having assumed the chair, Mrs. EMERSON, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 2883) to amend provisions of law enacted by the Government Performance and Results Act of 1993 to improve Federal agency strategic plans and performance reports, pursuant to House Resolution 384, she reported the bill back to the House with an amendment adopted by 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 to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was 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 the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KUCINICH. 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 Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 168, not voting 20, as follows:

[Roll No. 50]

YEAS—242

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Brady
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
McCarthy (MO)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riggs
Riley
Rivers
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—168

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (FL)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Dooley
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gordon
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lowey
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—20

Berman
Brown (CA)
Bunning
Cummings
Doyle
Furse
Gephardt
Gonzalez
Goss
Harman
Hinojosa
Hutchinson
John
Lofgren
Nadler
Poshard
Redmond
Sanchez
Schiff
Tanner

☐ 1321

Mr. MOAKLEY and Mr. HEFNER changed their vote from ''yea'' to ''nay.''

Mr. LUTHER and Ms. RIVERS changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CUMMINGS. Mr. Speaker, on rollcall number 50, my vote on the bill, H.R. 2883, the Government Performance Results Act amendments was not recorded, as there was a computer malfunction in the recording device. Today, I was present for all recorded votes in the House.

Had the computer accurately recorded my vote, it would have been a ''no'' vote on final passage.

I ask for unanimous consent that my statement appear in the RECORD immediately following that rollcall vote.

GENERAL LEAVE

Mr. SESSIONS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2883, the bill just passed.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

TUCKER ACT SHUFFLE RELIEF ACT OF 1997

The SPEAKER pro tempore (Mr. THOMAS). Pursuant to House Resolution 382 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 992.

☐ 1323

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 992) to end the Tucker Act shuffle, with Mrs. EMERSON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on

Wednesday, March 11, 1998, pending was the amendment by the gentleman from North Carolina (Mr. WATT).

Pursuant to the order of the House of that day, no further debate or amendment to the committee amendment in nature of a substitute shall be in order except for the pending amendment, which shall be debatable for 20 minutes.

The gentleman from North Carolina (Mr. WATT) and a Member opposed, the gentleman from Texas (Mr. SMITH) each will control 10 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I yield myself 30 seconds for the benefit of explaining to the Members where we are in the process so that people will know what we are doing.

We debated this bill yesterday and had part of the debate on the Watt-Rothman amendment yesterday. We now have 10 minutes on each side to further debate the Watt-Rothman amendment. Then there will be a vote on the Watt-Rothman amendment, and then a vote on final passage, for those who are trying to schedule their time at this point.

Madam Chairman, I reserve the balance of my time.

Mr. SMITH of Texas. Madam Chairman, I yield myself such time as I may consume, and I rise in opposition to this amendment.

The issues today are about equity and fairness. Every homeowner and property owner across America deserves to have their day in court and in the court that is best for them. An individual who seeks to contest a governmental taking must deal with unreasonable obstacles and costs in negotiating their way through the legal maze of the Tucker Act. Current law denies the Court of Federal Claims authority to hear claims for injunctive relief and denies the U.S. district courts the authority to hear claims for monetary relief over $10,000.

The Federal Government often says that property owners have sued in the wrong court, bouncing property owners back and forth between the two courts. Some argue we should end the Tucker Act shuffle by giving only U.S. district courts the ability to grant complete relief in takings cases. But why should we disregard the Court of Federal Claims' expertise or its large body of case law and deny the court the ability to hearing takings claims for both monetary and equitable relief?

Property owners have the right to be heard either in the Court of Claims or in the U.S. district court. Why not give property owners the option of going to the court that they think is best? If the property owner wants to pursue their claim in a court close to home, the property owner can choose a district court. If the owner wants to utilize the expertise of a specialized court, the owner can choose the Court of Federal Claims. We should make it as easy as possible for property owners to have their claims heard.

There has been a concern voiced about giving an Article III court's powers to an Article I court; that it would somehow be unconstitutional. But the answer is that both courts are clearly constitutional. Furthermore, the bill directs that all appeals, whether from the U.S. district court or the Court of Federal Claims, will go to the same Court of Appeals for the Federal Circuit, an Article III court. The Constitution clearly allows Congress to provide the Court of Federal Claims with the power of providing relief in takings cases.

□ 1330

First, each Federal court, whether an Article I court or an Article III court, has the inherent authority and duty to disregard unconstitutional statutes and regulations. In IBM vs. U.S., the Federal Circuit recently affirmed a ruling by the Court of Federal Claims declaring a Federal tax statute to be unconstitutional.

