MR. BROWN of Ohio: How will the Chair determine whether there are 218 votes cast in favor of the resolution?

THE SPEAKER: By the usual method: Either by a viva voce vote [*sic*], division vote, or a vote by the yeas and nays.

The question is on the resolution.

The question was taken.

THE SPEAKER: In the opinion of the Chair the resolution not having received the affirmative vote of a majority of the authorized membership of the House, the resolution is not agreed to.

So the resolution was rejected.

§ 9. Demand for Division Vote

By Speaker

§ 9.1 The Speaker may himself order a division vote, without waiting for such a demand to be made from the floor.

On July 9, 1940,[6] Mr. Sol Bloom, of New York, requested unanimous consent for the immediate consideration of House Resolution 547.

The Clerk read as follows:

Whereas there have long existed historical ties of friendship between the United States of America and Argentina; and

Whereas these ties, based on the respect and admiration of two free and independent nations, happily grow firmer day by day; and

Whereas on July 4, 1940, the Chamber of Deputies of the Argentine Congress graciously paid tribute to the anniversary of the independence of the United States of America and to this House of Representatives of the Congress of the United States of America; and

Whereas today, July 9, 1940, marks the anniversary of the Declaration of Independence of the Argentine Republic, a memorable day in the progress of democratic institutions; therefore be it

Resolved, That this House pay tribute to the Chamber of Deputies of Argentina and to the great Argentine Nation on this their anniversary of the signature by a group of 28 patriots in the city of Tucuman on July 8, 1816, of the Declaration of Independence of the United Provinces of the Rio de la Plata; and be it further

Resolved, That a copy of this resolution be forwarded through the Secretary of State to His Excellency the Ambassador of Argentina at Washington for transmission to the Chamber of Deputies of the Argentine Republic.

After some brief remarks by Mr. Bloom and Mr. Hamilton Fish, Jr., of New York, the Speaker[7] put the question on agreeing to the resolution and simultaneously demanded a division.

The House divided, and the resolution passed by a vote of 350 yeas and no nays.[8]

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6. 86 CONG. REC. 9359, 9360, 76th Cong. 3d Sess.

7. William B. Bankhead (Ala.).

8. It should be noted, parenthetically, that in the Senate the Chair does not announce the number of Members voting "aye" or "nay." See 90 CONG. REC. 398, 78th Cong. 2d Sess., Jan. 19, 1944.

Chair May Order Division Vote

§ 9.2 The Chair may on his own initiative under Rule I clause 5, order and conduct a division vote before entertaining a demand for a recorded vote.

Where the Chairman of the Committee of the Whole was unsure that a voice vote on an unexpected motion that the Committee rise expressed the will of the Committee, he directed that a division vote be taken on the motion, even though another Member had asked for a recorded vote. Following the division, the demand for a recorded vote was then entertained. The proceedings of Oct. 20, 1977,[9] which demonstrate the role of the Chair, were as follows:

THE CHAIRMAN:[10] The Clerk will read.

PREFERENTIAL MOTION OFFERED BY MR. EDWARDS OF ALABAMA

MR. [JACK] EDWARDS of Alabama: Mr. Chairman, I move that the Committee do now rise.

THE CHAIRMAN: The gentleman from Alabama (Mr. Edwards) has offered a preferential motion that the Committee do now rise.

The question is on the preferential motion that the Committee do now rise offered by the gentleman from Alabama (Mr. Edwards).

The question was taken; and the Chairman announced that the noes appeared to have it.

MR. EDWARDS of Alabama: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: The Chair will first take this vote by division.

The Committee divided; and there were—ayes 186; noes 93.

THE CHAIRMAN: The Committee will rise.

RECORDED VOTE

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, I demand a recorded vote.

THE CHAIRMAN: A recorded vote has been demanded by the gentleman from Missouri (Mr. Volkmer).

So many as are in favor of taking this vote by recorded vote will stand and remain standing until counted.

