cannot sit idly by while I hear the whining and griping from the bitter defenders of the status quo who defend a welfare system that's bloated, scandal-ridden, and a huge waste of our hard-earned tax dollars.

Forty years of Democrat control of the House brought us this failed welfare system and now they are defending it with all of their might. The truth is they have turned their backs on those who are less fortunate and then they blame Republicans for trying to undo the damage that they took 30 years to create.

After spending billions of dollars on programs that have failed to work and after years of waging a phony war on poverty it is time for the defenders of the status quo to admit defeat and join us in creating a system that understands that true compassion is not measured in the number of our tax dollars spent on welfare, but in the number of Americans who are liberated from the grips of poverty.

CUTTING LIHEAP PROVES THE REPUBLICAN MAJORITY CONTINUES TO STREAMROLL SENIORS AND STRUGGLING FAMILIES

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, for 58 days now the Republican majority has had kids and seniors in their sights. Yesterday they hit both with one shot. LIHEAP, the Low-income Home Energy Assistance Program, is gone. LIHEAP helps almost 6 million families pay their heating bills in the winter.

The Republican majority is willing to trade the health of children and seniors for tax giveaways for the wealthiest 2 percent of Americans. The Republican majority will take away heat assistance from seniors on fixed incomes and families and living on minimum wage or less to give another tax break to people making over $200,000 a year. Without LIHEAP, 144,000 families in my State of Massachusetts will have to slip meals to keep heat in their homes.

Mr. Speaker, we do not have a balanced budget amendment because Republicans would not protect seniors on Social Security. That is a shame. What is worse is the Republican majority continues to streamroll seniors and struggling families. Cutting LIHEAP proves it.

URGING MEMBERS TO SUPPORT THE PRIVATE PROPERTY PROTECTION ACT

(Mr. SHADEGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHADEGG. Mr. Speaker, today on this floor we will vote on the Private Property Protection Act. This is critically important legislation, and I urge each and every one of my colleagues to support it. The principle in America that private property cannot be taken from our citizens without paying them just compensation for that private property is at the heart of our form of government. It is, indeed, one of those values that we as American hold sacred.

Yet, yesterday Interior Secretary Bruce Babbitt called this legislation an attack on America's great natural resources. Absolutely nothing could be further from the truth. It is a sad day in America when officials of our national government openly advocate taking property from our citizens without compensating that those who own that property.

We are all agreed that we must protect our natural resources, but we must not do that by stealing property from them or by nationalizing their resources. I urge my colleagues to support the Private Property Protection Act.

URGING MEMBERS TO JOIN IN CALLING FOR SPECIAL COUNSEL TO INVESTIGATE ALLEGATIONS AGAINST SPEAKER GINGRICH

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, last year Members of the present majority complained about the investigation by Special Counsel Robert Fiske. They claimed that Fiske was a friend of the White House and that his investigation of Whitewater was not going far enough.

I ask the Members of the House to consider these facts. The current chairman of the House Ethics Committee cast the deciding vote for the Speaker in the 1989 whip's race. The chairman of the Ethics Committee seconded the nomination for Speaker this year. The chairman of our Ethics Committee last year tried to help our current Speaker by closing the pending Ethics Committee complaint against him.

Two other majority members of the House Ethics Committee have had personal dealings with the personal PAC of the Speaker, GOPAC, one of them as a contributor, and another as a recipient for his reelection.

Given these facts, I am sure those who call for a replacement of Special Counsel Fiske will now join me in calling for a special counsel to investigate the allegations against Speaker GINGRICH, and it should not take 100 days.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. DOOLITTLE). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, was not the entire speech of the gentleman from Missouri [Mr. VOLKMER], just a moment ago, out of order, because it was a direct reference to Members of this body?

The gentleman keeps reminding us of our obligations under the rules. The gentleman has a responsibility to the rules. My parliamentary inquiry is, was not his entire speech out of order?

The SPEAKER pro tempore. Members should not refer to pending Standards Committee investigations.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Beyond the pending ethics investigation, he also may have had personal references to the chairman of the Ethics Committee. Is that also not out of order?

The SPEAKER pro tempore. Members should not so refer to the Standards Committee or any Members thereof.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker: My understanding is that what the gentleman has just done in the House was a speech which was entirely out of order before the body: is that correct?

The SPEAKER. The Chair is responding in a general way to the proper debate in the House with respect to ethics investigations.

Mr. WALKER. I thank the Chair.

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Is the Chair ruling that it is improper for any Member to request a special counsel in an investigation being conducted by the Ethics Committee, which action has not been taken by the Ethics Committee?

The SPEAKER pro tempore. Members should not refer to pending Standards Committee investigations, or suggest courses of action within that committee.

Mr. VOLKMER. I thank the Chair.

PRIVATE PROPERTY PROTECTION ACT OF 1995

The SPEAKER pro tempore (Mr. DOOLITTLE). Pursuant to House Resolution 101 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. 925.

□ 1043

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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, with Mr. SHUSTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday,

March 2, 1995, pending was the amendment offered by the gentleman from California [Mr. MINETA]. Two hours remain for consideration of amendments under the 5-minute rule.

Is there further debate on the amendment?

□ 1045

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. MINETA. Mr. Chairman, the Mineta-Davis amendment is the bipartisan alternative to the Goss amendment which we considered and nearly approved last night.

When the Goss amendment was defeated by one vote, many members approached me—very concerned that a 10-percent threshold was just not workable. That is why Mr. DAVIS and I developed the bipartisan alternative.

A 10-percent threshold is too inexact. It leaves the basic issue of whether you have rights under this bill with the fluctuations in appraisals which normally accompany any real estate evaluation. As my colleague has stated so well, such a margin of error is not reasonable.

The 10-percent threshold is so ill-advised that not only could the taxpayer be ripped off through variances in the appraisal process, claims which would be allowed under this bill—claims of the very developers and individuals which the proponents of this bill are claiming to protect—could be denied because the margin for error is just too slim.

