

Ryan	Spence	Vinson
Saund	Springer	Watts
Schwengel	Stafford	Westland
Scott	Steed	Whitener
Selden	Stubblefield	Whitten
Shibley	Sullivan	Wickersham
Short	Taylor	Williams
Shriver	Thompson, Tex.	Willis
Siler	Thomson, Wis.	Wilson, Ind.
Sisk	Thornberry	Winstead
Slack	Trimble	Wright
Smith, Iowa	Tuck	Yates
Smith, Miss.	Ullman	Young
Smith, Va.	Van Pelt	Zablocki

NAYS—170

Adair	Feighan	Moorehead,
Addabbo	Fenton	Ohio
Addonizio	Findley	Moorhead, Pa.
Aiger	Fino	Mosher
Anderson, Ill.	Fogarty	Norblad
Ashbrook	Ford	O'Hara, Ill.
Ashley	Frelinghuysen	Osmers
Auchincloss	Fulton	Ostertag
Baring	Garland	Pelly
Barrett	Gavin	Philbin
Barry	Goodell	Pike
Bass, N.H.	Goodling	Pillion
Bates	Granahan	Pirnie
Becker	Green, Oreg.	Poff
Beermann	Green, Pa.	Price
Bell	Griffin	Ray
Bennett, Fla.	Gubser	Reuss
Betts	Haley	Riehlman
Bolton	Hall	Rivers, S.C.
Brewster	Halleck	Robison
Broomfield	Halpern	Rodino
Broyhill	Hechler	Rogers, Fla.
Bruce	Herlong	Rousselot
Burke, Mass.	Hiestand	St. George
Byrne, Pa.	Hoffman, Ill.	St. Germain
Byrnes, Wis.	Hoffman, Mich.	Saylor
Cahill	Holland	Schadeberg
Carey	Hosmer	Schenck
Casey	Joelson	Schneebell
Chamberlain	Johansen	Schweiker
Chipperfield	Kearns	Scranton
Church	Keith	Seely-Brown
Clancy	Kilburn	Shelley
Clark	King, N.Y.	Sheppard
Cohelan	Kunkel	Sibal
Collier	Laird	Sikes
Conte	Lane	Smith, Calif.
Corbett	Libonati	Staggers
Corman	Lindsay	Stephens
Curtin	Lipscomb	Stratton
Curtis, Mass.	McCulloch	Taber
Curtis, Mo.	McDonough	Teague, Calif.
Dague	Mack	Thomas
Daniels	Maillard	Toil
Dent	Martin, Mass.	Tollefson
Derounian	Martin, Nebr.	Tupper
Derwinski	Mathias	Udall
Devine	Meador	Morris K.
Dingell	Merrow	Utt
Dole	Michel	Vanik
Donohue	Miller	Van Zandt
Dorn	George P.	Wallhauser
Dulski	Miller, N.Y.	Whalley
Durno	Milliken	Wharton
Dwyer	Minshall	Wildnall
Ellsworth	Moeller	Wilson, Calif.
Fallon	Monagan	Younger
Fascelli	Moore	

NOT VOTING—43

Alford	Harrison, Va.	Qule
Arends	Harvey, Mich.	Rabaut
Ayres	Healy	Rhodes, Ariz.
Balley	Hébert	Roberts
Blitch	Hollfield	Santangelo
Bow	Kelly	Scherer
Buckley	Keogh	Teague, Tex.
Cannon	McSween	Thompson, La.
Cederberg	Mason	Thompson, N.J.
Cramer	Miller, Clem.	Walter
Davis, John W.	Morse	Weaver
Dooley	Norrell	Wels
Flynt	Peterson	Zelenko
Gallagher	Pilcher	
Gray	Powell	

So the conference report was agreed to. The Clerk announced the following pairs:

On this vote:

Mr. Qule for, with Mr. Mason against.  
 Mr. Hébert for, with Mr. Morse against.  
 Mr. Keogh for, with Mr. Scherer against.  
 Mr. Santangelo for, with Mrs. Wels against.  
 Mr. Clem Miller for, with Mr. Cramer against.  
 Mrs. Kelly for, with Mr. John W. Davis against.

Mr. Harrison of Virginia for, with Mr. Gal-  
 lagher against.  
 Mr. Buckley for, with Mr. Rhodes of Ari-  
 zona against.  
 Mr. Bow for, with Mr. Dooley against.  
 Mr. Healey for, with Mr. Ayres against.  
 Mr. Thompson of Louisiana for, with Mr.  
 Cederberg against.  
 Mr. Zelenko for, with Mr. Walter against.  
 Mr. Weaver for, with Mr. Harvey of Michi-  
 gan against.

Mr. JOHNSON of California and Mr. JOHNSON of Maryland changed their votes from "nay" to "yea."

Mrs. GRANAHAN, Mr. TOLL, and Mr. ASHLEY changed their votes from "yea" to "nay."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The doors were opened.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. McGown, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7208) entitled "An act making appropriations for the legislative branch for the fiscal year ending June 30, 1962, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to Senate amendment No. 52 to the above-entitled bill.

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

S. 2245. An act to amend the act granting the consent of Congress to the negotiation of certain compacts by the States of Nebraska, Wyoming, and South Dakota in order to extend the time for such negotiation.

GENERAL LEAVE TO EXTEND REMARKS

Mr. COOLEY. Mr. Speaker, I ask unanimous consent that all Members who desire to do so may have 5 legislative days in which to extend their remarks in the RECORD on the conference report just adopted.

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

There was no objection.

COMMITTEE ON RULES

Mr. BOLLING. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain reports.

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

There was no objection.

FACILITATING THE PROMPT AND ORDERLY CONDUCT OF THE BUSINESS OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules I

call up House Resolution 400 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7856) to amend the Communications Act of 1934, as amended, for the purpose of facilitating the prompt and orderly conduct of the business of the Federal Communications Commission. After general debate, which shall be confined to the bill and continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes of my time to the gentleman from Kansas [Mr. AVERY], and pending that I yield myself such time as I may consume.

Mr. Speaker, I know of no particular controversy over the rule. The bill which will be made in order under this rule and on which there will be 2 hours of general debate is technical and complicated and will be thoroughly explained by members of the committee on Interstate and Foreign Commerce.

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

Mr. AVERY. Mr. Speaker, I know of no opposition to the rule on this side. There is some opposition to the bill which will be brought out in general debate.

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

Mr. BOLLING. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mr. HARRIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7856) to amend the Communications Act of 1934, as amended, for the purpose of facilitating the prompt and orderly conduct of the business of the Federal Communications Commission.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7856, with Mr. YATES in the chair.

The Clerk read the title of the bill. By unanimous consent, the first reading of the bill was dispensed with.

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

Mr. Chairman, this afternoon the Committee on Interstate and Foreign Commerce brings to the House for its consideration H.R. 7856, a bill to amend the Communications Act of 1934, for the purpose of facilitating the prompt and orderly conduct of the business of the

Federal Communications Commission. The bill has been favorably reported by our committee without amendment, but I announce to the Members of the House at the outset that there will be two or three amendments that will be offered to make certain and beyond any question as to what is intended by the committee in reporting the language included in this bill.

Now, Mr. Chairman, this legislation is the outgrowth of the President's Reorganization Plan No. 2. You will recall that I opposed that reorganization plan, as did many other Members of the House. We opposed it not on the basis that something was not needed to bring about improved procedures, to permit the Federal Communications Commission to facilitate the work of that Commission, but we opposed it on the basis that in our judgment it went beyond what was intended by the reorganization legislation authorizing such plans.

You will also recall that during the debate in which I stressed opposition on behalf of our committee, we promised the House that we would introduce legislation, conduct hearings and consider legislation in the proper way in order that the Congress would assume its responsibility in bringing about such needed reform legislation. As a result of that action I introduced, Mr. Chairman, following the action of the House in disapproving the President's proposal, H.R. 7333.

We asked for reports in the usual way and handled the legislation in the regular and orderly way as it should be handled by the committee and later by the House.

In the reports we received, the Communications Commission unanimously recommended legislation along this line, but in a proposal that was submitted in a bill introduced in the other body, S. 2034. We conducted hearings on H.R. 7333. All members of the Commission came before the committee during the course of the hearings. The Commission unanimously recommended to the committee provisions along the lines of the Senate bill, S. 2034. The committee decided that the approach in this matter would be more acceptable than H.R. 7333, the bill which I introduced as the result of the action on Reorganization Plan No. 2.

So, the committee then approved the language substantially along the line unanimously recommended by the Commission.

Mr. Chairman, in many respects and, in fact, in most respects, H.R. 7856 is identical to S. 2034. We did amend it to the point to clarify it and to insure that there would be no doubt as to what we intended to do.

Because of the complexity of the Communications Act, the terms of H.R. 7856 are necessarily complex. But the aims are very simple. All of us are familiar with the criticism that has increasingly been leveled at the Commission. Its backlog of cases is large, and delays in the settlement of disputes abound. While these conditions still prevail, and I regret to say that they are widespread in our Federal regulatory agencies, I hasten to say that there has been great

improvement. We have seen within the last year or two these improvements, and they are doing much better now. But the result of such lag and delay is an increase in cost and expense to regulated interests and to the public. Still worse, these delays are an open invitation to the use of improper influences and pressures, as was shown in the investigations conducted by our Legislative Oversight Committee.

Mr. Chairman, the members of the Commission complained, and I think justly, that too much of their time is occupied with relatively routine and unimportant matters. It is said, and again I agree, that the Congress must authorize some manner of reorganization so that the members of the Commission who are appointed by the President and confirmed by the Senate can devote more time to the consideration of vital and pressing communications policy matters such as problems of spectrum allocations, communications satellites, more effective carrier regulation and major contested cases, to name only a few illustrations.

Mr. Chairman, basically there are alternative ways by which we could reorganize the Commission in order to serve these ends. The first would be to enlarge the membership of the Commission from 7 to 9, or 11, or even more Commissioners. The Congress has recently taken comparable action with respect to Federal courts. Such a move would permit the Commission to divide itself into more or less permanent specialized panels. This has been done long since in the Interstate Commerce Commission, yet I have heard few people, indeed, if any, seriously urge the enlargement of the Federal Communications Commission as a satisfactory remedy for its present ills. Certainly no suggestion has been presented to our committee. A much more sensible solution, it seems to me, is to permit the Commission, in its own discretion, to delegate certain of its more or less routine functions to subordinates within the Commission, subject to the control and supervision of the Commission. The Commission has long had such authority with respect to all functions, except cases of adjudication, and I want you to keep this in mind: Not a single charge has ever come to our attention that the Commission has abused this delegation function.

Now, what would this bill do? It would authorize the Commission, with certain limitations and ample safeguards imposed by the Administrative Procedure Act and by this bill, to designate panels of Commissioners, individual Commissioners, employee boards and individual employees to perform certain hearing and review functions in cases of adjudication.

Many of these cases involve well-settled policies and are routine and relatively insignificant insofar as national communications policy is concerned, yet they are numerous enough and often involve tedious details which require time and energy that the Commission should be devoting to matters of major communications importance.

During the course of our committee investigation in the last 3 to 4 years we

found that that was a serious problem and difficulty, that because of the congested docket and the workload of the Commission, and the fact that under the law they were required to handle these matters individually, they could not possibly get to the work. It was humanly impossible to do it, and it piled up and lent itself, then, to this maneuvering around that resulted in the important and unfortunate matters that we brought to the attention of this Congress and the country.

This proposal is an effort to overcome that situation we found that needed attention so badly.

