the public as a means of travel between two places which are outside a designated unit.

(e) SPECIAL PERMITS.—(1) Upon application therefor, the Secretary shall issue to any individual who is a citizen of the United States, or is domiciled in the United States, and who—

(A) has been medically determined to be blind or permanently disabled for purposes of receiving benefits under any other Federal law; or

(B) at the time of such application is age 62 or older;

a special permit which entitles the individual, during his or her lifetime, to free entry into all designated units.

(2) Upon application therefor, the Secretary shall issue to any individual a special permit which entitles the individual, during such period as may be appropriate, to free entry to a designated unit for purposes to travel to an inholding within the unit.

(3) Upon application therefore, the Secretary may issue to any individual a special permit which entitles the individual, during such period as may be appropriate, to free entry to a designated unit for any nonrecreational purpose considered appropriate by the Secretary.

(4) The Secretary shall issue special permits under this subsection without charge.

(f) PERMIT CONDITIONS.—An admission permit or special permit issued under this section—

(1) is valid only with respect to the individual or group to whom it is issued; and

(2) does not authorize such individual or group to engage in any use for which a fee charged under the Land and Water Conservation Fund Act of 1965.

(g) REGULATIONS.—The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

(h) REPORTS.—The Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate no later than March 31 of each year a report on the administration of this section during the period covered by the report including, but not limited to, a list of current designated units, a list of units, if any, being considered for designated status, designated unit capacity and visitation data, the amount and disposition of the fees collected under this section, such other information as the Secretary deems appropriate, and any recommendations the Secretary may have for improving the operation of the admission permit program.

SEC. 102. PRICE OF MIGRATORY BIRD HUNTING AND CONSERVATION STAMPS.

Section 2(b) of the Act of March 16, 1934 (48 Stat. 451; 16 U.S.C. 718b) is amended by striking out "$7.50" and inserting in lieu thereof "$10", and by striking out "any hunting year" and inserting in lieu thereof "hunting years 1984 and 1985, $12.50 for hunting years 1986 and 1987, and $15 for each hunting year thereafter,".

TITLE II—FEDERAL AND STATE WETLANDS CONSERVATION

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) The term "effective period" means the period beginning on October 1, 1984, and ending on the close of September 30, 1994.

(2) The term "eligible State" means, with respect to any fiscal year, a State that is eligible under section 204 for payment of moneys under an apportionment made under section 203(b) for that year.

(3) The term "enhancement project" means a project (which may include, but is not limited to, construction, fresh-water flow control, or the introduction of appropriate flora) that will establish (other than by acquisition) a wetland, increase the size (other than by acquisition) of an existing wetland, or restore the natural quality of an existing wetland.

(4) The term "fund" means the Wetlands Conservation Fund established under section 208.

(5) The term "preservation project" means a project (which may include, but is not limited to, construction, fresh-water flow control, or the introduction of appropriate flora) that will minimize or prevent the loss of an identified area of a wetland.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and, to the extent practicable may include the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(8) The term "wetland" means land that is—

(A) transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water; and

(B) generally inundated or saturated by surface or ground water frequently enough, and for long enough duration, to support plant populations or animal populations, or both, which are adapted to the limiting stresses of the environment characterized by saturated soil conditions or conditions of occasional flooding;

and includes, but is not limited to, a tidal or inland marsh, swamp, small pond, pothole, bog, ox bow, pocosin, slough, mudflat, or bottom land hardwood forest.

(9) The term "wetlands acquisition" means the obtaining of a property interest in a wetland or associated area by purchase or lease if the obtaining of such interest contributes appreciably to the long-term preservation of the weland and the associated populations of fish, wildlife, and plants.

(10) The term "wetland conservation project" means a wetlands acquisition, a preservation project, or an enhancement project.

SEC. 202. NATIONAL WETLANDS PRIORITY CONSERVATION PLAN.

The Secretary, after consulation with the States, shall establish, and perodically review and revise, a national wetlands priority converstion plan which shall specify, on a region-by-region or other basis deemed appropriate by the Secretary, the types of wetlands to which priority should be given with respect to wetlands acquisition and the implementation of preservation projects and enhancement projects. In establishing such priorities, the Secretary shall take into account—

(1) the significance of the loss or threat of loss of the respective types of wetlands; and

(2) the contributions which the respective types of wetlands make to—

(A) wildlife, including endangered and threatened species, migratory birds, and resident species,

(B) commercial and sport fisheries, and

(C) surface and groundwater quality and quantity, and flood control.

SEC. 203. ALLOCATION AND APPORTIONMENT OF AMOUNTS AVAILABLE TO CARRY OUT THIS TITLE.

(a) Of the sum appropriated for any fiscal year under section 209—

(1) such percentage of that sum (but not more than 66⅔ per centum thereof) as is considered appropriate by the Secretary, less such amount (but not more than 4 per centum of such percentage) considered necessary by the Secretary to defray the costs of administering sections 202 through 207 during such fiscal year, shall be apportioned by him among eligible States in accordance with subsection (b); and

(2) the remainder of such sum after paragraph (1) is applied shall be retained by the Secreatary for expenditure by him to carry out Federal wetlands acquisitions that are consistent with the wetlands priority conservation plan established under section 202.

Each wetland acquired by the Secretary under paragraph (2) shall be included within the National Wildlife Refuge System.

(b) The moneys allocated under subsection (a)(1) for any fiscal year during the effective period shall be apportioned by the Secretary among the eligible States as follows:

(1) 50 per centum thereof shall be apportioned on the basis of the ratio, as determined by the Secretary, which each eligible State's expenditure of funds (other than Federal funds) for wetlands conservation projects in that State bears to the total amount of funds (other than Federal funds) expended by all eligible States for wetlands conservation projects in such States in that year. As used in this paragraph, the term "year" means the most recent year for which the calculation of such funds, for purposes of this paragraph, is practicable.

(2) 50 per centum thereof shall be opportioned to eligible States consistent with the national wetlands priority conservation plan established under section 202.

Apportionments made under this subsection shall be adjusted so that no eligible State is apportioned less than one-half of 1 per centum of the total amount available for apportionment under this subsection in any fiscal year.

SEC. 204. ELIGIBILITY OF STATES FOR PAYMENT UNDER APPORTIONMENTS.

(a) A State is eligible for payment of moneys under an apportionment made under section 203(b) if—

(1) the Secretary determines that a wetlands conservation plan submitted to him by the State—

(A) is comprehensive and will ensure the perpetuation of wetland resources,

(B) was prepared with opportunity for public comment,

(C) is substantial in character and design, and

(D) is in a format required by the Secretary which shall be compatible with standards and formats required of States for grants administered by the Secretary, particularly the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669 et seq.), Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777 et seq.), and Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.); or

(2) the Secretary determines, after opportunity for public comment, that a wetland conservation project submitted to him by the State is substantial in character and design and meets standards as the Secretary deems appropriate, and the State submits to the Secretary such surveys, plans, estimates, and other specifications for the project as the Secretary may require.

A comprehensive wetlands conservation plan or an individual wetland conservation project with respect to which such a determination is made under paragraph (1) or (2) is an approved plan or approved project for purposes of section 205.

SEC. 205. CONDITIONS RELATING TO APPORTIONMENTS.

(a) The moneys apportioned to an eligible State under section 203(b) may be used for the payment of not to exceed 75 per centum of the costs of (1) any segment of an approved plan, or (2) an approved project, as the case may be.

(b) No payment of any money apportioned under section 203(b) may be made by the Secretary with respect to any approved plan or any approved project unless—

(1) an agreement on the part of the eligible State setting forth its undertakings to implement the plan or project is submitted to, and approved by, the Secretary; and

(2) the Secretary finds that the approved plan segment or approved project has been completed, or is being undertaken, in compliance with such plan or project.

If the conditions in paragraphs (1) and (2) are met, the Secretary shall cause payment to be made to the proper authority of such State.

(c) The Secretary may from time to time make payments on an approved plan segment or approved project as it progresses, but such payments, including previous payments, if any, shall not be more than the United States pro rata share of the segment or project in conformity with the plan or project specifications.

(d) The Secretary may enter into agreements to fund an initial portion of an approved plan segment or approved project and to agree to fund the remaining costs from subsequent apportionments if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purposes of this section.

(e) Moneys paid to an eligible State under this section shall be applied only to approved plans or approved projects and, if otherwise applied, shall be repaid by the State before it may participate in any further apportionment under this title.

(f) No property acquired or developed with assistance under this title shall, without the approval of the Secretary be converted to other than wetland conservation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the then existing comprehensive wetlands conservation plan and only upon such conditions as he deems necessary to assure the substitution of other properties of at least equal fair market value or a reasonably equivalent usefulness and location.

(g) No enhancement project or preservation project shall be approved unless the State holds an interest in perpetuity on the wetlands being conserved.

SEC. 206. TREATMENT OF UNOBLIGATED AMOUNTS.

(a) The amount of any apportionment made to an eligible State under section 203(b) for any fiscal year that remains unobligated at the close thereof shall continue to be available to that State for obligation until the close of the succeeding fiscal year.

(b) If any amount to which subsection (a) applies remains unobligated at the close of the two-fiscal year period referred to in that subsection, such amount shall be used by the Secretary in accordance with subsection (c).

(c) During the fiscal year after any two-fiscal year period referred to in subsection (b), the Secretary shall make available—

(1) any, all, or none (as he deems appropriate) of the aggregate of all of the amounts unobligated by eligible States at the close of such period to those eligible States not having unobligated amounts at the close of such period for expenditure to implement wetland conservative projects that are consistent with the national wetlands priority conservative plan established under section 202; and

(2) if all such aggregate is not made available to eligible States under paragraph (1), the balance of such aggregate for expenditure under section 203(a)(2), which balance shall remain available until expended.

Any part of any amount made available under paragraph (1) for any fiscal year that remains unobligated at the close of such year shall be available, until expended, for expenditure under section 203(a)(2).

SEC. 207. REGULATIONS.

The Secretary shall issue such regulations as are necessary or appropriate to carry out this title.

SEC. 208. WETLANDS CONSERVATION FUND.

(a) There is established in the Treasury of the United States a fund to be known as the Wetlands Conservative Fund consisting of the amounts that are transferred to it under subsection (c).

(b) Amounts in the fund shall be available, as provided by appropriations Acts, only for making expenditures to carry out this title.

(c) For each fiscal year within the effective period, there are transferred $75,000,000 to the fund from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5).

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

For each fiscal year within the effective period, there are authorized to be appropriated from the fund to the Department of the Interior $75,000,000 to carry out this title.

SEC. 210. CONFORMING AMENDMENT.

Section 2(c)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5(c)(1)) is amended by inserting immediately before "September 30, 1989." the following: "September 30, 1984, and $975,000,000 for fiscal year 1985 and each fiscal year thereafter through". striking all after the word "thereafter" and inserting the following: "through September 30, 1984, and $975,000,000 for fiscal year 1985 and each fiscal year thereafter through September 30, 1994."

TITLE III—WETLANDS INVENTORY AND TREND ANALYSIS AND MISCELLANEOUS PROVISIONS

SEC. 301. CONTINUATION OF NATIONAL WETLANDS INVENTORY PROJECT.

(a) IN GENERAL.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, shall continue the National Wetlands Inventory project and shall—

(1) produce, by September 30, 1987, National Wetlands Inventory maps for the areas that have been identified by the Service as top priorities for mapping, including the entire coastal zone of the United States, floodplains of major rivers, and the Prairie Pothole region;

(2) produce, by September 30, 1989, National Wetlands Inventory maps for those portions of the contiguous United States for which maps have not been produced earlier;

(3) produce, as soon as practicable, National Wetlands Inventory maps for Alaska and other noncontiguous portions of the United States; and

(4) produce, by September 30, 1985, and at ten-year intervals thereafter, reports to update and improve the information contained in the report dated September 1982 and entitled "Status and Trends of Wetlands and Deepwater Habitat in the Coterminous United States, 1950's to 1970's".

(b) NOTICE.—The Secretary shall notify the appropriate State and Local units of government at such time as he proposes to begin map preparation under subsection (a) in an area. Such notice shall include, but is not limited to, an identification of the area to be mapped, the proposed schedule for completion, and the identification of a source for further information.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior the following sums, to remain available until expended:

(1) $14,500,000 for each of the fiscal years occurring in the period beginning on October 1, 1984, and ending at the close of September 30, 1987, to carry out subsection (a)(1).

(2) $6,750,000 for each of the fiscal years occurring in the period beginning on October 1, 1987, and ending at the close of September 30, 1994, to carry out subsection (a)(2) and (3).

(3) $900,000 for each of the fiscal years occurring in the period beginning on October 1, 1984, and ending at the close of September 30, 1996, to carry out subsection (a)(4).

SEC. 302. WETLANDS LOSS REPORT TO CONGRESS.

(a) IN GENERAL.—The Secretary shall, by September 30, 1985, prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate a report regarding wetlands losses in the United States.

(b) REPORT CONTENTS.—The report required under

(1) an analysis of the causes of wetlands destruction and degradation;

(2) a compilation and analysis of Federal statutory and regulatory mechanisms, including expenditures and financial assistance, which induce wetlands destruction or degradation;

(3) a compilation and analysis of Federal expenditures resulting from wetlands destruction and degradation;

(4) an analysis of the environmental and economic impacts (including, but not limited to, the impact on property values and local economic impacts) of eliminating or restricting future Federal expenditures and financial assistance, whether direct or indirect, which have the effect of encouraging the destruction or degradation of wetlands, including but not limited to: public works expenditures; assistance programs such as price-support programs, commodity loans and purchase programs, and disaster assistance programs; soil conservation programs; and certain income tax provisions;

(5) an analysis of the environmental and fiscal impact of failure to restrict future Federal expenditures and financial assistance which have the effect of encouraging the destruction or degradation of wetlands, including but not limited to: assistance for normal Silviculture activity (such as plowing, seeding, planting, cultivating, minor drainage, or harvesting for the production of fiber or forest products); Federal expenditures required incident to studies, evaluations, design, construction, operation, maintenance, or rehabilitation of Federal water resource development activities, including channel improvements; the commodity loans and purchases program, and cotton, feed grain, wheat, and rice production stabilization programs administered by the Department of Agriculture; Federal expenditures for the construction of publicly owned or publicly operated highways, roads, structures, or facilities that are essential links in a larger network or system; and general revenue-sharing grants made under section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221); and

(6) recommendations for the conservation of wetlands resources based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions, Federal actions, and initiatives by private organizations and individuals.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section, which sum shall be available until expended.

SEC. 303. WETLANDS LOAN ACT.

Section 3 of the Wetlands Loan Act (16 U.S.C. 715k-5) is amended by striking out the first three sentences thereof.

SEC. 304. MIGRATORY WATERFOWL AREA ACQUISITION.

Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(a)(1)) is amended by striking out "except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended".

TITLE IV—PROVISIONS AFFECTING FEDERAL LANDS AT MANTEO BAY, NORTH CAROLINA

SEC. 401. MANTEO BAY PROJECT.

(a) COST-BENEFIT RATIO REQUIRED.—Notwithstanding any other provision of law, no funds may be expended to carry out the project at Manteo (Shallowbag) Bay, North Carolina (authorized by section 101 of the River and Harbor Act of 1970 and hereinafter referred to as the "Manteo Bay project") unless a cost-benefit analysis of the Manteo Bay project is first prepared by the Secretary of the Army, acting through the Chief of Engineers, and that analysis discloses a favorable cost-benefit ratio regarding that project.

(b) USE OF CERTAIN FEDERAL LANDS.—Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to use land within the boundaries of the Cape Hatteras National Seashore and land within the boundaries of the Pea Island National Wildlife Refuge which he determines to be necessary to carry out the Manteo Bay project.

(c) EFFECTS OF USE.—In implementing the authority under subsection (b), the Secretary of the Army, in consultation with the Secretary of the Interior, shall, to the extent practicable and consistent with the construction and continued operation of the Manteo Bay project, carry out the project in such manner as to (1) maintain the essential integrity of the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore; and (2) ensure that adverse impacts to the uses and purposes of the Pea Island National Wildlife Refuge and the Cape Hatteras National Seashore are avoided, if possible, or minimized, and that, if the Secretary of the Army finds appropriate, unavoidable adverse impacts are mitigated.

H.R. 5609

By Mr. BARTLETT:

—Page 5, after line 14, insert at the end of section 101 of the bill the following new subsection:

(c) Notwithstanding any other provision of this Act, funds made available to any local educational agency under this title may be used for performance-based payments to teachers in accordance with a locally developed program for rewarding meritorious teaching.

By Mr. DANNEMEYER:

—Page 18, after line 8, insert the following new subsection:

(f) Notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out this Act for any fiscal year unless the Secretary of the Treasury, in consultation with the Secretary of Education, certifies to the Congress that expenditures incurred under such an appropriation will not result in an increase in the national debt of the United States.

By Mr. GOODLING:

—Page 17, line 7, insert before the period the following: ", or if the amount appropriated to carry out such chapter for such fiscal year does not equal or exceed the amount required to provide services under such chapter to 75 percent of the educationally deprived children eligible for such services".

EXTENSIONS OF REMARKS

A SALUTE TO DR. RONDLE EDWARDS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. STOKES. Mr. Speaker, thank you for providing me with this opportunity to salute a man whose life has been committed to quality education for our Nation's youth—Dr. Rondle Edwards. In 1976, Dr. Edwards assumed the position of superintendent of schools for the city of East Cleveland which is in my congressional district. On August 1, Dr. Edwards officially left that position and assumed a new job as the superintendent of schools in Portsmouth, VA.

Mr. Speaker, on behalf of my constituents in East Cleveland, let me say that we are saddened by Dr. Edwards' move to Portsmouth. It is truly East Cleveland's loss and Portsmouth's gain.

However, what I want to emphasize today is not the loss of a great educator from one school system to another but rather a story about a committed individual whose No. 1 priority is the education of young people. Dr. Edwards not only possessed that priority but also made education a major agenda item for all school personnel, students, and the community of East Cleveland. Almost singlehandedly, he turned the school system around to the point that it has received national attention in the media in recent months for improved test scores and achievements.

Mr. Speaker, when Dr. Edwards assumed the position as the superintendent of schools in East Cleveland, the test scores of the students were below the national average. Teacher morale was low. Vandalism in the schools was prevelant. The community maintained a pessimistic attitude toward the schools.

Dr. Edwards changed all of that. Although he is a native Virginian, Dr. Edwards joined the community as if he had lived in East Cleveland all of his life. We went door to door to meet people, talk about their concerns about the schools, and urged the passage of an increase in the tax levy to benefit the schools.

Some might have thought that Dr. Edwards, armed with his effervescent personality and positive confidence in the schools, was asking too much. What the community really got was a bargain.

After the passage of the tax levy, Dr. Edwards put the increased funds to use. He improved teacher pay, enhanced instruction with incentives to teachers, created new programs, revived old ones, and put the school system back on the proper road of educating the young people in East Cleveland. As a result, test scores improved dramatically and the students received the high quality of instruction that should be standard in all of our public schools.

Not only did he improve the financial and instructional aspects of the schools in East Cleveland, but also Dr. Edwards was a positive catalyst in terms of improving the attitude of the school personnel and in enhancing the perception of the school system by the public.

Because of his dedication and achievement, Dr. Edwards has gained the respect and admiration of people not only in Ohio but throughout this Nation. Just recently, he was named one of the top 10 educators in North America.

Mr. Speaker, my young constituents have been the beneficiaries of his expertise, commitment, and kindness. Because of him, East Cleveland city schools are better places for the students as well as the teachers.

On behalf of my constituents, I take this opportunity to salute Dr. Edwards for his exceptional work in the field of education. At this time, I would like to insert an article from the Cleveland Plain Dealer in the RECORD on Dr. Edwards.

[From the Cleveland Plain Dealer, July 23, 1984]

TOP 100 EDUCATOR READY TO MOVE ON

(By George E. Jordan)

When Supt. Rondle Edwards took over the East Cleveland schools, he inherited a system haunted by truancy, assaults on teachers, vandalism and apathy among some teachers and pupils about academic excellence.

Eight years later, the East Cleveland schools have emerged as one of the finest districts in Cuyahoga County, making a quick departure from the days when athletic competition overshadowed class-room activities.

Edwards, 50, officially relinquishes the helm Aug. 1 to become superintendent of schools in Portsmouth, Va. He seemed to make all the right moves during his tenure in East Cleveland.

In the fall of 1976, he spent the first few months of his tenure going door to door in the community, successfully lobbying for passage of a 719-mill school levy and getting to know the area.

The school board, impressed with his diplomatic air and bold proposals for sweeping change, gave their new superintendent a blank check and free rein to turn the district around. "They just threw this thing open to me," he recalled.

"I came here to interview with little or no intent of taking the job. But I saw citizens truly prepared and committed to developing a community. I was totally turned on by their commitment," said the former assistant superintendent of the Richmond, Va., schools. He is a Richmond native.