Last night, 210 Members of this House agreed that a 10-percent threshold was too low, too inexact, and that 30 percent was preferable. When that was defeated, in the spirit of compromise, Mr. DAVIS and I developed the bipartisan alternative at 20 percent.

This amendment is the Goss amendment reduced from 30 percent to 20 percent. If you believed last night that 20 percent was better than 10 percent, if you are on record as voting to support 30 percent, there can be no explanation for not now supporting a 20-percent compromise.

Let me repeat, if you were one of the 210 who shared my concern and supported the Goss amendment at 30 percent, there can now be no good reason to not support the Mineta-Davis bipartisan alternative at 20 percent.

I urge an ''aye'' vote.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, 10 percent can be a lot of money. Last night my friend, the gentleman from Texas [Mr. FIELDS], raised a question about an effort in San Antonio to control the water supply for several counties by declaring a snail that no one has ever seen endangered and put it on the list and threatening the entire economy of south Texas. Others have attempted to shut down five or six military bases in south Texas by using some bug or spider to declare the endangered species list. Think of what 10 percent of buying a metropolitan area with a million people in it would mean to the U.S. Government. There are many other examples around the country.

At this time I would like to yield to my friend, the gentleman from California [Mr. POMBO], to relate how 10 percent might affect the development of construction of a hospital, perhaps, because my understanding is that there are even flies on the endangered species list in California that are a big problem.

Mr. POMBO. I thank the gentleman for yielding. We in the past couple of years have had instances in California where in one specific example, eight flies stopped the construction of a $600 million hospital in southern California. Without any regard to what the use of that property was for, what the effect was on the citizens of that community, and with absolutely no regard at all for the well-being of the community, Fish and Wildlife came in and stopped the construction of a $600 million hospital.

They ended up having to mitigate their way out of it and give up, I believe it was 40 percent of their site to be permanent fly habitat on the grounds.

There are many instances where a little responsibility interjected into the actions of the agency would make a large difference.

Mr. BONILLA. The gentleman would agree that 10 percent of the cost of the hospital because of a fly or in the case of Texas, because of a snail or beetle could add up to millions of dollars and perhaps billions?

Mr. POMBO. Yes. We are talking about literally billions of dollars that are involved here. Recently in California we had the fairy shrimp listed. The fairy shrimp, I believe, will have a larger impact on California than anything that has been on the endangered species list or any proposal to the endangered species list that we have had yet. We literally have all the way from Bakersfield to Redding and now we are getting reports out of the Riverside and San Diego areas of fairy shrimp in those areas as well where any mud puddle that holds water for 14 days in the springtime is habitat for the fairy shrimp.

This definitely affects all farming and ranching activities. We have farmers who have fairy shrimp in their cow troughs, in their watering troughs, in their watering holes. We are looking at on the listing of the fairy shrimp alone billions of dollars that are affected in the State of California.

The fairy shrimp is a third of an inch long, an eighth of an inch across, an invertebrate that has been around for hundreds and hundreds of years, and there is absolutely no cost to the agency to go out and list this and declare all mud puddles habitat for the fairy shrimp.

What we are trying to do is instill a little common sense into the way the agency responds.

Mr. BONILLA. I appreciate the gentleman's remarks. Again to emphasize that we are trying to stop these shrimp, flies, snails, and spiders from costing people more money.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

I will not take the full 5 minutes, but I just want to point out that this amendment is basically the same as the 30 percent, except instead of 30 percent, it is now 20 percent, but it is 20 percent of the total diminished value.

I would like to point out to the Members that what this amendment does in deference to what others do when they do a taking, as I have tried to point out to the gentleman from California where I consider the inconsistency between what he thinks is fair and what I think is fair.

If I have a 600-acre farm, Mr. Chairman, and the highway department, Missouri State highway department or commission comes along and takes 20 acres along the bottom of that for highway purposes and takes another 10 acres for right of way to abut the highway for an easement so there would not have to be any traffic in that area but they move it away from the farm, I get paid for every bit of that. No matter how much it diminishes in value that land, I get paid for the whole thing.

Under this amendment that we have pending before us, if I have that same 600-acre farm and if EPA or the Corps of Engineers or Fish and Wildlife find that there is a drainage ditch that runs through that farm with the same 20-acre amount and they say that that is swampland or that is wetlands, I cannot use it for farming anymore. It is no longer any use to me. I cannot do it. But under the present law, I get paid nothing for it. If I put my plow across it, I get fined. If I do anything to it, I get fined.

Under the bill, if that acreage, that 20 acres is diminished in value by 10 percent, then I am entitled to compensation.

Under the gentleman's amendment, my whole 600-acre farm has to be diminished in value by 20 percent. The likelihood of that happening is zero. What the gentleman's amendment is doing to most of my farmers out there who have small pockets in their fields that are now considered wetlands because they have an indentation and water has settled in there for a little while, no ducks have ever been on it, no geese have ever been on it, nothing has ever been on it, but they cannot touch it, they cannot use it, they are deprived of the use of it.

Under the present law, they get nothing. Under the gentleman's amendment, they will get nothing. At least

under the bill, there is an opportunity or a chance that they will be at least compensated for that taking of their property.

Someone will say it is not a total taking, it is still theirs. What difference does it make, Mr. Chairman, if it is still yours and you cannot use it? If that is not a taking, I would like to know what a taking is when you are deprived of the use of it, for what if has always been used for. I speak in opposition to the amendment.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if we go right to the wording of the U.S. Constitution and the fifth amendment, it says, ''Nor shall private property be taken for public use without just compensation.'' That amendment was put in there in order to protect people from having the government steal their property for the general benefit of all.

Sad to say, up until today, from the time the Constitution was drafted, this has been a right without an effective remedy, because in order to get the remedy, you had to be wealthy enough to go through years and years of litigation, 5 to 10 years on the average, and be able to expend $50,000 to $500,000 or more in attorney's fees. We all know that problems, with attorneys and their fees that we have in this society today, and I know sometimes we need to get attorneys. Like to pursue a takings claim. You need darned good attorneys. You need lots of money to pay them.