Second, the Court of Federal Claims already has the power to grant injunctive relief in various areas, which today total 40 percent of its current docket load. And third, the recent Supreme Court cases of Northern Pipeline Construction Company vs. Marathon Pipeline Company, and Commodity Futures Trading Commission vs. Schor, both signal Congress' ability to give the Court of Federal Claims the power to grant total relief in takings cases.

Private property owners should have the option and the opportunity to assert their constitutional rights in the court of their choice without being treated like a Ping-Pong ball. Every property owner in America has the right to obtain a timely resolution, one way or the other, of their takings claims. They deserve to have their day in court and in the right court, the court of their choice.

There are some, and I certainly do not put my friend from North Carolina in this category, but there are some who say they are for property rights. What they mean is they are for property rights in the abstract; they are for property rights theoretically; and they are for property rights idealistically. But when it comes to relevant people with real problems, and we have abundant examples of horror stories, when it comes to real people with real problems, somehow these theoretical abstract property rights supporters can never be found.

H.R. 992 is a fair, straightforward, common-sense way to get every property owner across America their right to choose the court that they think is best for their claim, either the Claims Court or the Federal District Court; and this amendment would destroy that option that every property owner in America should have. Madam Chairman, I urge my colleagues to vote against this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Chairman, I yield 30 seconds to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Madam Chairman, this could be a very good bill, but only if the Watt/Rothman amendment does pass. People who have had their land taken clearly should have it resolved in one court. But that court is not the Court of Federal Claims, it is the U.S. District Court.

The Watt/Rothman amendment sends it to the U.S. District Court, accomplishes the efficiency, the fairness that people are looking for. If Watt/Rothman passes, I would strongly support this bill. But a lot of people understand that if the only court you can go to is the Court of Federal Claims, this will not be a good bill and will have to vote against it.

Mr. SMITH of Texas. Madam Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Chairman, I yield 4 minutes to the gentleman from New Jersey (Mr. Rothman).

Mr. ROTHMAN. Madam Chairman, I rise today in strong support of the Watt/Rothman amendment to H.R. 992. I want to begin by saying thank you and congratulations to my colleague, the gentleman from Texas (Mr. SMITH), for identifying this problem that has caused private property owners so much heartache and expense.

I do want to say also, though, with respect to my colleague from Texas, that the solution that he offers, in my judgment, is unconstitutional. The problem here we are talking about arises in Federal cases involving the taking of land without just compensation. The question is how do we solve the problem? Do we solve the problem in what might arguably be an unconstitutional way?

There are laypeople and experts who say that this solution, H.R. 992, is unconstitutional. Or do we solve the problem in an elegant, simple, and completely effective way that happens to be perfectly constitutional?

Last October, along with many of my colleagues from both parties, I voted in favor of H.R. 1534, the Private Property Rights Implementation Act. I did so proudly. H.R. 1534 was important because it cut years of delay from Federal takings proceedings that kept people from having their day in court.

However, notwithstanding H.R. 1534, there still remains an unjustifiable shuffle within the Federal court system that people must go through in order to get their Federal takings claims resolved. These property owners are being shuffled between the U.S. District Court and the Court of Federal Claims when they bring suit against the Federal Government after their property has been taken without just compensation.

But the problem with H.R. 992, with respect, is that the solution to this shuffling problem gives broad powers that are normally reserved for the judicial branch courts, Article III courts,

and instead gives them to the Court of Federal Claims, an Article I court, whose judges happen to be appointed for a period of years as opposed to the lifetime appointments of the Federal District Court judges.

As you might imagine, these lifetime points of the Federal District Court judges allow the judges to have a much more impartial attitude regarding all cases, especially keeping them from the kind of political pressure that we all feel is inappropriate in Federal cases.

For those Members who want to get rid of the shuffle that private property owners seeking relief are now being required to go through, there is a perfectly complete and constitutional solution to that problem. That is the Watt/Rothman amendment to H.R. 992.

Our amendment is very simple. It says, if one is concerned about getting shuffled around the Federal court system in order to get their private property rights heard, their claims heard, they would now, under the Watt/Rothman amendment, be able to challenge the validity of the Federal statute authorizing the taking, have all other related claims heard, and receive compensation as well as any and all other remedies entirely with the one court, the Federal District Court. There would be no shuffling. The problem would be solved completely, elegantly, efficiently, and without any question, constitutionally.