PARLIAMENTARY INQUIRY

MR. [GEORGE H.] MAHON [of Texas]: I have a parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman from Texas (Mr. Mahon) has a parliamentary inquiry, and the gentleman will state it.

MR. MAHON: Mr. Chairman, I understand that the motion is that the Committee do now rise, but we only lack about a page and a half of completing the reading of the bill.

MR. [JOHN M.] ASHBROOK [of Ohio]: Regular order, Mr. Chairman.

MR. [JOHN H.] ROUSSELOT [of California]: Regular order.

THE CHAIRMAN: The regular order is being followed. The gentleman from

9. 123 CONG. REC. 34717, 95th Cong. 1st Sess.

10. Sam M. Gibbons (Fla.).

Texas (Mr. Mahon) has a parliamentary inquiry, and the gentleman is being recognized for his parliamentary inquiry.

MR. MAHON: Mr. Chairman, the parliamentary inquiry is this: Would it not be possible to read through the title? There is only about half a page remaining. Then we would have this matter behind us, and perhaps then we could rise.

THE CHAIRMAN: The Chair will make this statement: The Chair first announced that the ayes had it on the preferential motion to rise. Then there was a vote by division. The gentleman from Missouri (Mr. Volkmer) has now demanded a recorded vote on the preferential motion that the Committee do now rise. The Chair will count all those Members standing on the demand for a recorded vote.

Evidently a sufficient number have arisen.

A recorded vote is ordered.

§ 9.3 A recorded vote may be demanded in the Committee of the Whole after the Chair announces the result of a voice vote or states that the Chair is in doubt.

Where the Chair is in doubt of a voice vote, he may on his own initiative ask for a division. However, he can entertain a demand for a recorded vote without first conducting a division. The proceedings of May 6, 1992,[11] are illustrative.

MR. [GEORGE W.] GEKAS [of Pennsylvania]: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

THE CHAIRMAN PRO TEMPORE:[12] Pursuant to the provisions of clause 2(c) of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the Gekas amendment, as amended by the Frank substitute.

The vote was taken by electronic device, and there were—ayes 222, noes 196, answered "present" 1, not voting 15, as follows: . . .

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

THE CHAIRMAN PRO TEMPORE: The question is on the amendment offered by the gentleman from Pennsylvania [Mr. Gekas], as amended.

The question was taken.

RECORDED VOTE

MR. [BARNEY] FRANK of Massachusetts: Mr. Chairman, I demand a recorded vote.

PARLIAMENTARY INQUIRY

MR. [GERALD B.H.] SOLOMON [of New York]: Mr. Chairman, that is premature. The Chair did not announce the vote.

THE CHAIRMAN PRO TEMPORE: The gentleman will repeat himself.

MR. SOLOMON: Mr. Chairman, I have a parliamentary inquiry.

11. 138 CONG. REC. 10515, 10516, 102d Cong. 2d Sess.

12. Kweisi Mfume (Md.).

THE CHAIRMAN PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. SOLOMON: Mr. Chairman, I did not hear the Chair announce the yeas and nays, the result.

THE CHAIRMAN PRO TEMPORE: The Chair is in doubt on the voice vote.

MR. FRANK of Massachusetts: Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

THE CHAIRMAN PRO TEMPORE: This is a 5-minute vote.

The vote was taken by electronic device, and there were—yes 221, noes 196, answered "present" 1, not voting 16, as follows: . . .

Timeliness; Effect of Announcement of Voice Vote

§ 9.4 A demand for a division vote does not come too late following the refusal to order tellers where the result of the voice vote has not been announced by the Chair.

On Nov. 9, 1971,[13] the House resolved itself into the Committee of the Whole for the purpose of the consideration of the bill (H.R. 10729) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

In the course of the bill's consideration, Mr. Frank E. Evans, of Colorado, offered an amendment to a substitute amendment offered by Mr. John H. Kyl, of Iowa, for the amendment in the nature of a substitute offered by Mr. John G. Dow, of New York.