In early 1976, during a second interview for the post, he recalled encountering teachers "who did not really believe in what they were doing" and the unexpected responses to his inquiries about courses for gifted and talented pupils.

"I was appalled. I got this expression from the general staff and questions like, 'Do we have the youngsters to serve in a gifted and talented program?' I think that was a function of low expectations," Edwards said.

"Nothing disturbs me more than a person who does not realize the importance of education in all of our lives. What really bothers me most is a person who doesn't respect the pupils he or she is working with."

There are now waiting lists for enrollment in the many special programs, particularly in math and science, at W.H. Kirk Junior High School and Shaw High School.

Edwards, initially assuming the role of tough guy, drew the scorn of teachers union officials by firing or reassigning teachers and principals in the early years of his administration.

The changes paid off, however. He later won praise for stressing academics, fighting for pay increases, insisting on stricter classroom discipline and encouraging workers to propose new ideas.

"I'm going to be sad to see him go," said Deborah Crosby, president of the East Cleveland Education Association. "There has been a lot of emphasis on higher test scores. That's one thing that stands out the most."

Crosby, ECEA president for two years, said teachers' and parents' pride in the district's academic offerings became apparent in the 1980s, after the superintendent's shakeup.

Edwards' leadership in bolstering the district's academic programs won him recognition earlier this year as one of North America's top 100 educators.

He attributes his successes to community involvement in the schools and luck in surrounding himself with capable teachers and midlevel administrators. Edwards gives his staff the freedom to do their jobs, and they relish the dirty work that makes the boss look good because a job well done translates into an even better quality education for pupils.

"I think the school system is well along the way, but there's a lot more to be done," he cautioned. "This district is at a point where a real strong administrator can move it to even higher heights. We need a superintendent who will build upon the progress of the system.

"We have been saying over the years that the board of education has been committed

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

to what is good for education and less time on political" infighting, he said.

During Edwards' tenure, the board has focused on broad policy issues affecting delivery of classroom services, he said. "I hope that this type of orientation continues," he said.

In Portsmouth, Edwards said he plans to expand instructional programs for minority pupils and broaden the district's class offerings. "I'm looking forward to it. I think it's time to move," he said.●

PLIGHT OF POLITICAL REFUGEES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. OTTINGER. Mr. Speaker, last week the House appointed members to the conference committee on H.R. 1510, the Simpson-Mazzoli immigration bill. There are many advantages to such legislation, but I would caution my colleagues that we achieve nothing if we allow ourselves to ignore the plight of political refugees by confusing political and humanitarian questions with an attempt to control legal and illegal immigration.

Included in the House version of this bill is sense of the Congress language that the United States should grant extended voluntary departure to Salvadoran refugees who have fled here to escape the unrelenting violence in their homeland. There is also legislation pending before the Judiciary Subcommittee on Immigration which would suspend deportation of Salvadorans until such time as the Congress determined El Salvador to be safe enough for their return. Both of these initiatives represent the only fair and thoughtful response the United States could take in the face of a rush of refugees fleeing danger; a response that we have taken in the past for refugees from Poland, Nicaragua and other nations in turmoil.

Unfortunately, refugee status is increasingly becoming victim to the political climate. In the case of Salvadorans, the administration refuses to recognize the danger in El Salvador and so maintains that Salvadorans have no right to extended voluntary departure. In an op-ed from the Wall Street Journal of August 28, Doug Bandow outlines the problems and contradictions within this posture. I commend the article to the attention of my colleagues:

SINKING THE HOPES OF POLITICAL REFUGEES

(By Doug Bandow)

President Reagan concluded his acceptance speech last Thursday night with a moving reminder of our nation's "golden door." Beside it, he said, the Statue of Liberty's torch has been "lighting the way to freedom for 17 million new Americans."

Yet as tens of thousands of people around the world flee their repressive and strife-torn homelands every year and request political asylum here, the U.S. government treats them as a threat. Our embassy in Warsaw has even become reluctant to allow Poles to visit the U.S., rejecting some 40% of all visa requests, apparently fearing that some Polish tourists might request asylum while here.

An applicant may stay in America if he has been persecuted or has "a well-founded fear of persecution." The Immigration and Naturalization Service (INS), which normally follows the recommendations of the State Department's Bureau of Human Rights and Humanitarian Affairs in granting asylum, has a backlog of 143,500 applications; 18,758 requests were filed in the first eight months of fiscal 1984.

DOES BIAS EXIST?

All applications are to be judged individually, but appearances of group political bias exist. There is a vindictive undercurrent to the administration's treatment of Haitians, for example, not present in the handling of the earlier flood of Cuban immigrants. Haitian refugees have been imprisoned in Northern states for more than a year while waiting for resolution of their asylum claims, and boatloads of Haitians are turned away—forever preventing any assessment of their appeals—because they are assumed to be purely economic migrants. Yet the Duvalier regime is highly repressive; the New York-based Lawyers Committee for International Human Rights has described Haiti as having a "climate of fear in which the democratic process has little meaning."

For years, people fleeing Nicaragua have been far more likely to be granted asylum than Salvadorans. A 1981 report by the U.N. High Commissioner for Refugees concluded that the U.S. was followed "a consistent practice designed to secure the return of Salvadorans, irrespective of the merits of their asylum claims."

And the administration's attitude toward defectors from the People's Republic of China has been particularly bizarre—except when considered in relation to America's courtship of the Communist state. So far this year, only one out of seven applicants from China is being granted asylum; those rejected include Chu Jiangang, a member of an opera troupe, who had been in political trouble at home in China, and atmospheric physicist Xia Yuren, who escaped via a window from China's San Francisco consulate.

Both Messrs. Xia and Chu have gravely embarrassed China, where, the Human Rights Bureau reports, critics are "dealt with swiftly and sometimes harshly." One is forced to wonder whether the threat of another freeze in athletic and cultural exchanges of the sort that followed the granting of asylum to tennis star Hu Na last year is being taken into account.

However, officials at both the State Department and the INS deny that political considerations enter the process, and argue that such anomalies are explainable on other grounds. INS spokesman Verne Jervis says many Salvadorans, for example, enter the U.S. from other countries, such as Mexico, in which they've already found a "safe haven."

Laura Dietrich, deputy assistant secretary of state of humanitarian affairs, emphasizes that "country conditions in general, either poverty or civil unrest or whatever, are not grounds for asylum"—the person has to show that he's been "singled out for persecution." In the general case of Chinese applicants, Ms. Dietrich says that their presence in "a certain field, like the arts, sports, science, or certain professions indicates that those people already are part of a privileged class." Indeed, the "very fact that those people are in those occupations and are allowed to travel abroad" is evidence that "their reasons for staying in the U.S. were not valid." People whose request for U.S. political asylum is denied may seek to enter another country or, since their requests are secret, may take the risk of returning home.

Overall, asylum policy doesn't appear to be dictated by world politics. Approval rates for many nations fluctuate greatly from year to year, and are unrelated to any apparent government policy shift.

Moreover, the fact that 16.8% of Nicaraguan requests for asylum have been approved compared with only 3% of those by Salvadorans so far this year tells us less about the political persuasion of the administration than the niggardliness of the law itself. Officials may be subconsciously biased against Salvadorans, believing them to be applying solely for economic reasons, but granting asylum to just one out of six Nicaraguans hardly seems to be a political move calculated to embarrass the Sandinista regime.

The fundamental problem is that the Human Rights Bureau and the INS are upholding the law, not that they are flouting it. A refugee may have no right to criticize his government, own property or direct his own life. But if he merely faces the same totalitarian strictures as everyone else in his country, he can't stay in America.

Such an approach is not worthy of "the land of the free." Some 40,000 people have died in El Salvador in the past five years, victims of left and right; why should we care whether an applicant has been singled out? The Soviet Union is an 8½-million-square-mile gulag. Refusing refuge to even 18% of potential Soviet defectors, as the U.S. did last year, is incredible.

And we shouldn't worry overly about the distinction between political and economic refugees. Most foreigners who want to live in the U.S. hope to take advantage of both its economic freedoms and its political opportunities; their exact rationale can be very difficult to disentangle, particularly if they are unsophisticated. The U.N. High Commissioner for Refugees reports that "Some refugees are politically inarticulate in the sense of not being able to express their political views though they may have very definite opinions for which they have had to suffer."

Also, economic liberty is as fundamental a human right as political freedom; it underlies the founding of our nation. Who can say what causes people more suffering—restrictions on political activities, or control of their economic destinies?

Until passage of the Refugee Act of 1980, most applicants from Communist and some Middle Eastern countries, in contrast with other asylum applicants, were automatically treated as refugees. We should return to this more generous standard and apply it more generally. (Some may fear massive immigration across the Southern U.S. border, but only five Mexicans requested asylum in all of 1983. They apparently eschew the process because they are primarily transient migrants and do not meet the requirements for asylum, though that could change if the law were sufficiently loosened.)

AN ASSET TO AMERICA

Even a large increase in the number of refugees (which is unlikely) would pose no

threat. Immigrants constitute a far smaller percentage of the population today than they did at the turn of the century, and less than in such countries as Canada, Britain and France today.

Immigrants benefit us all economically and culturally. Studies consistently show that they use less in public services than they pay in taxes. Most don't displace native workers, and higher-skilled immigrants are more likely than natives to create new businesses and jobs.

Miss Liberty is being renovated, even as we daily repudiate her message by turning down the majority of asylum requests from citizens of such civil-libertarian hells as China, Czechoslovakia, Vietnam and Cambodia, and from such economic basket cases as Bangladesh, Zaire and Ethiopia. We should mark the restoration of the statue with passage of new legislation that shows we still understand our heritage of freedom and are, as the president suggested, willing to share its bountiful opportunities with others.●

H.R. 4684: NUTRITION MONITORING

HON. BUDDY MacKAY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. MACKAY. Mr. Speaker, I want to call to the attention of my colleagues on August 26, 1984, article in the Washington Post coauthored by Dr. Jean Mayer, a world-renowned nutritionist and currently the president of Tufts University, and Jeanne Goldberg. The article underscores the longstanding need for a national nutrition monitoring system and emphasizes the importance of H.R. 4684, the National Nutrition Monitoring and Related Research Act of 1984, in fulfilling that need.

H.R. 4684 has been endorsed by over 50 organizations representing: Scientific societies, government, health and service organizations, food producers and processors, and consumer, antihunger, senior and religious groups. The bill will be before the Science and Technology Committee on September 13. I urge my colleagues to support H.R. 4684 when it comes before the House and to review the article which follows.

NUTRITION

(By Dr. Jean Mayer and Jeanne Goldberg)

The recent recession has retaught us an old lesson: We desperately need a way to keep tabs on the nutritional health of America, especially high-risk groups like children, pregnant women and the elderly poor.

It's an old lesson because a national nutrition-monitoring system was strongly recommended by the White House Conference on Food, Nutrition and Health way back in 1969.

Readers who remember the shocking discovery in the 1960s of widespread, poverty-related hunger in the United States, the land of plenty, will also recall the heartbreakingly long struggle to get the national government to recognize and tackle the problem. Teams of health experts had to scour the nation evaluating reports and assessing each situation. Only then, when it grew clear that people from every ethnic group and region of the country were affected, did Congress and the executive branch take heed.

When it came, action was thorough and bipartisan. And it worked: America was fed, from sea to shining sea. Not until 1981, when cutbacks in the federal food programs appeared along with unemployment in the recession, did the shadow of hunger fall upon us again.

And because there is still no good way to measure the nation's nutritional health, once more we are hearing the old push-me pull-you, "Yes, there is," "No, there isn't," kind of exchange.

Now, finally, if a new bill before the House of Representatives is passed by Congress, we will have the beginnings of a comprehensive, coordinated national nutrition-monitoring system.

The words may have a cold, technical ring. But this is what they mean: a window to give our federal, state and local governments and private organizations a reliable, up-to-date look at a very complex realm. It will provide a view of the food picture from many vantage points, to learn who's eating what and getting what nutrients, which groups have nutrition-related problems and what treatment they're receiving, what foods are available and at what cost—in short, complete nutritional surveillance for the entire country. It's the who, where, what and why of our food supply and eating patterns.

In good times, this information would offer American consumers of all incomes help in choosing a healthy diet. It would provide health professionals with the guidance they need to advise the general public on food selections and to plan therapeutic diets for their patients. And it would give the federal government tools for long-range nutrition and agricultural planning.

In bad times, such information would give our national and local agencies a rational basis for allocating scarce resources to those most in need—and soon enough to make a real difference in their nutritional state.

The magic number is H.R. 4684. That's the new bill coming before the House to set up the system. In charge would be a directorate whose members are slated to represent the federal agencies with a stake in nutrition monitoring.

Two arms of the Department of Agriculture (the Agricultural Research Service and Human Nutrition Information Service) and two of the Health and Human Services Department (the National Center for Health Statistics and the Centers for Disease Control), which have major responsibility for our current nutrition-monitoring programs, would manage the new, expanded system.

An advisory council drawn from experts in the fields of nutrition and dietetics, public health, medicine, food technology, health statistics, health education and economics would also be at the helm.

The program would coordinate our two intermittent dietary and nutrition status surveys—the Health and Nutrition Examination survey from HHS, and the Nationwide Food Consumption Survey from USDA—and put them on an ongoing basis. At present, the most recent data are about six years old.

In addition to state-of-the-art assessment, analysis and reporting of America's dietary status and trends, the new network would explore future monitoring and research priorities, and set up necessary research. It would develop data banks for national nutritional and dietary status. It would perform a key service in focusing the activities of federal agencies on emerging problems, and would make a special point of helping state and local government build their own monitoring and surveillance networks.

For various reasons, this program has been a long time coming. At last we have the chance to make the idea a reality. We should seize the moment. A nutrition surveillance system could safeguard the nutritional well-being of all Americans, in prosperous times or lean years. It could also help us put our money where the need is greatest.●

A SALUTE TO THE FAIRMOUNT THEATRE OF THE DEAF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. STOKES. Mr. Speaker, on behalf of the residents of the Cleveland metropolitan area and the avid theatre patrons in the 21st Congressional District, I salute the Fairmount Theatre of the Deaf. For many years, the theatre, located in my congressional district, has provided quality entertainment. They have received warm receptions by audiences and rave reviews by critics in Cleveland, throughout Ohio and around the globe.

Recently, the theatre artists, under the direction of Mr. Michael G. Regnier, departed for Amman, Jordan where they participated in the Jerash Festival, August 23-29. This annual international arts festival, headed by Her Majesty Queen Noor, was an important event which encouraged and promoted talent from all over the world. The United States and Jordan have maintained cultural exchanges for many years.

Mr. Speaker, this is only the most recent international invitation and honor bestowed upon this group of talented Clevelanders in the last year. In November 1983, artists from the theatre represented the United States at the VIII International Pantomime Festival of the Deaf in Brno, Czechoslovakia. There, Cleveland's ambassadors to the world, as we call them, won two top awards. They were the Audience Prize for Most Popular Group and the Jean Kaspar Duburau Grand Prize for the best overall performance.

In other words, Mr. Speaker, the Fairmount Theatre of the Deaf has a tradition of excellence not only in national but also international competition. They continue to provide quality artistic performance for people from every walk of life.

In honor of their recent participation in the Jerash Festival in Jordan and the fine work they have done in

the community through the years, I salute the Fairmount Theatre of the Deaf in Cleveland, OH.

Mr. Speaker, I ask that my colleagues join me in this salute.●

H.R. 5791

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, last June the International Trade Commission [ITC] ruled against the U.S. nonrubber footwear industry in deciding that foreign imports are not having an impact on the American industry.

It is difficult to comprehend the ITC decision in light of the fact that plants across the Nation are closing at a rate of one a week. Forty-eight plants have closed since January, with job losses estimated at 5,000 to 6,000 for the first 6 months of this year. Imports are 27 percent higher than a year ago, and imported shoes have captured 70 percent of the domestic market.

In June I introduced H.R. 5791, a bill to provide for orderly trade and reduced unemployment in the U.S. nonrubber footwear industry. The bill takes the simple approach of capping imports of nonrubber footwear into the United States to 400 million pairs annually, which would allow importers to retain 50 percent of the U.S. retail market. More than 50 of our colleagues have cosponsored this legislation, which we feel may be the only way left to save this important U.S. industry.

When the bill is considered by the House, I will recommend the following amendments. All except the last are purely technical. The last change would add a new section to give the legislation a termination date of 8 years. This is done to show that it is not our intent to create a permanently protected industry, but to allow the U.S. industry a period to strengthen itself to compete fairly against foreign imports. Printed below is the bill and the suggested modifications:

H.R. 5791

A bill to provide for orderly trade in nonrubber footwear, to reduce unemployment and for other purposes

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress, That the Act may be cited as the American Footwear Act of 1984.

SEC. 2. FINDING, PURPOSE, AND POLICY.

(a) The Congress recognizes the importance of the domestic nonrubber footwear industry to the national economy. The domestic nonrubber footwear industry is highly labor intensive, and footwear firms are vital to the economic health of small towns throughout the United States. The low capital requirements for entry into footwear production makes it a primary target for industrializing or newly-industrialized countries. As a consequence, footwear is produced in virtually every footwear consuming country in the world. Congress recognizes that tremendous competitive pressure has been created in the world footwear market in the last decade as a result of rapidly growing production and capacity in numerous developing and developed countries. This development has resulted in the widespread erection of tariff and non-tariff barriers by foreign countries designed to protect their domestic footwear industries.

(b) The Congress acknowledges that the United States has historically resisted the protectionist trends of other producing nations and has instead maintained a market distinguished by its accessibility. As a result, the U.S. market has become a focal point for world trade in nonrubber footwear. The diversion of international trade to the U.S. market has resulted in serious injury to domestic producers as manifested by the loss of 120,000 footwear jobs since 1968, a decline in domestic production and production capacity, and the permanent closure of more than 400 plants during the same period. The serious injury to domestic producers poses a significant danger to the industry's supplier base as well.

(c) The Congress finds that domestic nonrubber footwear producers have made a significant commitment to the future of the industry through substantial capital investment. Since the termination of temporary import relief in 1981, however, capital investment has declined as the industry struggled to battle the massive surge in imports which captured 70 percent of the U.S. market by early 1984. Without the restriction of import levels this capital investment will continue to decrease.

(d) The Congress notes that the domestic nonrubber footwear industry has twice been judged by the International Trade Commission to be seriously injured by imports. Since the termination of the four-year orderly marketing agreements in 1981, the present harm to the domestic industry is even more critical than the serious injury which triggered the Commission's two unanimous findings in 1976-77.

(e) Congress finds that the domestic nonrubber footwear industry has not been afforded adequate and appropriate relief; therefore, the Congress concludes that:

(1) the administrative process has proved inadequate; and

(2) in the absence of an effective remedy, legislative relief is essential.

(f) It is the intent of Congress in enacting this Act to promote and expand the economic health of the United States nonrubber footwear industry, preserve the jobs of American workers, and to prevent the further decline of this important domestic industry. It is therefore declared to be the policy of Congress that access to the United States market for foreign-produced nonrubber footwear should be on an equitable basis to ensure orderly trade in nonrubber footwear, reduce unfair trade in nonrubber footwear, and address United States' balance of payments problems. In order to accomplish these objectives, it is deemed necessary and appropriate to limit imports of nonrubber footwear to no more than 400 million pairs per year into the U.S. market.

SEC. 3. DEFINITIONS.

As used in this Act——

(1) the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States;

(2) the term "Secretary" means Secretary of Commerce;

(3) the term "nonrubber footwear product category" means the following categories for nonrubber footwear products, identified by reference to the following five digit item numbers of the Tariff Schedule of the United States (Annotated) as in effect on January 1, 1984: TSUS items 700.05 through 700.45, 700.56, 700.72, through 700.83, and 700.95.

SEC. 4. QUANTITATIVE RESTRICTIONS.

(a) Imports in the "nonrubber footwear product category" shall be restricted to 400 million pairs per year beginning on the effective date of this Act.

(b) The Secretary shall allocate global product limitations among foreign countries taking into consideration:

(1) average levels of imports for the period 1978-1982;

(2) findings of unfair trade practices with respect to nonrubber footwear products;

(3) recent market trends; and

(4) such other considerations as the Secretary deems appropriate.

(c) Upon the effective date of this Act, and in each October thereafter, the Secretary shall determine, and publish in the Federal Register the permissible level of imports by country, group of countries or area as required by this section, to take effect for 12 month period beginning the following January 1.

SEC. 5. ENDORSEMENT AND IMPLEMENTATION.

The Secretary and the Secretary of the Treasury shall take all such actions within their respective departments as may be necessary or appropriate to enforce the provisions of this Act, including, without limitation, the issuance of order to customs officers to bar entry to merchandise the entry of which would cause the limitations established under this Act to be exceeded. The Secretary and the Secretary of the Treasury are each authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this Act and to enforce its provisions; except that before issuing any such regulations, the Secretary or the Secretary of the Treasury, as the case may be, shall consult with interested domestic parties; shall afford an opportunity for comments from such parties to be provided with respect to proposed regulations; and shall consider all such comments before promulgating final regulations.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect sixty days from Presidential signature.