How does this bill differ from President Kennedy's Reorganization Plan No. 2, which was defeated in the House? In some respects it has some of the basic objectives. However, the committee opposed the plan not because of disagreement with the basic objectives but because it felt these objectives could be carried out properly only by amending present law. The committee believes that this bill makes the essential amendments.

The principal respect in which this bill differs from the reorganization plan is that it does not make review of an initial decision in an adjudication case discretionary upon the vote of a majority of the members of the Commission less one. Instead, a party will have a right to obtain review of an initial decision but not necessarily by the full Commission.

The bill also omits the proposal in the plan to give the chairman of the Commission the authority to designate the Commission's personnel, including members of the Commission, who would exercise the functions delegated by the Commission. Under the bill, the power to assign or designate personnel would remain where it is at present and has been, with the Commission.

What changes does the bill propose and make in present law? Under present law parties may file exceptions to an initial decision of the hearing officer. The law provides that the full Commission must pass on each and every such exception. In addition, the law requires that the Commission must grant oral argument on exceptions if it is requested. This bill would change this in two respects.

The full Commission would not be required to pass on all exceptions to an initial decision. Many of these are routine, and they take time and can be handled in a different manner. That function could be delegated to a panel of Commissioners, even to a single Commissioner, or a panel of highly qualified and experienced employees. That will be the subject of an amendment I shall offer to make sure that these employees will be employees qualified to assume this responsibility.

Under the bill the authority passing on exceptions would permit oral argument but could refuse to do so if it would not serve a useful purpose.

Unless an aggrieved party sought further commission review, the decision of such panel or other authority within the Commission designated to pass on exceptions would become administratively

final but would still be subject to judicial review.

If a party felt aggrieved by the decision of the board or other authority designated to pass on the exceptions of the initial decision, that party would have the right under this bill to file an application for review by the full Commission. The Commission would be required then to consider the application, but it could in its discretion either grant or deny further review. If the Commission denied review, the matter would become administratively final at the first review level, and an aggrieved party could then seek judicial review by the court of appeals. The Commission would not have to specify any reason for denying review. If the Commission granted review in whole or in part, it could consider the case with or without oral argument.

The bill also contains a provision that in cases not involving issues of general communications importance, the Commission could by published rule or by order preclude in advance the filing of an application for review by the full Commission.

We are providing, however, in an amendment that we will offer, that in those cases in which an application for review is not precluded by Commission rule in accordance with the proviso in paragraph (4) the Commission must pass on any and every case on which exceptions have been filed and which has been decided by an employee board.

This provision is designed to free the Commission from having to consider frivolous and time wasting applications, in cases where the Commission policy is well settled and where review by the Commission is not likely to bring about a reversal of the decision.

Another section of the bill abolishes the Commission's review staff. The review staff was created by the Communications Act Amendments of 1952. The 1952 amendments provided that the review staff shall be directly responsible to the Commission and shall perform no duties other than to assist the Commission in cases of adjudication in certain specified ways. Among other things, the review staff is directed to prepare for the Commission or any member thereof without recommendation and in accordance with specific directions, memorandums, opinions, decisions, and orders. The Commission is directed not to permit any employee who is not a member of the review staff to perform the duties and functions which are to be performed by the review staff. This provision has not worked out satisfactorily at all because of its rigid requirements. No similar provision is applicable to any other Federal regulatory agency. The Commission originally opposed its enactment and now favors its repeal. It feels that the restrictions on the activities of the review staff result in waste and inefficiency because they have the effect of depriving the Commission of the full assistance which the personnel of the review staff are capable of furnishing. The committee is in thorough accord with this view and has so included it in this legislation.

Further, since the review staff cannot make recommendations, it must first receive instructions from the Commission on all interlocutory matters no matter how simple or how routine and then return again with a draft opinion and order for the Commission's approval. The Chairman of the Commission testified that the repeal of this provision would result in a substantial saving in time and energy by the Commission. After the repeal, the personnel of the review staff can be used by the Commission to greater advantage than at present.

Another section of the bill deals with the internal separation of functions, with ex parte representations in adjudication cases. The purpose of this section is to place the FCC in the same position as other agencies whose procedures are governed by the Administrative Procedure Act. The 1952 McFarland amendments—and for the benefit of those who may not recall what is meant by the McFarland amendments, that refers to the amendments to the Communications Act which were approved finally in 1952 and sponsored by Senator McFarland when he was a Member of the other body—the amendments known as the McFarland amendments to the Communications Act tightened up procedural requirements at the Commission and in these respects so much so that the Commission has been seriously hampered in its regulatory work. Those of us who have observed the situation through the years have seen how the Commission has actually been hampered by these rigid restrictions. I see no reason why the Commission in trying to do its job should be handicapped unnecessarily beyond the requirements applicable at least to other regulatory agencies.

I cannot stress too strongly, Mr. Chairman, the importance of this legislation. As you know, the Committee on Interstate and Foreign Commerce, and its Subcommittee on Regulatory Agencies, formerly the Subcommittee on Legislative Oversight, have been working for years to improve the effectiveness of many of these regulatory agencies, but it has become increasingly apparent with technological changes and population growth, among other things, that our regulatory machinery has become ineffectual and in need of improvement. And many critics of regulatory agencies both in and out of the Congress are fearful that unless remedial measures are taken immediately our regulatory system will break down.

It is my firm conviction that the primary responsibility for leadership in this field lies here in the Congress. It is true that cooperation with the executive branch is essential, and we have offered and given our cooperation. We welcome suggestions from whatever source. We have sought them in this regard.

Congress has extended the Reorganization Act of 1949 which authorized the President to transmit reorganization plans to the Congress. Some of these plans, as you know, have already become effective, but this one, as I have

said, was disapproved. It was considered fatally defective in that it purported to amend basic substantive provisions of the Communications Act by reorganization plan rather than by statute.

In addition to the Commission's unanimous recommendation and support of this legislation, the industry is in support of it. I have a letter of June 14 which is filed in part of the hearings from the Honorable LeRoy Collins, former Governor of Florida, and now president of the National Association of Broadcasters, in which he recommends that provisions of this bill, along the lines of S. 2034, would be a workable and acceptable plan. I will have the letter included in the Record along with my remarks.

NATIONAL ASSOCIATION OF  
BROADCASTERS,  
Washington, D.C., June 14, 1961.

Re H.R. 7333.

Hon. OREN HARRIS,  
Chairman, Special Subcommittee on Regulatory Agencies, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the National Association of Broadcasters, I respectfully request that this letter be made a part of the hearing record on the above as an expression of the views of the board of directors of this association.

This bill proposes revisions in the procedures of the Federal Communications Commission. The same broad objective of improved efficiency was included under Reorganization Plan No. 2, submitted to the Congress on April 27 by the President, and by S. 2034 now pending before the Senate Commerce Committee.

With this broad objective we are in accord, as we have indicated previously in a statement of position filed in the record on the President's proposal. We reaffirm our feeling that this subject should be dealt with by legislative action rather than by Executive order.

The two pending legislative proposals (H.R. 7333 and S. 2034) have been carefully reviewed, and we are pleased to note that the delegatory features of Reorganization Plan No. 2 which met with very wide objection have not been carried forward in this proposed legislation.

S. 2034, according to our understanding, represents the "consensus" view of the FCC, and has been submitted to your subcommittee by the Commission in its report on H.R. 7333. This is the agency most affected, and its members should be most knowledgeable of its procedural needs. In our view, it presents a workable and acceptable plan.

Sincerely,

LEROY COLLINS.

There are those who have some fears about the delegation of authority. Mr. Chairman, I do not yield to anyone in my desire for the Congress to establish policies for these arms of the Congress, major regulatory agencies, to carry out their functions effectively. I yield to no one, Mr. Chairman, in my desire to see that these agencies do the job that Congress has given them to do. If there has been any one single objective in my mind, it is to get good men in these agencies, men capable of administering the law, and men who will assume their responsibilities and will rule their own house, responsible for the employees, who will supervise the employees and take full responsibility for the work which the Congress has delegated to them to do.

To me, that is all this legislation has for its objective; to me, that is what this legislation will do.

I do not know any more important agency of this Government than the Federal Communications Commission. The work of this Commission has far-reaching influence over the American people.

Today the Commission, in my judgment, is administering the program and assuming its duties and responsibilities as the Commission has not done since the Federal Communications Act of 1934 was enacted. We take encouragement from that. In view of the safeguards here, I do not feel that we need to have any fear that there is excessive delegation of authority because the Commission has the final responsibility and the final decision in any action that comes before it.

Mr. BENNETT of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Michigan.

Mr. BENNETT of Michigan. One of the best provisions of the bill is the part that eliminates the so-called review staff. We found as a result of our investigation by the Legislative Oversight Committee that looked into Commission activities that the Commission would after deliberations on the part of the hearing examiner, and then upon review and oral argument before the full Commission, reach a decision. Then, instead of writing a decision and issuing an order based upon it, the Commission would turn this whole matter over to a group of attorneys or experts in the agency who were called the review staff. Those people did not know anything about the case, they had not heard it, they had not read the record. So they were perfectly cold, as far as the facts of the case were concerned. They would have to proceed to read the record, look at the exhibits, then try to write an opinion that conformed to the decision that the Commission had rendered.

We found in some cases, for instance in the contested television cases, that it was 18 months after the Commission had decided the case before the review staff was able to write an opinion carrying out the decision of the Commission. Meanwhile, there were pressures being put on the Commission members by interested parties, and so forth. A very, very bad situation resulted.

May I ask this question: Since this section has been repealed, when the Commission renders a decision will it have authority to delegate to one of its members the duty of writing the decision or will it again transfer this duty to some other employee who may not be called a review staff member, by some other employee who will dilly-dally with the case for 6 months or a year, the same as the review staff did? Are there any safeguards, restrictions, or instructions in that regard?

Mr. HARRIS. During the course of the hearings it was explained, and I think very clearly, that these people who now compose the review staff will be utilized by the Commission to assist in more efficiently performing the func-

tions of the Commission, but will not have the rigid restrictions as to their use.

Mr. BENNETT of Michigan. Will the Commission fall back into the same rut they were in, assuming they wanted to do that?

Mr. HARRIS. They were not in a rut when these restrictions came about. It was not that at all.

What brought that on was the complaint that the Commission itself was not assuming its responsibility, and that was away back in the late forties and the early fifties; that the Commission was not assuming its responsibility but they were listening too much to the staff on the inside. Now, that brought on rigid restrictions which went too far the other way.

Now, what does this mean? It gives the Commission the right to utilize these employees in performing the duties and the work that the Commission has before it.

Mr. BENNETT of Michigan. But the thing we are trying to do—and I am sure it is the objective that the chairman is seeking and I think every member of the committee is seeking by repealing the review staff section—is to expedite the Commission's business.

Mr. HARRIS. That is the purpose of it.

Mr. BENNETT of Michigan. To have the opinion written and the order issued.

Mr. HARRIS. Yes.

Mr. BENNETT of Michigan. Now, my question is this: Is it our intent or is it your intent that by repealing this section the Commission should not fall back upon the same procedure after having reached a decision, turning it over to some staff member and leaving them dilly-dally about it for 6 months before they reach a decision?

Mr. HARRIS. Of course, the committee expects the Commission to do its job and in this way to utilize the staff as efficiently as possible to get the work expedited.

Mr. BENNETT of Michigan. The whole purpose is to expedite the work.

Mr. HARRIS. That is the purpose of it, and the Chairman has given assurance that that is what it will do.