When I hear Members act like this is some great remedy that we have right now, I am here to say, it is not. That is why we need this piece of legislation.

This effect of this amendment is to allow the government to take 19.9 percent of the entire value of your property without any compensation. I know they are going to say in response, ''Oh, yes. But we still allow you your fifth amendment right.''

Some right.

This bill is designed to give efficacy to that right, to make it applicable to the average American. It is so important that we understand that. We are not talking about standing up for big corporations, for large landowners. They have the resources to hire the attorneys to fight this. We are talking about the little guy, everyone in this country who owns a piece of property, has worked hard to get that, and would like not to see it wiped out.

Why are Members so worried about protecting the Federal Government, Mr. Chairman? I am just amazed when I hear these expressions of concern. You would think the Federal Government was the weakest thing around. It has got enormous resources. These agencies behave with impunity in many cases and there are dozens, indeed hundreds of abusive examples of Federal agencies. That is why we have gotten to this point where there is now a ground swell of support to rise up and make a change.

Mr. Chairman, I would just observe in closing, George Washington, understood what government was and he knew it was not our friend. He said, ''Government is not reasoned, it is not eloquence, it is force, and like fire it is a dangerous servant and a fearful master.''

This bill represents an attempt to give meaning to the fifth amendment and protect our citizens.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment before us is as flawed as the amendment that was previously offered that would have changed the 10 percent of any affected portion criteria to 30 percent of the whole of the property.

It is flawed primarily because it refers to the whole of the property. The whole of the property is a variable sum. I can change the whole of my property tomorrow by simply selling off a portion. I can divide it. I can do a number of things to game this system when the percentage is applied to the whole of my property.

We heard an eloquent statement from the gentleman from Missouri [Mr. VOLKMER] about how farmers would be treated under this kind of an arrangement when the percent diminution was applied to the whole of their property. What farmers would have to do in order to qualify for compensation, under this plan, under this amendment, they would be forced to sell off parts of their farm to divide it up in ways to qualify under this amendment. No one should be forced to game a system in order to receive fair compensation, but that is what this amendment was done as it is constructed.

I am informed by managers of this bill and this is a very important announcement that I hope Members are paying close attention to in their offices, that if we defeat this amendment providing for 20 percent of the entirety of one's property as a criteria, we will immediately offer an amendment that will provide the criteria 20 percent of the affected portion. This will get for those Members who think 10 percent is too small a criteria a change in the bill, that modifies it to 20 percent. But it will also make the bill workable. It will apply that 20 percent to the regulated portion of a person's property, not to the entirety of his property causing him and others to try to game the system.

In effect, let me say it again. If we are successful in defeating this amendment, which is inartfully drawn, as inartfully drawn as the 30 percent amendment was previously drawn, and apply instead the following amendment, we will reach the 20 percent criteria that some of the authors of this amendment want to achieve but we will do it correctly. We will apply it to the affected portion of the property regulated under the act.

I want to make a quick point.

□ 1100

In an editorial written by Sue Waldren, we find these words, and by the way this was January 2, 1994:

> The third amendment to the Bill of Rights states that no soldiers can be quartered in any home without the consent of the owner. Somehow, though, it apparently never occurred to the Founding Fathers that we might someday need an amendment against the arbitrary quartering of endangered species on private land. Good thing the Founders did not see this day when property owners all over America were to be told to idle their land and effectively turn it into a wildlife refuge without compensation from the government,

But that is what the endangered species law does now to farmers all over America.

In California most of my colleagues remember, let me remind them of the story that appeared April 19, 1994, where a southern farmer was arrested and charged with the possibility of a year in prison and $200,000 fine for doing what, for plowing his field because five dead rats were found on his field after he finished plowing it. About the same time, another farmer in Fresno, CA was brought to court for doing nothing more than plowing his field and in order to avoid going to jail, reached agreement with the Fish and Wildlife Service to pay a $5,000 fine, to give them 60 acres of his 160-acre farm, to give it to them, ordered by the court, and to sell the remaining 100 acres. Why? Because he had plowed his field and there on his property was apparently some sort of a bluenosed lizard that the Fish and Wildlife Service deemed threatened or endangered.

That kind of story needs to end. This amendment needs to be defeated. Then we can adopt an amendment for 20 percent of the affected portion and we will so offer that amendment.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I come from a Western State where water is our lifeblood, where without water there is no production of agriculture at all, and without the systems of canals that were built beginning at the turn of the century, we would not be able to apply water to our land, and thus Idaho, whose largest industry is agriculture, would not be able to survive.

The prior appropriation doctrine, the legal water law in the 12 Western States, requires a proving up of beneficial use, which means that even if you had 100 acres to irrigate and you applied for a certain volume of water to irrigate that 100 acres, if you even paid for that water and there was more water that was left over, you would lose the volume of water that you paid for. In other words, if we do not use it we lose it. That is proving up of the beneficial use, which all of the 12 Western States must do.

If we were cut down to 20 percent of the whole, that would mean that 20

percent of our entire agricultural production in Idaho would be cut down, and I am so pleased to hear my colleague from Louisiana announce that there will be an amendment coming up which would require 20 percent of the value of the taking. That is much more acceptable but still not good enough for me.

I will support that amendment, however, but I do rise in opposition to this amendment.

Starting in the Warren court with Lynch versus Household Finance, the Supreme Court has historically backed up the fifth amendment. In Lynch versus Household Finance, the Warren court said that people have rights to use their property in its whole. It is not the property that has rights.

We have had a series of Supreme Court cases that have backed up the fact that we must reimburse people for their loss, the last one being the Dolan case out of Oregon in June 1994, which said there has to be a reciprocity in the exchange, which means equal value for equal loss.

Ladies and gentlemen, if this amendment succeeds, it is bound to be challenged in the U.S. Supreme Court because it is simply not just compensation.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Idaho [Mr. CRAPO] is recognized for 5 minutes.

There was no objection.

Mr. CRAPO. Mr. Chairman, I ask the gentleman from Louisiana if he would be willing to engage in a colloquy.