PROPOSED AMENDMENTS TO S. 2731 AND H.R. 5791 (AMERICAN FOOTWEAR ACT OF 1984)

In subsection (a) of section 2 of the bill, change the word "makes" to "make".

In subsection (d) of section 2 of the bill, change the word "through" to "and".

In subsection (e) of section 2 of the bill, insert the phrase "from imports" after the word "relief"; insert the phrase "under sections 201-203 of the Trade Act of 1974, as amended," after the word "process" in paragraph (1); and insert the phrase "under that process" after the word "remedy" in paragraph (2).

In subsection (3) of section 3 of the bill, delete the phrase "product category"; change the word "for" to "of"; change the word "Schedule" to "Schedules"; and delete the word "(annotated)".

In subsection (a) of section 4 of the bill, replace the phrase "in the" with the word "of"; delete the phrase "product category";

and insert the phrase "and continuing for a period of eight years" after the word "Act".

In subsection (b) of section 4 of the bill, change the word "product" to "import"; after the word "countries", insert a comma and the phrase "groups of countries, or areas"; and delete all of paragraph (2) and redesignate paragraphs (3) and (4) as (2) and (3), respectively.

Replace present subsection (c) of section 4 of the bill with the following:

"(c) Upon the effective date of this Act, the Secretary shall determine, and publish in the Federal Register, the permissible levels of imports by country, group of countries or area as required by this section, to take effect for the remainder of the calendar year in which this Act is enacted, based on a pro-rata share of the quota level of imports. In addition, if this Act becomes effective on or after October 1 of the year in which it is signed, the Secretary shall, upon such effective date, also determine, and publish in the Federal Register, the permissible levels of imports by country, group of countries or area as required by this section, to take effect for the 12-month period beginning January 1 of the following year. By the following October 1, and again by October 1 of each of the subsequent years, the Secretary shall determine, and publish in the Federal Register, the permissible level of imports by country, group of countries or area as required by this section, to take effect for the 12-month period beginning January 1 of the following year, except that the levels for the calendar year in which the authority contained in section 7 terminates shall be based on a pro-rata share of the quota level of imports."

In section 5 of the bill, change the word "departments" to "authority"; change the word "order" to "orders"; and replace the phrase "shall afford an opportunity for comments from such parties to be provided with respect to proposed regulations" with the phrase "shall afford an opportunity for such parties to comment on the proposed regulations".

At the end of the bill, add the following new section:

"TERMINATION DATE

"SEC. 7. The authority contained in section 4 of this Act shall terminate eight years from the effective date of this act." ●

WE MUST CONTINUE TO WELCOME BAHA'I REFUGEES FROM IRAN TO THE UNITED STATES

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LANTOS. Mr. Speaker, I wish to address a serious issue today, one with which I have been personally involved for many years, as have many of my colleagues. We have discussed the issue of Iranian persecution of the Baha'i religion at great length, both here on the floor of the House and in the Foreign Affairs Committee. You are familiar with the facts: mass arrests, confiscation of property, desecration of graveyards, torture and execution of hundreds of peaceful people. There can be no doubts about the extent of this systematic and brutal persecution occuring in Iran today.

The intent of most Baha'is in Iran is to wait out the Khomeini regime, and to pray that change comes quickly to that beleaguered country. Some, though, cannot or will not remain in a country that endangers their lives, and these are the refugees. At present, the refugees go to Pakistan and await resettlement to Canada, Australia, the United States, or elsewhere. This safety valve is sometimes the only path open to a Baha'i who wishes to save his or her life.

There has been some concern recently that the ceiling for refugees from the Middle East/Southwest Asian area will be lowered for the next fiscal year. If this were to happen, I fear it would be a grave and costly mistake for the hundreds of refugees who might be rejected from entering the United States.

Firuz Kazemzadeh, the leader of the National Spiritual Assembly of the Baha'is of the United States, has prepared a cogent argument urging that the number of Baha'i refugees be kept at its present level. I recommend it here for my colleagues' attention:

THE CLASSIFICATION OF IRANIAN BAHA'I REFUGEES APPLYING FOR ADMISSION TO THE UNITED STATES

The severe persecution of the Baha'is in Iran is a well established fact, amply documented in U.S. State Department and congressional reports. In the last 5 years more than 175 Baha'is, most of them leaders of the community, have been killed. As of today over 750 Baha'is are languishing in Iranian prisons, and 32, who have been sentenced to death, are awaiting execution. The entire Baha'i population of some 300,000 is denied basic human rights. The thousands of Baha'is who served as members of local spiritual assemblies—the community's elected governing bodies that were outlawed by the Islamic regime in August 1983—are particularly vulnerable to arrest, imprisonment, and execution.

Because of constant danger, small numbers of Baha'is (on the average 25 a week) are leaving the country. At present there are no fewer than 1,000 refugees in Pakistan. Of these, at least half will go to Canada, Australia and countries of Europe and a few even to Latin America. The remaining 400 to 500 will seek admission to the United States.

While the Congress has, in H. Con. Res. 226 (adopted June 15, 1984) expressed its interest in assisting Baha'i refugees and the administration has shown great sympathy, the status of Iranian Baha'i refugees causes apprehension among American Baha'is.

We sincerely hope that the next fiscal year's ceilings for refugees from the Middle East/Southwest Asian area will remain at least at the level of the current year, providing some 2,400 slots for Iranian refugees. We also hope that Iranian applicants in priority categories 5 and 6 will continue to be eligible for the refugee program, for there are Baha'is in great need of resettlement who do not easily qualify for higher priority categories.

In view of the exceptionally severe treatment to which Baha'is are subject in Iran, it would be appropriate to consider as eligible for priority category 1 those Baha'i refugees who have suffered or been personally threatened with particularly severe hardships and dangers on account of their religious beliefs:

1. Those who have been tortured or incarcerated because of adherence to the Baha'i Faith, and members of their immediate families.

2. Immediate members of families of those who were executed, assassinated, or lynched because of being Baha'i (widows or widowers, children, parents, and siblings).

3. Those who served on elected national or local spiritual assemblies, governing bodies of Baha'i communities, before these were disbanded and membership in them declared a crime by the Revolutionary Prosecutor-General in August 1983.

4. Those who actively participated in the work of spiritual assembly committees, operating Baha'i schools, study classes, libraries, charitable funds and institutions, cemeteries, shrines, and other Baha'i properties. (It should be noted that in June 1983 three teen-age Baha'i girls were hanged in Shiraz because they taught Baha'i children's classes.)

5. Those who solely because of their Baha'i affiliation have been deprived of jobs (for example, all university professors and school teachers, all government employees), or old age pensions, had their businesses or properties confiscated or looted, and can no longer earn a livelihood in Iran.

6. Those who were driven from their homes by expropriation, confiscation, arson or looting by mobs or by government agents. (Thousands of Baha'is, mostly in the provinces, have been forced to seek shelter in makeshift tent cities or in the homes of friends or relatives.)

7. Those who have been expelled, solely because of their religious faith, from the universities, primary and secondary schools thus disabling them for the future in the genocidal attempt by the Islamic regime aimed at the complete destruction of the Baha'i community.●

THE SANDINISTAS: EXPERT DECEIVERS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. BROOMFIELD. Mr. Speaker, by betraying their promises to the Organization of American States, the Sandinistas have betrayed the original Nicaraguan revolution. I commend Ambassador J. William Middendorf for his frank appraisal of growing OAS disenchantment with the Sandinistas, the professional deceivers of Central America. I strongly recommend the following excerpts from his recent address before the OAS Permanent Council.

In 1979, the Sandinistas made three vital commitments to the members of the OAS. The Sandinistas promised to establish full respect for human rights, to enforce civil justice, and to hold free elections. In exchange for the Government of Nicaragua's solemn pledges to follow through on

its formal promises, the OAS took the unprecedented step to provide support for the removal of the Somoza Government. The OAS and other countries kept their promises. Unfortunately, the Sandinistas did not. They, like Fidel Castro in the 1950's, deceived the gullible West and democratic states in the area. As Castro had one in earlier days, the Sandinistas convinced these countries that they were democratically oriented and that they wanted to give the Nicaraguan people an open and pluralistic society.

On the fifth anniversary of these broken promises, the U.S. Delegation expressed its serious concern about the deception of the Sandinistas in failing to live up to these commitments. Today, Marxist-Leninist Nicaragua is an armed camp committed to the export of its failed revolution to the region. With advisers from Cuba, the Eastern bloc and Soviet weaponry, the Nicaraguan military is the largest in Central America, and the build-up continues every day. The church has been attacked along with opposition parties. Neighborhood mobs attack the homes of those who dare voice an opposing point of view. The Nicaragua of today is a far cry from what the members of the OAS wanted it to become. I trust that the following excerpts from Ambassador Middendorf's speech to the OAS will put into perspective the real tragedy of Nicaragua.

[From the U.S. Department of State, Bureau of Public Affairs]

REVIEW OF NICARAGUA'S COMMITMENTS TO THE OAS—JULY 18, 1984

(Following is an address by Ambassador J. William Middendorf II, U.S. Permanent Representative to the Organization of American States (OAS), before the OAS Permanent Council, Washington, D.C., July 18, 1984.)

The U.S. delegation wishes to raise the matter of the solemn commitments made to the Secretary General of this body by the Sandinista junta 5 years ago on July 12, 1979. This is not intervention—this is reviewing our own role after commitments made to it by a member state. As a result of these commitments and our own OAS resolutions, we brought down a sitting government. Tomorrow will be the fifth anniversary of the date that the junta took effective control of Managua; but, regrettably, very little progress has been made in putting into effect these commitments.

You will recall that these commitments were made as a response to the resolution of the 17th Meeting of Consultation of the Ministers of Foreign Affairs of member countries of the OAS. According to Document 25 of this body, published June 30, 1981, this resolution "for the first time in the history of the OAS, deprived an incumbent member government of legitimacy" when it asked that the Nicaraguan Government be "immediately and definitively" replaced.

The resolution in question said that a solution to Nicaragua's problems was exclusively within the jurisdiction of the Nicaraguan people but then proceeded to dictate how the problems should be settled. In addition to demanding a sitting president's ouster, the resolution:

Said that a "democratic" government was to replace the existing government. Its composition was to include "the principal representative groups which oppose the existing regime and which reflect the free will of the people of Nicaragua";

Said that the human rights of all Nicaraguans, without exception, should be respected; and

Called for the holding of free elections as soon as possible, leading to the establishment of a "truly democratic government that guarantees peace, freedom, and justice."

The Ministers of Foreign Affairs went on to urge the member states to take steps that were within their reach to facilitate an enduring and peaceful solution of the Nicaraguan problem based on these points "scrupulously respecting the principle of nonintervention."

They also asked that member states promote humanitarian assistance to Nicaragua and contribute to the social and economic recovery of the country. Many countries responded with an open heart, including my own, with the United States donating $118 million in the first 2 years.

It is in this context that I propose to examine the record here today, in order to see exactly what has been happening in Nicaragua since the Sandinista junta assumed power there.

It should be noted that those who signed for the Sandinista junta were Commandante Daniel Ortega, Violeta de Chamorro, Commandante Sergio Ramirez, Alfonso Robelo, and Moises Hassan. Violetta de Chamorro is no longer a member of the junta, and Alfonso Robelo is in exile in Costa Rica, where he is an outspoken critic of the junta of which he was once a member.

COMMITMENT NUMBER ONE—HUMAN RIGHTS

". . . [O]ur firm intention to establish full respect for human rights. . . ."

Nothing has demonstrated the callous disregard of human rights by the Sandinista regime so much as their treatment of the Miskito Indians. Approximately 20,000 Miskitos—one-third of the entire Miskito population—have crossed the border into neighboring Honduras thus far, where they live in refugee camps. They have been victims of the Sandinistas' constant campaigns against them.

It all began with efforts by the Sandinista government to try to force the Miskitos into adapting their way of life to a preconceived Sandinista model. Many of these human rights offenses are detailed in a report just released by the OAS General Assembly on June 4 transmitting a report by the Inter-American Human Rights Commission dated November 29, 1983.

Miskitos have been forcibly relocated from their traditional villages. In a few cases where they resisted, they were killed. Many were force marched to the new area and not allowed to take their belongings with them. In other instances, the government appropriated their farm animals for itself. On February 18, 1982, the Episcopal Conference of Nicaragua, headed by Managua's archbishop, directed a message to the people and Government of Nicaragua denouncing the human rights violations against the Miskitos.

But by no means have human rights violations been limited to indigenous peoples. As you will recall, the Pope, on his visit to Managua, was treated with unheard-of rudeness. Sandinista militants set up a parallel loudspeaker system over which they heckled the Pope and attempted to drown out his sermon. Most of the areas close to the Pope were assigned to these militants, and ordinary Catholics who turned out to receive the Pope's blessing were kept at a distance.

This is a fitting illustration of how the Sandinista government has treated the Catholic Church.

In recent years, the Archbishop of Managua, Monsignor Obando y Bravo, has not been able to have the traditional holy week services broadcast on radio and televison because the government wanted to subject the process to prior censorship, a demand to which the Archbishop underestandably refused to accede. In a crude ploy, a priest, who is the spokesman for the archbishop and director of the Catholic radio station, was accused of have sexual relations with the wife of another man, stripped naked, and paraded in public where Sandinista mobs jeered at him while government press photographers and television crews, which "just happened" to be on the scene, took pictures.

The Sandinistas have attempted to infiltrate Catholic youth groups, and when this largely failed, they set up their own so-called "peoples' church." In November of 1983, all Nicaraguan churches closed for a day in protest against attacks by Sandinista youth mobs on numerous churches.

The current president of the Nicaraguan human rights group, Marta Patricia Baltodano, told the Inter-American Human Rights Commission in May of this year that Sandinista laws have institutionalized the violation of human rights. The setting up of so-called Neighborhood Committees for the Defense of the Revolution are really attempts to limit the freedom of the individual Nicaraguan by instituting a control system over the population at the neighborhood level.

Freedom of the press also suffers in Nicaragua. The only independent newspaper, La Prensa, has had its publication suspended by the government on numerous occasions and is subject to prior censorship. On countless days, the paper has been so heavily censored that its editors decided not to publish.

The lack of the right for families to determine how their children will be educated, which we in the United States consider a fundamental human right, has been denounced by the Nicaraguan Parents' Association. The Sandinista government tries to use education to brainwash the young against the ideals of their parents and even to get them to denounce their parents' lack of revolutionary zeal to the authorities in some cases. Intellectual freedom and the freedom to belong to independent labor unions are also restricted in today's Nicaragua.

COMMITMENT NUMBER TWO—CIVIL JUSTICE

Let us turn our attention to the second Sandinista commitment to ". . . let justice prevail for the first time in half a century. . . ."

Presumably, the Nicaraguan Supreme Court, under the original Sandinista plans, was supposed to have complete autonomy in the judicial area, and lower courts would be dependencies of it. The Inter-American Human Rights Commission in 1981, as well as an international commission of jurists, said that the judicial branch in Nicaragua should be independent from the legislative

and executive branches of the government, not to mention the Sandinista party.

But, in reality, other courts have been established which have nothing to do with the concept of judicial independence as we know it. The Supreme Court has no authority over them. One of them is the so-called Peoples' Court at the neighborhood level. These courts spend their time ferreting out so-called counterrevolutionaries in the neighborhood. For example, a neighbor who does not show up for a meeting to promote the Sandinista cause may find himself labeled a counterrevolutionary by one of these courts.

There exists no constitution, as such. There was the Economic and Social Emergency Law of 1981 which in 1982 became the State of Emergency. This State of Emergency has been routinely extended every time it was about to expire. Under this system, all laws are issued by government decree. The State of Emergency does not provide for the right of the individual to a defense in a court of law in some cases and in others suspends the civil rights of the individual. This has been denounced by Amnesty International.

COMMITMENT NUMBER THREE—ELECTIONS

So much for Sandinista justice. Let's turn now to commitment number three, dealing with elections.

We see that elections have been scheduled in the Sandinista government for November 4 of this year, 2 days before our own. As we once had high hopes for the new Nicaraguan Government 5 years ago, can we now have high hopes that at least this commitment will be fulfilled? This is, in itself, a welcome development, but there are some disturbing statements on the record which lead one to question just how open this election process will be. In the letter of July 12, 1979, the Sandinista leaders committed to the OAS to "call Nicaragua to the first free elections our country will have in this century." This was in reply to the resolution of the 17th Meeting of Consultation of the Ministers of Foreign Affairs which had said free elections should be held as soon as possible, leading to the establishment of "a truly democratic government that guarantees peace, freedom, and justice."

Yet on August 25, 1981, Commander Humberto Ortega said that elections would not be to contest power but to strengthen the revolution. On July 7 of this year, less than 2 weeks ago, Commander Carlos Nunez Tellez said on Radio Sandino:

"The electoral process is the result of a political decision made by the FSLN [Sandinista National Liberation Front], its revolutionary leaders, and government to reinforce the historical popular plan. There is nothing more alien to the electoral process than sectarianism, dogmatism, and other vices that are characteristic of certain so-called democracies."

The electoral council which has been set up is made up exclusively of prominent members of the Sandinista party. Will they be fair to the opposition parties?

And will the state of emergency be lifted for the elections?

Will the opposition parties be able to campaign without interference by authorities or by Sandinista-sponsored youth mobs?

Will opposition parties have equal access to radio and television as compared with the Sandinista party? Will they be able to have party representatives at the polls?

Will the Sandinistas allow international observers to move freely about the country during the election process? How will the ballots be counted and how will results be relayed to election headquarters?

We also note that, as time has gone on, the government has arbitrarily concentrated more and more power in the hands of the Sandinista party. What was once the Government of National Reconstruction is now the Sandinista Peoples' Revolutionary Government. Will the Sandinistas allow this process to be reversed, or are we in for a sham election in November just before our own general assembly?

We have seen how the Sandinistas of Nicaragua have thus far failed to live up to their commitments to the OAS of 5 years ago. It is a shame that the people of Nicaragua, so hopeful in 1979 that their situation would improve, have seen their revolution betrayed by a group of leaders who have aligned themselves with international communism and whose principal concern has been to maintain themselves in power and, indeed, to export communism to their neighbors virtually from the day they took over. We in the OAS, which was deeply involved in the process by which the Sandinistas took power, have a grave responsibility to monitor the fulfillment of these commitments.

In June 1979 a respected scholar on Latin America, Dr. Constantine Menges, wrote: "The defeat of the Somoza Army by the Sandinistas will be followed by a Cuban-type process from which the pro-Castro guerrilla leaders will emerge as the only group with real power." Five years after he wrote this, and 5 years after the Sandinistas' commitments to the OAS, it developed that he was prophetic.●

IF GOP DIDN'T HAVE GOLDWATER, IT WOULD HAVE TO INVENT HIM

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. McCAIN. Mr. Speaker, those Americans who attended and watched the GOP Convention in Dallas can attest to the high esteem in which Senator BARRY GOLDWATER continues to be held by Republicans and all Americans.

Senator GOLDWATER, I am proud to say, is from Arizona—but he is also a national treasure. His unique appeal was recently captured by Phoenix Gazette political reporter, John Kolbe. The article follows:

IF GOP DIDN'T HAVE GOLDWATER, IT WOULD HAVE TO INVENT HIM

DALLAS.—If Republicans didn't have Barry Goldwater, someone would have to invent him.

Like bread, water and Xerox machines, in his golden years he has become a staple of political life, an anchor of reassuring consistency in a phony and superficial world of cheap promises and mushy rhetoric.

Some practitioners of the political arts are more outrageous. Many are more eloquent. Maybe most are smarter. None is more real.

Which is why they came in herds, cynical journalists as well as the GOP faithful, when Goldwater staged his patented road show—a quadrennial convention news conference—here the other day.

Attending a Goldwater performance is much like taking a course in American literature from a professor who used to drink with Hemingway . . . it's not literature you're after, it's *life*.

Never was he livelier than here in Dallas, bad hip and fuzzy memory and all.

Goldwater acts like a star, which is socially acceptable only when it's true. And it is. He's a living legend, the once-vilified candidate who talked too straight for his own good and lived to see his premature revolution finally succeed, and to earn the sort of roar emitting from deep in the political gut which greeted him from the convention floor last night.

He gets away with it because nothing in the years after his humiliating defeat has shaken his confidence. Yet it is a confidence borne with ease, and without a hint of arrogance.

Is he a prophet, he once was asked. "No, I just came around back then to what people are thinking today." Which, of course, is the very definition of a prophet, but Goldwater leaves the labeling to others.

Part of acting like a star is toying with the newsmen who once made life so miserable for him. Reporters who saw taking a chunk out of his political hide as a sacred duty now sit happily while Goldwater scores points at their expense.