Mr. BENNETT of Michigan. I just have one other question about the Employee Board. As I understand, there are employees appointed to review the hearing examiner's decision, but some restriction is placed upon the qualifications and the caliber of people who will be put upon these boards. I wonder if the Chairman would go into that a bit.

Mr. HARRIS. That question was raised. The committee discussed it, and during the course of the hearings we developed a record on it by which it was made clear to the committee that the most experienced, qualified, able, and senior people would be utilized for this purpose. The bill, I thought, as the committee originally reported it, made that very clear, but during our discussion before the Committee on Rules the question was brought up again, and as the result I told the Committee on Rules

that the committee had a clear intent as to what should be done in this field and that we would offer an amendment on the floor of the House to make the language clear and certain, so that there could not be any doubt at all in anybody's mind, and I intend to offer that amendment.

Mr. BENNETT of Michigan. What will the amendment do?

Mr. HARRIS. The amendment will provide that the persons serving on the Employee Board, to which the Commission may delegate such review functions, shall be well qualified by reason of training, experience, and competence to perform such review functions. The employees shall be given no other duties and shall be paid compensation at a rate commensurate with the quality and the importance of their duties. Such employee shall not be responsible or subject to supervision or direction of any person engaged in the performance of investigating or prosecuting functions for the Commission or any other agency of the Government.

Now, to carry out this legislative intent, I have a letter from the Chairman of the Federal Communications Commission where he reiterates what he told us during the course of the hearings, that the procedure that they would follow would be in line with the language that I just read, which will be offered as an amendment.

Mr. BENNETT of Michigan. The people on these employee boards, at least, will have the same qualifications of experience as that of the trial examiners who initially handle the case?

Mr. HARRIS. That is the intention, and that is what the Chairman says in his letter here. We thought that this language that was prepared by the staff would reach that without any question whatsoever, and we felt that they would at least have to have qualifications no less than the qualifications of a hearing examiner.

But we did not want to limit it to hearing examiners, because in other fields it is necessary to have people who are knowledgeable, such as perhaps engineers and, perhaps, have not only legal but other qualifications that are necessary, since they are so familiar with their particular field.

Mr. BENNETT of Michigan. Could the Commission go outside the present employees of the Commission itself to make these appointments?

Mr. HARRIS. No, sir; they would have to utilize the employees of the Commission.

Mr. BENNETT of Michigan. They would have to take the present employees? Could they appoint special employees or have a pool, let us say, of employees which would handle a particular kind of matter?

Mr. HARRIS. I suppose it would be possible for someone with the training and experience who is not with the Commission to be eligible and be assigned. But that certainly is not the intent here, as so well expressed in the hearings and also in a letter which I will include in the Record from the Chairman of the Commission.

Mr. BENNETT of Michigan. Would these employees that go on the boards have other duties to perform?

Mr. HARRIS. They would have no other duties nor functions to perform.

Mr. BENNETT of Michigan. Then they would be a new group of employees appointed especially for this type of work? Is that the gentleman's understanding?

Mr. HARRIS. That is true.

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

Mr. HARRIS. I yield to the gentleman from Connecticut [Mr. MONAGAN].

Mr. MONAGAN. First of all I would like to compliment the gentleman from Arkansas [Mr. HARRIS] and the members of his committee, for the very prompt and effective work in having hearings on this legislation and bringing it to the floor of the House.

The gentleman will remember that at the time we voted down Reorganization Plan No. 2, there was a certain amount of criticism to the effect that we were in effect sort of repealing the projected reforms of the Federal Communications Commission.

Mr. Chairman, I would like to ask the gentleman if it is his opinion that this legislation that we are considering today substantially brings about the basic ends that were sought in Reorganization Plan No. 2?

Mr. HARRIS. Yes. The aims of the bill are essentially the same as those of the plan. But it does not use all of the same provisions. I was opposed to some of the basic provisions in that proposal. It sought to give certain unusual powers to the Chairman, as a matter of fact, and this bill does not do that. This maintains the Commission's full responsibility, as the law intended.

Mr. MONAGAN. I understand that there is a distinction between Reorganization Plan No. 2 and this legislation here. But I understood the gentleman to say that it would have the effect that was sought in Reorganization Plan No. 2.

Mr. HARRIS. The basic objectives here are the same.

Mr. MONAGAN. And will bring about the desired results, in the opinion of the gentleman?

Mr. HARRIS. We hope and we feel that we will get better results as a result of this legislation.

Mr. MONAGAN. At the time Chairman Minow appeared before the House Government Operations Committee he said that there were two methods that might be followed in bringing about these necessary reforms. One would be through reorganization and the other would be through legislation. He said he did not have any opinion as to which would be preferable.

Would the gentleman say that what we have done here in turning down Reorganization Plan No. 2 and in passing this legislation, if we do it, would be taking the legislative road toward bringing about the reforms that have been sought in this Commission?

Mr. HARRIS. I agree with what the gentleman has said. I strongly believe it should be done by appropriate legislation. I voted for the reorganization

plan affecting the Civil Aeronautics Board and the one affecting the Federal Trade Commission, as well as the one affecting the Securities and Exchange Commission. They had the same basic objectives. However, with all deference to those in the White House who prepared those plans and sent them up here, in my judgment they could have been much better prepared.

Mr. Chairman, I think this legislation is a much better approach to it. I like it much better, very frankly. I think it will be easier to understand and will clear up any question about what we intend to do.

Mr. MONAGAN. It certainly should have the effect of increasing efficiency and the operations of the Federal Communications Commission?

Mr. HARRIS. There is no doubt in my opinion but what it will.

Mr. MONAGAN. I thank the gentleman.

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

Mr. HARRIS. I yield to the gentleman from Illinois [Mr. Mack], a member of the committee who also was very effective in helping to work out this proposal in light of the experience he has had on our Legislative Oversight Committee.

Mr. MACK. I asked the gentleman to yield for the purpose of commending him on the good job he has done in bringing this bill before the Congress, also to commend him on the tremendous job he did as chairman of the Legislative Oversight Committee, which was a very difficult program to carry out, and to congratulate him on the work that he has done in this general area in regard to regulatory commissions.

The gentleman has pointed up many deficiencies existing in our regulatory commissions. As I understand, the bill the gentleman has brought back to the House today is designed to eliminate some of the problems that were exposed during the legislative oversight hearing.

Mr. HARRIS. Yes, to reform procedures.

Mr. MACK. One of the major problems, I understood at the time, was undue delay in processing applications.

Mr. HARRIS. That undoubtedly is the most worrisome problem in all these agencies, which gradually is being overcome week by week, and I might say by the action of the committee, too.

Mr. MACK. One of the problems caused by these undue delays was improper ex parte contacts within the Commission.

Mr. HARRIS. Because of these long and unnecessary delays, the situation lends itself to improper contacts and undue influence. That is the great difficulty we ran into.

Mr. MACK. Then in addition to improving the efficiency of the Federal Communications Commission, this will also have the effect of reducing the possibility of ex parte contacts in the future?

Mr. HARRIS. No doubt about it, and that is one of the purposes of this reform procedure.

Mr. MACK. I want to thank the gentleman. One of the cases in which I was particularly interested was the Sangamon Valley case, which was pending before either the Commission or the courts for some 12 years. I hope that we are successful in enacting this legislation and can improve the operation of the regulatory commissions.

Mr. HARRIS. I thank the gentleman, and I thank him for the high compliment he has paid to me. I want also to state that the gentleman as well as other members of the committee were with me in this very difficult responsibility we have.

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

Mr. HARRIS. I yield to the gentleman from North Carolina.

Mr. JONAS. May I invite the gentleman's attention to the proviso on page 3, under subsection (4) which reads as follows:

*Provided, That the Commission, by published rule or by order, may limit the right to file applications under this subsection for review of orders, decisions, reports, or actions of panels of commissioners or employee boards,*

Does the committee contemplate that by published rule or order the Commission will establish regular procedures in advance, or is it contemplated that they will do so in individual cases?

Mr. HARRIS. No, by rulemaking would mean in general. It would be regular procedures to follow when individual cases are brought.

Mr. JONAS. It would be adopted in advance so all parties would know about the rules?

Mr. HARRIS. That is right. Under the regular procedure of holding hearings, first you ask for comment, then hold hearings, and so forth, in order to arrive at appropriate rules for the purpose.

Mr. JONAS. So parties would know in advance whether and under what conditions they might ask for a review of the order?

Mr. HARRIS. Yes, that is true.

Now, Mr. Chairman, I would like to state again that I believe we have a good bill. I believe this is a bill that is badly needed. It is one thing to recognize the need for reform, it is another thing to bring it about. We have thoroughly explored this field. This Congress knows we have developed information making it abundantly clear that there are some needed reforms in procedures in order that this and other agencies may expedite the work they have before them.

We have had many actions taken thus far—some by legislation which we reported last year, as you well know about—we have had action taken by the various regulatory agencies to improve the procedures by internal organization. I have memorandums in the committee files on what has been done. I am encouraged and very proud of the actions that have been taken for such improved procedures. But here is something that has to be done and has to be done only by the Congress.

I want to emphasize the importance of congressional leadership in this field.

[The Federal Communications Commission and other regulatory agencies must be given the tools to carry out the duties assigned to them, and only the Congress can give those tools—it is our responsibility. If we permit delays, heavy expenses, redtape, and other defects to continue in the Federal Communications Commission, we will be held answerable to the American people for such an intolerable condition.

Mr. Chairman, I urge the House to approve this legislation.

The CHAIRMAN. The gentleman from Arkansas has consumed 47 minutes.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. SPRINGER].

Mr. SPRINGER. Mr. Chairman, some weeks ago when the reorganization plan for the Federal Communications Commission was before the House, I stood in this spot and said I felt the reorganization plan, as written, was wrong; that it was wrong as applicable to the Commission itself; it was wrong as applicable to the public because it was not in the public interest; and it was wrong because hearings were not held by a committee qualified to hear such a bill and determine whether the things mentioned in that reorganization plan were good. I did say at the same time that if they would reject that plan which was sent down by the President that our committee would hold hearings on it. I had the assurance of the chairman that we would, when I made those statements, and we are back here today trying to make good on our promise that we made to you then that we would come back and not only with a bill but that was in the public interest and one by which the Federal Communications Commission could accomplish the things that were needed in the public interest.

Immediately thereafter, the chairman of the committee introduced H.R. 7856 which is before the House today. On the Senate side, there was introduced S. 2034. The bill, as drawn and introduced by the chairman, was a good bill and is a good bill. The bill which resulted on the Senate side was largely due to the chairman of a subcommittee there who asked the commission itself in light of all that had been said here in the Congress to draw up a bill that met those objections and still allow the Commission to accomplish the things that ought to be done in the public interest. May I say that the Federal Communications Commission did write an excellent bill. S. 2034 is a fine bill, in my estimation, and it is every bit as good as the bill we have on this side. There are not too many differences between the two bills. S. 2034 was largely drawn by Commissioner Ford at the instruction of the Chairman of the Federal Communications Commission, which was agreed on by all seven of the Commissioners.

When they were before our committee we asked them for the specific objections they had to H.R. 7856, and they said they did not have any objections, that they just felt that the bill they had drawn was the one they wanted to recommend, and they did recommend it to

us. So much for how the legislation reached this floor.

There are basic objections, as you all know, to the reorganization plan as sent down by the President. In the first place it did create, in my estimation and in the minds of many in this body, a dictator in whose hands most of the affairs down at the FCC could be garnered.