Mr. TAUZIN. If the gentleman will yield, I will be more than happy.

Mr. CRAPO. I thank the gentleman from Louisiana. Yesterday we were pressed for time and we had a short colloquy on a matter I think we need to clarify further. I am referring specifically to section 5 of the legislation that we are discussing, which is entitled exceptions, and it basically states there that compensation will not be made under this act with respect to an agency action, the primary purpose of which is to prevent and identify damage to specific property other than the property whose use is limited.

The concern I want to clarify as much as we can here on the record is that this language is not intended to create an exception for compensation when wetlands are being considered by final agency action. My concern is that wetlands could be argued to be referring to specific property other than the property whose use is being limited and I would just, following up on our private conversations, like to make it a matter of record as to what this language is and is not intended to reach.

Mr. TAUZIN. If the gentleman will yield, I suggest it would truly be an oxymoron for anyone to argue that the bill provides compensation for private property takings when the reason for that private property taking is wetland protection under 404 and under sodbusters, and then to argue that you do not get compensated because the wetlands regulation on your property is designed to protect somebody else's wetlands regulation, it would certainly be an oxymoron.

The purpose of that exception is not indeed to allow such an oxymoron to occur, The purpose of that exemption is to provide a specific exemption for those regulations which are not designed for wetland protection but designed for other purposes, specifically purposes to prevent one from creating a harm or a nuisance on your neighbor. That is further amplified when as you know under the Tauzin amendment, we specifically said that nuisance laws and zoning laws which similarly regulate the property for valid reasons other than wetland protection create an exemption from the act.

Mr. CRAPO. I appreciate that; and so to emphasize again this is talking about when a person is seeking to use their own private property in a way that could cause damage to someone else's property, and somehow final agency action becomes involved. And in those specific limited circumstances, the act is not intended to apply.

Mr. TAUZIN. Mr. Chairman, if the gentleman will further yield, if I can make it crystal clear, it is not the intention in that exception to say that you cannot be compensated for wetland protection regulations on your own property. It is not the intent of that exception to say that you will not be able to be compensated because the regulation is designed to protect wetlands on somebody else's property. The idea is to prevent harm or damage to the property itself of the neighbor, not to carry out further wetlands protection. Therefore, that exemption would not exonerate the government from liability for the wetlands protection regulations as 404 or swamp-busters that diminish the value of someone's property.

Mr. CRAPO. I thank the gentleman.

I would also like to address the committee with the remainder of my time with regard to the amendment that is before us. There has been a lot said about whether 10 or 20 percent is the right level of demarcation in evaluating when compensation should occur. But it is important, and again as the gentleman from Louisiana stated earlier he hopes those listening to this in their offices or elsewhere will pay close attention, because there is a very big difference in this bill in addition to the 10 to 20 percent change that must be understood. This bill also changes the property to which the standard applies from the affected property to all of the property owned by the property owner, and that change is why it dramatically changes the standard, increases the potential for harm to private property owners and increases the potential for private property owners who want to go around the act, to game the act by subdividing their parcels, and so forth.

We are going to be following this amendment with another one which does the specific change which seems to be the one which is relied upon so much by the supporters of this amendment, and that is simply changing the figure from 10 to 20 percent in the act, but not changing the entire focus of the act on the affected property, rather than on more broadly other property that is contiguous.

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

Mr. CRAPO. I am glad to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I think we need to again make it crystal clear to the Members who are in their offices listening to this debate, when we defeat this amendment, which changes two provisions of the bill, it changes it from 10 to 20, but also from the affected portion to all of the property, we will offer an amendment that simply changes it from 10 to 20.

Mr. CRAPO. That is correct. With that clarification, I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, I was at a meeting and I did not get the welcome news bulletin we just got that apparently the Republican whip operation was not able to get 20 percent. I do not know if Members fully understood what we just heard but apparently the effort to persuade people who voted to go from 10 to 30, they would then vote to go from 10 to 20 was not successful, so apparently we have some concession.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I should remind the gentleman that offer was made to the gentleman yesterday when this amendment was made. We immediately offered to do that. It was turned down.

Mr. FRANK of Massachusetts. I understand that. But that also does not contradict what I just said, which is if the whip organization had been able to turn it all around it would not have happened.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California, the author of the amendment.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, it seems to me this is a significant list. These are people who voted yesterday on the Goss amendment and it seems to me Members ought to take a look at this list and see how they voted, if they voted ''aye'' on the Goss amendment for 30 percent, and again

there are 210 Members who voted ''yes'' on the Goss amendment, then it seems to me that these are the same people who ought to be voting ''yes'' on the Mineta-Davis amendment.

So, I am anxious to get this to a vote. And Members who would not yield to the arm twisting that is going on right now, they ought to vote their conscience, they ought to vote their constituency and vote ''yes'' on the Mineta-Davis amendment.

Mr. FRANK of Massachusetts. I thank the gentleman. Fortunate are those who can vote their conscience and their constituency at the same time. That is a great position to be in.

Let me say with regard to this whole 10 and 20 percent, one thing is very important to note. All of the horror stories we have heard, and many of them appear to be clear cases of abuse and misapplication of the statute, would be covered by the 20 percent, and the effort to restrict the number, the effort to defeat 30 percent and the effort to water down the 20 percent makes it very clear. This legislation is not aimed at alleviating those who have been the victims of horror stories, it is aimed at restricting the very operation of these laws as Congress intended them to operate, because if you were worried about the people who were cited in the very poignant examples we have heard, all of them would have been covered by the amendment that the gentleman from California has offered, because they were 100 percent disabilities of their property. Those were people who were told they could not live in their homes; those were people told they could not do anything at all. So the fight over the marginal number makes it very clear that this bill is aimed not at the occasional excess, but at the very heart of it today to correct the operations of these activities, and therefore, it is a very important amendment.

We get, by the way, as to 10 and 20, into the question of what is a de minimis level. Ten percent would mean that virtually every action taken by these entities would be litigated and administered.