"What's on your brain?" he asked by way of recognizing a reporter with a question. "Of course, I use the term advisedly."

Newsmen serve as foils for his rapier thrusts, scattering questions across the political landscape not with an eye to eliciting news so much as entertainment. And he seldom disappoints.

Had the White House tried to get him to moderate his convention speech? "Oh, some people are worried about what I might say, but I'll say what I want to say . . . I haven't heard the phone ring. I wouldn't pay any attention to them anyway."

It wasn't quite true. Even Goldwater fudges to protect his friends.

A Reagan aide did call, he admitted privately, suggesting the deletion of an offending passage: "I told him I could take it out, but I'd just hop on the next plane and go back." Chalk up one more White House aide who's seen the soul, and learned the appeal, of Barry Goldwater.

Campaign advice from GOP history's least successful campaigner: "I told Lyn Nofziger (Reagan's political adviser) don't mention Mondale, don't mention Mrs. Zaccaro." To the snickers which greeted the use of the vice presidential candidate's married name, he added: "I'm old-fashioned. I don't want my wife calling herself Mrs. Johnson."

"I used to look at them as the biggest collections of lies ever put together," he said of party platforms. Now, however, he has moderated, and simply considers them irrelevant to the campaigns they are designed to guide.

The coming GOP scramble for the 1988 nomination won't be "a dogfight," he observed. "They're not dogs. I wouldn't say it's a catfight . . . It'll be (pause) an interesting altercation."

He has a way of reducing the great and the near-great to bare essentials: "The first time I say George (Bush) he came down from Yale and sang the Whiffenpoof."

Goldwater, who's frequently given to earthy conversation, isn't above a double entendre where it suits his purposes. He denied he had ever favored combining Puerto Rico, the Virgin Islands and Grenada in a single "archipelago state," but con-

ceded "anything that's virgin I'd like to include."

"If they want to make Cuba the 51st state, I might even go down and run for governor," he added playfully.

The years have taken their toll, as they do on all of us, and Goldwater is no longer at the top of his political form. The energy and passion for philosophical principle have waned, and he finds the easy life more appealing.

But his passion for the country and the people he loves with such uncritical devotion still burns brightly. In a stock question reserved for those in their sunset years, he was asked to name the proudest achievement of a well-spent lifetime. He didn't hesitate a moment:

"It's coming up Sept. 22. We'll have been married 50 years. You can't beat that. I'd have given you 100-to-1 odds it wouldn't last five.

So help me, the man had tears in his eyes.

"Politics is filled with brighter, and more diligent, and more vigorous men," we wrote four years ago after a similar convention performance, "but few with more unabashed patriotism and simple wisdom, and the perspective and humility to keep it all straight."

In four years, another slightly dimming intellect hasn't come up with a more apt description of a unique man. We'll just add, amen.●

HOUSE CONCURRENT RESOLUTION 333—10TH ANNIVERSARY OF SENIOR COMPANION PROGRAM

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, 1984 marks the 10th anniversary of the Senior Companion Program. This program reflects a long-standing tradition of voluntarism in this country but is, nevertheless, unique in that it puts to use the valuable talents and contributions of approximately 5,000 older volunteers who are working in over 90 Senior Companion Programs across the country.

The Senior Companion Program provides a stipend volunteer peer-support system for the frail elderly. Through this program, low-income Americans over the age of 60 serve as senior companion for older adults in their homes, nursing homes, or residential institutions. Senior companions generally are required to work 20 hours per week. For their services they receive a stipend of $2 per hour, a hot meal, transportation, an annual physical examination, and insurance coverage. Such remunerations are, in turn, of significant help to senior companions as they themselves are often living on only minimal retirement and/or Social Security benefits.

In addition to providing companionship, senior companions take updated knowledge and skills to their clients who face a variety of limiting health conditions and often isolation. As volunteers, they work under the direction of supervisors in health and social services agencies and often attend educational programs addressing such topics as health, nutrition, household management, consumer issues, and energy conservation.

Demographers predict that we are moving toward a population with more older people, including a large number of healthy people over the age of 60. As the number of elderly increases, however, so does that segment of the population with functional impairments—those in need of long-term care. Nearly 12 million frail older people will need some type of long-term care in this decade, but as health care costs continue to rise, the financial ability to access these services becomes difficult, if not impossible, for most needy families. A recent Federal study, as reported in the Wall Street Journal of March 8, 1983, found that if present trends continue, the $23 billion a year that it now costs to support skilled nursing facilities would more than triple by 1990.

The value of senior companions is that they can provide or arrange for the personal services needed to keep the frail elderly in their homes. Expensive professionals are used only for emergency or highly defined services rather than for activities that a companion can do as well or even better. Although long-term care professionals are a key element, they function primarily as trainers and emergency caregivers rather than as providers for all services. This frees the professional to handle more complex situations.

Senior companions constitute a vital link between professional service providers and the elderly while also creating a network linking frail older people in a sustaining and nurturing relationship. In effect, through the Senior Companion Program, the elderly help the elderly, and as was recently reported by the Select Committee on Aging Subcommittee on Human Services, "* * * who better knows the needs of elders than those that are senior adults?"

Senior Americans constitute the single most neglected human resource we have. This is an unfortunate and an unnecessary waste to this society, as they possess a lifetime of experience and talents to offer this Nation. I am proud to have been an original cosponsor of House Concurrent Resolution 333, commemorating the Senior Companion Program, and I will continue to support programs and legislation that appreciate the community involvement of our older citizens.

I am certain that as this and similar programs become better known, they will be welcomed in every community. But more importantly, I am hopeful that through their implementation, the valuable talents of our senior citizens will be fully acknowledged and utilized at long last.●

THE SALE OF CONRAIL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FLORIO. Mr. Speaker, the Department of Transportation is currently considering various offers for the sale of Conrail. Congress will have to consider the Department's recommendation, and the various offers, very carefully. Any sale should ensure continued rail service and maximize the return to the United States on its investment.

The New Republic recently had an article about the Conrail sale process. For the information of interested Members, the article from the July 30 issue follows:

GREAT TRAIN ROBBERY

(By Bob Kuttner)

Uncle Sam has a railroad for sale, and it looks like whoever buys it is going to get one honey of a deal. The railroad is Conrail, the line that rose from the wreckage of the old Penn Central. The seller is the U.S. Department of Transportation, which is currently considering fifteen private bids. And the various prospective purchasers—some of whom helped run Conrail's precursors into the ground in the first place—don't have to kick any wheels or slam any freight-car doors to know if the deal is sweet. They just have to look at the numbers. The taxpayers have been kind enough to spend $7.6 billion to clean up Conrail's debts and upgrade the line. Conrail is profitable: Last year it earned $313 million. It has nearly $700 million in cash in the bank. And it has tax write-offs worth over $1 billion. An attractive package. The probable price? Perhaps $500 million net, maybe a lot less. And why does the Reagan Administration want to do this? For the usual reason: it believes in free enterprise.

If Congress concurs, the abrupt privatization of Conrail will bring full circle a 15-year process of private default, public subsidy, and private enrichment. The bankruptcy of the Penn Central Company in 1970 reflected equal failures of private management and public policy. On one level, it was an epic debacle of modern managerial capitalism. For decades, the proprietors of the big eastern rail lines had failed to modernize, had let maintenance slide, and had diverted capital to real estate speculation. Poor management was camouflaged through consolidation and merger; expensive contracts and featherbedding substituted for effective labor relations. The terms "disinvestment" and "paper entrepreneurship" had not yet been coined, but the big railroads practiced them. In the endgame, just before the bankruptcy, the Penn Central hid its true, deteriorated condition from the shareholding public only by borrowing large sums of money in order to keep paying dividends.

According to Congressional and SEC investigations, the last days of the Penn Central were a hidden frenzy of insider dealing. In the months before the Penn Central's

terminal condition became public knowledge, top executives and Penn Central's bankers dumped huge blocks of stock. Chase Manhattan alone unloaded more than half a million shares.

On another level, the downfall of free enterprise railroading signaled the collapse of a particular economic bargain between private ownership and public regulation, a bargain struck in 1887 with the creation of the Interstate Commerce Commission. But the ICC was in the business of regulating rates and routes, not of long-range planning. In the 1950's the railroads came under increasing competitive pressure from buses and trucks traveling on subsidized interstate highways. Public policy was ostensibly agnostic on competition among different modes of transportation. But in practice, public policy, though inchoate, favored highway interests. Congress, reflecting the pressure of shippers and rail labor, insisted that the railroads keep unprofitable lines open, rates low, and wages high. Meanwhile the truckers got highway subsidies. The slow decline of the railroads was obvious to everyone, but there was no constituency for a long-term transportation policy.

During the five years of legal tangling over how to satisfy the railroads' creditors and at the same time keep an east coast rail system running, it became clear that nothing would suffice but a massive government bailout. So the United States, in what seemed the ultimate case of lemon socialism, nationalized the Penn Central and six other bankrupt railroads. The result was Conrail, possibly the most reluctant and ideologically unacknowledged nationalization in the history of the mixed economy.

That was in 1976. The government has since spent some $7.6 billion on Conrail—over $3 billion to pay off creditors, another nearly $3 billion on modernization, and several hundred million more to pension off some forty thousand redundant workers. Over a 12-year period, the railroad system in the Northeast has been restructured and rationalized, not via public regulation but under public ownership. Surprisingly enough, public ownership in a deregulated competitive environment has proven far superior to the earlier social bargain of private ownership under obsessive government supervision.

Conrail today is one of America's most modern and best-managed railroads. It has been able to consolidate lines, streamline a bloated and inefficient labor force, and practice good management and aggressive marketing. It is expected to earn over $400 million in 1984. In the busy Northeast corridor, it is giving two private competitors, Norfolk Southern and CSX (the Chessie system), a run for their money.

The Reagan Administration finds this progress fiscally encouraging but ideologically unthinkable. Thus the fire sale. James Burnley, Deputy Transportation Secretary and a prime promoter of the sale, is one of the Administration's most determined free enterprises. In 1981 the Reagan people insisted that Conrail be sold because it was losing money. Today they insist it be sold because it's making money.

Upon taking office in 1981, the administration moved quickly to sell the railroad back to private enterprise, in bits and pieces if necessary. Conrail was then still operating in the red. The original Reagan plan, however, was blocked by Congress, which was committed to long-term modernization of the rail system. Compromise legislation enacted in June 1981 mandated further modernization, but agreed in principle that Conrail should eventually be sold. It got rid of Conrail's passenger commuter lines, streamlined staffing and work rules, and set criteria for eventually selling off the line either as a whole (if it became profitable) or in parts—subject, however, to a legislative veto.

By the end of 1981, Conrail was back in the black. A new management team, under L. Stanley Crane, formerly an exective with the highly regarded Southern Railroad, is widely credited with the turnaround. For the Administration, three profitable years for a public enterprise mean the hour has come to return it to the private sector—and price is no object.

Last April the Transportation Department set June 18 as a deadline for submitting bids to buy Conrail. But before other bids came in, officials received a pacesetting $1 billion bid from the Alleghany Corp., a holding company which, ironically enough, was once a part owner of the Penn Central.

Alleghany is sitting on $800 million from the sale of its subsidiary, Investor Diversified Services, to the American Express Co. Ostensibly, Alleghany offered the Government $1 billion. But according to an analysis conducted by the leading independent trade journal, "Traffic World," and confirmed by the Democratic chairman of the House Commerce, Transportation, and Tourism Subcommittee, James Florio, Alleghany is actually proposing to buy Conrail substantially with Conrail's own money. In theory, Alleghany would pay the government $1 billion, but it would get back Conrail's own cash reserves and tax credits—with the result that Alleghany's true out-of-pocket cost would be only about $350-$500 million.

Conrail, incidentally, currently has total assets valued at $5-$6 billion, and cash reserves of $675 million. If the Alleghany deal goes through, this private investor will pick up a company in which the taxpayers have invested nearly $8 billion for the cost of about 1 year's operating profits. In stock market terms, that translates to a price-earnings ratio of about 1 to 1.

After Alleghany submitted its initial proposal last April, the Transportation Department sought advice from Goldman, Sachs, the investment banking house. Goldman, Sachs gave the department the answer it wanted to hear: it declared that the Alleghany offer was about right. When that became known, other bidders made their offers in the same $1 billion range. Therefore, even if Alleghany ultimately loses out, its bid has set the terms of the market, and the Government is likely to sell off Conrail for substantially less than it's worth. Goldman, Sachs, now giving the government independent advice on the worth of Alleghany's offer, once handled transactions for Alleghany itself. In fact, Alleghany's president, John Burns, once worked for Goldman, Sachs for a period of 6 years. A further oddity is that Drew Lewis, the Reagan administration's first Transportation Secretary and now head of Warner Amex, of which Alleghany is a large shareholder, has been lobbying Congress on behalf of the Alleghany deal. Lewis appointed five of the current Conrail board members.

Interestingly, too, when Penn Central was quietly going down the tubes, Alleghany was one of those insiders that dumped stock. Alleghany is largely a creature of the Kirby family, which previously had controlling interest in the old New York Central. After the Central was merged with the Pennsylvania Railroad to form Penn Central in 1968, the Kirbys and Alleghany together held about 2.5 percent of the total Penn Central stock, and there were five Alleghany directors on the twenty-two-member Penn Central board.

On May 27, 1970, Penn Central's board was informed that Penn Central's worsening financial condition made it impossible to sell $100 million worth of bonds. That publicly singled that Penn Central was in deep trouble. but before that information was released on May 28, Alleghany and Investors Diversified Services dumped 212,000 shares fo Penn Central stock.

Still another intriguing circumstance is Alleghany's eagerness to acquire Conrail as part of its long-term strategy to avoid SEC regulation under the 1940 Investment Company Act, which limit self-dealing and restricts financial wheeling in several other respects. Because of its large cash holding from the IDS sale, Alleghany needs to find a major operating company to own by next January, or it will find itself subject to the 1940 act, which would also force Alleghany to sell its big interest in American Express. It is, of course, perfectly reasonable that Alleghany should want to buy Conrail as part of its regulatory strategy. But that is no reason for the Government to select Alleghany as Conrail's most suitable buyer.

Nor are any of the other bidders necessarily preferable to Alleghany. They include three other railroads: the Norfolk Southern, CSX, and Timothy Mellon's Guilford Co., which controls three smaller eastern rail lines. On major stretches of the Northeast corridor there is vigorous three-way competition between Conrail, Norfolk Southern, and CSX. Each of the latter two lines has put in bids mainly to keep the other from getting Conrail. If either does get Conrail, the result would be consolidations and diminished competiton.

Other serious bidders include CitiCorp, which proposes to parcel out pieces of the deal to other investors as yet unnamed (commercial banks playing investment banker is one of the latest fruits of bank deregulation); Allen & Company, a New York investment banking house, famous for its efforts to keep David Begelman at the helm of Columbia Pictures despite financial shenanigans; J. Willard Marriott, Jr., the Republican restaurant and hotel magnate, in a joint venture with the Bass family, Texas oil men; and the Railway Labor Executives Association, representing Conrail's unionized workers, who already own 15 percent of the company under an employee stock ownership plan. To some extent, Conrail's present health is attributable to concessions made by the unions.

With the exception of the rail employees, every one of these prospective buyers seems attracted mainly by the prospect of taking over Conrail's paper tax losses and its ample cash, or by the chance to shut down a competitor, or by the possibility of a quick financial windfall—not by any long-term interest in running a railroad.

Congress, taxpayers, rail employees, and business shippers who depend on rail service have endured twelve years of turmoil and expense in order to leave in place a durable, restructured rail system for the Northeast. The overriding policy need, therefore, is that the eventual private owner of Conrail be someone committed to running a railroad. Ironically, the more cheaply Conrail is sold, the more likely it is that the buyer will cannibalize its most profitable parts for a quick profit rather than operate the whole system for the long term. (In railroading

jargon, this is known as cherry picking.) Nominally, the Administration is committed to maintaining a unified private Conrail system. But the rush to sell Conrail all but guarantees dismemberment.

What, then, to do with Conrail? A moderate solution, suggested last year by Goldman, Sachs but rejected by the Transportation Department, would be a public offering of Conrail stock. That would privatize Conrail, but allow the market to set its worth and keep it intact under its present competent management. There is another obvious solution. Conrail is doing a fine job as a public enterprise. Perhaps, at least for the immediate future, it should stay in the (shocking thought!) public sector. But that, of course, is unfortunately outside the current ideological consensus.

It speaks volumes about American capitalism that the Government may be the most trustworthy entrepreneur to run a railroad. Trouble is, the Government right now belongs to Ronald Reagan. And for Mr. Reagan it remains a contradiction in terms that the Government can run something well—and if it does, that's just another reason to sell that something, fast. Even though the legislative veto as such has been struck down by the Supreme Court, Congress retains an effective veto over any Conrail sale because the tax complexities, if nothing else, require legislative clarification. Therefore it is up to Congress, not always a great exemplar of Government efficiency, to save the Government from itself.●

THREAT TO AIRLINE DEREGULATION

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. HOWARD. Mr. Speaker, 6 years ago, the Airline Deregulation Act of 1978 was enacted to remove Government from the aviation business. That legislation resulted in widespread benefits for airline passengers through increased competition which led to lower fares and a more varied selection of flights.

Today, however, those benefits are being threatened through Federal Aviation Administration pressure on certain airlines to voluntarily coordinate and reduce their schedules at six major airports. By this pressure, the FAA is allowing the opponents of deregulation, those who are threatened by economic competition, to take advantage of unrelated factors to attempt to reimpose regulation.

All parties involved agree that a shortage of air traffic controllers, for which the FAA bears responsibility, and unusually bad weather play as much of a role in flight delays as the high-volume peak schedules. Even with those factors 95 percent of all operations have been on time, that is, within 15 minutes of scheduled arrival time.

While there may be a need for short-term action on a voluntary basis, any attempt to mandate future schedule changes and reductions through FAA rulemaking should be rejected. In a speech before the Aviation Fuel Conservation Symposium yesterday, the gentleman from California [Mr. MINETA], the chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation, gave an eloquent description of this situation. I am submitting the text of the speech for the RECORD.

REMARKS OF HON. NORMAN Y. MINETA

I am very pleased to be here today to talk to this symposium on fuel efficiency in the aviation industry. We have witnessed tremendous gains in fuel efficiency by the airlines since the early 1970's when fuel was inexpensive and plentiful.

That improved efficiency was not just the product of a few specific engineering fixes, but was part of a broad move by the industry to improve efficiency all across the board: more efficient use of aircraft, more efficient route structures, more efficient aircraft, more efficient operations, more efficient use of labor, and so on. And that more than anything else is my message here today: we're not just talking about tacking a winglet on the end of a wing and achieving x% improved fuel efficiency. We are talking about an industry which as responded aggressively to new pressures and has improved efficiency in many ways. In looking at the question of efficiency we need to see not so much a few specific trees; we need to look up and see the entire forest.

The improvements have been remarkable. From 1970 to 1983 the fuel consumed by the national and major carriers per passenger mile has been cut by 45.6%—nearly in half, from 68 gallons per thousand miles in 1970 to 37 gallons per thousand passenger miles in 1983.

Where did that phenomenal improvement come from? Ultimately it came from two new pressures on the airlines, pressures that they felt and responded to in every aspect of their businesses.

The first was the price of fuel. If the carriers had not achieved fuel savings in that period, their fuel bill for 1983 would have been $16 billion, as compared to the $8.7 billion they actually spent in that year. So in part the problem was the solution: over time the high price of fuel caused improved fuel efficiency.

The second new pressure on the airlines began gradually in the mid-1970's and then became an overriding force by 1978: airline deregulation. The competitive forces it raised put a whole new premium on efficient operations: everything from more efficient aircraft scheduling to fewer corporate vice presidents.

The General Accounting Office's review of deregulation shows that from 1978 to 1982 the index of airline costs went up 87.4% while their fares went up only 40.4%. You can't make all that up from your vice presidents.

The twin economic pressures of fuel prices and deregulation led airlines to seek improved efficiencies everywhere:

More fuel efficient aircraft and engines.

More efficient flight operations and increased reliance on flight management computers. The silicon chip and the "glass cockpit" have become a major part of technology's contribution to improved efficiency in the last new years.

Weight savings everywhere they could find them. I keep expecting to get a notice in my frequent flyer newsletter that if I'll just lose 10 pounds they'll give me bonus mileage.

Increased use of hub-and-spoke systems, to aggregate thin traffic loads into larger groups which can be moved more efficiently: the same principle Federal Express applied to packages.

Increased load factors. They had been in the low 50's at the beginning of the decade. They now run in the low 80's That's an example of a non-technological response that produced nearly a 20% improvement in efficiency.

Improved labor productivity.

Increased use of simulators for training.

And so on, the list is nearly endless.