The question was taken; and the Chairman announced that the Chair was in doubt. Mr. Evans then demanded tellers which were refused whereupon he immediately sought a division.

This, in turn, prompted the following exchange between Mr. Gerald R. Ford, of Michigan, and the Chair:

MR. GERALD R. FORD: Mr. Chairman, I object. The gentleman did not ask for the division timely.

THE CHAIRMAN:[14] The Chair has not announced the result of the vote, and the gentleman from Colorado (Mr. Evans) can demand a division.

Where Recognition Sought Prior to Announcement of Voice Vote

§ 9.5 The announcement of a voice vote does not preclude a subsequent demand for a division providing the proponent of the request for division was on his feet seeking recognition at the time of the announcement and no in-

13. 117 CONG. REC. 40020, 40027, 40038, 40046, 40054, 92d Cong. 1st Sess.

14. William L. Hungate (Mo.).

tervening business has transpired.

On Sept. 20, 1967,[15] the House resolved itself into the Committee of the Whole for the purpose of considering a bill (H.R. 6418) to amend the Public Health Service Act.

In the course of debate, Mr. Harley O. Staggers, of West Virginia, rose and moved that all debate on section 12 of H.R. 6418 conclude within 45 minutes. The Chairman put forth the Staggers motion; the question was taken, and the Chair announced that the ayes appeared to have it.

Mr. H. R. Gross, of Iowa, then rose to demand a division whereupon Mr. John D. Dingell, of Michigan, rose to a point of order culminating in the following exchange:

> MR. DINGELL: Mr. Chairman, the gentleman's request comes too late. There was intervening business, Mr. Chairman.
>
> THE CHAIRMAN:[16] Was the gentleman from Iowa on his feet at the time?
>
> MR. GROSS: Yes, Mr. Chairman, I was, at the time, and I turned around to get to the microphone.
>
> THE CHAIRMAN: Under those circumstances, the Chair overrules the point of order.[17]

§ 9.6 The Chair has stated that where there was doubt among the membership as to whether a particular Member was on his feet seeking recognition to demand a division vote as the voice vote was being announced, the Chair would resolve the doubt in favor of the Member.

On Feb. 2, 1948,[18] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 4790) to reduce individual income tax payments. The Chairman[19] put the question on an amendment before the Committee, and subsequently announced that the ayes had it.[20]

Immediately thereafter, Mr. John D. Dingell, of Michigan, requested a division.

> MR. DINGELL: Mr. Chairman, I ask for a division.
>
> MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, the request comes too late.
>
> MR. DINGELL: No; it does not come too late. Let the Chair rule on that.
>
> THE CHAIRMAN: Was the gentleman on his feet when he made the request?

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15. 113 CONG. REC. 26119, 26122, 90th Cong. 1st Sess.

16. Jack Brooks (Tex.).

17. For similar rulings, see also 108 CONG. REC. 772, 87th Cong. 2d Sess., Jan. 23, 1962; and 94 CONG. REC. 922, 80th Cong. 2d Sess., Feb. 2, 1948.

18. 94 CONG. REC. 888, 80th Cong. 2d Sess.

19. Charles B. Hoeven (Iowa).

20. 94 CONG. REC. 922, 80th Cong. 2d Sess.

MR. [SAM] RAYBURN [of Texas]: Mr. Chairman, we have always been very liberal in the House about the matter of votes or whether Members were on their feet. We have always been very liberal in the matter of allowing division votes. As far as I am concerned I do not care anything about it.

THE CHAIRMAN: If there is any doubt in the minds of the membership the Chair will resolve the doubt in favor of the gentleman from Michigan.

The question was taken; and there were—ayes 202, noes 37.

So the committee amendment was agreed to.

Parliamentarian's Note: The Chair's resolution of this matter, as well as the attitude expressed by Mr. Rayburn, reveal the disposition toward a Member who states that he was on his feet seeking recognition when the voice vote was announced. Such a declaration is normally all that is required to protect the right to press for a division, teller, or record vote.