So the question is, why do it any other way; why do it in a manner that is subject to constitutional attack? If we are really all about giving private property owners who have claims a clear and immediate chance to avoid the shuffling between courts, why would we vote for a bill, H.R. 992, that raises constitutional questions, is almost certainly to be challenged in court, and be defeated in court as unconstitutional, when there is available the Watt/Rothman amendment that is perfectly constitutional and eliminates the shuffling problem?

That is why I urge all my colleagues, if they really care about private property rights claims to help homeowners, to help business people and others who are making private property claims in Federal court, vote for the Watt/Rothman amendment. It is constitutional and it works.

Mr. SMITH of Texas. Madam Chairman, I yield myself 30 seconds.

Madam Chairman, let me respond very briefly to my friend from New Jersey and say that the constitutional problems that he raised are just in the eyes of the beholder, just himself and a few others. They are certainly not in the eyes of judges or other courts who have ruled on this issue.

I mentioned a while ago one case, the IBM versus United States case, where the Federal circuit recently affirmed a ruling by the Court of Federal Claims declaring a Federal tax statute to be unconstitutional. Clearly, the court is saying that the Court of Claims can so rule.

I have also mentioned the Northern Pipeline Construction Company, which is a recent Supreme Court case, as well as the Commodity Futures Trading Commission case, which was also a recent Supreme Court case.

Both of those cases put up tests that could be met by the Court of Claims, and any ruling that it would make in regard to the Fifth Amendment taking claims would clearly be constitutional.

If the plain language of the Supreme Court cases is not clear to my friends, I am happy for the judges to stand corrected, but that is a constitutional court, the Court of Claims.

Madam Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Chairman, might I inquire how much time remains on each side?

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. SMITH) has 5 minutes remaining, and the gentleman from North Carolina (Mr. WATT) has 5 minutes remaining.

Mr. WATT of North Carolina. Madam Chairman, I yield myself as much time as I may consume.

Madam Chairman, let me first say to my colleagues what this dispute is not about. First of all, both sides of the aisle, the gentleman from Texas (Mr. SMITH) and I agree that shuffling private citizens back and forth between two courts is not acceptable.

I understand the historical reason that it was done. In fact, it was done because the Court of Federal Claims could have jurisdiction over the claims part of an issue, but they did not have the constitutional authority to declare statutes unconstitutional.

So the reason that we have this two-party arrangement now, where the Court of Federal Claims has part of the jurisdiction and the U.S. District Court has part of the jurisdiction, is for the very constitutional reason that I am offering this amendment. But both of us agree that that should be eliminated.

This is not about taking jurisdiction away from the U.S. Court of Federal Claims. I would love for them to have jurisdiction over this matter. If they had the constitutional authority to deal with it, it would not matter to me who had jurisdiction over the issue.

So why are we here? We are trying to find a solution which is a constitutional solution. Why is that important? Go back to the founding of our country when our Constitution was first written. The Founding Fathers wrote this: That King George has made judges dependent on his will alone for the tenure of their offices and the amount of payment of their salaries.

That was unacceptable to the Founding Fathers. That is why they set up an independent judiciary in our country, so that we would not have to address that issue.

They set up some other courts, like the Court of Federal Claims. Yes, it is a good court. No problem with the court. But they did not give the judges over there lifetime tenure and guaranteed salaries that separates them out and gives them independence on these issues. They just do not have that authority.

So we are trying to find a place that we can send private property takings and all of the issues related to those private property takings where they can get a constitutional hearing in one location. The only place to do that is the United States District Court, because it is an Article III court set up under the Constitution for that kind of purpose.

It makes you wonder why my colleagues on the other side might be favoring giving this responsibility to the Court of Federal Claims. There are two theories I have. Either they want the issue more than they want a solution; that is one possibility. The other possibility is that all 14 judges on the Court of Federal Claims are Reagan/Bush appointees. And 11 out of the 13 appeals judges are Reagan/Bush appointees. So all of a sudden, this becomes a political issue rather than a problem to be solved, which is what we should be about in this body.

The President has said, the administration has said that they are going to recommend aggressively that this bill be vetoed if it is passed in an unconstitutional form such as the one now. They have said we will sign this bill if the Watt/Rothman amendment is passed.

Environmental groups, others who have opposed this bill have said, we encourage people to vote for the bill if the Watt/Rothman amendment is passed. It will solve the problem. It will repose the responsibility in a constitutional court.