All these things have worked together to make possible these remarkable gains in efficiency. In short, efficiency has not been created by technology alone, but by broad economic pressures which put a premium both on the efficiencies of new technology and on other efficiencies as well. Improvement has come not just from the engineer, it has also come from the deregulator. And the ultimate beneficiary has been the traveling public, which enjoys air travel at prices far below what they would have been without deregulation and without these improved efficiencies. The GAO found, for example, that the consumer price index between 1978 and 1982 rose at an annual rate 23% higher than air fares did in the same period. Improved efficiency is steadily making air travel a better buy.

My concern here today, however, is that we do not always appreciate the forces which have driven this extraordinary improvement in efficiencies, with its attendant public benefits. There are, in fact, a broad range of governmental policies which are not thought of, first, and foremost, as affecting the efficiency of air travel, yet have considerable effect on it, either for better or worse.

We are sometimes lucky, as in the case of fleet noise rules requiring older, noisier jets to comply with newer noise rules or cease operations in the U.S.

The primary objective of these rules was environmental: to reduce jet noise impact around our nation's airports. An important secondary effect, however, has been to push the operators of these older, less efficient aircraft toward new technology aircraft, whether that be new aircraft, reengined aircraft, or retrofit kits. The fuel savings which result range from minimal in the case of the kits up to 35% in the case of some new and reengined aircraft. Even if not all operators are pushed by the rule to the most fuel efficient options, many will be, and considerable savings will result.

Another case is the National Airspace System Plan, which had a number of objectives, one of which was improved efficiency for the users of the system. All users of the airway system, not just the airlines, were to benefit substantially from airspace modernization, with the benefits coming in reduced delays, improved fuel efficiency, improved reliability in bad weather, and so on. It was estimated in a 1982 study that just the improved enroute metering, route planning, and flow planning features of the modernization plan would generate $10 billion in 1982 dollars in fuel savings for the users over the first 20 years and another $8 billion in reduced airport delays.

I think it suffices to say that the efficiency savings offered to aviation users by the airspace modernization program were so great that most of them came to Congress and said: Yes, tax me more, so that I can get the benefits of modernization. The number of instances in which any group supports increased taxes on itself are rare indeed.

What has happened, however, is that the Administration's public policy of airspace modernization has run smack into the Administration's head-long rush to cut almost any non-military spending. Having advocated and won increased aviation user taxes, justified by plans to spend significantly increased amounts to improve airport and airway capacity and efficiency, the Administration, promptly reneged on the spending commitments while keeping the higher taxes in place. Last year, for example, the users were supposed to get a $1.4 billion investment in the air traffic control system and they were taxed at a level necessary to support a $1.4 billion investment, but at the Administration's insistence they got only a $750 million investment, barely more than half what it should have been. We are trying to prevent a similar shortfall this year. But we are clearly running the risk that, unless spending commitments can more consistently be lived up to, the users may never get the efficiencies they were promised and taxed for in the name of the airspace modernization.

But the case that most concerns me today is the public policy response to the great airline delay crisis of 1984. Delays have been discussed here today and delays are clearly an impediment to efficient operations. The FAA has done a good job of minimizing that problem by taking the vast majority of delays on the ground rather than in the air, but delays in any form are both an inefficiency for the airlines and an inconvenience for the traveling public.

But I think that so much misunderstanding has been generated in recent weeks about the nature of the delay problem and about the government's response to it that a little plain talk is in order.

This Administration has simply failed to provide an air traffic control system adequate to meet the demand of the traveling public. They are, by their own admission, more than a thousand controllers short of where they need to be. That didn't just happen, it was the product of a major miscalculation by the administration. After the strike, obviously the hiring and training of new controllers was stepped up. In late 1982 new hires for terminal and center controllers were running at nearly 600 per month.

For whatever reason—whether it was budgetary, a miscalculation of future traffic, undue optimism about washout rates of controllers in training, I don't know—the Administration decided that they could drastically cut back the hiring of new controllers at that point and not suffer a shortfall in the future. Beginning in early 1983 the hiring of new controllers was cut back dramatically: by June 1983 it was down to one-third of what it had been in late 1982 and the rate of new hires has been reduced since then.

How much of our current delay problem can be traced to a shortage of controllers? Our Subcommittee investigation suggests that roughly half of all current delays would be eliminated if the FAA had an adequate controller workforce. And that by itself would be enough to return us to our normal rate of airline delays.

The problem was masked until this Spring by the artificial post-strike restrictions imposed on air traffic and by the depressing effect the general economy had on air traffic. But beginning in March of this year there has been a marked surge in traffic trying to use the air traffic contol system. Operations at the 22 busiest airports from March through August have been running more than 10% higher per month than they were in the year leading up to March.

And in fairness to the FAA, the weather has also been significantly worse than normal in the Eastern part of the country. Combine all this with inadequate controller staffing, and the result has been an increase in the rate of delays to double in the Summer of 1984 what they were in the Summer of 1983.

Having dug ourselves into this hole, what should the government's response to the problem be?

The FAA has said that its planned hiring of controllers will make up the missing thousand by March of 1985. But that just means they will be hired, not that they will be trained and adding to the capacity of the system. Expect the rate of climb in the number of operational controllers to grow much more slowly.

But the most vocal response of the government to the delay problem has been to direct blame away from themselves and toward the airlines for having peaks and valleys in their scheduling. The most quoted statistic suddenly became that the carriers had scheduled 46 departures from Atlanta in a 15-minute period when on an average day the airport could only handle 17 departures. Clearly the carriers were attempting to do the impossible and they had to be straightened out.

Let me make it clear that I think the delay problem is serious enough to justify, in the short term, the type of schedule slide meetings permitted under the CAB's order. The airlines have their own credibility with the passengers on the line. If passengers are frequently missing their connections, or missing their business meetings, they are going to shift to another carrier which can deliver on its schedules with greater reliability. So if a particular time of day is consistently producing large delays, the carrier is under severe market pressure to correct that situation, and many of them have been individually making schedule adjustments to deal with delay problems. Sometimes, however, it is helpful to carriers to be able to meet so that they don't both slide their schedules to the same new time, and that is the kind of situation where voluntary schedule slide meetings can help.

But what the Department has indicated it has in mind for airline schedules is something far beyond that, far beyond what was envisioned in the Board order, something in fact that I believe would be injurious to deregulation, to the efficiency of our airline system, and to the interests of the traveling public.

Let's look for a moment at the nature of the problem. In reality all those 9:15 departures at Atlanta don't push back and try to depart exactly at 9:15; the natural course of airline operations spreads them out somewhat, and FAA flow control then spaces them out even farther. So we do not in reality have 29 airplanes attempting to do the physicially impossible. The printed schedules are much more peaked than the actual flights are. In fact, by the FAA's own data it would be difficult to make the case that there is a major delay crisis at Atlanta: roughly 94% of all operations are on time, meaning delays of less than 15 minutes. Furthermore, of those 8% of delays, nearly three-quarters are listed by FAA as caused by weather, something over which the schedule slide meeting has no control. So the remaining potential of the schedule slide meetings to alleviate the problem is minimal at best, and I think the Department does the traveling public a real disservice by trying to create a contrary impression.

Much as the Department would like us to believe that peaking was a surprise development early this summer, airline peaking has been around for years, and in fact peaking in various transportation modes has been around since long before the first rush hour on the Appian Way. Adequate transportation systems are those that can accommodate all or at least most of the peaks. The Administration in fact committed to the Congress at the time they were asking us to increase aviation user taxes that they would be able to accommodate most of the peaks. Now they are saying they can't handle the traffic because it has peaks in it.

In my hearings in 1982 I specifically said to the FAA Administrator:

"I think the issue of whether the system will be built to accommodate demand or whether demand will have to be constrained to fit existing capacity is still a core issue in this airspace plan." I asked him specifically when we could expect constraints on management to return to pre-strike levels.

The FAA responded that "we will not have 100-percent free entry and egress until the 36-month point," meaning until last month. But instead of 100 percent free entry and egress, we have the threat of severe new restrictions on scheduling.

The FAA went on to say that "We are not rebuilding the system with a view of constraining capacity. I don't believe we as an agency should put a constraint on the travelling public."

I think it is important that we note the basic distinction between controlling airplanes and regulating schedules. Airplanes are those large aluminum things; schedules appear on a printed page. Controllers control the airplanes and ignore the schedules, as they should. For all its discussion of the problem of peaked schedules, DOT itself has stated that there is no connection between peaked schedules and the FAA's ability to safely control airplanes. In their recent proposed rulemaking, they say:

"It must be emphasized that regardless of the total number of scheduled operations, the safety of the air traffic system is not lessened. Air traffic procedures, including flow control, ensure that aircraft remain on the ground until they can be accommodated."

But going beyond controlling airplanes, and going beyond voluntary schedule slide discussions among the carriers, as permitted by the Board order, is exactly what the Department has proposed in the last few weeks.

In its proposed rulemaking, the Department itself would dictate the schedules of the carriers at six major airports, not only how many flights per hour but the distribution of those flights all during each hour. Those carriers permitted to fly under this restrictive regime would be free of the threat of new competition. Similarly the Department has proposed that these supposedly voluntary schedule slides, once agreed to,

would then be frozen in place by rulemaking, again effectively barring any new competition in those time periods. In so doing the Department would make these meetings something fundamentally different than what the Board's order approved. Rather than being voluntary meetings designed to assist carriers who wish to adjust schedules to achieve better schedule reliability, the Department's proposed rulemakings would make these schedule slide agreements into something they were never intended to be: the granting of monopoly or semi-monopoly rights to a few carriers for the most important times at the most important airports in the country.

What this does to the passenger is that instead of not getting to his meeting or his connection on time because of an ATC delay he now doesn't get there because his flight has been forceably moved to another time period and others have been barred from providing him the service he wants. This is not a solution, it is a perpetuation of the problem by alternate means. Most peaks exist primarily because they meet the needs of the traveling public and if you forceably break them up you have done harm to the public. I don't need to get to Chicago just any old time; I need to get to Chicago to make my connection.

What it also does to the traveling public is that it increasingly robs them of the one protection they have under deregulation, and that is competitive pressure on the carriers. If the Department by rulemaking extends capacity controls at airports, restricts more and more locations more and more tightly during more and more hours, then the passenger is going to find himself increasingly facing carriers who don't have to worry about new competition.

That is what happens when you cross over from controlling airplanes to regulating schedules. Controlling airplanes is necessary for safety; regulating schedules too often deprives the consumer of any hope of competition, and it will ultimately affect the quality of service offered to the public, the prices they have to pay for a ticket, and for many of our small and medium-sized communities, whether they will have good access to the major points in the airline system at all. Furthermore, as a result of all this highly restrictive regulation of schedules, there would not be any reduction in the number of airplanes in the air at any one time: they only allow what they think they can handle into the system now and that's all they will allow into the system in the future. Regulating schedules does not reduce the number of blips on the radar screens, but it does tell carriers at those select airports and times that they no longer have to worry about new competition for your business.

In our 1982 hearings the FAA took the position that FAA knew the difference between controlling airplanes and regulating schedules, and they testified that they would not be getting into the latter. They said:

". . . For their own marketing reasons, the air carriers all like to depart at 8 o'clock. . . . In some cases, we have one carrier who is going to depart 22 flights in 9 minutes by himself. Now, this is just physically not possible. The air carrier knows that. It is not possible to get that many airplanes on the runway. But we, at the FAA, should not interfere with their marketing decisions. If that is the way they want to publish it, how they handle that with the traveling public is their business."

I think that if the FAA would focus more on controlling airplanes and less on regulating schedules, both the public and the airlines would be better served.

To some extent we had capacity restrictions at four airports when we adopted deregulation, although we had hopes those restrictions could be somewhat diminished over time. What the Department is proposing now is to move in the opposite direction: to extend capacity controls to three new airports—Atlanta, Denver, and Newark—and to make these restrictions at six of the seven airports much tighter than they have been. 26% of all passenger enplanements in this country are at those 7 airports. At some point the underlying premise of deregulation—which is that airlines would have the flexibility to make competitive responses and to enter into competition in new markets where they feel the public could be better served—could be sufficiently restricted throughout enough of the system so that deregulation itself would no longer be defensible.

Frankly, I am disappointed that the Office of the Secretary, which will soon be taking on the CAB's responsibilities for insuring that this industry is as competitive as possible and which has often professed its commitment to deregulation, did not recognize or seem concerned with the anti-competitive effects of these proposed rulemakings.

Yes, delays are a problem, but it is a problem for which the proposed regulatory cures would be far worse than the disease. I think the Department has panicked and over-reacted. In the worst month of this year, roughly 95% of all operations were on time. Is that a crisis worth undermining competition and the position of the consumer over? Having failed to provide an adequate controller workforce, and caused the public to suffer from increased delays, the Administration now proposes to compound the misery it has created by depriving the public of competition. Shouldn't we see first what voluntary schedule slides and the decline in traffic which normally occurs in September would accomplish before vastly expanding the regulation of schedules? It is now September: Shouldn't we be working on the Summer of 1985 rather than the Summer of 1984? This Administration is accused of a great many things, but insensitivity to the public benefits of the competitive marketplace is usually not one of them. In this case, however, they seem to have lost their own bearings.

As the Department considers these various rulemaking options it has proposed, they should keep in mind that controlling airplanes and regulating schedules are two very different matters, that the FAA is well equipped to do the former and ill-equipped to do the latter, and that the public would be much better served by efforts to remedy the delay problem than by proposals to compound delay with reductions in the passengers' competitive recourse.

This has been is in fact a classic case of public policymakers focusing too narrowly on the trees and missing the forest. We need to keep in mind that the performance and efficiency of the entire system—and its ability to meet the needs of the traveling public—are based on the broadest kinds of competitive pressures, and we restrict those only at our own peril.●

COMMISSION ON EMPLOYMENT DISCRIMINATION IN THE LEGISLATIVE BRANCH

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, last January, I introduced House Concurrent Resolution 239, legislation to establish a Commission on Pay Equity to examine wage discrimination in the legislative branch. The bipartisan Commission, comprised of Representatives, Senators, and private sector members representing labor and management would: First, hire an independent consultant to conduct a pilot study of job classifications and wage differentials in one agency of the legislative branch; second, make specific recommendations for ensuring compliance with existing law, based on the findings of the study; and third, establish a comprehensive plan for implementing pay equity throughout the legislative branch.

Today I am introducing a revised version of my original legislation that I believe, if passed, will improve the Commission's efforts to study the problem of wage discrimination in the legislative branch, and will enhance the prospect of joint House-Senate action during the 98th Congress.

The new resolution makes the following changes in my original legislation. The declaration of policy has been rewritten in a way that makes it more clearly consistent with title VII of the Civil Rights Act. The resolution affirms that Congress is committed to the elimination of all forms of discrimination that adversely affect pay or working conditions of legislative branch employees and that it is the policy of Congress that differences in pay and working conditions of employees in the legislative branch shall not be based on race, color, religion, sex, or national origin.

The name of the Commission has been changed from the Commission on Pay Equity to the Commission on Employment Discrimination in the Legislative Branch, to reflect the broadening of its scope to the examination of all forms of wage discrimination and other discriminatory personnel policies and practices.

The Commission membership has been expanded from 12 members to 13. Four will be Members of the House, four will be Senators, and five will be noncongressional members with expertise in job evaluation. The four House Members and two of the noncongressional members will be appointed by the Speaker of the House upon the recommendation of the majority and minority leaders. The four Senate Members and two of the noncongres-

sional members will be appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders. The 13th member of the Commission will be appointed by the Speaker of the House and the President pro tempore of the Senate upon the recommendation of the other 12 Commission members.

Although the specific requirements for labor and management representatives in my original bill were deleted due to anticipated difficulties in defining the qualifications of these members, it is my intention that labor and management will be represented on the Commission. I believe these issues, among others, can be more thoroughly addressed in report language on the bill.

The new resolution designates the Library of Congress as the agency in which the pilot study will be conducted. I believe that the history of employment discrimination allegations at the Library and the fact that all employees of this agency are covered by title VII of the Civil Rights Act make it an ideal site for such a study. The functions of the Commission, however, remain unchanged in the new resolution.

The resolution I am introducing today will extend the life of the Commission from 12 to 18 months providing the Commission with a more reasonable length of time to complete their work. It further specifies that one-half of the expenses will be paid from the contingent fund of the House and one-half will be paid from the contingent fund of the Senate.

The administrative provisions of House Concurrent Resolution 239 have been streamlined, providing that the Committee on House Administration and the Senate Committee on Rules and Administration shall prescribe such regulations as may be necessary to carry out this resolution.

The Congressional Budget Office has tentatively estimated the cost of the resolution to be between $1.5 and $2 million. I believe that the Congress has the responsibility, as an employer, to identify and eliminate such wage discrimination as may exist among its employees. The benefits of conducting the important preliminary steps provided for in my legislation in my view justify the expenses that would be incurred by the Commission.

The House of Representatives is to be commended for seeking to address the problem of wage discrimination in the legislative branch. Extensive hearings on the issue of pay equity have been held in the House Administration Committee, the Post Office and Civil Service Committee, and the Joint Economic Committee. The House Administration Committee has scheduled a second and final hearing on House Concurrent Resolution 239 for September 12, which will be followed by a full committee markup.

A similar legislation to require a study of wage differentials in the executive branch was introduced by my colleague MARY ROSE OAKAR and passed by the House last June by a vote of 413 to 6. During floor debate on the rule for H.R. 5680, some Members expressed their reluctance to authorize an executive branch study without bringing the legislative branch under similar scrutiny. I believe my legislation provides a necessary complement to the efforts already taken by the 98th Congress to promote equity in compensation for Federal workers, and I urge the support of my colleagues.

H. CON. RES. 239

Resolved by the House of Representatives (the Senate concurring),

DECLARATION OF POLICY

SECTION 1. The Congress is committed to elimination of all forms of discrimination that adversely affect pay or working conditions of any employee because of the race, color, religion, sex, or national origin of the employee and it is the policy of the Congress that differences in pay and working conditions of employees in the legislative branch shall not be based on race, color, religion, sex, or national origin.

ESTABLISHMENT OF COMMISSION

SEC. 2. (a) There is established in the legislative branch the Commission on Employment Discrimination in the Legislative Branch (hereinafter in this resolution referred to as the "Commission").

(b) The Commission shall consist of thirteen members to be appointed for the life of the Commission as follows:

(1) Four shall be Members of the House of Representatives, appointed by the Speaker, two upon recommendation of the majority leader and two upon recommendation of the minority leader.

(2) Four shall be Senators, appointed by the President pro tempore, two upon recommendation of the majority leader and two upon recommendation of the minority leader.

(3) Two shall be other than Members of Congress, appointed by the Speaker of the House from among persons with expertise in job evaluation. One such member shall be appointed upon recommendation of the majority leader and one upon recomendation of the minority leader.

(4) Two shall be other than Members of Congress, appointed by the President pro tempore of the Senate from among persons with expertise in job evaluation. One such member shall be appointed upon recommendation of the majority leader and one shall be appointed upon recommendation of the minority leader.

(5) One shall be appointed by the Speaker of the House and the President pro tempore of the Senate, acting jointly, upon recommendation of the members appointed under paragraphs (1) through (4) of this subsection.

(c) The person making an appointment may remove a member of the Commission for neglect of duty or malfeasance in office.

(d) A vacancy in the Commission shall be filled in the manner in which the original appointment is made.

(e) The Commission shall elect a chairman and a vice chairman from among its members. The chairman and vice chairman shall not be of the same political party.

(f) Seven members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number for holding hearings, taking testimony, and receiving evidence.

(g) Members shall be appointed and the Commission shall commence operation not later than four weeks after the date on which this resolution is agreed to.

FUNCTIONS OF COMMISSION

SEC. 3. The Commission shall—

(1) employ a nongovernmental consultant with expertise in job evaluation to study and compare the compensation paid within and between job classifications in the Library of Congress and to analyze personnel policies and practices in the Library of Congress;

(2) evaluate the compensation system and personnel policies and practices in the Library of Congress for compliance with title VII of the Civil Rights Act of 1964 and make specific recommendations (other than any recommendation that, if implemented, would result in a reduction in the rate of pay payable for any position) to the Congress for such action as may be necessary to achieve that compliance;

(3) develop a comprehensive plan for application of the principles of title VII of the Civil Rights Act of 1964 throughout the legislative branch; and

(4) make specific recommendations (other than any recommendation that, if implemented, would result in a reduction in the rate of pay payable for any position) to the Congress for improvement of personnel policies and practices in the legislative branch may be necessary to carry out the policy declared in section 1 of this resolution.

STAFF OF COMMISSION

SEC. 4. (a) The Commission shall have a Staff Director who shall be appointed by the Chairman and who shall be paid not more than the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code.

(b) With the approval of the Commission, the Chairman may appoint, terminate, and fix the pay of additional staff. No person so appointed may be paid more than the annual rate of basic pay payable for GS-15 of the General Schedule, under section 5332 ot title 5, United States Code.

COMPENSATION OF MEMBERS

SEC. 5. (a) A member of the Commission who is a Member of Congress or a full-time officer or employee of the United States shall receive no additional pay by reason of service on the Commission.