I preferred 30 percent, but I think since that lost, the gentleman from California's amendment is a significant improvement. So take the two together, the insistence on a 10-percent threshold or 20 percent with the land so narrowly defined that it becomes far less than 10 percent to the whole property and what you see is this is not an effort, as I said, to prevent abuse of the statute. That is being done elsewhere when we rewrite the statute and deal with regulatory reform. This is an effort to severely hinder the operation of these statutes as written to say that there will be much less wetland regulation, that there will be much less environmental endangered species regulations because virtually every action that would be taken by these agencies would trigger such a thing.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Idaho.

Mr. CRAPO. I thank the gentleman for yielding. I just want to make it clear there has been some discussion here as to whether people are being pressured into voting for a different amendment. When we talked to the Members about what their concern was, it was exactly what has been debated on this floor; that is, the 10 to 20 percent. What the gentleman just debated, many of them did not get an opportunity to vote for a pure 10- to 20-percent change and wanted that rather than the amendment which was put forth which changed it dramatically.

Mr. FRANK of Massachusetts. I thank the gentleman's interest in giving people that opportunity. I am touched by it. He is a soul of generosity. But I do know that last night when we were ready to go to vote at 9:35 on this and leave time for other amendments so we would chew up the whole 12 hours, the Republican leadership said no because they did not have the votes lined up yet.

□ 1115

So I have not said there was pressure. It does seem to me, though, there was some very intense persuasion going on.

Mr. COOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I listened to this debate all day yesterday and this morning as well, I think we are missing the point here. Let us go back to why we are really here. We are here to discuss the fifth amendment of the Constitution. Let us go back to the last phrase, ''Nor shall private property be taken for the public use without just compensation.''

We are starting now to dilute the Constitution by 10 percent, 20 percent, 30 percent. I do not think we should be doing it at all. But if we are going to do something, let us make it the lowest common denominator we possibly can. We should not be taking private property without just compensation at any level.

For some reason this body has violated the Constitution indirectly by passing environmental laws which have prohibited people from using their property, which have been a taking without any compensation. We in the West have suffered greatly from this action. We need to have relief from this action. This bill will do that.

I say to my colleagues on both sides of the aisle who voted for the change of 10, 20, 30 percent or whatever they want to talk about, if they really believe the Government should take their property without just compensation, next Monday when they go home let them donate 10, 20, 30 percent of their property to the Federal Government and let us help balance this budget.

I mean let us get right down to what the people really believe in. We do not want Government taking away our constitutional rights, and they have done this indirectly through legislation over the last 20 and 30 and 40 years and, some said, since the beginning of the Constitution.

We need to go back to that. We need to restore private property rights. This country was founded on private property rights. We were taught in high school and in grade school that the pilgrims came here for religious freedom. But they came here for another reason. They came in here to own property. What our Founding Fathers did when they put the Constitution together, the fifth thing on their mind was private property rights because they did not have that in the countries from which they came.

Since that time we have diluted this constitutional right. This is the first time in 207 years we went back to address that, to give back private property to the citizens and take away this horrible situation that government, both local and State, have infringed upon constitutional rights of the public.

So I urge my colleagues on both sides of the aisle, if they really believe that the Government should have the right to take their property, let them donate their property to the Government and help us balance this budget.

But I think we need to turn back to the Constitution and, therefore, return full property rights to the citizenry.

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

Mr. COOLEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I want to thank the gentleman from Oregon [Mr. COOLEY] for an excellent statement. That is exactly what we are talking about. Nobody in this room, I hope, believes that the Government has the right to come and take 10, 20, percent, any amount of your property. If you really believe that—the gentleman makes the point—how many people are willing to donate 20 percent of their homes to the Federal Government? But when the Government comes and takes it, clearly that requires the Government to pay compensation. That is what this fight is all about.

I want to make another point. The debate we are on right now, whether to accept the amendment offered by the gentleman from California [Mr. MINETA], will not only change it from 10 to 20 but will now involve all of the property of the owner, not just the affected regulated portion,

The court, in Florida Rock, said that is wrong. It said the fifth amendment prohibits uncompensated taking of private property without reference to the owner's remaining property. We defeated this amendment, and then we offered an amendment to change it from 10 to 20.

Mr. COOLEY. I concur with the gentleman.

Mr. HAYWORTH. Mr. Chairman, I move to strike the requisite number of words

Mr. Chairman, I rise in strong support of the remarks of the gentleman from Oregon [Mr. COOLEY] and in strong opposition to the amendment as offered.

I think we have seen here today, those who happen to be viewing across the Nation, we have seen good, strong bipartisan support for a reasonable action to be taken.

I could not help but note with interest today's headlines. In fact, I just came from the other side of this building where a Member of the new minority party has decided to join the new majority party on the very issue that has been characterized, at least in my portion of the country, as a war on the West. And as my friend from Louisiana points out, although we may call it the war on the West, the gentlewoman from Idaho would certainly concur, in essence, what we have here is a fundamental conflict on the notion of private property and what the government can demand from us.

As the gentleman from Oregon said so clearly, without just compensation, remembering that clause, that provision of the fifth amendment, we are tearing asunder the original intent of the Founding Fathers. It is indeed unfortunate we have to bring this to the floor in the first place. What should be a fundamental tenet of American rights an liberties somehow are being stripped away. But as emblematic, as systematic of the new approach by the new majority, we are engaged in a new partnership with America and we move to address those rights.

So I oppose the amendment as offered by my friend from California on the grounds mentioned so eloquently by the gentleman from Louisiana and the gentleman from Oregon.

I would urge a ''no'' vote on this and let us restore the nature of property rights.

My. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, we need to make one more point before we end this debate. The gentleman from Massachusetts [Mr. FRANK] said or intimated that the real intent is to gut the Endangered Species Act, the Wetlands Act. Let me read from the article by Sue Waldron in the Wall Street Journal:

> The dispute over endangered species isn't over whether or not society should protect them. It's between a policy that refuses to set priorities and insists on preservation no matter what the costs to the human species or, alternatively, a more balanced approach.
>
> We are hard put to see how the species act can itself survive politically operating as an environmentalist land grab of other peoples property. The seriousness of the claims for these various species might be better tested if the government had to compensate landowners for their losses.