The main objection, of course, was to the assignment of Commissioners; and may I say that the Commissioners themselves when they appeared before our committee were against this particular provision of the President's reorganization plan by a vote of 7 to 2. So the Commission itself was overwhelmingly against the President's reorganization plan.

The third was the question of the assignment of personnel. That was objectionable to most of the Commissioners and it was certainly objectionable to us. Now, let us come to what the bill does. I think there are two or three things that the Commission has needed in all the years I have been on this committee.

First of all, the Commission needed more flexibility of the rules under which they were operating down there together with the law under which the Commission was operating. Conditions were too inflexible for them to do the amount of work that had to be done in the period of 12 months and still keep up with the calendar. It was simply an impossibility to keep up with the work—under the law as it was written. So flexibility was one of the major things we have attempted to achieve in this particular bill.

The second was the speed with which the Commission could move. In other words, I am not talking about the speed of the Commission from day to day; I am talking about the time that elapses from the initiation of a case until decision is handed down and is in the hands of the party. It has been an unreasonable length of time, and to shorten this time is one of the things we were attempting to do in what we bring before you today. We think under the provisions of this bill it will be possible for them to speed up the decision of a case.

A third advantage will be that it will be possible for the Commission to utilize its personnel to its greatest efficiency.

These are the three major things I conceive that this legislation which is before you today will do.

There is a fifth thing and that has to do with appeals. We believe that in setting up these panels of employees which the Commission now has the authority to set up, we are also speeding the process of law there. These appeals have been one of the bottlenecks in the whole Federal Communications Commission's proceedings. We believe this appeal provision is one they can live with and one under which they can accomplish the work with the least amount of effort and the greatest speed.

The abolition of the review staff has helped a great deal because the review staff was one of the bottlenecks. We abolished that, and that is one of the good things in this bill.

Lastly—and the Chairman, as I recall, did not talk too much about this—when we went before the Rules Committee, that committee raised certain questions in clarifying the intent of the legislation in two respects: First, that the Commission may not delegate its function to reviewing decisions of employee boards which are excepted to, especially exceptions to the initial decisions of the examiners; and, secondly, to set out specifically in the bill the qualifications of the employees who will be designated by the Commission to serve on the employee boards, and also to provide specifically that the function of considering exceptions to initial decisions may not be delegated to employee boards consisting of fewer than three employees. That the bill was intended to reach these results is apparent from a reading of the committee report, and to remove any doubt about this that some may have, it appeared desirable to include specific language to that effect in the bill, which the amendments later to be introduced by the chairman of the Committee on Interstate and Foreign Commerce will specifically do.

Mr. Chairman, when the original reorganization plan was before the House, it seemed like everybody was objecting to it except the Chief Executive and two members of the Federal Communications Commission. I could not find much support for the reorganization plan other than from those two sources. Some of that in the White House grew out of the Landis report. They figured they could do this better than the committee could. I think it demonstrates again to the House the importance of bringing this kind of a change or reform in the law before the committee which ought to hear the matter and where we can work out all of the quirks.

I believe today everyone is together on this particular bill, insofar as I know. I do not know of any substantial opposition to the bill. Since this bill came from the committee as it unanimously did, it ought to have the support of the House. The committee is for it, the Commission is for the bill, the industry is for the bill, and I believe if the public properly understood it and had a chance to read it and know the provisions contained in the bill compared with what the law was before that, the public itself would endorse it. I believe the bill itself is in the public interest, and that is why I recommend it to the House today and also to the public at large.

Mr. BENNETT of Michigan. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. ARENDS].

LEGISLATIVE PROGRAM FOR WEEK OF AUGUST 7

Mr. ARENDS. Mr. Chairman, I wonder if the gentleman from Massachusetts will inform us as to the legislative program for next week.

Mr. McCORMACK. Mr. Chairman, after disposition of this bill there will be no further business for the rest of the week, and I shall ask unanimous consent to go over until Monday.

Monday is Consent Calendar day. There are also 16 suspensions, the first of which is House Concurrent Resolution 351, Supporting the President's Reply to Soviet Aide Memoire on Germany and Berlin.

That will be the first suspension called up, and on that I understand there will be a rollcall.

The following suspensions will be considered:

H.R. 7724, armed services, dependents advance pay.

H.R. 7913, U.S. Military and Air Academy, increased cadets.

H.R. 7727, armed services, acceptance of fellowships or grants.

H.R. 7728, Armed Forces, sales in case of emergency.

H.R. 4785, National Guard, withholdings of employer contributions.

H.R. 4792, National Guard, status of personnel.

H.R. 4786, National Guard, reservists travel allowances.

H.R. 5144, Indians, Lower Brule Sioux Reservation.

H.R. 5165, Indians, Big Bend Dam and Reservoir.

H.R. 4458, Idaho, replace pipelines.

H.R. 8140, Crimes and offenses, bribery, graft and conflict of interest.

H.R. 8095, nonmilitary activities, NAS Act.

H.R. 7108, strengthen Federal savings and loan insurance corporations.

H.R. 2429, crimes and offenses, property in interstate commerce.

H.R. 1022, to amend the Agricultural Adjustment Act of 1938 to provide for lease and transfer of tobacco acreage allotments.

For Tuesday and the balance of the week the program is as follows:

On Tuesday, bills on the Private Calendar will be called.

Then there will be a resolution to send H.R. 7576, the Atomic Energy Commission authorization bill, to conference.

A rollcall on this is likely.

There is also H.R. 7726, relating to loan of vessels to friendly nations.

H.R. 8033, a bill relating to the orders of hearing examiners in the Interstate Commerce Commission.

H.R. 6882, providing one additional Assistant Secretary of Labor.

H.R. 6302, involving transfer of Freedman's Hospital.

There are the usual reservations that conference reports may be brought up at any time.

There is a conference report to be brought up on Monday, the independent offices appropriation bill.

Any further program will be announced later.

Mr. ARENDS. I thank the gentleman.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. CURTIS].

Mr. CURTIS of Missouri. Mr. Chairman, I take this time not to comment on the particular bill but rather to discuss procedure and at the same time compliment the committee for what I think is an excellent job. That is regardless whether I agree or disagree with the committee on the issue itself.

It seems to me that now that the heat is out of all of this, we ought to re-examine this question of our Reorganization Act.

I served my first term on what was then called the Committee on Expenditures in the Executive Departments, now the Committee on Government Operations, and early became acquainted with the Reorganization Act. Many people felt it was unconstitutional. I feel it is unconstitutional. I grant that that is not usually the argument that people are concerned much about these days, but I would like to just examine briefly the reason why it is unconstitutional from a practical standpoint. It puts the legislative branch of the Government in the position of vetoing, while it puts the executive branch of the Government in the business of legislating, and we see that in particular in this issue before us.

The executive branch of the Government has not the techniques developed for holding public hearings and having people with different views come before it. It does not have the functions of amendment and debate in a public forum which are peculiar to the legislative branch of the Government. That is the process of legislating, and the very arguments that were heard in opposition to the reorganization proposal of the President are borne out here in the well of the house.

Here we have the legislative committee that had the knowledge and the background of the Federal Communications Commission; a background of long experience in dealing with it; going in and considering how this agency should be set up. The committee also had the opportunity for amendment, and certainly there was opportunity for people coming before the committee in public hearings, if that were necessary, to discuss it.

I want to compliment this committee for being jealous of its jurisdiction that it insisted upon correct legislation procedure. I wish that the other committees of the House had been equally diligent on these other reorganization plans, other than this one and the National Labor Relations Board reorganization, for the very same reason that that is the correct procedure. I can see why the Reorganization Act was enacted back in the days when we had not taken a big look at the executive branch of the Government for some time. Maybe then a lot of this housekeeping was done better quickly and through executive fiat. But, I think the time has now come when it is not expedient and we can remove the Reorganization Act from the books and go about legislating in the proper fashion. It becomes particularly important, I might say, when we are dealing with these independent agencies which most of us have always thought of as arms of the Congress. The regulatory bodies are arms of the Congress. The executive branch has construed the Reorganization Act to include not only Bureaus that are really executive units but organizations that are these extensions of the regulatory powers of the Congress. I am particularly cognizant of one such

agency that the Committee on Ways and Means is constantly dealing with, the Tariff Commission, which we have always looked upon as an arm of the Congress. But, if the President feels that these are executive arms to the extent that he will reorganize them under the Reorganization Act, I think we in the Congress, who are anxious to preserve the separation of powers, both according to the Constitution but even more important, the reasoning behind the Constitution, should pay attention and take action.

I think this has been a good object lesson for us. Here we have not lost anything by taking the time necessary. The committee has done a good, adequate job, and we are able to work our will in this area. I think the same thing could have been done in every one of these reorganization plans that created so much heat and so little light in the past month or so.

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

Mr. CURTIS of Missouri. I yield to the gentleman from Illinois.

Mr. SPRINGER. It was my understanding when I came to the Congress 11 years ago, when we had many of these reorganization plans come before us—I do not remember any particular ones, where you changed the statutory authority of the particular body to do certain things. Most of the reorganizations as I saw them that were sent down by both President Truman and President Eisenhower were rather in the nature of increasing efficiency. I am talking about getting rid of unneeded employees and the bureaus that no longer had any functions and abandoning them or consolidating them.

But in this kind of reorganization as I saw it, and as it came before our committee, it was really an entire reorganization of the powers of the Commission and reorienting the powers in different directions which would have brought all those powers up to the Chairman of the Commission. I am not saying anything with reference to the present Chairman, but I am saying that under an unscrupulous chairman all of this could be channeled to the administrative branch or the White House or otherwise. This in my opinion was the immediate danger we saw in the reorganization of the powers, as the gentleman from Missouri [Mr. CURTIS] has mentioned.

Mr. CURTIS of Missouri. I thank the gentleman for his comment. I think that is a very well taken point. I think it might be free advice, but this is not, I think we recognize, a matter of Republican and Democrat, because this was done under the Republican administration and under the Democrat administration. I do think, however, that the Committee on Government Operations ought to take a new look at the Reorganization Act itself in light of our experience here and see if we cannot either get rid of it, which I think we should do, or at least tighten it up so it would do what the gentleman from Illinois [Mr. SPRINGER] has been saying—a housekeeping kind of performance. We do not get into substantive legislation.

Mr. HARRIS. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. ROGERS], a member of the committee.

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

The CHAIRMAN. The Chair will count.

Sixty-eight Members are present, not a quorum.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 131]

Anfuso	Harrison, Va.	Powell
Ayres	Harsha, Jr.	Quie
Bass, Tenn.	Harvey, Mich.	Rabaut
Blitch	Healey	Rains
Boland	Hébert	Rhodes, Ariz.
Bolton	Hoeven	Roberts
Bow	Hoffman, Mich.	Roush
Boykin	Holland	St. George
Brooks, La.	Kelly	St. Germain
Broomfield	Koogh	Santangelo
Buckley	Kilburn	Scherer
Cahill	Kilday	Scott
Cannon	Kirwan	Short
Carey	Kluczynski	Smith, Miss.
Cederberg	Kyl	Spence
Celler	McDowell, Jr.	Teague, Tex.
Chamer	McSween	Thompson, La.
Davis, John W.	Machrowicz	Thompson, N.J.
Dent, Pa.	Mason	Tollefson
Dooley	Miller, Clem	Utt
Evins	Minshall	Vinson
Flynt, Jr.	Morrison	Walter
Fogarty	Morse	Weaver
Gallagher	Multer, N.Y.	Widnall
Glenn	Norrell	Willis
Gray	O'Konski	Winstead
Green, Pa.	Peterson	Zelenko
	Pitcher	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having assumed the chair, Mr. YATES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 7856, and finding itself without a quorum, he had directed the roll to be called, when 355 Members responded to their names, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. ROGERS of Texas. Mr. Chairman, I might say in the beginning that I rise in opposition to this bill and vigorously oppose it. I find it rather distasteful to be at difference with my chairman, but I cannot take a different position, and I want to tell you exactly why.