Demand for Division Not Precluded by Parliamentary Inquiry

§ 9.7 Where the Chair's announcement of the result of a voice vote had been followed by a parliamentary inquiry concerning the nature of the amendment being voted on—whether it was a substitute or a perfecting amendment to the text—the Chair held that it was not too late to demand a division vote after the inquiry had been answered.

Where there was pending an amendment offered as a motion to strike out a paragraph of pending text and insert new language, another amendment was then offered as a perfecting amendment to the text proposed to be stricken. While the second amendment could have been considered as a substitute for the first, the Chair treated it as a perfecting amendment. When the perfecting amendment had been disposed of, the Chair put the question on the original amendment to strike and insert and announced that question had been decided in the affirmative. A parliamentary inquiry then followed as to the nature of the amendment being voted on. The proceedings on Mar. 21, 1975,[1] were as follows:

MRS. [MILLICENT] FENWICK [of New Jersey]: Mr. Chairman, I am not sure but that I have let the time go by, but I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Fenwick: Page 11, strike out lines 1 through 12 and insert in lieu thereof: . . .

MR. [LES] AUCOIN [of Oregon]: Mr. Chairman, I offer a perfecting amendment.

1. 121 CONG. REC. 7950, 7952, 7953, 94th Cong. 1st Sess.

The Clerk read as follows:

Perfecting amendment offered by Mr. AuCoin: On page 11, line 1, strike out "25" and insert in lieu thereof "30".

On page 11, line 3, insert "with respect to existing units and" immediately after "use".

THE CHAIRMAN:[2] The Chair will treat this amendment as a perfecting amendment to the paragraph of the bill and it will be voted on first. . . .

THE CHAIRMAN: The question is on the perfecting amendment offered by the gentleman from Oregon (Mr. AuCoin).

The perfecting amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentlewoman from New Jersey.

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

PARLIAMENTARY INQUIRY

MR. [THOMAS L.] ASHLEY [of Ohio]: Mr. Chairman, a parliamentary inquiry.

Does the Chairman mean the amendment, as amended?

THE CHAIRMAN: The Chair will advise the gentleman that the amendment offered by the gentleman from Oregon (Mr. AuCoin) was a perfecting amendment to section 9(d) on page 11, line 1 through line 8. The amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick) is an amendment which would strike all of the language in the paragraph of the bill and substitute her language.

The Chair will now preserve the rights of Members who were standing at the time of the vote when the Chair put the question and stated that the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick) had carried.

Does the gentleman from Ohio (Mr. Ashley) seek recognition?

MR. ASHLEY: Yes, I do, Mr. Chairman.

Mr. Chairman, a further parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. ASHLEY: It is on this basis, Mr. Chairman, that I misunderstood the parliamentary situation. I had thought that the gentleman's amendment was in the nature of a substitute. Inasmuch as the gentleman's amendment was adopted, is it also the fact that the amendment of the gentlewoman from New Jersey (Mrs. Fenwick) was adopted?

THE CHAIRMAN: Yes, thereby deleting the language which contained the perfecting amendment of the gentleman from Oregon.

MR. ASHLEY: In that case, Mr. Chairman, I would ask for a division on the vote.

POINT OF ORDER

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman from Maryland will state his point of order.

MR. BAUMAN: It is too late. Other business had intervened.

THE CHAIRMAN: The Chair will rule that no further business had intervened, that at the instant when the

2. Robert N. Giaimo (Conn.).

Chair was ready to declare the vote on the amendment of the gentlewoman from New Jersey, the gentleman from Ohio (Mr. Ashley) was on his feet seeking recognition with respect to whether to ask for a division vote on that amendment. The Chair has stated that he would protect the rights of the gentleman from Ohio.

The question is on the amendment of the gentlewoman from New Jersey (Mrs. Fenwick).

The question was taken; and on a division (demanded by Mr. Ashley) there were—ayes 34, noes 60.