That is all we are asking: balance, respect. We want a good Endangered Species Act, a good Wetlands Act, but we also want balance in landowner rights.

Mr. HAYWORTH. Reclaiming my time, the gentleman stands and points out with eloquence the entire mission here. I cannot help but note the irony that the current administration, which campaigned on the notion of putting people first, would instead relegate people to the back benches, if you would, or at least take away from people their essential constitutional rights.

It is the mission of this body, as we stand in check with both the executive and judicial branches to right the wrong, to legislate for the people of this country, and to legislate effectively. It is in that spirit that I oppose the amendment but endorse wholeheartedly the concept of real property rights for the citizens of the United States.

Mr. GILCHREST. Mr. Chairman, I cannot help but comment on the remarks of gentleman from Arizona when he says we should put people first. I thank all of us agree with that. It is just how we do that which is important. Ignoring certain aspects, like clean water or biodiversity, and then say we are putting all the people first, I think we are losing some important aspects of their multidimensional discussion of property rights, endangered species, clean water, and so on.

In my area, clean water is absolutely essential for the quality of peoples lives, not only for their health but for our economy, protecting the wetlands in not a sterile, regimented regulatory form. The way we do it in Maryland, we all sit down at the table and we discuss this issue. Fish and Wildlife is there, the corps is there, the Department of Natural Resources is there, the affected property owners are there. We discuss how we can manage the resources and protect peoples' lives.

Mr. Chairman, I want to make two points. One is that the gentleman from Louisiana [Mr. TAUZIN] is continuing to refer to the Florida Rock case. Now, he refers to it in an accurate manner. He has not distorted the facts.

But I want to bring in some more of the facts that were not included there. It happens to deal with a person that wanted a limestone, in particular a 98-acre parcel piece of property. He bought the property for $1,900 per acre. The Corps of Engineers would not allow him to fill part of that acreage because there were wetlands there.

Now, he was going to sell the property because he was not going to engage in limestone mining, so he wanted to sell it for $10,500 per acre. Now, that is a pretty good profit.

As a result of the corps' regulation, the appraisers valued the property then at $4,000 per acre. Now, he was a little regulated there. The corps diminished some of the value there. But a profit of $1,900 per acre to $4,000 per acre is pretty significant.

But we have to look at some other values here when we are talking about that. That is, what is the value to the quality of the water that is purified by the wetlands to the neighboring property owners? Then what is the value of their property, the neighboring property owners, if the wetlands were filled in, water is degraded? Who is going to buy their homes, their property? Is that then diminished?

So the question in my mind, at least, is should we compensate people to refrain, or stop them, refrain them from degrading the value of somebody else's properties by filling in those wetlands?

Now, there is one other thing I want to bring out. One of these famous, wonderful Dear Colleagues that are circulated around the House for a number of reasons, there was a ''Dear Colleague'' circulated that a Maryland couple was denied the right to shore up their property because of an endangered beetle. And as a consequence of that, 15 feet of the bank fell off while they were trying to wait for a permit.

Well, here are the facts: It was a piece of property in Lusby, MD, which had a high bank. The guy that lived there wanted to move because he knew the erosion problem was so bad. So he did not even pay the mortgage, the bank took over the property.

This couple purchased the property at a very low price. While they were living there, they realized there is a problem because 15 feet of their bank falls off. It was at that point, after the 15 feet fell off, that they applied for a permit to put some riprap around it so no more would be falling off.

The Federal Endangered Species Act, in its infinite flexibility, at least in the State of Maryland, was going to permit that shoring up. But the State of Maryland, which has an Endangered Species Act more strict than the Federal act, was a little bit more inquisitive.

Now, they have built the riprap, they are protected at this point, and the State of Maryland Endangered Species Act is going to become more flexible, modeled after the Federal program. There still needs to be some flexibility with the Federal program, I grant you that.

But one last point: A beetle, a fairy shrimp, a butterfly, let us not forget the fact that biodiversity offers us a tremendous amount of good things for medicine, for agriculture, for a whole lot of good reasons.

I just wanted to get those points out.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. MCINTOSH. Mr. Chairman, the Mineta amendment would massively reduce the number of Americans who would benefit from this the Private Property Protection Act of 1995. It would change the current bill ignoring existing case law and provide Government bureaucrats with the power to

impose onerous regulations without accountability.

□ 1130

The amendment is most destructive because it departs from providing compensation on affected parcels of property. Instead, it would provide compensation only if the entire whole of an individual's holdings were reduced in value.

In other words, if a property owner had 100 acres, 10 of which were wetlands, the Government could prevent that landowner from developing his property because of that wetlands on only 10 acres. Any other property owned by the individual could be used to offset the fair compensation due from the Government.

This is part of a conscious effort to support a national land-use policy. The supporters of the wetlands provisions in the Endangered Species Act have used those two acts to create a national intrusion into the property rights of Americans across the country, and the purpose of this amendment is to dilute the protections for property rights that landowners would have in standing up against that policy.

Let me just close by saying that the Florida Rock case has been mentioned earlier. It strikes me that in fact the value of protecting wetlands is something that society should take into account. The difference is that we should not ask innocent landowners to be the ones who foot the bill for that; instead, we should ask all of society to compensate that individual in order to preserve those truly valuable natural resources.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield just briefly?

Mr. MCINTOSH. I am delighted to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

I am so glad my friend, the gentleman from Maryland, brought up Florida Rock again. The reason I quote it so often is that it is now Florida Rock III. These plaintiffs have made their third trip to the court of appeals. The case started in 1978. They finally got a judgment in March 1994 that says they are entitled to compensation. The case has been remanded again to the Court of Claims. They are on their fourth trip around. That is why this bill is so desperately needed.