It was said when the reorganization resolution was before this House that this was a highly technical bill and that it would be fully explained. Well, now, there have not been very many Members on the floor, and I agree that it is a highly technical bill. It is a bill that is so highly technical that every Member of this House ought to be interested in what is in it, because you are going to face this piece of legislation and similar legislation a number of times in the next decade. Now, mark my words, you are going to face it on the political platform and you are going to face it in your congressional districts.

Now, it was said that this was similar to the reorganization plan brought up here to reorganize the Federal Communications Commission. As a matter of fact, this bill is almost identical to the

reorganization plan that was prepared by Landis and brought up here and was defeated by this House of Representatives. The reorganization plan that was brought up here—I forget the number of it, but it was one having to do with the FCC—had one provision in it, of course, which delegated to the Chairman of the Federal Communications Commission the right to make assignments of duties within the Commission.

Now, a great deal has been said about having taken that out of this legislation. It does not make a great deal of difference. I do not think that Mr. Landis, or Dean Landis, or whatever you call him, was very much disturbed about that power, because at the hearings he indicated it did not make a great deal of difference to him. He said:

The power is in the Commission. The Commission itself can delegate to the Chairman of the Commission the right to delegate these powers to any employee he wants.

The main point in this bill is this: It is the thing that Landis was after; it is the thing the executive branch of this Government has been after since the regulatory commissions were first set up, and it is the thing they are going to keep after until they get it; and I do not want them to have it, and that is the reason I am here today protesting this legislation.

It is very simple. It simply vests in civil service employees adjudicative powers. I challenge anyone to show me anything different, because these Commissions have full powers right today to delegate the duties and the work and things of that kind—functions, if you want to call them that. The word has been overused. We had a big fuss in the committee about this type of legislation and the word "powers" had been used and used and used. I said that under the law you cannot delegate powers to these civil service employees whose job protection rights and who in many instances cannot be removed even when they are suspect insofar as patriotism is concerned, and you are extending to them adjudicative powers. So, the word "function" was adopted. Anything short of adjudicative powers can already be delegated to all of these underlings in these commissions.

You are going to have another bill in a very few days having to do with the Interstate Commerce Commission doing this very same thing. The one thing that they want is adjudicative powers in the civil service employees. The result of that would simply be this. It will make it possible for a civil service employee to render a decision in a case, and that case goes through and into the courts without it ever having been reviewed by the Commission for which this examiner works.

Mr. Chairman, it was argued in the first place in the committee that this legislation made it possible for the Commission to assign a case to an examiner and then to permit that examiner's decision to be reviewed by an employees' board made up of some more examiners, but to permit that employees' board's decision to be examined by another employees' board, and the matter would

never have gotten to the Commission or a division of the Commission.

Mr. Chairman, the people who are appointed by the President of the United States and subject to confirmation in the Senate could sit as a Supreme Court in this matter and simply say "We refuse to review your application for review." Yet that case, if it had been so handled as I have outlined, or if under the bill as it will be amended, if that case is so handled, and goes to the courts, the courts are bound by the substantial evidence rule and the result of that is simply this: That the rights and privileges, the powers and immunities of the citizens of this country will have been determined by a civil service employee and the courts will be wholly powerless to overturn it.

Mr. Chairman, I do not believe that the people of this country want that kind of legislation. We have heard a great deal about expediting business.

Now, the primary objective here should not be the convenience of these commissions or what needs to be done to expedite the handling of business. What ought to be done is to look and see what is happening to the rights of the American people and their protection under the separation-of-powers theory of government. We are not doing that here. I will tell you what you can do. They say we cannot expand these commissions. Why can we not expand these commissions if we need to? Let us look at the problem for a second. What are we faced with? We are faced with the situation where the only excuse for this legislation is that the Commission is overworked. A commission of public employees drawing tax money is overworked. That is the only excuse for this legislation. Why is that? The reason is that after these boards were set up the population of this country continued to expand. We have an expanding economy. There were other matters that had to come up and be decided. So, the workload did increase.

Mr. HALLECK. Mr. Chairman, will the gentleman yield? —

Mr. ROGERS of Texas. I would be very happy to yield to the distinguished minority leader.

Mr. HALLECK. Mr. Chairman, I have been very much interested in what the gentleman has to say about this matter primarily because the other day we had here a plan to reorganize the National Labor Relations Board where the very problems that the gentleman is talking about were involved. Now, in respect to the right of review, as I read the provisions, the Commission can limit the right to file applications for a review to proceedings involving issues of general communications importance.

How limiting would that language be? Can the gentleman tell us what sort of matters coming before the Commission might be delegated as a matter of final adjudication to the employee boards or employees that would not come within this definition of matters of general communications importance? In other words, an application for a license to run a TV or radio station, would that be a matter of general communications importance?

Mr. ROGERS of Texas. Let me answer the gentleman this way: I think his question is most appropriate because it points up the problem. It points up the fact that this language is so technical and so few people understand it that this Congress of the United States ought not to do something without knowing exactly what is happening. I can envision a situation involving what the gentleman is talking about as to what is a general communications case. If the Commission simply says, "We refuse to review your application for review," or refuse it or deny it, as you would a writ of certiorari to the Supreme Court, then suppose the examiner has said that this is not a matter of general communications importance. They refuse to review the case because they turned down his application. The matter goes to the court and, if the substantive evidence rule is applicable, the court would be powerless to overturn it. Who is going to determine whether that is a matter of general communications? The Commission itself can decide that by simply not deciding anything.

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

Mr. BENNETT of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Texas.

Mr. HALLECK. If the gentleman will yield further, in an application for review of a decision by an employee a matter of right? I might ask that of the gentleman from Texas or the chairman of the committee.

Mr. ROGERS of Texas. I will be happy to yield to the chairman of the committee.

Mr. HARRIS. Let me respond to the question the gentleman asked a moment ago. The matter involving a license would be of communications importance. But the Commission would determine the rulemaking procedure after inviting comment and having hearings and adopting a rule to carry out the procedure. So these would be made known to everyone prior to any case before the Commission.

Mr. HALLECK. The gentleman refers to communications importance. The word "general" is used. I may very frankly say to the gentleman that the use of that word disturbs me, because generally speaking it would seem to me that that would permit the Commission to set up rules by which there would be no guaranteed right of review by the Commission except in those areas where maybe a broad policy in connection with all manner of licenses falling within a given category might be at issue.

Mr. HARRIS. That is not the situation at all. The same provision has been in the Interstate Commerce Act for many years. It has never been questioned. There has never been any difficulty with it. We are trying to separate the routine cases from the cases that are actually of importance to communications and to the American people.

Mr. HALLECK. I am seeking information because I am not sure what I ought to do about this particular measure. May I ask the chairman of the committee if an application for a license

for a TV or radio station, in his opinion, standing by itself, where the determination has to be made as to who gets it, would be a matter of such general communications importance as to give the party who is aggrieved by the determination a review as a matter of right to the Commission?

Mr. HARRIS. He would file exceptions. If it is a case of an examiner that goes to the division, an employee board, or to the Commission. He would file exceptions to the examiner's initial decision. If, by the Commission passing on it first, it was assigned to an employee board for review and the aggrieved party wanted to get that proceeding reviewed, he would file an application for review which would go to the full Commission.

Mr. HALLECK. Would that be discretionary or would it be mandatory?

Mr. HARRIS. He would have the right to file his exceptions to the examiner's initial decision. It would be discretionary as to whether or not the Commission would approve his application for review.

Mr. HALLECK. And they would undertake to review it?

Mr. HARRIS. It would be discretionary with the Commission as to whether or not they would undertake to review it with full hearings and oral arguments.

Mr. ROGERS of Texas. Let me say in further answer to the distinguished minority leader insofar as this discretionary situation is concerned, you understand that what is happening is that the Commission is being set up like a Supreme Court and what you do is make application to the Commission to be heard and to have it reviewed. The Commission can say they refuse to review it, and that is the end of it.

Let me get back to this other point about the expansion of the population and the increase of these problems. At the time these commissions were set up, they were organized to do this work and they were set up commensurate with the demands at that time, and commensurate with the size of this country. Now the size of this country has increased. There is more work and this is a problem that is going to have to be faced, and it is going to have to be faced after exhaustive study to answer these problems in keeping with the principle of the separation of powers of our Government.

You cannot handle this matter on a patchwork basis. It must be faced straight across the board, if we are going to handle the problem. It is not going to be faced by simply dodging our responsibility and turning these decisions over to the civil service employees.

As I told you a few minutes ago, a vote for this bill can be construed very easily as a vote for the expansion of bureaucracy. I doubt there is a Member ~~within~~ the sound of my voice who has not made a speech against overencroachment of bureaucracy boards and commissions in Washington. Your mail every day is filled with that. You are dodging the issue here of vesting the responsibility to meet these problems in duly constituted appointees of the President, affirmed by the Senate, and you are shifting it over into the civil

service area where they have job protection and, actually, where they are tied to the executive branch of the Government.

Now the executive branch of the Government has for a long time wanted this authority. They want these boards and they want these regulatory agencies. This, my friends, is a step toward giving it to them. Let me read you just one thing that James Landis said that points this up in support of it to show you that what they want is the adjudicatory power vested in executive department employees and in civil service employees. James Landis also says:

Turning to section 3, I think section 3 is very wise in abolishing section 409(a) of the Communications Act and rewriting it because section 409(a) prohibits the assignment of an adjudicative matter to a single commissioner, which assignment is contemplated in the Administrative Procedures Act of 1946.

Now he stopped there, and he did not tell you that what they were doing was extending it far beyond a single commissioner and down to an employee who has job right protections that you or I or the Congress or no one else can touch.

Mr. BENNETT of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. YOUNGER).

(Mr. YOUNGER asked and was given permission to revise and extend his remarks.)

Mr. YOUNGER. Mr. Chairman, I want to take exception to the views expressed by my colleague the gentleman from Texas [Mr. ROGERS] in several respects. In the first place he quoted what Dean Landis wanted. Dean Landis wanted a dictator in each one of these agencies. As you will recall, when he was appointed and made his first report he said—and it was quoted in the papers—that he was recommending in the President's office a supervisor over all the Federal agencies under the President. We questioned Dean Landis. When he was before us I raised that point and while his recommendation was turned down, he still tried to get the same Presidential control by having the Commission place all their functions and authority in the hands of the Chairman who served at the will of the President.

Mr. ROGERS of Texas. Mr. Chairman, will the gentleman yield?

Mr. YOUNGER. No; I have no time to yield.

The dean still said that he wanted control by one individual and he had not changed his mind. Let us look at this bill in another way.

The Commission under this plan has the final authority, and they must exercise it in every one of the cases. Section 4 on page 3 of the bill provides that any person aggrieved by any such order, decision, report, or action, may file an application for review by the Commission within such time and in such manner as the Commission shall prescribe. I have an amendment here which has been agreed to and accepted by the Chairman, which provides that every such application shall be passed upon by the Commission. There is no ques-

tion about of having the final authority in civil service employees, the Commission itself must pass finally on every one of these cases provided the person aggrieved wants to make that appeal.

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

Mr. YOUNGER. Yes, I yield to the chairman of the committee.