Parliamentary Inquiry Preceding Demand

§ 9.8 Recognition having been sought to demand a division prior to the Chair's announcement of the voice vote, a parliamentary inquiry which intervenes between the announcement and the Chair's recognition of the division-seeking Member does not operate to preclude the demand.

On Apr. 29, 1947,[3] the House resolved itself into the Committee of the Whole for the purpose of further considering House Joint Resolution 153, providing for relief assistance to the people of countries devastated by war.

In the course of debate, Mr. Lawrence H. Smith, of Wisconsin, offered an amendment to the resolution after which, Mr. William M. Colmer, of Mississippi, offered a substitute amendment therefor. This, in turn, led Mr. Karl E. Mundt, of South Dakota, to offer an amendment to the substitute amendment. And, upon the conclusion of debate, the Colmer substitute as amended by the Mundt amendment was agreed to.

Following this sequence of events, the question then occurred on the Smith amendment as amended by the substitute. The question was taken; and the amendment was rejected. Mr. Mundt then rose to request a division vote whereupon Mr. Vito Marcantonio, of New York, raised a point of order.

Prior to addressing himself to the point of order, the Chairman[4] entertained a parliamentary inquiry from Mr. William C. Cole, of Missouri, and the following exchange transpired:

THE CHAIRMAN: The gentleman will state the parliamentary inquiry.

MR. COLE of Missouri: I understand the amendment that was just voted on, as amended by the Mundt amendment, was a substitute for the Smith amendment. Then, why do we vote on the Smith amendment?

THE CHAIRMAN: That was the original amendment.

MR. COLE OF Missouri: A further parliamentary inquiry, Mr. Chairman.

3. 93 CONG. REC. 4214, 4217, 4218, 4222, 4233, 80th Cong. 1st Sess.

4. George B. Schwabe (Okla.).

MR. MARCANTONIO: Mr. Chairman, I make a point of order.

THE CHAIRMAN: The gentleman will state the point of order.

MR. MARCANTONIO: I make a point of order against the request for a division. It came too late. The vote was announced. The result was announced and the decision of the Committee was announced. Therefore, the request for a division comes too late. That is my point of order.

MR. MUNDT: Mr. Chairman, on that point of order I would like to be heard. There was confusion all over the Chamber. I was seeking recognition to ask for a division. The fact that it was announced prior to that has no bearing upon the point at all.

MR. BLOOM: Mr. Chairman, the gentleman was not recognized for the purpose. The whole thing was decided and the vote was given and there was a pause. The Chair did not recognize the gentleman for that purpose.

MR. MARCANTONIO: May I say further, Mr. Chairman, that the Chair paused for an appreciable period of time after the decision of the Committee was announced by the Chairman, and no demand for a division was made.

THE CHAIRMAN: The purpose of any vote is to ascertain fairly the judgment of the parliamentary body and we have not passed on to the consideration of any other business. Therefore, the Chair overrules the point of order.

Demands as Untimely

§ 9.9 A demand for a division vote comes too late when a Member was not on his feet seeking recognition at the time the Chair announced the result of the voice vote.

On July 30, 1971,[5] the House resolved itself into the Committee of the Whole for the purpose of considering a bill (H.R. 8432) to authorize emergency loan guarantees to major business enterprises.

In the course of considering the bill, Mr. John D. Dingell, of Michigan, offered an amendment, shortly after which the Chairman[6] put the question, and the following exchange transpired:

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Michigan (Mr. Dingell), as amended.

The amendment, as amended, was rejected.

THE CHAIRMAN: Are there any further amendments?

MR. [BROCK] ADAMS [of Washington]: Mr. Chairman, on that I ask for a division.

THE CHAIRMAN: The Chair will state that the request of the gentleman from Washington (Mr. Adams) comes too late inasmuch as the result of the vote had been announced to the committee.

Parliamentarian's Note: As other precedents have indicated,[7] if Mr. Adams had been standing and seeking recognition in order

5. 117 CONG. REC. 28340, 28399, 92d Cong. 1st Sess.
6. Charles H. Wilson (Calif.).
7. See §§ 9.10, 9.11, infra.

to demand a division at the time of the Chair's announcement, his request would have been timely.