(b) Any other member of the Commission shall be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay payable for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code, for each day, (including travel time) such member is engaged in the performance of duties of the Commission.

POWERS OF COMMISSION

SEC. 6. The Commission may hold hearings, take testimony, receive evidence, administer oaths or affirmations to witnesses appearing before it, and authorize any member or agent of the Commission to exercise such powers.

REPORTS AND TERMINATION OF COMMISSION

SEC. 7. The Commission may submit interim reports to the Congress and shall submit a final report to the Congress not later than 18 months after the date on which this resolution is agreed to. The Commission shall cease to exist thirty days after submitting the final report.

ADMINISTRATIVE PROVISIONS

SEC. 8. (a) There shall be paid from the contingent fund of the House of Representatives and the contingent fund of the Senate such sums as may be necessary to carry out this resolution. One-half of the total of such sums shall be paid from each such fund. Payment shall be upon vouchers submitted by the Chairman of the Commission and approved by the Chairman of the Committee on House Administration or the Chairman of the Committee on Rules and Administration of the Senate, as appropriate.

(b) Members of the Commission (other than Members of Congress) and the staff of the Commission shall be treated as detailed employees, or as temporary or intermittent employees of the House or of the Senate, as appropriate.

(c) The Committee on House Administration of the House of Representatives and the Committee on Rules and Administration, acting jointly, shall prescribe such regulations as may be necessary to carry out this resolution. Employment of experts and consultants, travel, procurement of support services, procedures for securing information, and other administrative matters with respect to the Commission shall be in accordance with such regulations.●

THOMAS J. KELLY RECEIVES AWARD

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FLORIO. Mr. Speaker, I'd like to bring to the attention of my colleagues an outstanding labor leader, humanitarian, and citizen, Thomas J. Kelly. As chief operating officer and president of the Sheet Metal Workers' International Association, Local 19, Tom Kelly has clearly distinguished himself through service to his fellow workers. Through dedication, skill, and hard work, he worked his way up from apprentice to president in 14 years, and helped the local grow to its present strength and vitality. In 1982, Tom was unanimously reelected to a second 3-year term as chief operating officer and president of local 19, a tribute to his outstanding leadership.

It should be noted that Tom Kelly's union activities don't end with his membership in local 19. He is also president of the Mechanical Trades District Council of the Delaware Valley; board member of the Private Industry Council of Philadelphia; vice president of the Philadelphia Building Trades Council, member of the executive board of the New Jersey State Building Trades, and a vice president of the Philadelphia AFL-CIO.

More than just a distinguished labor leader, Tom Kelly is also deeply concerned about, and responsive to, human needs. He is a member of the board of trustees of the southeastern Pennsylvania chapter of the Leukemia Society of America, and is the recipient of the Bronze Medallion Award of the Chapel of Four Chaplains. Early this year, Tom was honored at a labor tribute dinner of the Philadelphia chapter of UNICO National, which is widely known for its service to the developmentally disabled and senior citizens.

On Sunday, September 16, 1984, at the Bellevue-Stratford Hotel in Philadelphia, Thomas J. Kelly will be the recipient of the State of Israel Solidarity Award, in recognition of his service and dedication to the labor movement worldwide, and for his outstanding support for the State of Israel and its economic development. Mr. Speaker, I respectfully request that my colleagues join me in congratulating Tom Kelly on his exemplary career of service, and on receiving this outstanding and prestigious award. I can think of no one more deserving of such a fine honor.●

HOUSE JOINT RESOLUTION 247

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mrs. JOHNSON. Mr. Speaker, I am delighted to note the passage of House Joint Resolution 247, commemorating a day of man's inhumanity to man, and especially commemorating the genocide of the Armenians.

The passage of this commemorative legislation has a dual significance. We honor the memory of those who suffered not only in hopes that remembrance will shield future generations against such atrocities, but also in recognition of preserving an honest record of the past. Genocide is an act against humanity, for it demonstrates a disregard for the dignity of the individual that must serve as the foundation of any free society.

The evidence that there was a systematic attempt by the Ottoman government to eliminate the Armenians from their historic homeland is clearly and responsibly documented. No amount of denial, whether by the present-day Government of Turkey or by others, can alter the reality of the past, both as it is written in books and as it is seared on the hearts and minds of those who suffered.

Political opportunism did not allow us to forget the horror of Dachau, the shock of Pearl Harbor, or the shame of the Japanese internment camps. House Joint Resolution 247 emphasizes our commitment to the integrity of the historical record. Historical revisionism is too often used for political advantage by totalitarian governments who had values and principles with which we are loath to associate ourselves. To commemorate the crimes of man's inhumanity to man is to commit ourselves to preserving the memory of the past to serve as the conscience of the future.●

OVERHAUL OF SUPERFUND

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FLORIO. Mr. Speaker, as you know, the House recently passed a bill to reauthorize the Superfund Program, H.R. 5640, by a vote of 323 to 33. One of the key sponsors of this important legislation is my esteemed colleague from Ohio, Representative DENNIS ECKART. He recently published an article in the Christian Science Monitor analyzing the Superfund Program and the need to reform its basic operation. I commend his thoughtful column to my colleagues' attention.

[From the Christian Science Monitor, July 2, 1984]

HAZARDOUS WASTE SUPERFUND NEEDS A SUPER OVERHAUL

(By Dennis E. Eckart)

Since Congress enacted the so-called Superfund program more than three years ago, the Environmental Protection Agency (EPA) has cleaned up only six hazardous chemical waste sites, only two with direct assistance from the Superfund. Surely, this snail-like pace is a prescription for disaster.

If Superfund is supposed to be an effective war against hazardous chemical waste dumps, then we have yet to fire the first shot. And if this is a marathon, then the EPA is in danger of failing to reach the finish line. At the present cleanup rate it's going to take the agency 273 years to clean up the 546 hazardous chemical waste sites on the national priorities list.

Unfortunately, the EPA is proving that lethargy is the common enemy of progress and good government. And, as is the case with many other issues in Washington, neglect of a problem becomes our worst enemy and intransigence is the ally of that neglect. Under the administration of President Reagan, EPA seems to have forgotten its mission: that "protection" of the environment and the public health and welfare is what its mission is all about.

The record becomes all the more disturbing when one analyzes the magnitude of the nation's hazardous waste problem. Consider, for example, that there are probably 1,000 to 2,200 other hazardous waste sites waiting in the wings to be added to the national priorities list. Consider, too, that a study paid for by the Chemical Manufacturers Association estimates—probably conservatively—that there are 13,400 "inactive" hazardous waste dumps littering the nation's landscape. At least 3,700 of these are likely to require some federal assistance in the cleanup process.

In evaluating hazardous waste sites for the national priorities list, the EPA has identified at least 444 separate chemical pollutants. An agency task force reports that "virtually all of the most commonly encountered of these are known to exhibit chronic toxicity and therefore may cause human health injuries after months or years at extremely low levels of exposure."

There is ample evidence of these chemical pollutants mixing with one another and leaking into ground-water supplies. An EPA study estimates that 29 percent of the ground-water supplies of larger communities contain chemical contaminants. Of the 546 hazardous waste sites now on the national priorities list, more than 300 pose a threat to water supplies. Serious cases of chemically contaminated water have been reported in 34 states.

The Harvard School of Public Health has found increases of illness in children who drank chemically contaminated water in some neighborhoods of Woburn, Mass. The Harvard study in Woburn also found that it is no exaggeration to argue that the hazardous waste problem poses a threat to those yet unborn.

The House is considering a bill to fundamentally reform the Superfund program. The original five-year, $1.6 billion program is likely to be able to finance the cleanup of only about 170 of the 546 hazardous waste sites on the national priorities list. The new bill proposes to expand Superfund to a five-year, $9 billion program. At the very least the reforms under consideration would begin to more significantly address the scope of a problem on which Congress's Office of Technology Assessment has put a $10 billion to $40 billion price tag.

More important, the new Superfund bill contains strict provisions requiring the EPA to respond to a reasonable and timely cleanup schedule. It's time to give the agency explicit cleanup orders that force more aggressive and effective action. Congress can no longer afford to rely on the EPA to act based on implied and well-intentioned discretionary authority in the language of the Superfund law.

The new legislation also addresses the serious issue of compensation for victims of hazardous waste sites. The present Superfund program fails to provide an adequate remedies for health care costs or deaths associated with exposure to hazardous chemical wastes.

The judicial system and programs such as workers' compensation in the states have failed to provide proper assistance to victims of hazardous wastes. The new legislation establishes a strict right to sue either in state or federal courts and puts into effect a uniform statute of limitations that is fair and reasonable to victims of hazardous wastes.

Surely, the case for reform is persuasive. Preserving the status quo is unacceptable. Business as usual won't do. Superfund must be made to mean what its title implies. Otherwise we will continue to put in jeopardy the health of too many of our citizens. People who suffer hardship essentially through no fault of their own have a basic right to petition their government for assistance. And a govenment worthy of their trust and confidence must respond in a proper and fitting fashion.●

BASEBALL DIPLOMACY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LEVINE of California. Mr. Speaker, as we all know, watching and playing the game of baseball is the American pastime. It is hard to imagine anything more patriotic than spending an afternoon or evening at the ball park with a hot dog in one hand and the pennant of your favorite team in the other.

Yet, baseball has become more than an American spectator sport. Young athletes from all over the world now play baseball. In fact, baseball was a demonstration sport in the Los Angeles Olympic games, and will be a full-fledged Olympic sport for the 1988 games in Korea.

In a recent column in the Los Angeles Times, Derek Shearer proposes that we use the love we and many of the other nations in Central and South America share for baseball—he calls his idea "Baseball Diplomacy"—as a means of improving relations and understanding between the nations of the region.

It is a unique proposal, and one which I wanted to share with my colleagues in Congress.

The article follows:

[From the Los Angeles Times, Aug. 6, 1984]

LET BASEBALL DIPLOMACY WIN ONE FOR PEACE

(By Derek Shearer)

I spent an afternoon last week with my 6-year-old son out at Chavez Ravine, munching a Dodger Dog, sipping a beer and watching the Nicaraguan Olympic baseball team play Canada. I rooted for Nicaragua, and was pleased when they won 4-3 in extra innings. However, my son Casey was upset.

"Why are you rooting for Nicaragua and not Canada?" he asked. "Isn't the United States fighting Nicaragua?"

I tried to explain that in my view it was President Reagan and the CIA who were fighting Nicaragua, not the United States. At that moment it struck me as absurd that the Nicaraguans could be playing baseball at Dodger Stadium at the same time that the U.S.-funded, right-wing contras were trying to overthrow their young revolutionary government.

If the United States can reestablish friendly relations with China, what prevents us from taking similar steps with Nicaragua and Cuba—two small, relatively powerless countries and, what's more, two countries that share our love for the Great American Pastime, baseball. Perhaps what I'll call "baseball diplomacy" could play a role in bringing about more harmonious U.S. relations with Cuba and Nicaragua.

Why not have the U.S. Olympic baseball team make a tour of Central America, after the Olympics, to play exhibition games against the Cuban and Nicaraguan Olympic teams? Peter V. Ueberroth, president of the Los Angeles Olympic Organizing Committee and thus richly steeped in the ways of international sport, would in his new position as commissioner of baseball be the perfect person to handle the negotiations.

A few years ago former Sen. George McGovern tried to arrange for an American major league team to play exhibition games in Cuba. According to McGovern, the idea was nixed by then-Baseball Commissioner Bowie Kuhn. I hope that Ueberroth would be more open-minded.

Baseball is the sport in Cuba, and Fidel Castro, an ex-college pitcher himself, is a big fan. As some aficionados of the sport remember, Havana actually had a minor league team (the Sugar Kings of the International League) for many years. The Rochester Red Wings were playing in Havana during Castro's successful overthrow of dictator Fulgencio Batista. The Cuban team that pulled out of the Olympics this year under pressure from Moscow was a favorite to win the baseball demonstration tournament. There reportedly are a number of players on the Cuban team of major league caliber.

Once arrangements were set, it would make sense to televise a U.S.-Cuban exhibition game, adding to its good-will potential. Castro and Ueberroth could meet at home plate, and Castro could throw out the first ball.

A successful tour of Nicaragua and Cuba by a U.S. Olympic team could be just a first step in baseball diplomacy. It could be followed by a winter tour by a major league team and then a reciprocal tour in the United States by the Cuban national team. The ultimate step, which would of course require lengthy negotiations, might be that, following normalization of relations between Cuba and the United States and a peaceful resolution of the Central America conflict, arrangements would be made for simultaneous major league expansion teams for Washington, D.C., and Havana, and then perhaps even Managua. If we can expand major league baseball to include the Canadian cities of Toronto and Montreal, it is certainly possible to envision a team wearing Havana's colors.

The time is certainly right for some new approaches to the deteriorating situation in Central America. Diplomat Wayne Smith, former chief of the U.S. interests section in Havana, recently reported on a lengthy meeting that he had with Castro. Smith believes that Cuba wants to improve relations with the United States in order to distance itself, if possible, from the Soviet Union. He contends that Castro has been sending the United States serious peace signals, which have been ignored by the Reagan Administration.

If we truly believe that sport and the Olympic spirit transcend international tensions, then baseball diplomacy not only makes good sense. There is little risk involved, and much to be gained by reaching out to the baseball-loving ciltizens of Cuba and Nicaragua. Let's play ball, not make secret war in Central America.●

CALL TO CONSCIENCE VIGIL—IDA NUDEL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FAUNTROY. Mr. Speaker, in conjunction with the call to conscience

vigil, I wish to speak once again to the situation of that courageous refusenik, Ms. Ida Nudel, suffering in exile at the hands of the Soviet authorities. When I last addressed the plight of Ms. Ida Nudel, on the occasion of the observance of the International Day of Concern for Soviet Jewry on March 15, 1984, she was being denied her mail and visitors in her place of exile in the Moldavian town of Bendery.

I am pleased to report that while Ms. Nudel remains in exile and still is subjected to state surveillance and harassment, she was permitted to receive a birthday visit from actress Jane Fonda. Ms. Nudel said of Ms. Fonda's visit, "You have made me safe."

Mr. Speaker, we also must continue to try to make Ms. Nudel safe by raising the case time and time again, thus keeping it in the public conscience, and on our diplomatic agenda with the Soviet Union.

I know my colleagues share my concern for the human rights of Ms. Ida Nudel and that she will not be forgotten.●

TRIBUTE TO ELIAS KARMON

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. BIAGGI. Mr. Speaker, I am proud and honored today to pay a special 75th birthday tribute to one of our Nation's truly outstanding citizens, Bronx community activist Elias Karmon.

Businessman, philanthropist, and civic activist are some of the words used to describe Elias Karmon, but they tell only part of the story behind this dynamic figure. At a time when much emphasis is being placed on voluntarism, it should be noted that Elias Karmon wrote the book. Committed to making the Bronx a better place to work and live, Elias has served on a voluntary basis with dozens of community organizations, which share his deep resolve. For example, he has served as president of the Bronx Chamber of Commerce; president of the Bronx Rotary Club; chairman of the Bronx Council of the Albert Einstein College of Medicine; vice president of the American Jewish Congress, Bronx Division; chairman of the executive committee of the Bronx Boys' Club; chairman of Vacations and Community Services for the Blind; and chairman of the advisory committee of the Bronx Venture Corp., a nonprofit development corporation in the South Bronx.

In addition, he currently serves on the board of directors of the Ponce De Leon Federal Savings & Loan Association, Bronx House, the YMCA, the Fordham Road Area Development Corp., Regional Aid for Interim Needs [RAIN], the South Bronx Mental Health Council, the Pelham Parkway Mall Local Development Corp., the Bronx Dance Theatre, the Bronx Overall Economic Development Corp., and the Pelham Parkway Jewish Center.

He is also a past chairman of the Bronx Urban League Advisory Board. In fact, this past February, the New York Urban League cited Mr. Karmon as a "charter member and founder of the Bronx office of the New York Urban League," and they saluted him for more than 35 years of dedicated service and leadership on behalf of his fellow men.

His vital community services have not gone unnoticed. He has received countless awards, including the coveted Jefferson Award for Public Service in 1979, and his tireless devotion to his community has made him something of a local legend. But awards and prominence are not what Elias Karmon seeks. The fruits of his work are not the accolades he receives, but rather the community improvements he helps achieve. Certainly, he appreciated the fact that the new Lincoln Medical Center board conference room was named in his honor, but the real satisfaction came from knowing the people of his community would have a new medical facility to better meet their vital health care needs.

Even the work he has performed for pay has demonstrated his raging desire to give something useful to his community, to help the Bronx grow. He builds parking lots, and is a developer of office buildings for use by public and private agencies. He is currently president of EMK Enterprises Inc., a real estate firm based at the same south Bronx office he has conducted his business ventures since 1940.

Elias Karmon's deep compassion for his fellow man is perhaps best illustrated by the fact that for many years beginning in 1959, he would throw a huge Christmas party for over 3,000 local children at a community theater. After 45 years of these and other similar deeds, I am pleased to report that this same unselfish spirit lives on, not only at Christmas time, but every single day of the year.

The Bronx community, which I am proud to represent, is a far better place thanks to Elias Karmon and as long as Elias has even an ounce of energy left, we can be certain that the Bronx will continue to improve. Thank you for caring so much, Elias, and may you and your lovely wife Sylvia, share that same happiness you have given so many others—for many years to come.●

GRANDPARENT'S DAY—TIME TO RECALL THE NEED FOR CONGRESSIONAL ACTION ON GRANDPARENTS' RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LANTOS. Mr. Speaker, Sunday, September 9 was Grandparent's Day—an occasion to remember our grandparents and the special role they play in our lives. It is also a time to remember their importance in the lives of their grandchildren.

It is unfortunate that we have marked another Grandparent's Day without completing congressional action on House Concurrent Resolution 45, in which the Congress expresses its support for uniform State legislation providing grandparents with rights to visit their grandchildren following the dissolution—because of divorce, separation, or death—of the marriage of the children's parents.

The Senate has not acted on this resolution, although it was adopted by the House more than a year ago. This important legislation was unanimously approved by the House on April 19, 1983, after careful consideration and review by the House Committee on Education and Labor and the Committee on the Judiciary.

The legislation in the Senate was referred to the Senate Judiciary Committee. Senate hearings were held last year by the Subcommittee on Separation of Powers, which then voted to send the bill to the Senate for a vote. The resolution, however, has still not seen action. I urge our colleagues in the Senate to act on this important matter which will benefit both grandparents and grandchildren.

When the Senate acts on this legislation, grandparents' rights will be protected and they will be better able to help provide responsible, stable family relationships for their grandchildren from broken homes. More important, the rights, needs, and wants of the child—the one who often suffers most in many cases of family breakup—will also be given consideration.

Broken homes have left many children in our Nation without the proper upbringing, and thus they lack important elements that contribute to future family stability. The grandparent is often in a unique position to provide the child from a broken home with a sense of continuity as well as an emotional nurturing that can be missing in the upheaval which follows the breakup of a family. A child needs to know his living ancestors. A child needs the love and security which comes from a vital relationship with his or her grandparents.

I urge the Senate to take a quick action on this most important legislation.●

H.R. 5602: HEALTH PROFESSIONS AND SERVICE AMENDMENTS

HON. HARRY M. REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. REID. Mr. Speaker, defining the well-being of a nation—especially in legislative terms—can be designated under hundreds of bill titles, lobbied by dozens of concerned citizens' groups, and considered by several subcommittees.

However, one definition of well-being is familiar and common to us all—that, or course, is the physical well-being of our Nation's people.

In order to guarantee the benefits and peace of mind that good physical health can provide, it is important for us to make secure both our existing health programs and the qualified support professionals that have, up to this time, provided our people with the greatest popular health care in the world.

That is why I recently voted for H.R. 5602, the health professions and service amendments, a bill to extend the authorizations for:

Various programs that aid the training of health professionals—physicians, dentists, pharmacists, veterinarians, optometrists, nursing, and others;

The National Health Services Corps;

Loans to health maintenance organizations; and

Grants to migrant and community health centers.

Because of the equitable balance in this bill, those who receive educational assistance will, in return, eventually provide health care services to health manpower shortage areas. In a State like Nevada where so many small, isolated communities constantly are concerned about adequate health care, this legislation will provide a needed source of physical and mental well-being long needed and long sought.

Through this kind of legislative cooperation, attention to good health can be affordable for both those who seek careers professionally and those who seek care personally.●

POSTCARDS FOR PEACE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. KILDEE. Mr. Speaker, I am pleased to bring to the attention of my colleagues in the Congress an unusual and inspiring effort to encourage world peace.

The Postcards for Peace project began in the Kirkridge United Presbyterian Church in Grand Blanc, MI. The earnest simplicity of this idea belies its scope. On World Communion Sunday, October 7, 1984, each participant will send postcards to President Reagan and Soviet General Secretary Chernenko urging the two to work together for world peace with justice.