Mr. HARRIS. In view of the statement that has been made, and since many Members were not here when I explained the provisions of the bill earlier, I would like with the gentleman's indulgence to explain to the Members just how this works. I can do it in a very brief time. It is easy to misunderstand the technical provisions of the bill, and this is highly technical.

First let me say that there has been authority in a provision in the Communications Act since 1934 as to nonadjudicatory work—I do not care whether you call it "powers" or "functions"—authority to delegate nonadjudicatory work to employees of the Board. This bill extends the authority of the Commission to delegate certain adjudicatory functions to certain types of employee boards. The way it works is this: When a case of adjudication is filed before the Commission, the Commission assigns it to a hearing examiner.

The hearing examiner conducts the hearings and makes the record.

I may say to the gentleman from Texas that the employee board has nothing to do with making that record. Consequently, the court review under the substantial evidence rule is on the record made by the hearing examiner. The hearing examiner then files his initial decision with the Commission.

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

Mr. BENNETT of Michigan. Mr. Chairman, I yield the gentleman 4 additional minutes.

Mr. HARRIS. The hearing examiner files his initial decision which goes to the Commission. There are many routine cases that come up in that fashion. From the information that our subcommittee developed, at that particular time there are certain advantages that have been taken by so many people arbitrarily to delay and postpone action. They file exceptions to it, and the exceptions go to the full Commission. Even though they are routine cases, that necessarily prolongs and delays. The Commission cannot as a matter of physical possibility immediately pass on so many of those things that pile up in that manner. If they are routine cases, this bill provides an intermediary proceeding whereby the Commission determines that this particular order that comes from the hearing examiner can be reviewed by a certain type of employee board. Then they assign for review to this board. If the aggrieved party then wants to object, under this proceeding he files his exceptions, which go to either a panel of employees or to a division of the Commission or to the full Commission itself.

The legislation provides that the aggrieved party in interest may then file for review through its application for review to the Commission, or the Com-

mission on its own initiative may consider the matter in full review. So the parties are amply protected. I think the safeguards are such that you cannot say there are arbitrary powers that are being delegated to any civil service employee because the Commission must pass on it finally.

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

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

Mr. BECKER. I want to get one point straight. Who designates the panel, whether a panel appointed by the Commission or Commission members? Who designates the panel or the member who shall do the reviewing?

Mr. YOUNGER. The Commission.

Mr. HARRIS. The Commission itself.

Mr. BECKER. In other words, they have that power under the rule?

Mr. HARRIS. It is not a rule.

Mr. BECKER. The Commission makes the final decision as to the Commission members?

Mr. HARRIS. That is right.

Mr. BECKER. I thank the gentleman.

Mr. YOUNGER. There is one thought I would like to leave with you. Under the present act the Commission must hear oral argument. Every litigant who wants to appeal has that right, and the Commission cannot turn it down. That is what has gummed up, so to speak, the work of the Commission, because if they give out a little license for a radio on a fishing boat, it may take hours of the Commission's time. Yet it is nothing of importance to the general public. They do not have the time to devote to the important business. This will clear the record, but the decision finally must rest with the Commission.

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

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

Mr. COLLIER. I had some very definite reservations about this legislation as it was originally presented, as will be recalled. I think we are losing sight of one very important factor in this, and that is actually the Congress may well exercise greater control. Certainly the Commission, as well as the delegated employees, know too well that we at any time may remove the authority that we grant in this bill; is that correct?

Mr. YOUNGER. That is correct.

Mr. HARRIS. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. ROGERS].

Mr. ROGERS of Florida. Mr. Chairman, I just want to say, very shortly, that I rise in support of this legislation. I believe it has been well thought out. It gives adequate protection. It has brought about a complete change in the approach to this problem from the reorganization plan in that it avoids the proposed power of the Chairman, increases it somewhat, yet keeps it in the entire Commission. This legislation has the approval of the broadcasting industry, as was stated earlier by the Chairman. It has the approval of all the present Commissioners of the FCC, and has the approval of the committee which very diligently studied this legislation

and has recommended it for the approval of the House.

The CHAIRMAN. The time of the gentleman from Florida has expired. All time has expired.

The Clerk will read the bill for amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 5 of the Communications Act of 1934, as amended, relating to a "review staff", is hereby repealed.*

Sec. 2. Subsection (d) of section 5 of the Communications Act of 1934, as amended, is amended to read as follows:

"(d) (1) When necessary to the proper functioning of the Commission and the prompt and orderly conduct of its business, the Commission may, by published rule or by order, delegate any of its functions to a panel of commissioners, an individual commissioner, an employee board, or an individual employee, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter. Any such rule or order may be adopted, amended, or rescinded only by a vote of a majority of the members of the Commission then holding office. Nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in clauses (2) and (3) of section 7(a) of the Administrative Procedure Act, of any hearing to which such section 7(a) applies.

"(2) As used in this subsection (d) the term 'order, decision, report, or action' does not include an initial, tentative, or recommended decision to which exceptions may be filed as provided in section 409(b).

"(3) Any order, decision, report, or action made or taken pursuant to any such delegation, unless reviewed as provided in paragraph (4), shall have the same force and effect, and shall be made, evidenced, and enforced in the same manner, as orders, decisions, reports, or other actions of the Commission.

"(4) Any person aggrieved by any such order, decision, report, or action may file an application for review by the Commission within such time and in such manner as the Commission shall prescribe: *Provided*, That the Commission, by published rule or by order, may limit the right to file applications under this subsection for review of orders, decisions, reports, or actions of panels of commissioners or employee boards, in cases of adjudication (as defined in the Administrative Procedure Act), to proceedings involving issues of general communications importance. The Commission, on its own initiative, may review in whole or in part, at such time and in such manner as it shall determine, any order, decision, report, or action made or taken pursuant to any delegation under paragraph (1).

"(5) In passing upon applications for review, the Commission may grant, in whole or in part, or deny such applications without specifying any reasons therefor. No such application for review shall rely on questions of fact or law upon which the panel of commissioners, individual commissioner, employee board, or individual employee has been afforded no opportunity to pass.

"(6) If the Commission grants the application for review, it may affirm, modify, or set aside the order, decision, report, or action, or it may order a rehearing upon such order, decision, report, or action in accordance with section 405.

"(7) Unless exercise of the right to file an application for review has been precluded by a rule or order adopted under paragraph (4), the filing of an application for review under this subsection shall be a condition

precedent to judicial review of any order, decision, report, or action made or taken pursuant to a delegation under paragraph (1). The time within which a petition for review must be filed in a proceeding to which section 402(a) applies, or within which an appeal must be taken under section 402(b), shall be computed from the date upon which public notice is given of orders disposing of all applications for review filed in any case.

"(8) The Secretary and seal of the Commission shall be the secretary and seal of each panel of the Commission, each individual commissioner, and each employee board or individual employee exercising functions delegated pursuant to paragraph (1) of this subsection."

SEC. 3. Section 405 of the Communications Act of 1934, as amended, is hereby amended to read as follows:

"REHEARINGS

"SEC. 405. After an order, decision, report, or action has been made or taken in any proceeding by the Commission, or by any designated authority within the Commission pursuant to a delegation under section 5(d) (1), any party thereto, or any other person aggrieved or whose interests are adversely affected thereby, may petition for rehearing only to the authority making or taking the order, decision, report, or action; and it shall be lawful for such authority, whether it be the Commission or other authority designated under section 5(d) (1), in its discretion, to grant such a rehearing if sufficient reason therefor be made to appear. A petition for rehearing must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of. No such application shall excuse any person from complying with or obeying any order, decision, report, or action of the Commission, or operate in any manner to stay or postpone the enforcement thereof, without the special order of the Commission. The filing of a petition for rehearing shall not be a condition precedent to judicial review of any such order, decision, report, or action, except where the party seeking such review (1) was not a party to the proceedings resulting in such order, decision, report, or action, or (2) relies on questions of fact or law upon which the Commission, or designated authority within the Commission, has been afforded no opportunity to pass. The Commission, or designated authority within the Commission, shall enter an order, with a concise statement of the reasons therefor, denying a petition for rehearing of granting such petition, in whole or in part, and ordering such further proceedings as may be appropriate: *Provided*, That in any case where such petition relates to an instrument of authorization granted without a hearing, the Commission shall take such action within ninety days of the filing of such petition. Rehearings shall be governed by such general rules as the Commission may establish, except that no evidence other than newly discovered evidence, evidence which has become available only since the original taking of evidence, or evidence which the Commission or designated authority within the Commission believes should have been taken in the original proceeding shall be taken on any rehearing. The time within which a petition for review must be filed in a proceeding to which section 402(a) applies, or within which an appeal must be taken under section 402(b) in any case, shall be computed from the date upon which public notice is given of orders disposing of all petitions for rehearing filed with the Commission in such proceeding or case, but any order, decision, report, or action made or taken after such rehearing reversing, changing, or modifying the original order shall be subject to the same provisions with respect to rehearing as an original order."

SEC. 4. Section 409 (a), (b), (c), and (d) of the Communications Act of 1934, as amended, are amended to read as follows:

"(a) In every case of adjudication (as defined in the Administrative Procedure Act) which has been designated by the Commission for hearing, the person or persons conducting the hearing shall prepare and file an initial, tentative, or recommended decision, except where such person or persons become unavailable to the Commission or where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably require that the record be certified to the Commission for initial or final decision.

"(b) In every case of adjudication (as defined in the Administrative Procedure Act) which has been designated by the Commission for hearing, any party to the proceeding shall be permitted to file exceptions and memoranda in support thereof to the initial, tentative, or recommended decision, which shall be passed upon by the Commission or by the authority within the Commission, if any, to whom the function of passing upon the exceptions is delegated under section 5(d) (1).

"(c) (1) In any case of adjudication (as defined in the Administrative Procedure Act) which has been designated by the Commission for a hearing, no person who has participated in the presentation or preparation for presentation of such case at the hearing or upon review shall (except to the extent required for the disposition of ex parte matters as authorized by law) directly or indirectly make any additional presentation respecting such case to the hearing officer or officers or, upon review, to the Commission or to any authority within the Commission to whom, in such case, review functions have been delegated by the Commission under section 5(d) (1), unless upon notice and opportunity for all parties to participate.

"(2) The provision in subsection (c) of section 5 of the Administrative Procedure Act which states that such subsection shall not apply in determining applications for initial licenses, shall not be applicable hereafter in the case of applications for initial licenses before the Federal Communications Commission.

"(d) To the extent that the foregoing provisions of this section and section 5(d) are in conflict with the provisions of the Administrative Procedure Act, such provisions of this section and section 5(d) shall be held to supersede and modify the provisions of that Act."

SEC. 5. Notwithstanding the foregoing provisions of this Act, the second sentence of subsection (b) of section 409 of the Communications Act of 1934 (which relates to the filing of exceptions and the presentation of oral argument), as in force at the time of the enactment of this Act, shall continue to be applicable with respect to any case of adjudication (as defined in the Administrative Procedure Act) designated by the Federal Communications Commission for hearing by a notice of hearing issued prior to the date of the enactment of this Act.

Mr. HARRIS (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the bill be considered as having been read and open for amendment at any point.

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

There was no objection.

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

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 2, line 4, after the word "functions" insert the following: "(except functions granted to

the Commission by this paragraph and by paragraphs (4), (5), and (6) of this subsection)".