That is what we thought we were striving to do, to solve the problem. But there are some people in this body who would rather have the issue to complain about and raise it at that level than they would to solve the problem.

I ask my colleagues to support this amendment, make this bill vetoproof. Let us get it passed. Let us solve the problem and quit worrying about where the issue is.

Mr. SMITH of Texas. Madam Chairman, I yield myself 15 seconds.

Madam Chairman, I just simply want to urge my opponents to read the Supreme Court cases that I mentioned a minute ago. If they did, I am sure they would understand why this bill is absolutely constitutional.

Madam Chairman, I yield 1 minute to my friend, the gentleman from Ohio (Mr. CHABOT).

□ 1345

Mr. CHABOT. Madam Chairman, I rise to oppose this amendment.

The main purpose of this legislation is to give those who feel that their property has been taken by an action of the Federal Government the ability to file a single suit in a single Federal court of their choice, either the court

of claims or the Federal district court. This amendment would take that choice away and force them to file in a district court, requiring them to forgo the expertise of the court of claims.

Under current law, when a person believes that they have suffered a taking by the Federal Government, they face an unfair decision that makes them choose between compensation and putting a stop to the action. Although this amendment represents a step in the right direction when compared to the current law, it should be rejected in favor of the broader step taken in the underlying legislation.

Finally, Madam Chairman, I would like to thank the gentleman from Texas (Mr. SMITH) for his perseverance in pushing this legislation to help those who are already burdened by uncompensated takings to get their day in court. I am proud to have cosponsored this important legislation.

Mr. SMITH of Texas. Madam Chairman, I yield myself the balance of my time.

Once again, I want to say to my colleagues and reassure them that H.R. 992 is a fair, straightforward, common-sense way to give every property owner across America their right to choose the court that they think is best for their claim, either the claims court or the Federal district court. This amendment again would destroy that option.

If we support giving private property owners their day in court, if we believe property owners, not the Federal Government, should choose the court that hears their case, if we believe that property owners do not deserve to be treated like a ping-pong ball and shuffled back and forth between courts, if we believe in fairness and equity, then I encourage my colleagues on both sides of the aisle to vote for this fair, straightforward, common-sense bill and support the right of every property owner across America to have their day in court and in the court that is best for them.

Madam Chairman, I have made a good-faith effort over the last 2 days to address the concerns of my colleagues that we not affect in any way environmental laws. With the adoption of the amendment that I offered last night during our debate, this bill does not affect those laws or preempt them in any way. I urge my colleagues who had concerns to vote for H.R. 992 with my amendment to protect environmental laws and to vote no on the administration's amendment offered by the gentleman from North Carolina (Mr. WATT).

Among many organizations, the Chamber of Commerce, the realtors and the homebuilders support this legislation and oppose this amendment. I urge a strong bipartisan vote in opposition to this amendment and in favor of the underlying bill.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

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

RECORDED VOTE

Mr. WATT of North Carolina. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 206, noes 206, not voting 19, as follows:

[Roll No. 51]

AYES—206

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Boyd
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Ehlers
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Frelinghuysen
Frost
Gejdenson
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Leach
Levin
Lewis (GA)
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Reyes
Rivers
Rodriguez
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—206

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Boswell
Brady
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Foley
Fossella
Fowler
Franks (NJ)
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Scarborough
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—19

Berman
Brown (CA)
Bunning
Furse
Gephardt
Gonzalez
Goss
Harman
Hastert
John
Lofgren
Nadler
Poshard
Rangel
Redmond
Sanchez
Schaefer, Dan
Schiff
Tanner

☐ 1411

Messrs. TAYLOR of Mississippi, WHITE, and LIVINGSTON, and Ms. DANNER changed their vote from ''aye'' to ''no.''

Messrs. ORTIZ, FROST and JEFFERSON changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mrs. EMERSON). The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. NETHERCUTT. Mr. Chairman, I rise today in support of H.R. 992, the Tucker Act

Shuffle Relief Act, introduced by my colleague from Texas, Mr. SMITH.

The Tucker Act Shuffle Relief Act would bring clarity to the legal process for landowners who make property rights claims under the Fifth Amendment to the Constitution. As we all know, the Fifth Amendment requires that no person be deprived of property without the due process of law, nor shall private property be taken for pubic use without just compensation.

As I have listened to the debate, I do not believe there is disagreement over the need for just or fair compensation. However, there is disagreement over the best way to ensure the rights of private property owners are protected.