Mr. MCINTOSH. That is right. My point is that if those are valuable wetlands, why should society not go ahead and pay compensation under the fifth amendment and under the provisions of this act so that someone who is an innocent landowner is not deprived of 60 percent of the value of his property.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

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

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 252, not voting 9, as follows:

[Roll No. 194]

AYES—173

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—252

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Green
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Bryant (TX)
Gonzalez
Graham
Hoyer
Jones
Moakley
Rangel
Reynolds
Roberts

□ 1150

The Clerk announced the following pair:

On this vote:

Mr. Rangel for, with Mr. Graham against.

Messrs. PORTER, LEACH, and SKEEN changed their vote from ''aye'' to ''no.''

Mr. LIPINSKI and Mrs. KELLY changed their vote from ''no'' to ''aye.''

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JONES. Mr. Speaker, I was unavoidably detained for rollcall No. 194. Had I been here, I would have voted ''no.'' I ask that the RECORD reflect that.

LIMITATION OF DEBATE ON PROSPECTIVE AMENDMENTS

Mr. CANADY of Florida. Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. GOSS] be

next recognized to offer an amendment and the debate on the amendment be limited to 20 minutes, equally divided and controlled by a proponent and an opponent thereto. I further ask unanimous consent that the gentleman from Mississippi [Mr. TAYLOR] and the gentleman from Ohio [Mr. TRAFFICANT] be next recognized to offer their amendments, and that debate on each of these two amendments be limited to 5 minutes, equally divided and controlled by a proponent and an opponent thereto.

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

Mr. FRANK of Massachusetts. Mr. Chairman, reserving the right to object, that timetable with a rollcall on the Goss amendment would, of course, preempt any other amendments. I would not be able to accept something that would preempt any other chance for any other amendments.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I understand the gentleman's concern, and I would be certainly willing to change the unanimous-consent request to further limit the debate on the Goss amendment to 10 minutes, 5 minutes debate on each side.

Mr. FRANK of Massachusetts. Mr. Chairman, that will not be agreeable, but it is the best we can get. We will still be at risk. I hope, if Members will cooperate, we can get to the amendment of the gentleman from North Carolina [Mr. WATT].

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida [Mr. CANADY], as amended?

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, what I still have not heard is the final part of the uanimous-consent request. I never heard what I understood to be the final part of the unanimous-consent request.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, the first part of the unanimous-consent request, as now modified, is 10 minutes of debate on the Goss amendment. After that there will be 5 minutes debate on the Taylor amendment and 5 minutes debate on the Traficant amendment.

Mr. WATT of North Carolina. Mr. Chairman, I thought the final part was that the Watt amendment would come up last and be the final issue.

Mr. CANADY of Florida. Mr. Chairman, there was no mention of the Watt amendment in the unanimous-consent request.

Mr. WATT of North Carolina. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

AMENDMENT OFFERED BY MR. GOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS AMENDED

Mr. GOSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. GOSS to the amendment in the nature of a substitute offered by Mr. CANADY of Florida, as amended: In section 3(a), strike ''10'' and insert ''20''.

The CHAIRMAN. The gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

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

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

Mr. GOSS. Mr. Chairman, what we are involved in here is obviously a moving negotiation, and a number of things have happened in the last couple of votes on this in this very difficult area of trying to come to a compromise that will hold together a working block of votes to get on with the benefits of this legislation and to make it as good as possible and still attract a majority. A couple of things need to be pointed out here.

Mr. Chairman, the three particular areas of trouble that we wanted to discuss at this time were to get a further explanation on when we are talking about affected areas that are going to be subject to regulation, who sets those boundaries and how that happens. In a moment I am going to yield to my friend, the gentleman from Louisiana [Mr. TAUZIN], for that.

The second was an area where after the vote last night I had several Members, particularly from the Midwest, come to me and suggest they had a difficult time with my amendment that went to the total parcel, and they had not supported us because of concerns they had in explaining to me about prairie potholes and other types of situations that are very important, but somewhat unique to that part of the country, and they felt they did not understand it properly.

The third area was the question of the small lot owners. I am satisfied by moving this percentage to 20 percent, we still protect the small lot owners either way from unreasonable takings.

So I am, in the spirit of compromise, trying to get something that will work, and that is the purpose of this amendment. We now have a 20-percent threshold to trigger an automatic taking on the affected part of the property.

Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN] to explain about how these affected areas actually work.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what happens under the bill is that the property owner who believes he is affected by one of these statutes, endangered species, 404 wetlands or swampbusters, literally goes to the agency and makes a request, am I affected by those statutes. If so, what part of my property is affected.

A good example is the one I gave the other day from my farmer in Plaquemines Parish. Included in his letter to me was a map. The corps actually drew a map, showed him the affected area of his property affected by the wetlands determination.

So the agency determines what part of your property is affected by wetlands or endangered species. That area is defined, is certain, and that is why this new revision to the amendment makes sense.

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

Mr. Chairman, I wanted to make sure to all those who supported my original amendment, that that explanation was going to be forthcoming, it is forthcoming, and it is satisfactory to me, because it gives the precision we were looking for, it allows the agency to make that determination. That protects the public, and on the other hand the private property owner is protected with this 20 percent threshold.

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

□ 1200

The CHAIRMAN. Does any Member wish to speak in opposition to the amendment?

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

This is an amendment that is about a subspecies of land. This is the planting of shade trees to give cover to Members who switched their vote.

Since everything has already been arranged and since under this restrictive 12-hour rule, if I debate this at any length my friend from North Carolina will be preempted from offering his amendment, I would simply say that I think this is just to cover Members who voted the other way on the last one since all the votes have already been accounted for.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time, in the hopes that we will be able to protect the right of the gentleman from North Carolina [Mr. WATT] to offer his amendment.

Mr. GOSS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. GOSS] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY] as amended.