Mr. HARRIS. Mr. Chairman, this is the first of three amendments that I will offer. The gentleman from California will offer another amendment, and they are to be considered together, in order to make it clear that there will be no doubt in anyone's mind as to the delegation of review functions. These three amendments provide that the employee board shall consist of three or more members and they shall have qualifications at least as great as the qualifications of an examiner and that they shall have no other duty to perform except this function itself; furthermore, that no review shall be delegated by the Commission of the action of an employee review board. In other words, the Commission itself is going to pass on any application for review filed from any employee board which has reviewed the work of the hearing examiner. That is the purpose of this amendment, in order that it may be abundantly clear as to what we intend by this legislation.

Mr. ROGERS of Texas. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, these amendments, I hope, will be adopted not because I think they will do anything to remedy the situation that I pointed out a minute ago, but the fact that these amendments are being offered here on the floor points up the very thing I said a minute ago, and that is this, that until this bill got to the Committee on Rules the bill had been written and no one had suspected that an employee board could be the last appeal that a man in this country, with some right involved before a board of this kind, would have. It was only after the hearing before the Committee on Rules that these amendments were prepared and submitted to the Committee on Rules as an indication that it would take care of the proposition; that the employee board would not be the final place of appeal for some litigant in a matter of this kind.

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

Mr. ROGERS of Texas. Yes, I yield.

Mr. HARRIS. Mr. Chairman, I know that the gentleman wants to be abundantly fair, as he always is, as a member of the committee. The gentleman knows of the discussion we had, and I told the Rules Committee that it was our feeling that the bill as reported to the committee did exactly this. The gentleman from Texas [Mr. ROGERS] knows that in the committee report there is a paragraph on page 7 where there is stated positively that it is not intended that the Commission shall be able to delegate to any other authority either the powers granted to it by this paragraph or any of the powers or duties imposed upon it by paragraphs 4, 5, and 6 of subsection (d) as proposed to be amended, and that is the fact, and the history of this legislation.

Mr. ROGERS of Texas. There is a little more history to that, and I am sure the chairman of the committee wants to be eminently fair, as he always has been. The fact of the matter is that

this matter was discussed at length in the committee when we were writing up this bill. At that particular time this point was made. If there is any doubt in the minds of the people, this bill could have been written in the first place to nail down the proposition that an employee's board would not be the final judge insofar as a thing of this kind was concerned at an administrative level. I simply point this out to bring to your mind the fact that there was sufficient doubt in this particular to cause this proceeding on the floor right now. Now, if that is true, why would it not be reasonable to suspect that there may be other flaws in this legislation? I would submit to any Member of this House that if you will read the section that the minority leader read just a moment ago about the powers of the Commission to limit the applications for right of appeal, and I submit to you that you will agree that perhaps this matter ought to go back to the committee and be re-studied and approached on an entirely different basis so that the czar that my friend, the gentleman from California, Mr. YOUNGER, is so fearful of, may not be into being in a very few years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. HARRIS].

The amendment was agreed to.

Mr. HARRIS. Mr. Chairman, I offer two other amendments which I would like to have considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. HARRIS of Arkansas:

Page 2, line 8, strike out "matter." and insert in lieu thereof the following: "matter; except that in delegating review functions to employees in cases of adjudication (as defined in the Administrative Procedure Act), the delegation in any such case may be made only to an employee board consisting of three or more employees referred to in paragraph (8)."

And on page 4, after line 17, insert the following:

"(8) The persons serving on employee boards to which the Commission, pursuant to paragraph (1), may delegate review functions in cases of adjudication (as defined in Administrative Procedure Act) shall be well qualified, by reason of their training, experience, and competence, to perform such review functions. Such employees shall be given no other duties and shall be paid compensation at rates commensurate with the difficulty and importance of their duties. Such employees shall not be responsible to, or subject to supervision or direction of, any person engaged in the performance of investigative or prosecuting functions for the Commission or any other agency of the Government."

And in line 18 strike out "(8)" and insert "(9)".

The CHAIRMAN. Without objection, the amendments will be considered en bloc.

There was no objection.

Mr. HARRIS. I have already explained the amendments, Mr. Chairman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Arkansas.

The amendments were agreed to.

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

The Clerk read as follows:

Amendment offered by Mr. YOUNGER of California: Page 3, line 6, strike out the word "prescribe" and insert in lieu thereof the following: "prescribe, and every such application shall be passed upon by the Commission".

Mr. YOUNGER. Mr. Chairman, I just want to remind the members of the committee that in the consideration of this bill the Legislative Counsel, the Federal Communications Commission Counsel, and a majority of the attorneys on our committee felt that we had covered the question of the Commission's final decision, but as long as there was a difference even on the part of our good colleague, the gentleman from Texas [Mr. ROGERS], we thought we would add these amendments so as to make doubly sure that no lawyer would have any opportunity to say that the Commission did not have the final jurisdiction.

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

Mr. YOUNGER. I yield to the gentleman from Arkansas.

Mr. HARRIS. May I say that the gentleman has discussed this amendment with me and I think it is appropriate. We accept it.

Mr. YOUNGER. I thank the gentleman.

Mr. GROSS. Mr. Chairman, I move to strike out the last word.

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Chairman, when a bill comes along, after we voted down a reorganization plan on the same subject, and the bill is now being amended on the floor to the extent this bill is being amended, I wonder how much attention was given to it. I heard this afternoon that this had been given such vast attention in the committee. Now we find it being amended all over the place. I think that what we have here is a watered-down version of Reorganization Plan No. 2, and I am not going to vote for it.

Mr. GRIFFIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I heard the chairman of the committee, I believe, indicate that the employees on the employee boards in accordance with the amendment which he intended to offer and which was adopted would have qualifications at least equal to those of a hearing examiner, but when I heard the amendment read I thought I heard it read that they shall be well qualified. Did the amendment go any further than that, may I ask the Chairman? Of course, I am in favor of that amendment. They should be well qualified. All employees should be well qualified. But did it go beyond that?

Mr. HARRIS. It is difficult for us to draw language to spell out what the qualifications of these employees should be. The hearing examiners have general qualifications under the Administrative Procedure Act. The purpose of this language is to insure that the legislative record, together with the letter I have from the Chairman of the Federal

Communications Commission, which I have already referred to and stated I would include in the RECORD, made it definite and clear that the qualifications of these special employee boards for this purpose would be at least that of examiners, heads of bureaus, assistant heads of bureaus, and such types of qualified men, and that they would receive salaries commensurate with those responsibilities. That is just about as clear as the staff technicians in this field could prepare this in order to accomplish what we sought.

Mr. GRIFFIN. I think that perhaps the legislative history that is now being made establishes it, but when I heard the amendment read the only thing I heard was that they should be well qualified. It did not spell out what those qualifications were. I assume we are relying on the legislative history to establish the point.

Mr. HARRIS. In order to clarify the language we have here in the amendment, yes.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. YOUNGER].

The amendment was agreed to.

Mr. JONES of Missouri. Mr. Chairman, I move to strike out the last word, and I do this for the purpose of asking the chairman of the committee a few questions.

If the distinguished chairman, the gentleman from Arkansas will yield, I would like to inquire if any consideration given in the consideration of this legislation to increasing the size of the Federal Communications Commission by adding to the number of commissioners, to try to retain this adjudicatory authority within the commissioners themselves?

Mr. HARRIS. Yes, that was discussed. Even during the course of the hearings that was discussed.

Mr. JONES of Missouri. I am sorry I was not present at the time.

Mr. HARRIS. I have found no sympathetic attitude on the part of anyone and have heard no one even suggest that the commission be expanded. As a matter of fact, a lot of people think some of these commissions are too big now. On the other hand, I feel that these five-man commissions ought to be expanded and have so proposed legislation in the case of the Federal Power Commission. The Federal Communications Commission has 7 members. If they would be permitted to divide themselves up in panels, as this bill proposes and authorizes, as the Interstate Commerce Commission has had authority to do throughout the years, then it will help them to perform their duties more expeditiously.

Mr. JONES of Missouri. Would it be your idea that that would be one way to approach this, by enlarging the commission and dividing up this work load, so to speak? Can the gentleman answer that question—yes or no?

Mr. HARRIS. Yes, as an alternative that would be one way.

Mr. JONES of Missouri. May I ask the gentleman another question. Is it the opinion of the committee that there

are an insufficient number of employees in the Federal Communications Commission at the present time to carry on their work as promptly and as expeditiously as possible or as is desirable?

Mr. HARRIS. We think the commission has sufficient personnel, if they can be given some flexibility in the utilization of the personnel, which this bill gives to them.

Mr. JONES of Missouri. Is it not a fact, it requires about a year and a half now for an ordinary application to go through the various stages even if there are no complications?

Mr. HARRIS. I think the time could not be pinned down to any given time. It depends upon the extent of the hearings by the hearing examiner how long that would take.

Mr. JONES of Missouri. I mean before you get to that stage. I am talking about just a routine application for a construction permit that would go through without any delays or anything getting in the way of the application, that the number of employees there are not sufficient to carry out the work load. I am not being critical of the people who are doing the work now, but I am inclined to believe that they do not have enough personnel there. What I am leading up to is this—I have always advocated a licensing of the facilities on which the Federal Communications Commission issues a license. I would like to ask you now if your committee has had any official request from the chairman of the Federal Communications Commission, Mr. Minow, in the form of a suggestion that he made some time ago, which was given some publicity in the papers, where he advocated a four-tenths of 1 percent of the gross business as a licensee fee? Has he approached or discussed that with you in your committee?

Mr. HARRIS. I have had some discussion with him and I have had some communications on the subject. The Commission feels they have the authority to establish fees under the present law and consideration is being given to it.

Mr. JONES of Missouri. Do you agree that they do have the authority?

Mr. HARRIS. After reading his comments and finding out that it was a provision of legislation which was adopted in an appropriation bill some years ago, I say—yes, I would agree with their interpretation.

Mr. JONES of Missouri. In other words, you agree that they do have the authority to levy a license fee?

Mr. HARRIS. I would agree with their interpretation that they do have the authority to levy fees.

Mr. JONES of Missouri. Would these fees in excess of expenses go into the general revenue?

Mr. HARRIS. Yes, they would.

Mr. JONES of Missouri. And you think without any further legislation, the commission could levy fees and that those fees could be used toward maintaining and paying the expenses of the Commission and that any excess would go into the general revenues.

Mr. HARRIS. In my judgment, they could.

Mr. JONES of Missouri. I am glad to hear you say that. I hope the Commission takes notice of that and at least starts to do that so that the people who are benefiting from these licenses would contribute to the expenses of maintaining this important Commission. It is also my opinion that by the payment of such licenses and fees we would eliminate the necessity of using taxes to support this Commission, and in addition to this saving the U.S. Treasury would benefit to the extent of many millions of dollars annually.

Mr. HALLECK. Mr. Chairman, I move to strike out the last word, for the purpose of asking the chairman of the committee and our distinguished colleague, the gentleman from California [Mr. YOUNGER] about a matter of interpretation. The gentleman from California offered an amendment on page 3, line 6, adding after the words "shall prescribe" these words "and every such application shall be passed upon by the Commission."

Obviously, those words are included in an effort to provide, as I understand it, that the Commission shall pass upon any application for a review by an aggrieved party. My question is simply this. The proviso that follows, apparently, gives the Commission the right by published rule or order to limit the right to file applications for review and limiting it as a matter of right to proceedings involving issues of general communications importance.

In other words, my question is this: Would the language which has been offered by the gentleman from California to that proviso prevail in such manner as to make it possible for the Commission by rule or order to prohibit in the first instance the right of an aggrieved party to file an application for review?