Mr. Speaker, I believe the Tucker Act is needed because of the procedural nightmares many private property owners face when seeking judicial relief from any outright taking of land or its restriction of use by a federal agency or regulation. Under current law, a claim must be made in two separate federal courts, U.S. Court of Federal Claims (CFC) and a federal district court. The CFC will hear the money claims against the U.S. government while district courts will address the legality of the federal action. This jurisdictional split has been called by many the ''Tucker Act Shuffle.''

Mr. Speaker, H.R. 992 is not anti-environment, nor will it amend any environmental law, as many of my colleagues have said. H.R. 992 would simply allow private property owners to seek redress in only one court, either the CFC or a federal district court. I believe that streamlining the legal process will greatly reduce the length of time and cost of litigation, which is both good for the private property owner and the federal government.

I thank my colleague from Texas for introducing his bill at this time, and ask my colleagues to support H.R. 992.

Mr. BLUMENAUER. Mr. Chairman, late last year we passed legislation that was an important landmark in the debate over the resolution of private property rights disputes.

In far too many parts of the country we have a patchwork system for resolving land use disputes that relies almost entirely upon legal maneuvering and political pressure. In many cases, this is because these areas lack comprehensive land use plans developed by local government with the help of their citizens and business interests.

This is an exceedingly inefficient and often unfair way to resolve the important public policy decisions attendant to development. There needs to be a way to provide incentives to State and local governments to carefully codify their planning objectives in terms of zoning and development requirements, along with cost and fee structures that require development to pay its own way. A combination of sound land use planning and appropriate user fee structures makes good development possible.

The legislation before us today is, in part, a logical addition to the steps we took in passing H.R. 1535. Members on both sides of the aisle see the wisdom of allowing both the claim suit and the compensation suit to be heard in one court opposed to two.

But unfortunately, in attempting to fix this problem, H.R. 992 creates a new one which is, for me, decisive. H.R. 922 would severely weaken a critical component of our environmental and labor laws, the so-called preclusive review. Under the bill, suits regarding the proper use of land or water as those uses related to the Clean Water Act and other critical environmental statutes could be heard in any of the district courts, as well as the Court of Federal Claims. Such a proposal opens the door to the possibility of courts establishing different water or air standards for different parts of the country. Without a uniform standard, as currently protected by preclusive review, we undermine the entire purpose of our environmental status. I don't believe a provision of this sort belongs in a bill specifically oriented toward eliminating the burden of separate court filings for takings claims. By supporting the Watt amendment, we can eliminate the Tucker Act Shuffle without undermining our environmental statutes.

Ms. PELOSI. Mr. Chairman, I rise in support of the amendment to H.R. 992 offered by Representatives WATT and ROTHMAN.

H.R. 992 would weaken existing environmental laws and increase the number of court cases initiated to challenge longstanding environmental protections. It would leave to the courts the interpretation of environmental laws by expanding court jurisdiction and authority to challenge government regulations.

As the bill stands, it would allow developers to shop the courts until they located the most favorable venue for the most favorable treatment of their arguments and to be heard in either the U.S. District Court or the U.S. Court of Federal Claims. One court might rule in one way affecting the same law that another court might act on with an entirely different interpretation. Contradictory rulings would lead to widespread confusion of the intent of laws developed and approved by Congress. The Watt-Rothman amendment offers a more reasonable approach to the court shopping spree provided under the bill.

Under Article I of the Constitution, the Court of Federal Claims does not have the authority to revoke federal statutes or to provide relief other than monetary. The Watt-Rothman amendment addresses the question of constitutionality and effectively eliminates the current ''shuffle'' between courts by consolidating claims within a single court, the U.S. District Court. The Watt-Rothman amendment also preserves expedited review which is important to determine the validity of federal regulations in an expeditious manner.

I urge my colleagues to vote in favor of the Watt-Rothman amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of H.R. 992, the Tucker Act Shuffle Relief Act. This bill would simplify the court procedures when a case is brought by a private property owner to protect their legal and civil rights as guaranteed in the 5th amendment of the United States Constitution. This is a bill that is sorely needed.

As chairman of the Committee on Resources, we have documented in our hearings the many cases where governments assert the right to set aside private lands for the protection of wildlife.

When a landowner wants to sell land and the government pays for the land, that is legal and an acceptable manner for the government to protect wildlife.

However, as is happening more frequently, the government sometimes finds it inconvenient to find the funds to buy the land, so they designate it as habitat for an endangered species.