§ 9.10 Where tellers were refused on an amendment and the Chair announced that the amendment had been rejected, it was too late to demand a division vote on the amendment if the Member had not sought recognition prior to announcement of the result.

On Sept. 24, 1970,[8] the House resolved itself into the Committee of the Whole for the further consideration of a bill (H.R. 18583) to amend the Public Health Service Act and other laws so as to comprehensively deal with drug abuse prevention and control.

In the course of the bill's consideration, Mr. Claude D. Pepper, of Florida, offered an amendment pertaining to central nervous system stimulants. The proposed amendment was debated after which the Chair[9] put the question.

The question was taken; and the Chairman announced that the noes appeared to have it. Mr. Pepper then demanded tellers. However, an insufficient number of Members supported this demand; so tellers were refused, and the Chair announced that the amendment was rejected.

At this point, Mr. Pepper rose to a point of order, and the following colloquy ensued:

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

THE CHAIRMAN: The Chair will count.

MR. [WILLIAM L.] SPRINGER [of Illinois]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. SPRINGER: Is my understanding correct that the amendment was defeated?

THE CHAIRMAN: The gentleman's understanding is correct.

MR. [CRAIG] HOSMER [of California]: A parliamentary inquiry, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. HOSMER: Mr. Chairman, I was on my feet to demand a division before the gentleman made a point of order that a quorum was not present.

THE CHAIRMAN: The Chair will state to the gentleman that the Chair had announced the noes appeared to have it on the amendment. Tellers were requested, and an insufficient number supported the demand for tellers, so tellers were refused.

The Chair is presently in the process of counting to determine whether a quorum is present.

MR. HOSMER: My inquiry is, Mr. Chairman: In either event, will I still be recognized to demand a division?

8. 116 CONG. REC. 33603, 33608, 33618, 91st Cong. 2d Sess.

9. William S. Moorhead (Pa.).

THE CHAIRMAN: The Chair will state to the gentleman that the amendment has been rejected. Therefore, a request for a division comes too late.

MR. HOSMER: I thank the Chair.

Immediately following the Chair's reply to the Hosmer inquiry, Mr. Pepper withdrew his point of order, and the Committee proceeded to the next section of the bill.

§ 9.11 When the Chair has announced that an amendment has been rejected, and a Member makes the point of order that a quorum is not present, it is too late, even prior to the point of no quorum, to demand a division vote on the amendment.

On Sept. 24, 1970,[10] the House resolved itself into the Committee of the Whole for the purpose of considering certain drug legislation.

Following the rejection of an amendment which he had offered, Mr. Claude D. Pepper, of Florida, raised the point of order that a quorum was not present. As the Chair[11] started to count, a parliamentary inquiry was posed by Mr. Craig Hosmer, of California.

Mr. Hosmer stated that he was on his feet to demand a division before Mr. Pepper had raised his point of order pertaining to the lack of a quorum. Accordingly, he inquired as to whether he would be recognized to demand a division.

The Chair responded initially by reminding Mr. Hosmer that the Chair had already announced that the noes appeared to have it on the amendment; that tellers had been requested; that an insufficient number supported the demand for tellers, hence they were refused,[12] and that the amendment had been rejected.

The Chair further elaborated by stating that it was in the midst of counting to determine whether a quorum was present, and, finally, that the amendment having been rejected, the request for a division came too late.

§ 10. Interruption of Division Vote

For Parliamentary Inquiry

§ 10.1 A Member may not interrupt the actual count on a division vote by a parliamentary inquiry.

On Feb. 13, 1946,[13] Mr. Howard W. Smith, of Virginia, offered

10. 116 CONG. REC. 33603, 33618, 91st Cong. 2d Sess.

11. William S. Moorhead (Pa.).

12. For the entire exchange, see § 9.10, supra.

13. 92 CONG. REC. 1274, 1275, 79th Cong. 2d Sess.