Mr. HARRIS. On certain well-established policies of the Commission, yes; but that would have to be after the usual procedure of hearing and all parties having an opportunity to present their views to the Commission before such order or rule was adopted; and then, of course, it has been interpreted to mean that if there is any substantial question on any matter before the Commission, anyone who is capable of making a record could develop proceedings that would involve matters of importance.

The purpose of this Act, I say to the gentleman, is to try to expedite a number of these routine matters that are taken just as a matter of course.

Mr. HALLECK. I appreciate that, and the gentleman knows I served on the Committee on Interstate and Foreign Commerce for many years.

Mr. HARRIS. And very efficiently.

Mr. HALLECK. And have been tremendously interested in all the activities of that committee since that time. But I must say that if that interpretation of the proviso is to prevail, the language added by the gentleman from California would be almost meaningless so far as its practical effect is concerned.

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

Mr. HALLECK. I yield.

Mr. YOUNGER. Present law provides that every such application shall be passed upon by the Commission. That was stricken from the original law. I understand legally the presumption would be that it was stricken for a certain reason, and I would presume it was stricken so that the right to pass on application could be delegated to somebody other than the Commission. Now we are putting it back into the law the same as it is at the present time, so there would be no presumption whatsoever that we struck out a provision with the idea that it should be passed on. The balance of that, I understand, was put in there by legal counsel to make this bill conform to the Administrative Procedures Act.

Mr. HALLECK. That may be, and I am not going to prolong the discussion, but I must say that as long as the proviso stays in the law, if it is to become law, it seems to me very clear that the Commission by published rules or order may so limit the right to apply for review that in many, many instances no such right would prevail.

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

Mr. HALLECK. I yield.

Mr. HARRIS. I might say to the gentleman that this intended to apply only to such routine cases as would come to the Commission and take up the Commission's time unnecessarily. That is really the purpose of this provision.

Mr. HALLECK. If I could be perfectly sure that was the sole intent of this provision I would have no fear about it at all, but I must say I have some reservations about it.

The CHAIRMAN. Under the rule the Committee rises.

Accordingly the Committee rose; and Mr. ALBERT having assumed the chair as Speaker pro tempore, Mr. YATES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill H.R. 7856, to amend the Communications Act of 1934, as amended, for the purpose of facilitating the prompt and orderly conduct of the business of the Federal Communications Commission, pursuant to House Resolution 400, he reported the bill back to the House with sundry amendments adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. ROGERS of Texas) there were—ayes 93, noes 81.

Mr. ROGERS of Texas. Mr. Speaker, I object to the vote on the ground that

a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were yeas 198, nays 150, not voting 89, as follows:

[Roll No. 132]  
YEAS—198

Addabbo	Grant	Moss
Addonizio	Green, Oreg.	Moulder
Albert	Gubser	Multer
Ashley	Hagen, Calif.	Murphy
Avery	Halpern	Nix
Ayres	Hansen	O'Brien, Ill.
Baldwin	Harding	O'Brien, N.Y.
Barrett	Hardy	O'Hara, Ill.
Bates	Harris	O'Hara, Mich.
Beckworth	Hays	O'Konski
Bell	Hechler	Olsen
Bennett, Fla.	Hollifield	O'Neill
Bennett, Mich.	Holtzman	Passman
Boggs	Hosmer	Patman
Boland	Huddleston	Perkins
Bolling	Hull	Post
Bonner	Ichord, Mo.	Philbin
Brademas	Ikard, Tex.	Pike
Breeding	Jarman	Price
Brewster	Jennings	Pucinski
Brooks, Tex.	Joelson	Randall
Burke, Ky.	Johnson, Calif.	Reuss
Burke, Mass.	Johnson, Md.	Rhodes, Pa.
Byrne, Pa.	Johnson, Wis.	Rivers, Alaska
Clark	Jones, Ala.	Rodino
Cohelian	Jones, Mo.	Rogers, Colo.
Coiller	Karsten	Rogers, Fla.
Conte	Karth	Rooney
Cook	Kastenmeyer	Roosevelt
Cooley	Kee	Rostenkowski
Corbett	Keith	Ryan
Corman	King, Calif.	Saund
Curtin	King, Utah	Schweiker
Curtis, Mo.	Kluczynski	Schwengel
Daddario	Kowalski	Seely-Brown
Daniels	Kunkel	Selden
Davis, Tenn.	Lane	Shelley
Dawson	Langen	Sheppard
Delaney	Lankford	Shibley
Denton	Lennon	Sikes
Derounian	Libonati	Sisk
Diggs	Lindsay	Slack
Dingell	Lozer	Smith, Iowa
Donohue	McCormack	Spence
Downing	McFall	Springer
Doyle	Macdonald	Staggers
Dulski	Machrowicz	Stratton
Dwyer	Mack	Stubblefield
Edmondson	Madden	Sullivan
Elliott	Magnuson	Taylor
Ellsworth	Mahon	Thomas
Everett	Maillard	Thomson, Wis.
Fallon	Marshall	Thornberry
Farbstein	Mathias	Toll
Fascell	Matthews	Trimble
Feighan	Morrow	Udall, Morris K.
Finnegan	Michel	Ullman
Flood	Miller	Vanik
Fountain	George P.	Van Zandt
Frazier	Mills	Wickersham
Friedel	Moeller	Willis
Garmatz	Monagan	Yates
Gary	Montoya	Young
Gathings	Moorhead, Pa.	Younger
Gialmo	Morgan	Zablocki
Gilbert	Morris	
Granahan	Morrison	

NAYS—150

Abbltt	Becker	Colmer
Abernethy	Beermann	Cunningham
Adair	Belcher	Curtis, Mass.
Alford	Berry	Dague
Alger	Betts	Davis,
Andersen,	Bray	James C.
Minn.	Brown	Devine
Anderson, Ill.	Broyhill	Dole
Andrews	Bruce	Dominick
Arends	Burleson	Dorn
Ashbrook	Byrnes, Wis.	Dowdy
Ashmore	Casey	Durno
Auchincloss	Chamberlain	Fenton
Bailey	Chelf	Findley
Baker	Chenoweth	Fisher
Barry	Chiperfield	Ford
Bass, N.H.	Church	Forrester
Battin	Clancy	Frelinghuysen

Fulton	McMillan	Rousselot
Garland	McVey	Rutherford
Gavin	MacGregor	Saylor
Goodell	Martin, Mass.	Schadeberg
Goodling	Martin, Nebr.	Schenck
Griffin	May	Schneebell
Gross	Meador	Scranton
Hagan, Ga.	Miller, N.Y.	Shriver
Haley	Milliken	Sibal
Halleck	Minshall	Siler
Harrison, Wyo.	Moore	Smith, Calif.
Harsha	Moorehead,	Smith, Va.
Harvey, Ind.	Ohio	Stafford
Henderson	Mosher	Stephens
Hiestand	Murray	Taber
Hoffman, Ill	Natcher	Teague, Calif.
Horan	Norblad	Thompson, Tex.
Jensen	Nyggaard	Tuck
Johansen	Osmers	Tupper
Jonas	Ostertag	Utt
Judd	Pelly	Van Pelt
Kearns	Pillion	Wallhauser
Kilgore	Pirnie	Watts
King, N.Y.	Poage	Wels
Kitchin	Poff	Westland
Knox	Ray	Whalley
Kornegay	Reece	Whitten
Landrum	Reifel	Widnall
Latta	Riehlman	Williams
Lipscomb	Riley	Wilson, Calif.
McCulloch	Robison	Wilson, Ind.
McDonough	Rogers, Tex.	Winstead
McIntire	Roudebush	Wright

NOT VOTING—89

Alexander	Glenn	Peterson
Anfuso	Gray	Plicher
Aspinall	Green, Pa.	Powell
Baring	Griffiths	Qule
Bass, Tenn.	Hall	Rabaut
Blatnik	Harrison, Va.	Rains
Blicht	Harvey, Mich.	Rhodes, Ariz.
Bolton	Healy	Rivers, S.C.
Bow	Hébert	Roberts
Boykin	Hemphill	Roush
Bromwell	Herlong	St. George
Brooks, La.	Hoeven	St. Germain
Broomfield	Hoffman, Mich.	Santangelo
Buckley	Holland	Scherer
Cahill	Inouye	Scott
Cannon	Kelly	Short
Carey	Keogh	Smith, Miss.
Cederberg	Kilburn	Steed
Celler	Kilday	Teague, Tex.
Coad	Kirwan	Thompson, La.
Cramer	Kyl	Thompson, N.J.
Davis, John W.	Laird	Tollefson
Dent	Lesinski	Vinson
Derwinski	McDowell	Walter
Dooley	McSweeney	Weaver
Evins	Mason	Wharton
Fino	Miller, Clem.	Whitener
Flynt	Morse	Zelenko
Fogarty	Nelsen	
Gallagher	Norrell	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hébert for, with Mr. John W. Davis against.

Mr. Bass of Tennessee for, with Mr. Herlong against.

Mr. Qule for, with Mrs. Blicht against.

Mr. Glenn for, with Mr. Hemphill against.

Mr. Nelsen for, with Mr. Alexander against.

Mr. Thompson of New Jersey for, with Mr. Whitener against.

Mr. Powell for, with Mr. Rhodes of Arizona against.

Mr. Keogh for, with Mr. Scherer against.

Mr. Buckley for, with Mr. Bow against.

Mr. McDowell for, with Mrs. Bolton against.

Mr. Anfuso for, with Mrs. St. George against.

Mr. Santangelo for, with Mr. Kyl against.

Mr. Harrison of Virginia for, with Mr. Bromwell against.

Mrs. Kelly for, with Mr. Weaver against.

Mrs. Norrell for, with Mr. Dooley against.

Mr. Kirwan for, with Mr. Cramer against.

Mr. Thompson of Louisiana for, with Mr. Wharton against.

Mr. Green, of Pennsylvania for, with Mr. Mason against.

Mr. Fogarty for, with Mr. Hoffman of Michigan against.

Mr. Celler for, with Mr. Hoeven against.  
Mr. Dent for, with Mr. Scott against.  
Mr. Holland for, with Mr. Hall against.  
Mr. Carey for, with Mr. Kilburn against.  
Mr. Zelenko for, with Mr. Morse against.

Until further notice:

Mr. St. Germain with Mr. Broomfield.  
Mr. Walter with Mr. Tollefson.  
Mr. Healey with Mr. Fino.  
Mr. Evins with Mr. Cahill.  
Mr. Blatnik with Mr. Short.  
Mr. Inouye with Mr. Derwinski.  
Mr. Gallagher with Mr. Cederberg.  
Mrs. Griffiths with Mr. Harvey of Michigan.  
Mr. Peterson with Mr. Laird.

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

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

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

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

Mr. JOHNSON of Maryland changed his vote from "nay" to "yea."

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be discharged from further consideration of the bill (S. 2034) to amend the Communications Act of 1934, as amended, in order to expedite and improve the administrative process by authorizing the Federal Communications Commission to delegate functions in adjudicatory cases, repealing the review staff provisions, and revising related provisions, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

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

There was no objection.

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

The Clerk read as follows:

Mr. HARRIS moves to strike out all after the enacting clause of the bill S. 2034, and insert the provisions of the bill H.R. 7856 to amend the Communications Act of 1934, as amended, for the purpose of facilitating the prompt and orderly conduct of the business of the Federal Communications Commission, as passed.

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 and a similar House bill, H.R. 7856, were laid on the table.

ADJOURNMENT TO MONDAY,  
AUGUST 7

Mr. MCCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

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

There was no objection.