

discrimination that certainly no one intended. So the provision that was proposed by the House of Representatives and amended by the Senate would make it clear that it applies as intended by the continuing resolution for both single and married persons.

Mr. DOLE. I just add the part I read on coordination applies to businessmen. It was not just a special provision for Members. One cannot deduct his personal expenses. He still has to allocate, and he only gets his business expenses.

I know it will probably be misconstrued by those who write about it.

Mr. PROXMIRE. Does this amendment allow for unlimited expense deduction for married Congressmen living in Washington equal to amounts that a single Congressman or one living in the State can get.

Mr. DOLE. No.

Mr. LONG. This should be explained to the Senator also.

Under this provision a Senator cannot receive the deduction for members of his family. He has to allocate. In other words, if he has a wife and children he has to allocate for the portion that they are presumed to use of the house and he is only entitled to the part for himself, so that he is treated for that purpose just as though he were single. He can only claim the part that applies to him. He cannot deduct the part that applies to his family if his family lives with him here in Washington.

I think everyone can see the fairness of it. If a bachelor could deduct the full expense, a married person should at least be permitted to deduct the part of the expense that would apply to him for his proportionate use of the house which he shares with his family.

Mr. PROXMIRE. As I understand it, there will be another amendment in another place offered to secure from the Internal Revenue Service some specific indication of what expenses would be eligible for deduction that would be appropriate; is that correct?

Mr. DOLE. The appropriate amount of expenses that can be deducted by Members of Congress without substantiation, that is correct.

Mr. PROXMIRE. I thank the Senator.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. I yield.

Mr. HARRY F. BYRD, JR. Could we take an example as to how this would work? Assume a Member of Congress comes to Washington and rents a home or rents a condominium, or what-have-you, or stays in a hotel. Assume that he pays a rent of \$2,000 a month. As I understand it, under what was done by the continuing resolution and what will take place under this resolution, along with the continuing resolution, he would be

able to deduct that \$24,000 as a rental expense.

Mr. DOLE. That is correct. The continuing resolution repealed the \$3,000 limit on deduction for living expenses by Members of Congress, effective January 1981.

Mr. HARRY F. BYRD, JR. Let us assume that instead of renting he buys a home for \$200,000, and that is about the going rate around this town. The depreciation schedule, am I correct, is 15 years now for property of that type?

Mr. DOLE. Only for houses bought in this year or in the future.

Mr. HARRY F. BYRD, JR. I beg pardon.

Mr. DOLE. Only for houses bought this year or in the future.

Mr. HARRY F. BYRD, JR. For houses bought this year or subsequent years?

Mr. DOLE. That is right.

Mr. HARRY F. BYRD, JR. That individual then could take depreciation to the extent of about \$15,000 on that house.

Mr. DOLE. He has to allocate between land and building and also allocate between personal and business expense. So I am not sure of the exact amount that could be deducted. It would certainly cut it down markedly, I would think. He cannot claim the land, obviously.

Mr. HARRY F. BYRD, JR. So he would need to allocate a certain cost to the land and certain cost to the building or the house and then depreciate the house.

Mr. DOLE. Only a portion of it.

Mr. HARRY F. BYRD, JR. I beg pardon.

Mr. DOLE. Only a portion of it.

Mr. HARRY F. BYRD, JR. A portion of it. If it is a man and wife, how is it apportioned? Is it 50-50?

Mr. DOLE. It could be, but that is what we hope the IRS, when we adopt the next amendment, will indicate a specific dollar amount that will be deemed reasonable under the circumstances. Without such a specific amount it could be 50-50, or it could be something else. We want to avoid the necessity of making that allocation.

Mr. HARRY F. BYRD, JR. I am sort of looking for the legislative history as to what we have in mind.

Mr. DOLE. Let me say to the Senator from Virginia, and be as candid as I can, that when the \$3,000 limit was lifted by action on the continuing resolution last week, the effect of this change is to treat travel expenses of Members of Congress in a sense like the travel expenses of other businessmen away from home on business. Under the rules that apply to businessmen, travel expenses are deductible only if they are reasonable and necessary to the taxpayer's business. If the expenses are lavish or unnecessary, obviously they would not be permitted. They can deduct meals, lodging, rents, depreciable ownership costs such as furnishings in the dwelling unit, insurance, utilities, and repairs attributable to the lodging, transportation expenses, cleaning and laundry expenses, and telephone expenses, just to name some of the deductible expenses.

A Congressman is treated just like a businessman but, before the continuing resolution, could deduct a maximum of \$3,000. When the cap was removed by the continuing resolution, we had a problem in trying to determine what would be a reasonable deduction. So this Senator and others have met with the IRS Commissioner to try to get some guidance on what kind of recordkeeping Members would need. Senator PACKWOOD was there. Congressman ROSTENKOWSKI, chairman of the Ways and Means Committee, was there.

What we do not want is to lift the \$3,000 lid and then have someone take an exceptional amount of deductions.

So we thought about expressly stating that Members could deduct a specified amount such as Federal employees' per diem amount. In the city of Washington the per diem is now \$75 a day. Someone said that would not be the best way to approach the problem—that is for the Members to set the specific amount.

So I thought it would be appropriate to leave it up to the IRS Commissioner and the Treasury Department to find something reasonable under the circumstances, rather than Congress establishing a set amount, and that is, in essence, where we are right now.

It is a deduction, not a credit.

Mr. HARRY F. BYRD, JR. There is no ceiling then?

Mr. DOLE. I beg your pardon?

Mr. HARRY F. BYRD, JR. There is no ceiling under the new proposal?

Mr. DOLE. There is no ceiling, but that is a result of the continuing resolution, not as a result of what we are doing. As long as the cap was already removed, we thought it best to have an election where 90 percent of the Members would say "All right, I will take \$50 a day, whatever the IRS says is appropriate, whatever guidelines they indicate." I assume 99 percent of the Members will adopt that procedure.

Mr. HARRY F. BYRD, JR. May I ask this question: Is it the Senator's understanding then that the IRS will issue and publish rules and regulations as it affects the Members of Congress?

Mr. DOLE. If we adopt the amendment that I am about to offer, we direct the Secretary to set the amount.

Mr. HARRY F. BYRD, JR. Direct it insofar as the Members of Congress are concerned, not business in general, but insofar as Members of Congress are concerned?

Mr. DOLE. That is correct, and I am prepared to offer that amendment now.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. The Senator from Kansas has asked for the yeas and nays. I am not clear. Is it with respect to the amendment having to do with directing of the Treasury to come out with regulations? I understand at the desk is a substitute amendment. Does that include all four parts of the Finance Committee recommendations?

Mr. DOLE. No.