When that happens, landowners find that they cannot use their land. In the last two years, under extreme pressure from the Republican Congress, the government is beginning a process to allow landowners to use land designated as habitat, but only at a very high cost to landowners.

When landowners cannot afford to go to court to protect their legal and civil rights, the government can use pressure to take the land from the landowner.

We need to give landowners a more level playing field. We need to insure that going to court is not so expensive that only the biggest and richest landowners can afford to protect their rights.

A case in point is the Headwaters Forest in California. For years the government tried to use various forestry laws and the ESA to force the landowner off a portion of its land.

The landowner filed a takings suit in the court of claims and now the government has come to the bargaining table and offering to pay for the property.

This would not have happened if this landowner had not been a large, wealthy corporation with the resources to fight a long and an expensive court battle.

Now some environmentalists are arguing that this bill would increase the number of Federal lawsuits.

Some environmentalists are now in the business of filing lawsuits. In the last ten years, environmentalists have received over ten million dollars in payments from the Federal Treasury for filing Endangered Species Act lawsuits.

I believe many of these lawsuits are frivolous and an abuse of the courts, and their numbers are increasing dramatically.

For environmentalists to argue against allowing average citizens to sue at the same time they are making a living off their lawsuits in hypocrisy of the highest order.

I have a list of environmentalists who have received payments for lawsuits and would ask that it be entered into the RECORD with my testimony.

Let's insure that the smallest and poorest landowner can have the same rights as the biggest corporation or well financed environmental groups.

Lets pass H.R. 992 and protect our constitutional rights.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TIAHRT) having assumed the chair, Mrs. EMERSON, Chairman pro tempore 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. 992) to end the Tucker Act shuffle, pursuant to House Resolution 382, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

□ 1415

The SPEAKER pro tempore (Mr. TIAHRT). 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 the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 180, not voting 20, as follows:

[Roll No. 52]

AYES—230

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehner
Bonilla
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fazio
Foley
Ford
Fossella
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Graham
Granger
Green
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
Kind (WI)
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Minge
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pryce (OH)
Radanovich
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—180

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Bilbray
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Cardin
Carson
Castle
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Filner
Forbes
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Gejdenson
Gephardt
Gilchrest
Gilman
Greenwood
Gutierrez
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Portman
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Rivers
Rodriguez
Rothman
Roukema
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Tierney
Towns
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—20

Berman
Brown (CA)
Cunningham
Furse
Gonzalez
Goss
Harman
John
Lofgren
Markey
Nadler
Parker
Poshard
Redmond
Roybal-Allard
Sanchez
Schiff
Tanner
Torres
Weller

□ 1436

So the bill was passed.

The result of vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to end the Tucker Act shuffle, and for other purposes.''.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, I was not present for the following rollcall votes: 50, 51, & 52. Had I been present, I would have voted "yes" on: 50 & 52 and "no" on: 51.

GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1415

Mr. SALMON. Madam Speaker, I request unanimous consent that my name be removed as a cosponsor of H.R. 1415.

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

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Madam Speaker, I yield to the gentleman from Texas (Mr. ARMEY) for an explanation of the schedule for next week.

Mr. ARMEY. Madam Speaker, I am happy to announce that we have concluded the legislative business of the week. The House will next meet on Tuesday, March 17, at 12:30 p.m. for morning hour and at 2:00 p.m. for legislative business.

We will consider a number of bills under suspension of the rules, a list of which will be distributed to Members' offices. Any recorded votes on these suspensions will be postponed until 5:00 p.m. on Tuesday, March 17.

On Tuesday, March 17, the House will also swear in Mrs. Capps as the new Member from California. On Wednesday, March 18, and Thursday, March 19, the House will meet at 10:00 a.m. to consider the following legislation: H. Con. Res. 227, a resolution directing the President to remove U.S. armed forces from Bosnia-Herzegovina; H.R. 1757, the State Department conference report; H.R. 2870, the tropical forest conservation act; and H.R. 1704, a bill to establish a congressional office of regulatory analysis.

Mr. Speaker, we hope to conclude legislative business for the week by 6:00 p.m. on Thursday, March 19. There will be no legislative business and no votes on Friday, March 20.

I want to thank the gentleman for yielding to me.

Mr. FAZIO of California. Madam Speaker, if I could ask the gentleman to tell us whether the Capps swearing in would be at 5:00 or thereafter?

Mr. ARMEY. Madam Speaker, I thank the gentleman for asking. Obviously, this is a very important day in