"Postcards for Peace" was adopted nationally by the Presbyterian Church (USA) at its general assembly in June. Since then the project has been growing steadily, embraced by different denominations in houses of worship throughout the country. Individuals of every faith are invited to join in this grassroots effort with a global vision, so that millions of cards will reach the leaders of the world's superpowers and renew hope for international understanding.●

DEDICATION OF BUST OF HON. HUBERT H. HUMPHREY

HON. THOMAS P. O'NEILL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. O'NEILL. Mr. Speaker, I would like to take this opportunity to share with my colleagues remarks I made earlier today here in the Capitol Building upon the dedication of the portrait bust of Vice President Hubert H. Humphrey:

I am honored to take part in this ceremony today to dedicate this portrait bust of the Honorable Hubert Horatio Humphrey and I want to express my affection and appreciation to Mrs. Muriel Humphrey Brown and the entire Humphrey family for sharing this great man with us.

Hubert Humphrey was a man who believed that public service was his duty—and to him it was a labor of love.

He was a man of inspiration whose strength was drawn from the needs of the helpless; whose principles were founded on faith, love and charity; whose greatness came from his selfless dedication to others.

And what an awesome heart he had!

He loved his family and he was so proud of them.

He loved his country and his patriotism and public service was a demonstration of that love.

And he loved people—he loved everybody! His tireless efforts and stubborn determination to make the world a better place was his way of showing that great love.

And we loved Hubert Humphrey.

We admired his great courage.

We respected his leadership.

We were grateful for his loyalty and friendship.

He fought against bigotry—against discrimination of any and every kind—and he was a beacon to the Nation.

He was determined to see the end of poverty and despair in a land of plenty—and his tireless efforts brought us forward.

He left behind a legacy of good will, . . . of generosity and decency . . . and the overriding principle of fairness.

I have on my desk a quotation taken from the last speech Senator Humphrey made, and I'd like to share it with you:

"The moral test of government is how it treats those who are in—the dawn of life—the children;—those who are in the twilight of life—the aged;—and those who are in the shadows of life—the sick, the needy and the handicapped."

Hubert Humphrey was truly a man of inspiration. And his life and tremendous accomplishments continue to inspire the Nation.●

WILDERNESS IS COMING: WATCH OUT MAINSTREET

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. SHUMWAY. Mr. Speaker, Members of the House deserve to know that small, rural communities will bear the brunt of anticipated social and economic impacts resulting from the proposed California Wilderness Act, H.R. 1437. As amended by the Senate, this proposal will designate 1.8 million acres of Forest Service land as wilderness—a total 50 percent higher than the RARE II recommendation supported by true conservationists.

According to the U.S. Forest Service, the potential annual yield for timber will be reduced by approximately 150 million board feet [mmbf], with a corresponding loss of about 2,086 jobs—the RARE II proposal would result in the loss of about 840 jobs. The additional loss of over 1,200 jobs is of tremendous concern to my constituents—and for good reason.

Listed below are communities in Forest Service region 5 that were dependent upon national forest timber in 1976. While some of the figures have changed since that time, the table as a whole plainly illustrates that excessive wilderness designations can jeopardize the very existence of mountain communities in California. As a case in point, designation of the Golden Trout Wilderness contributed to the demise of Johnsondale—now a ghost town.

Perhaps that is why the great majority of people who live and work in these and other small towns support wilderness additions in California of no more than 1.2 million acres as recommended in RARE II. The so-called wilderness compromise of 1.8 million acres is an unreasonable land-use designation that more than doubles the amount of timber loss inherent in the RARE II proposal—a consensus heavily swayed toward preservationist demands, and a classic example of the arrogance shown to lower and middle income rural families by a vocal political elite.

The table follows:

COMMUNITY DEPENDENCY ON NATIONAL FOREST TIMBER

Community	No. of plants	1976 percent of national forest timber	Forest products share of total basic employment
1. Malin, OR	1	80	60
2. Alturas, CA	1	100	50
3. McCloud	1	10	100
4. Adin	1	80	80
5. Bieber	1	98	100
6. Little Valley	1	100	100
7. Burney	2	53	90
8. Central Valley	1	70	90
9. Susanville	2	90	90
10. Chester	1	38	95
11. Greenville	1	100	100
12. Crescent Mills	1	100	100
13. Quincy	2	95	95
14. Sloat	1	88	100
15. Loyalton	1	78	100
16. Comptonville	1	65	100
17. Truckee	1	30	25
18. Grass Valley	4	70	25
19. Marysville	2	53	15
20. Foresthill	2	60	75
21. Jackson	1	59	90
22. Sonora	3	75	75
23. Oakhurst	1	95	100
24. North Fork	1	100	75
25. Auberry	1	98	70
26. Dinkey Creek	1	100	100
27. Madera	1	80	7
28. Dinuba	1	91	20
29. Porterville	1	82	10
30. Johnsondale	1	100	100
31. Cave Junction	1	90	80
32. Happy Camp	2	100	92
33. Yreka	3	75	89
34. Weed	1	30	80
35. Mount Shasta	2	20	60
36. Hoopa	2	55	100
37. Arcata	12	20	90
38. Salyer	2	95	95
39. Burnt Ranch	1	100	100
40. Weaverville	1	40	100
41. Hyampom	1	100	100
42. Hayfork	1	96	70
43. Rio Dell	2	15	90
44. Dinsmore	1	92	90
45. Anderson	7	40	85
46. Wildwood	1	60	100
47. Garberville	1	54	50
48. Red Bluff	4	40	70
49. Paskenta	1	30	100
50. Covelo	1	89	75
51. Potter Valley	1	75	60●

A DOODLING CONGRESSMAN WHOSE DEPARTURE IS A LOSS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. LENT. Mr. Speaker, my good friend and respected colleague BARBER CONABLE is going to retire from Congress at the end of this year. This is a loss many of us, myself included, feel very deeply. We will miss him a great deal.

For many of us, it is difficult to put these feelings into words. However, I'd like to share with my colleagues here today an article written by columnist Otis Pike which appeared in Newsday, August 19, 1984. Otis Pike sums up BARBER CONABLE's outstanding career in Congress as one of our great Nation's most able and respected legislators.

As a fellow member of the New York delegation, I have had the distinct privilege of serving with BARBER throughout my years in Congress. Speaking from experience, I can personally attest to his responsible leadership and commitment to his constituents. BARBER CONABLE is a man of the highest integrity, honesty and decency. He is a man who has earned our admiration and respect. Mr. Speaker, thank you for the opportunity to share this tribute today.

[From the Newsday, Aug. 19, 1984]

A DOODLING CONGRESSMAN WHOSE DEPARTURE IS A LOSS

(By Otis Pike)

If the way a person doodles is truly revealing of the processes of his mind, then the mind of Rep, Barber Conable (R-Rochester), is precise, well-organized and mighty in scope.

Conable sits as the ranking Republican on the Ways and Means Committee of the House of Representatives. The hearings before that committee, in which the placement of a comma can take half an hour of debate, are not always the most exciting in the world, and Conable passes the time in creating some of the most expansive doodles known to man.

He starts with some small shape, a rectangle or a triangle or some more exotic figure, and by the time the proper location of the comma has been resolved, the whole page is devoured by the forms, piled upon each other in precise and orderly fashion, as a spider builds its web, or as soap bubbles cling to one another to create foam.

He does humorous caricatures of some of the witnesses which are well worth publication, but at the end of each hearing he carefully folds the day's creations and sticks them in his pockets—not even entrusting them to the wastebaskets that adorn the room, lest some sensitive soul have his feeling hurt.

Barber Conable is packing it in at the end of the session.

A few thousand men and women have served in the Congress of the United States since the birth of the Republic, and of the vast majority even their names have been forgotten. Their legislative accomplishments, if any, have long since been lost.

But Barber Conable will be remembered as long as those who have served with him have memories. If any serious students of Congress cares to write a book about what has happended to the institution in the past couple of tumultuous decades, the Republican from Rochester, will deserve a whole chapter.

It isn't very rewarding to serve as a Republican in a legislative body wholly run by Democrats, and that has been Conable's fate through his entire congressional career.

It is even worse to serve on a committee that has been purposely loaded in favor of the Democrats out of all proportion to their strength in the House as a whole. This minority status means that your name will not appear on the top of any bill reported out of your committee. If Conable introduces, at the request of the president, a tax bill that the administration wants, the legislation will be picked apart by the committee, modified, changed, and when it finally emerges—if it ever emerges—it will bear first some Democrat's name.

There are two ways you can play the minority role. You can "demagogue it," constantly carping at everything the majority does, criticizing everything and offering nothing, taking refuge in the knowledge that whatever goes wrong, you aren't responsible. It wasn't your fault. You warned them it was no good, but you didn't have the votes to change it.

You can vote for all the popular things, like increasing payments and benefits to every constituent group there is—old people, federal workers, farmers, the military—and then vote against the taxes necessary to pay the benefits for which you have taken credit. It gets you re-elected, even if it is outrageously bad government.

Or, you can try. Conable has tried.

He has tried to be responsible. He has offered sensible proposals, solutions, compromises. He has argued on behalf of his positions precisely, neatly, building carefully on his basic premise with care and with unfailing good humor. He has tried to be a leader, even when no one cared or dared to follow.

He knows that when you vote to spend money, it is essential that you tax to raise the money—or at the least vote to increase the debt ceiling so you can borrow it—and he argues for the responsible course.

He is basically a budget-balancer, not a deficit spender, and has probably been uncomfortable as President Ronald Reagan's lead man on economic affairs in the House. Or perhaps almost a generation of public service in an unrewarding role has been enough.

In any case, there are few people in Congress whose retirement could be construed as a national tragedy—and Conable is among them.

He has shaped and influenced more legislation than ever bore his name. He has set an immaculate standard of honesty, decency and intelligence.

The institution in which he serves is better for his presence, and will be a lesser place when he is gone.●

HONORING MADELINE POMEROY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Ms. SNOWE. Mr. Speaker, I am very honored that one of my constituents, Mrs. Madeline Pomeroy of Presque Isle, ME, has been selected to receive the 1984 Outstanding Volunteer Award of the U.S. Department of Health and Human Services.

Mrs. Pomeroy was nominated for the award by Mr. Stephen Farnham, executive director of the Aroostoock Area Agency on Aging. In making the nomination, Mr. Farnham stated: "There is no other individual that we know of that puts so much of herself back into helping others."

Mrs. Pomeroy has dedicated many, many hours toward voluntarism, as a board member of the Aroostook Area Agency on Aging, Inc., and the Presque Isle Congregate Housing Development Corp., Inc., and as a member of the Retired Senior Volunteer Advisory Council.

Mrs. Pomeroy is a special volunteer at the Presque Isle Nursing Home, raising funds, tending to the special needs of patients, and regularly visiting the residents of the nursing home.

For over 50 years, she has been an active member of the Aroostook Union

Grange #143, serving as an officer for most of those years.

Certainly, such exemplary service to her community should be an inspiration to us all. I ask my colleagues to join in special tribute to Madeline Pomeroy.●

DR. ROBERT BECKER: UNPARALLELED LEADER IN MEDICINE AND EDUCATION

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. O'BRIEN. Mr. Speaker, today I would like to recognize and congratulate an outstanding leader in the medical and educational fields in my district, Dr. Robert J. Becker, who will be honored by the Quad River Foundation for Medical Care and Professional Standards Review Organization on September 28, 1984.

In one of his many contributions to the Joliet community, Dr. Becker founded the Quad River Foundation a dozen years ago. He well deserves this honor for having helped maintain the quality and cost efficiency of health care in our area.

Dr. Becker is now serving as chairman of the board of HealthCare Compare Corp., an organization devoted to the monitoring of professional review activities. In order to devote his full attention to this consulting work, Dr. Becker left his private practice in allergy and clinical immunology in October 1982, after a distinguished 26-year career.

Not only a pioneer in medical cost containment, Dr. Becker has also served two terms as president of Joliet Township High School District 204. During his 9 years as a member of the high school board, Dr. Becker oversaw the construction of the Trainable Mentally Handicapped Center, the formation of an alternate school designed to encourage troubled students to return to the regular academic system, and the general organization and development of the board's policy.

A graduate of Marquette University and the Medical College of Wisconsin, Dr. Becker performed his internship at Michael Reese Hospital in Chicago and completed his residency in internal medicine at the Veterans' Administration Hospital at Wood, WI, and at Roosevelt Hospital in New York City.

In the academic world, Dr. Becker has served as a clinical instructor at both Marquette University and Northwestern University School of Medicine. He has also served as an associate in internal medicine at Northwestern.

Dr. Becker has also served twice in the U.S. Army, first as an enlisted man from 1943–45 and as a captain between 1953 and 1955.

A noted expert in the fields of allergy and clinical immunology, Dr. Becker is widely respected for his articles in such publications as the Journal of Allergy, Annals of Allergy and the Illinois Medical Journal.

I ask my fellow Members of Congress to join with me in offering Dr. Robert Becker my most sincere congratulations for his years of extraordinary service and leadership to his community and profession.●

TRIBUTE TO THOMAS KANE

HON. FRANK HARRISON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. HARRISON. Mr. Speaker, on August 31, 1984, American Legion Post 132 of Greater Wilkes-Barre, PA, will install Thomas Kane as commander.

Mr. Kane is the son of Mary Kane of Wilkes-Barre and the late Martin Kane. The new commander served with the U.S. Navy during the Korean conflict. Mr. Kane was assigned to the aircraft carriers U.S.S. *Leyete* and the U.S.S. *Coral Sea*. Commander Kane is employed as a tractor trailer driver with the Pennsylvania Department of Transportation.

Mr. Kane is married to the former Mary Jean Abend. The couple has seven children: Kathleen, Mary Jean, Karen, Patricia, Maureen, Patrick and Michele.

Mr. Speaker, it gives me a great deal of pleasure to salute Mr. Thomas Kane on the occasion of his installation as commander of the American Legion Post in Wilkes-Barre.●

FIFTH ANNIVERSARY OF CONGREGATION MACHANE CHODOSH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. ACKERMAN. Mr. Speaker, it is with great pleasure that I rise today to extend warm congratulations to the distinguished spiritual leader and the entire membership of Congregation Machane Chodosh on the forthcoming celebration of the fifth anniversary of their new synagogue, to be held on Sunday, September 16, 1984. I am particularly delighted to note the occasion as a milestone in the growth and development to the thriving Jewish community of Forest Hills, NY.

Responding to the ever-increasing spiritual and cultural needs of this vibrant neighborhood, Congregation Machane Chodosh has already established itself as an active center of learning and worship, distinguished for its conviviality and fellowship.

On a personal note, Mr. Speaker, I am grateful to Rabbi Manfred Gans and the members of his congregation for their interest, concern, and participation in the civic and political affairs of our district, and for the responsible cooperation which they demonstrate in matters of local and national importance. It is a distinct privilege to have them as my constituents.

It is therefore, Mr. Speaker, that I call upon my colleagues in this Chamber to join me in saluting the accomplishments of Congregation Machane Chodosh and to wish a hearty mazel tov to its president, Mr. Sol Wachenheimer, and his dedicated board of directors upon this happy occasion. May the upcoming Hebrew new year bestow its blessing upon them within their sanctuary of peace.●

THE ATLANTA NONPROFIT SECTOR IN A TIME OF GOVERNMENT RETRENCHMENT

HON. WYCHE FOWLER, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. FOWLER. Mr. Speaker, yesterday, the Urban Institute released a report, begun in late 1982, on how the private nonprofit sector in Atlanta has been affected by recent cuts in the Federal budget. Among the major findings of the study were the following:

Nonprofit, human service agencies in Atlanta experienced a 22.9-percent real decrease in Government support between 1981 and 1982.

While Government support was declining, demand for services either increased or remained stable for nearly all of Atlanta's nonprofit human service providers between 1981 and 1982.

Atlanta's nonprofit agencies were able to make up about 35 percent of the loss in Federal funding by turning to other sources for financial support. Atlanta's agencies therefore ended up with an overall decline of 6.5 percent in total revenues between 1981 and 1982.

Generally speaking, the agencies that did worst, because of the cutback of Federal support, were those with limited capacity to impose fees and service charges on a generally needy clientele.

Fifteen percent of the agencies apparently found it necessary to eliminate specific services or programs, while 8 percent tightened eligibility for service and 11 percent reduced the number of clients served.

I commend the Urban Institute study to my colleagues, and enclose an executive summary for your information.

The executive summary follows:

[The Atlanta Nonprofit Sector in a Time of Government Retrenchment]

EXECUTIVE SUMMARY

The major changes under way in the funding of human services activities by government in this country have focused attention on the thousands of social service, agencies, day-care centers, health clinics, family counseling centers, museums, advocacy groups, arts organizations, hospitals, and related organizations that make up the private, nonprofit sector.

These organizations play a vital role in coping with community problems in Atlanta and elsewhere in the country, but they are usually overlooked in policy debates and serious analysis. As a result, decision makers both within the nonprofit sector and outside it are ill-equipped to evaluate the important changes the sector is facing or the implications these challenges have for community life.

To remedy this situation, a major national project was launched at the Urban Institute in 1982 to learn more about this important set of institutions, to determine the scale of government activity in the fields in which nonprofits are active, to guage the extent of government support for nonprofits in these fields, and to analyze the impact that changes in government funding are having on this set of institutions. This project involves work in Atlanta and fifteen other communities of varying sizes throughout the country. The work in Atlanta is being carried out under the direction of an advisory committee chaired by Arthur C. Baxter of the First National Bank of Atlanta, with the assistance of a local associate, Winsome Hawkins.

This report presents the results of one facet of this work: a mail survey of Atlanta's nonprofit human service agencies carried out in late 1982 and early 1983 to determine what the scope of the nonprofit sector is in Atlanta, how it is funded, and how it has been affected by recent changes in government funding. This survey focused on nonprofit agencies that provide services for the public's benefit, and covered all types of agencies of this sort except two, hospitals and higher education institutions. However, alternative sources of information were tapped to clarify the role that these two types of organizations play in the Atlanta nonprofit scene.

The major findings of this report can be grouped under five broad hearings, as follows:

1. The Size and Composition of the Atlanta Nonprofit Sector:

The Atlanta nonprofit sector is big.—The public service nonprofit sector is a major component of the Atlanta economy. Including hospitals and institutions of higher education, the sector comprises approximately 570 organizations and had expenditures in 1982 of approximately $829 million, about five times the size of the budget of the city of Atlanta. Excluding hospitals and higher education institutions, which are not covered by our survey, the remaining portions of Atlanta's nonprofit sector, which we have termed "nonprofit human service agencies," embrace some 539 agencies and account for $290 million in expenditures, still a substantial economic force.

National comparison.—Although large in absolute terms, Atlanta's nonprofit sector nevertheless appears to be smaller than its counterparts in other metropolitan areas of similar size and degree of urbanization.

Activities.—Nonprofits are active in virtually every human service field in Atlanta. The typical nonprofit human service agency provides a variety of services, but the three most numerous types of agencies are those involved primarily in social services; education and research; and culture, arts, and recreation. A higher proportion of the nonprofits in Atlanta concentrate their activity in the education and research area than is the case in the other sites. By contrast, nonprofits in Atlanta appear to play a relatively more limited role in the health care field, a pattern that perhaps reflects the relatively small proportion of nonprofit hospitals in Atlanta.

Agency size and concentration of resources.—Most Atlanta human service nonprofits are small or medium-size, but most of the expenditures of the nonprofit human service sector in Atlanta are made by a relatively small number of large agencies. Thus, the 84 percent of agencies with 1982 expenditures of less than $1 million accounted for just 27 percent of all the expenditures of Atlanta's nonprofit human service sector. By contrast, the 16 percent of agencies with expenditures of $1 million or more each accounted for 73 percent of total sector expenditures.

Many types of Atlanta agencies are unusually large.—The size of institutional and residential care agencies in Atlanta is, on average, almost twice the average size for such agencies in our all-site sample. Also somewhat larger, on average, than their all-site counterparts are Atlanta's cultural, arts, and recreation agencies, social service agencies, and agencies operating in the fields of employment and training, housing and community development, and legal services and advocacy. The size of health/mental health, education and research, and multi-service organizations in Atlanta is, on average, smaller than the average for all sites.

Geographic focus.—Atlanta's nonprofits generally serve a broader geographic area than do their counterparts in the other sites, reflecting the dominant role Atlanta plays in the region and the absence of a strong tradition of neighborhood identity like that found in the older ethnic cities of the North. This factor may also help explain the relatively large size of many nonprofits in Atlanta.

Age.—Atlanta's nonprofit human service agencies are relatively young. Most (68 percent) have been created since 1960, 44 percent since 1970. Unlike the pattern in the other sites studied, in which organizations formed before 1930 account for almost 40 percent of the expenditures, older agencies do not dominate Atlanta's nonprofit sector, controlling less than one-fourth of the funds.