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

RECORDED VOTE

Mr. DOOLITTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 338, noes 83, not voting 13, as follow:

[Roll No. 195]

AYES—338

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Condit
Costello
Cox
Cramer
Crane
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—83

Baker (CA)
Barton
Becerra
Beilenson
Bevill
Bonilla
Bonior
Borski
Cardin
Chenoweth
Clyburn
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Coyne
Crapo
Cubin
Dellums
Dingell
Dixon
Ehlers
Fattah
Fields (TX)
Filner
Flake
Foglietta
Frank (MA)
Frelinghuysen
Furse
Gilchrest
Hall (TX)
Hastings (FL)
Herger
Hinchey
Hostettler
Hunter
Lewis (GA)
LoBiondo
Lofgren
Markey
McDermott
McKinney
Meehan
Meek
Mineta
Morella
Nadler
Neal
Neumann
Oberstar
Owens
Parker
Pastor
Payne (NJ)
Porter
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Schaefer
Serrano
Smith (TX)
Souder
Stark
Stockman
Studds
Thompson
Thornberry
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Yates

NOT VOTING—13

Berman
Brown (CA)
Bryant (TX)
Clay
Dornan
Emerson
Gonzalez
Largent
Mfume
Moakley
Radanovich
Rangel
Stokes

☐ 1219

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Rangel against.

Ms. WATERS and Messrs. COMBEST, STOCKMAN, and CRAPO, Mrs. CHENOWETH, Mrs. CUBIN, and Messrs. HUNTER, RUSH, MEEHAN, FIELDS of Texas, and SCHAEFER changed their vote from ''aye'' to ''no.''

Mr. GUTIERREZ, Mrs. SMITH of Washington, Ms. ESHOO, and Messrs. GREENWOOD, MATSUI, JACOBS, and HILLIARD changed their vote from ''no'' to ''aye.''

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

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Chairman, I was unavoidably detained during rollcall No. 195, the vote on the Goss amendment to the Canady substitute. Had I been here, I would have voted ''yes'' on it.

PERSONAL EXPLANATION

Mr. LARGENT. Mr. Chairman, I was unavoidably detained on rollcall No. 195. Had I been present I would have voted ''aye'' on the Goss amendment to the Canady substitute to H.R. 925.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA, AS AMENDED

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Mississippi to the amendment in the nature of a substitute offered by Mr. CANADY of Florida, as amended: After paragraph (4) of section 9, insert the following:

(5) the term ''fair market value'' means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

Redesignate succeeding paragraphs accordingly.

The CHAIRMAN. The gentleman from Mississippi [Mr. TAYLOR] will be recognized for 2½ minutes, and a Member opposed will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, throughout the measure before us the term ''fair market value'' is referred to but never defined. What we have done is take two common uses of ''fair market value,'' one coming from the Treasury regulations, another coming from a court case, Banks versus the United States. We have combined those two definitions. We feel it is self-explanatory. That is why we asked the Clerk to read it. I hope the majority will accept this amendment.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I think the gentleman has a good amendment. We will be happy to accept and support the gentleman's amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Us, too, Mr. Chairman.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, is it the understanding of the gentleman, as we have discussed privately, that this amendment defines ''fair market value'' without consideration of the agency action. The agency action then occurs, and the next question is fair market value, after the agency action diminishes, if it does, the value of the property?

Mr. TAYLOR of Mississippi. Mr. Chairman, to clarify, the key words ''at the time the agency action occurs'' are included. It was in both of those. It is included in this.

The CHAIRMAN. If no Member is seeking time in opposition, all time has expired.

The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

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

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment in the nature of a substitute offered by the gentleman from Florida, Mr. CANADY, as amended: After Sec. 7, insert the following:

SEC. . DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

Redesignate succeeding sections accordingly.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will be recognized for 2½ minutes and a Member in opposition will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, this amendment ensures that property owners will in fact be notified and given notice, and their rights will be explained, and the procedures for obtaining any compensation available under this act will be made known to them.

The big corporations and the big guys have attorneys that handle this. The little guys many times that are hurt, and the families that are hurt due to these limitations, may not necessarily know their rights under this bill.

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

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me first commend the gentleman on an excellent addition to the bill.

Secondly, I want to also commend him for the fact that he was the original author for the original 10- to 20-percent change we just adopted. I thank him for contributing this change to the bill.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, the minority accepts the amendment.

The CHAIRMAN. If no Member rises in opposition, all time has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

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

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Florida [Mr. CANADY].

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. DOOLITTLE) having assumed the chair, Mr. SHUSTER, 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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, had come to no resolution thereon.

AUTHORIZING EXTENSION OF TIME FOR DEBATE ON AMENDMENTS TO H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that consideration of the bill, H.R. 925, in the Committee of the Whole be extended by 10 minutes.

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

There was no objection.

PRIVATE PROPERTY PROTECTION ACT OF 1995

The SPEAKER pro tempore (Mr. DOOLITTLE). Pursuant to House Resolution 101 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. 925.

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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. 925) to compensate owners of private property for the effect of certain regulatory restrictions, with Mr. SHUSTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended, had been disposed of.

Pursuant to the order of the House, further consideration of the bill for amendment will end at 12:54.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA AS AMENDED

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina to the amendment in the nature of a substitute offered by the gentleman from Florida, Mr. CANADY, as amended: Strike section 6(f).

The CHAIRMAN. The gentleman from North Carolina [Mr. WATT] is recognized for 5 minutes.

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

Mr. Chairman, the effect of this amendment will become apparent very quickly. If we read the provisions of the fifth amendment, my colleagues here have spent a lot of time and rhetoric talking about the fifth amendment. The provision we are talking about in this particular bill says ''nor shall private property be taken for public use without just compensation.'' They have told us throughout this debate that the purpose of this bill is to assure that people who are deprived of their property receive just compensation. They have told us that a reduction in value of people's property is a taking, and therefore, they should be compensated for it under the fifth amendment.

Mr. Chairman, I want to talk about this for a little bit, and find out from my colleagues whether we believe this right is a right that is a first-class right, or whether it is a right which is a second-class right that we have under the Constitution.

Mr. Chairman, we started out with a bill that said ''If you have a diminution in the value of your property, a reduction in the value of your property as a result of any agency action, you would be compensated.'' We then spent hours debating whether to limit that bill to compensation for just two kinds of agency action, that agency action being for the Endangered Species Act