Clientele.—Atlanta's nonprofits serve a diverse clientele. Most agencis do not concentrate on a particular age or ethnic group. Nor do most agencies concentrate primarily on the poor. In fact, a third of the agencies reported providing no services to the poor, and more than half of the agencies (53 percent) indicate that the poor make up less than 10 percent of their clientele.

2. Sources of Revenue:

Government funding.—Government funding is the largest single source of support for Atlanta's nonprofit human service organizations. As of 1981, government support accounted for almost 44 percent of the revenue of Atlanta's nonprofits, slightly higher than the average for all sites (41 percent). Even after deep cuts in government support in the early 1980s, more than one-third (36 percent) of the total income of these organizations was derived from government sources in 1982. Moreover, reliance on government support is widespread, with more than half (53.1 percent) of all Atlanta agencies receiving at least some of their 1982 funding from government. Government support plays a particularly important role in the funding of agencies concentrating in the fields of employment, housing and community development, legal services and social services. It is more important for newer agencies and for large organizations.

Earned income.—Income from service fees, dues, and charges is the second-largest funding source for Atlanta's nonprofit human service agencies, accounting for about a third of total 1982 revenues. Atlanta exceeds all other sites but Phoenix in the share of its nonprofit income that comes from fees, dues, and charges. About 70 percent of agencies reported some reliance on service charges.

Private charity.—Private giving—from individuals, corporations, and foundations—ranks behind government and fee income as a source of revenue for Atlanta's non-profits. Such contributions accounted for about 22 percent of total nonprofit income. United Way is the largest private funding source in Atlanta, providing more than 8 percent of the total revenues of organizations surveyed. However, United Way supports only about one-fifth of the agencies surveyed.

3. Impact of Government Budget Cuts:

Overall impact.—Nonprofit, human service agencies in Atlanta experienced a 22.9 percent real decrease in government support between 1981 and 1982. This was the sharpest decline of all the study sites, almost four times more severe than the average decline for all sites (6 percent). As a result of these cuts, government funding dropped from 43.6 percent of Atlanta's nonprofit revenues in 1981, one year before our survey, to 35.9 percent of total nonprofit revenues in 1982.

Variations by type of agency.—In Atlanta, the government cuts hit large agencies, newer agencies, and those primarily engaged in employment and training, housing and community development, legal services, and education and research, particularly hard. These agencies lost from one-fourth to one-third of their government funding.

Increased demands.—While government support was declining, demand for services either increased or remained stable for nearly all of Atlanta's nonprofit human service providers between 1981 and 1982. Increases in demand were most likely to be registered in program areas where government funding cuts were the sharpest—employment and training, housing and community development, legal services and advocacy, social services, and institutional and residential care.

4. Nonprofit Response to Retrenchment:

Net loss overall.—Atlanta's nonprofit agencies attempted to replace the government funding losses by turning to other sources of support. Their overall performance in increasing nongovernment support was about average among the sites we examined, making up about 35 percent of the government losses. Atlanta's agencies therefore ended up with an overall decline of 6.5 percent in total revenues between 1981 and 1982—the sharpest decline of all the sites in our study.

Increased reliance on fees.—Most (two thirds) of the replacement revenue for Atlanta nonprofits came not from private charity, but from heavier reliance on dues, fees, and other charges for services provided by nonprofits. Such earned income made up for slightly less than one-fourth of the gov-

ernment funding losses. This apparent trend toward a more "commercial" orientation raises important questions about the ability of the Atlanta nonprofit sector to continue to serve the people in greatest need.

Other sources.—With the sole exception of private foundation support, which dipped modestly, all other sources of nongovernment funding—United Way, religious and other federated charities, direct individual giving, corporate philanthropy, endowment and investment income, and proceeds from sales and special events—increased for Atlanta nonprofits between 1981 and 1982. However, these increases made up for only about one-tenth of the government funding losses.

Agencies serving the needy fared worse.—Reflecting their different funding patterns, some types of agencies managed to do better than others during the recent retrenchment. For example, health-related agencies and arts organizations registered real growth. Education and research and multipurpose agencies turned double-digit government losses into modest real losses in total funding. By contrast, social service and employment, housing, and legal service organizations remained deep in the red. Generally speaking, the agencies that did worst were those with limited capacity to impose fees and service charges on a generally needy clientele.

Management and service changes.—In addition to seeking alternative funding, many agencies responded to retrenchment by reducing staff levels, increasing staff workloads, instituting management reforms, and increasing reliance on volunteers. Even so, 15 percent of the agencies apparently found it necessary to eliminate specific services or programs, while 8 percent tightened eligibility requirements for service and 11 percent reduced the number of clients served.

5. Conclusion:

A period of strain.—Atlanta's nonprofit human service agencies are experiencing considerable fiscal and programmatic strain. As a result of major changes in government funding levels, many of these organizations have been forced to seek alternative sources of funding, limit their staff size, alter some of their internal operations, and reduce their activities. These pressures may have some positive results, improving agency productivity and strengthening the sector's fiscal base. But the increased pressures on agency personnel and the growing reliance on fees and charges also raise troubling questions about the future course of the organizations.

The need for redirection.—This is therefore an opportune time to assess the role that nonprofit organizations play in the Atlanta community and to develop a more coherent understanding of the way these organizations might usefully fit into the community's service-delivery structure in the future. This report is intended to provide such an understanding and thus to help inform the public debate that is needed on these questions.●

10TH ANNIVERSARY OF THE MOTHER CABRINI AWARD

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. RUSSO. Mr. Speaker, this year celebrates the 10th anniversary of the Mother Cabrini Award. The Columbus-Cuneo-Cabrini Medical Center bestows, this, its highest honor, on those individuals who have worked unselfishly for the benefit of those less fortunate, very much like Mother Cabrini herself. St. Cabrini was born to a family of 12 children in Lombardi, Italy. Although she was never physically strong, she worked to carry the burden of others.

At the age of 24 she took her first religious vows, and 6 years later she founded her own order, the Missionary Sisters of the Sacred Heart. When she recognized the needs of Italian immigrants in the United States, Mother Cabrini sailed to New York where she established an orphanage. In 1892, she founded Columbus Hospital. In 1909, Mother Cabrini became a naturalized citizen of the United States. She had already given so much to this country's poor and homeless, but she treasured the honor of becoming an American and worked harder to be worthy of her new home. She traveled the country, opening schools and orphanages in Denver, Seattle, Los Angeles, and Chicago. Her cheerfulness and sense of humor were an inspiration to all of those she helped. Mother Cabrini became ill and died in 1917.

The love and hope she brought to so many immigrants prompted the Vatican to declare her life an heroic one, and she was canonized on July 7, 1946.

The Mother Cabrini Award, which this year honors Mr. Irv Kupcinet, Sun-Times columnist, and Mr. Stephen Ruff, Sr., Chicago attorney, reminds us that service to others is the highest calling. Our service to others is rendered in the way we live our lives each day, regardless of what work we have chosen. Both men honored by this award richly deserve this recognition. Highly successful in their chosen fields, they could have been satisfied with this as enough. Instead, they have chosen to remember the needs of others and have given unselfishly of their time and talents. I join with their friends in congratulating them and commend the Columbus-Cuneo-Cabrini Medical Center for their own dedicated service.●

OPAL HENN: WORKING TO HELP PEOPLE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. ANDERSON. Mr. Speaker, on Friday, September 14, a very special lady will be honored at a dinner to be held at the Rio Hondo Inn in Downey, CA. Opal Henn will receive this tribute from her friends for all the many community activities that she has been involved with over the years.

Opal was born in Redlands, CA, and later moved to Orange County where she attended schools in Placentia, Huntington Beach, and Santa Ana. She then moved to Downey where she comnpleted high school. After attending Long Beach City College for 1 year, Opal began working for the Pacific Telephone Co. While there, her most exciting job was manager of the Bell System's "America the Beautiful" exhibit at Disneyland.

With her retirement from Pacific Telephone, Opal began working at her true love, volunteer service and helping people. She has been involved with many groups as a volunteer. She has been a member of the American Heart Association for the past 26 years, a member of the American Cancer Society, charter member of the Downey Quota Club International, and helped organize the Downey Coordinating Council as a member of the Quota Club. Opal is a member of the Downey Historical Society, and the Downey Rose Float Association where she has acted as chaperon for Miss Downey and her court for the past 10 years. It is interesting to note that Opal was the first Miss Downey, and continues to be active in the Miss Downey pageant.

She is a member of the American Association of Retired Persons, Chapter 262, in Downey; a volunteer for the Downey Youth Employment Office; the Downey Theatre; member of the Keep Downey Beautiful Committee; and serves on the Sister City Committee.

Opal was also the organizer and coordinator of the Robbie Diaz Olympic Committee to send Robbie, Downey's deaf swimmer, to the Deaf Olympic games held in Berlin, Germany. She also worked with the city, the chamber of commerce, and the RTD Transportation Committee, selling Olympic tokens to businesses in Downey.

An active member and past president of the Downey Republican Women Federation, Opal is a newly elected member of the Los Angeles County Republican Central Committee, 63d Assembly District. She is a member of the California Republican Assembly and honorary member of

the Downey Soroptimist International.

I join with my wife, Lee, in honoring Opal Henn for her very active community involvement. We wish her all the best in years to come, and know she will continue to be a valued participant in making Downey, CA, a better place to live.●

RESOLUTIONS OF MUHLENBERG COUNTY FARM BUREAU

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. HUBBARD. Mr. Speaker, my wife, Carol, and I attended the annual Muhlenberg County Farm Bureau dinner on Friday, September 7, at Greenville, KY.

The Muhlenberg County Farm Bureau adopted the following resolutions given to me by Charles W. Gatton, Jr., president, and James M. McPherson, resolution chairman:

We the Muhlenberg County Farm Bureau present the following resolutions:

1. We favor legislation to balance the United States budget except when Congress determines an extreme emergency exists.

2. We recommend limiting imports and educating the American consumer to buy American products.

3. We favor aid to foreign countries to be in the form of United States farm products rather than tax dollars.

4. We recommend a new method of exchange between the United States and Foreign countries. Instead of United States dollars for foreign oil and other imports, we recommend farm commodities instead of United States dollars.

5. We believe the federal and state estate taxes are unfair and should be rescinded.●

FBI'S UNDERCOVER ACTIVITIES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. EDWARDS of California. Mr. Speaker, the House Judiciary Subcommittee on Civil and Constitutional Rights, which oversees the Federal Bureau of Investigation, has conducted more than 4 years of intense study of the FBI's undercover activities. The result of our labors is a report which the subcommittee issued on May 1.

The subcommittee made a number of recommendations which it believes would help eliminate many of the dangers inherent in undercover operations. One of the recommendations was that there be a judicial check on use of the technique, through a warrant requirement. There is growing support for our position. For example, I invite your attention to an editorial which appeared in the Los Angeles Times on August 15, entitled "Sting in Law Enforcement."

The editorial focuses on the fundamental questions regarding police undercover operations. In particular, it notes that internal administrative controls are not adequate and that a scam warrant or court order to authorize sting operations is necessary to protect innocent persons from Government-initiated temptations. The five Democratic Members on the subcommittee—Congresswoman PATRICIA SCHROEDER (CO) and Congressmen ROBERT KASTENMEIER (WI), JOHN CONYERS (MI), CHARLES SCHUMER (NY) and I—strongly agree. Mr. Speaker, I urge our colleagues' close attention to the editorial.

The editorial follows:

STING IN LAW ENFORCEMENT

(By Otis Chandler)

"Sting" operations have become a most effective tool of law enforcement. To some critics they also pose dangers and raise troublesome questions of Government ethics. Can an honest person be entrapped into committing a crime? The easy answer is no, but suppose he is under intense financial pressure, the bait dangled before him by the Government is hugely attractive, and he takes it. The question now is: Did the Government push a citizen into committing a crime that he ordinarily would not have committed?

At this point in the sting, a Chicago criminal defense lawyer argued at the recent meeting of the American Bar Assn., the Government's "efforts are not to see if the target will commit a crime but to get him to commit a crime."

James F. Neal, the former Watergate special prosecutor, agreed. Neal, who also served as counsel for the Senate Select Committee reviewing the Government's Abscam prosecutions, told the ABA that "the proof that the defendant was predisposed to some criminal act now seems to be nothing more than the fact that he took the bait. We need more protection for the defendants in these cases. And one of the (defenses) available to them should be a determination whether these efforts would cause even normally law-abiding citizens to commit a crime."

The Justice Department has established guidelines for undercover operations, but Neal called them "merely recommendations" that often are ignored, and he advocated legislation to govern sting investigations. This approach also is recommended by Harvard law professor Alan Dershowitz, who recently wrote in these pages:

"The Government may trick a criminal into commiting a crime that he would commit anyway—but under circumstances in which he can be caught and convicted. For example, if the police know that John Smith is a drug dealer, it is perfectly proper for an undercover 'narc' to buy some drugs from Smith. Smith is tricked, but properly so. But the Government is not permitted to talk an innocent person into trying crime for the first time." Dershowitz favors legislation that would require a court order—a "scam warrant"—to authorize undercover sting operations. A federal prosecutor who heads the Government's probe into corruption in Cook County (Ill.) courts, counseled against further controls. The Cook County investigation, he said, "has been a learning process, but let time march on a bit."

When time marches on a bit, whether Congress will enact strict controls on sting operations will depend on the answer to this question: Did the government persuade the target to commit a crime that he otherwise would not have committed? That question calls for a highly subjective judgment, but one that is inherent in the very nature of the undercover investigations.●

TRIBUTE TO PATRICK SCANLAN

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. YATRON. Mr. Speaker, I would like to take this opportunity to say a few words about Mr. Patrick Scanlan, a member of Boy Scout Troop 651 and son of Vincent and Bonnie Scanlan of Schuylkill Haven, PA.

Patrick is an outstanding young man who recently passed his Eagle Scout Board of Review for the advancement to the rank of Eagle Scout. A court of honor will be held on October 28, 1984, to honor this young man for this admirable achievement.

The rank of Eagle Scout is not easily accomplished and it is awarded only to those few who have excelled in many dimensions of Scouting and citizenship. It is a testimony to an individual's character, integrity, intelligence, perseverance, dedication, and loyalty to community and country.

I know that Patrick's parents, teachers, and friends are extremely proud of him for earning this noteworthy and important award. It is young people like Patrick who instill confidence in the next generation to carry the mantle of leadership in building a better America and a better world. I know that my colleagues will join me in congratulating Patrick and wishing him the very best in all his future endeavors. Patrick Scanlan will serve as an inspiration to other young Americans and is deserving of this special recognition.●

HOW TO SWAY A COUNTRY TOWARD WAR

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. JACOBS. Mr. Speaker, with the following contribution from Hermann Göring, I tilt slightly toward the proposition that no one is useless.

Naturally the common people don't want war . . . but after all it is the leaders of a country who determine the policy, and it is always a simple matter to drag the people along, whether it is a democracy, or a fascist dictatorship, or a parliament, or a communist dictatorship. Voice or no voice, the

people can always be brought to the bidding of the leaders. That is easy. All you have to do is to tell them they are being attacked, and denounce the pacifists for lack of patriotism and exposing the country to danger. It works the same in every country.

—HERMANN GÖRING.●

TRIBUTE TO MS. YVONNE PRICE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Ms. Yvonne Price for her sincere and dedicated work in the civil rights movement during the past 20 years. Ms. Price was, to the best of my knowledge, the first black woman to lobby on Capitol Hill.

Working jointly with the Conference on Civil Rights and the National Association for the Advancement of Colored People, she was instrumental in the passage of the Civil Rights Act of 1964 and the Fair Housing Act of 1968.

She continues to work for legislative initiatives with other national organizations such as the Congressional Black Caucus.

Ms. Price's current involvement with the newly formed Black Women's Political Caucus, the Black Women's Roundtable, the National Association of Negro Business, 100 Black Women, and other professional women's groups reflects her continued commitment to the struggle for equal opportunity for all.

Ms. Price has been a role model for blacks, minorities, and women.

I am well acquainted with her accomplishments and am sure that all of my colleagues in the House of Representatives join me in this tribute to a remarkable woman.●

A TRIBUTE TO MRS. EMMA M. MEYER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. SKELTON. Mr. Speaker, I would like to take a moment to recognize the outstanding performance of Mrs. Emma M. Meyer of Mora, MO, who has, for the last 40 years, served her country as a volunteer in the National Weather Service's Cooperative Weather Observer Program.

Recently, the National Weather Service presented Mrs. Meyer with the John Campanius Holm award for 40 years of continuous and exceptional public service. This award, honoring Mrs. Meyer for "outstanding accomplishments in the field of meteorological observations" is one of the highest honors paid a cooperative observer.

Mrs. Meyer's service has benefited the people of Mora and surrounding areas invaluably over the past 40 years by helping to make the National Oceanic and Atmospheric Administration's river and flood forecasts and warnings more accurate. Her dedication to her job is tremendous, and she often braves severe weather conditions to make sure that accurate readings are taken and that her equipment stays well maintained. She has even trained a substitute who can take the daily readings when she is unavailable.

A homemaker, Mrs. Meyer supplies the local media with her observations, and acts as the local authority on Mora's climate, as she well should, for her records make up much of Mora's hydrological history.

The data collected by Mrs. Meyer, and the 11,000 volunteers like her throughout our Nation benefit many segments of American life. It helps form our national climatic record, as well as providing valuable information to various public and private users, including farmers, ranchers, builders, and utility companies.●

THE 25TH ANNIVERSARY OF THE INCORPORATION OF THE CITY OF ROSEMEAD

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. MARTINEZ. Mr. Speaker, this year marks the 25th anniversary of the incorporation of the city of Rosemead, CA. Since the early days when city hall was located in a single room in the back of a local bank, the city has developed into a well planned, financially sound community, dedicated to meeting the needs of all its citizens.

Projects for public improvements began immediately following incorporation. Today, more than 90 percent of the city's streets have been upgraded with the installation of curbs, gutters, driveway approaches and sidewalks.

The city's recreation department offers year-round classes, leisure activities, and organized sports for youngsters, teens, adults, and seniors. To make leisure activities even more accessible, the city is rebuilding the Zapopan Community Center. In conjunction with the Garvey School District, the city is also upgrading the Fern School Sports Complex by installing lights, two football fields, and two baseball diamonds.

In planning the city's future, the Rosemead Redevelopment Agency created an environment which contributes to the influx of several new businesses. A cornerstone in Rosemad's redevelopment program is the creation of a 94-acre garden-like commercial/industrial park that has become home for the corporate offices of Southern California Edison, Ticor Title Insurance, and California Federal Savings & Loan. Another project which will greatly contribute to Rosemead's continued prosperity is the development of a 40-acre shopping mall in conjunction with the neighboring city of Montebello.

Future projects which will also improve the quality of life in Rosemead include the introduction of a cable television system and the installation of handicap ramps, bus stop shelters, and concrete pads to reinforce city streets along the bus routes within the city.

All in all, the citizens of Rosemead have every reason to look proudly upon their city's past, and look with confidence to the promise of the future.●

LEGISLATION TO DISTRIBUTE JUDGMENT FUNDS TO WYANDOTTE TRIBE

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 1984

● Mr. SYNAR. Mr. Speaker, I am pleased to introduce legislation today which will provide for the distribution of judgment funds plus accrued interest resulting from four dockets to the members of the Wyandotte Tribe of Oklahoma and to the lineal descendants of individuals listed in the "Census of Absentee or Citizen Wyandotte Indians."

On August 17, 1978, the Indian Claims Commission awarded $561,424.21 to the Wyandotte Tribe as it was constituted in 1805 as their share for ceded land in north-central Ohio. Funds to cover this award were appropriated on October 1, 1978.

The U.S. Court of Claims on January 19, 1979, awarded $2,349,679.60 to the Wyandotte Tribe as it was constituted on January 4, 1819, as additional compensation for land in northwestern Ohio. The necessary funds for this debt were appropriated on March 2, 1979.

The U.S. Claims Court, on December 9, 1982, awarded the Wyandotte Tribe $200,000 in dockets 212 and 213 as additional compensation for reservation lands in northwestern Ohio and southeastern Michigan ceded to the United States by the tribe under several treaties. Funds were appropriated to satisfy this judgment on January 20, 1983.

As of March 30, 1984, the total of these claims plus accrued interest was $5,710,545.84.

This bill would repeal Public Law 97-371, which allocated previously appropriated funds to the Wyandotte Tribe and Absentee Wyandottes. The formula for distribution of these funds, as contained in that act, has been determined to be inequitable by the Bureau of Indian Affairs, the Wyandotte Tribe, and many Absentee Wyandottes.

The bill contains a new distribution formula which would provide for the fair distribution of judgment funds between the Wyandotte Tribe and Absentee Wyandottes. In addition, this bill provides for the distribution of funds appropriated under dockets 212 and 213.

Mr. Speaker, I urge the quick passage of this bill so that the Wyandotte Tribe and the Absentee Wyandottes can receive the judgment funds that are rightfully theirs.●