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House of Representatives

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mrs. WALDHOLTZ].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 7, 1995.

I hereby designate the Honorable ENID G. WALDHOLTZ to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. JOHNSTON] for 5 minutes.

ETHICAL VIOLATIONS: PAST AND PRESENT

Mr. JOHNSTON of Florida. Madam Speaker, until 2 weeks ago, in almost 20 years of public service, I had never filed a complaint against a colleague, even though I twice served on committees charged with investigating colleagues for ethical violations in the Florida State Senate with their censure or dismissal often hanging in the balance.

In 30 years of the practice of law, I never filed an ethics complaint against a colleague, even though again, I served for many years on the grievance committee of the Florida Bar which recommended to the bar either disbarment, suspension, or reprimand for serious violations of ethical standards.

Accordingly, I do not take lightly such complaints against a colleague, and in particular, the Speaker of the House.

On Wednesday, February 22 of this year, I became a signatory, along with Congresswomen PAT SCHROEDER and CYNTHIA MCKINNEY, to a complaint filed with the House Committee on Standards of Official Conduct against Speaker NEWT GINGRICH.

The first response to our complaint by the Speaker was communicated through his staff assistant, who, according to the Washington Post, ''* * * accused the lawmakers who filed the complaint of 'malicious imbecility.'" I consider this a rather intemperate remark, to say the least, and as much as the spokesman is an employee of the House of Representatives and a surrogate of the Speaker, I find his tone and language both offensive and inappropriate.

On Friday of the same week, Mr. GINGRICH made the following statement with respect to our complaint: ''They are misusing the ethics system in a deliberate, vicious, vindictive way, and I think it is despicable and I have just about had it.''

I do not plan to discuss the merits of the complaint against Mr. GINGRICH this morning. I believe that would be improper, because the matter is now within the jurisdiction of the Committee on Standards of Official Conduct. If and when there are charges filed against the Speaker by the committee, the full House will sit in judgment of these charges. I will comment, however, on the history of the Speaker's complaints against a former colleague.

It is common knowledge that Mr. GINGRICH filed numerous complaints against Speaker Jim Wright in 1988, and I quote at length from an article in the New York Times dated June 10, 1988:

> The New York Times has examined the case against Mr. Wright through interviews with the House Republican who has been his main accuser, as well as with the Speaker's attorney and legal experts and through a review of the House rules, transcripts of congressional debate of those rules and other documents.
>
> In the course of that examination, the Speaker's primary critic, Representative Newt Gingrich of Georgia and Mr. Gingrich's aides said that there were errors and gaps in the complaint that he had filed with the Ethics Committee and that led to the panel's proceedings, but they said that what was most important was a full inquiry into the Speaker's actions, as well as a review of the adequacy of the House rules.
>
> The case against Mr. Wright as laid out in the complaint is not particularly strong, according to Mr. Gingrich and his aides. Mr. Gingrich said in an interview earlier this week that the two counts involving oil investments had been included in his complaint solely ''out of curiosity'' and that ''I don't expect them to be actionable items.''

Let me repeat that 7 years ago, Mr. GINGRICH told the New York Times that he filed two counts against the Speaker of the U.S. House of Representatives solely out of curiosity and with no expectation of their being actionable.

My compliant against the Speaker of the House on February 22 certainly was not conceived out of curiosity and certainly does not rise or fall to the level of malicious imbecility, and certainly, as quoting the Speaker in reference to this compliant, is not offered in a deliberate, vicious, vindictive way. I would never charge a colleague with misconduct and the violation of a law and ethics, as I have done, without serious and conscientious deliberation and conviction.

Continuing in a historical vein, I have attached to these remarks a press release issued by Mr. GINGRICH through

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his congressional office, dated July 28, 1988. In this press release, Mr. GINGRICH demands that the special counsel appointed to investigate House Speaker Jim Wright be given carte blanche authority. Let me point out that this special counsel was appointed under a Democratic Congress with the consent of the then-Speaker, Jim Wright. I quote from this press release:

The rules normally applied by the Ethics Committee to an investigation of a typical Member are insufficient in an investigation of the Speaker of the House, a position which is third in line of succession to the Presidency and the second most powerful position in America. Clearly this investigation has to meet a higher standard of public accountability and integrity.

So far, the Speaker of the House, Congressman NEWT GINGRICH, has failed to respond publicly to three charges lodged against him in the Committee of Standards of Official Conduct, except in terms of the vernacular that I quoted earlier, nor has he consented to the appointment of a special counsel. It is he who placed himself in the glasshouse 7 years ago. It is he who has raised the questions of integrity, character, and conflict with which we now contend, and it is he alone who can remove this cloud, not only from himself, but from the body over which he now presides.

NEWT GINGRICH is third in line of succession to the Presidency, occupying the second most powerful position in America. As such, and to quote his own words, ''Clearly, this investigation has to meet a higher standard of public accountability and integrity.''

GINGRICH INSISTS ON THOROUGH INVESTIGATION

WASHINGTON, DC.—Congressman Newt Gingrich (R–GA) today insisted that the House Ethics Committee give the special counsel appointed to investigate House Speaker Jim Wright the independence necessary to do a thorough and complete job. Discouraged by several news reports that special counsel Richard Phelan would be restricted in the scope of his investigation, Gingrich took a series of actions including writing to House Ethics Chairman Julian Dixon (D–CA), forwarding the letter to his colleagues in the House, and speaking on the House floor on the need for a truly independent counsel with full leeway in pursuing the investigation.

In his letter to Chairman Dixon, Gingrich wrote:

''I have a number of concerns regarding the Ethics Committee's contract with and instructions for the special counsel hired to conduct the investigation into Speaker Jim Wright's questionable financial dealings.

''First, I am concerned that the scope, authority, and independence of the special counsel will be limited by the guidelines the Ethics Committee has established.''

Gingrich agreed with concerns raised by Common Cause Chairman Archibald Cox in a letter to Chairman Dixon earlier this week. The Common Cause letter urged the Ethics Committee to commit itself to the following measures:

1. The outside counsel shall have full authority to investigate and present evidence and arguments before the Ethics Committee concerning the questions arising out of the activities of House Speaker James C. Wright, Jr.;

2. The outside counsel shall have full authority to organize, select, and hire staff on a full- or part-time basis in such numbers as the counsel reasonably requires and will be provided with such funds and facilities as the counsel reasonably requires;

3. The outside counsel shall have full authority to review all documentary evidence available from any source and full cooperation of the Committee in obtaining such evidence;

4. The Committee shall give the outside counsel full cooperation in the issuance of subpoenas;

5. The outside counsel shall be free, after discussion with the Committee, to make such public statements and reports as the counsel deems appropriate;

6. The outside counsel shall have full authority to recommend that formal charges to brought before the Ethics Committee, shall be responsible for initiating and conducting proceedings if formal charges have been brought and shall handle any aspects of the proceedings believed to be necessary for a full inquiry;

7. The Committee shall not countermand or interfere with the outside counsel's ability to take steps necessary to conduct a full and fair investigation; and

8. The outside counsel will not be removed except for good cause.

Gingrich wrote to Chairman Dixon, ''It is my impression from press reports that the Ethics Committee has specifically failed to meet the Common Cause standard. Furthermore, it is my understanding that the special counsel cannot go beyond the six areas outlined in your June 9, 1988, Resolution of Preliminary Inquiry. This leads me to believe that the special counsel will not be allowed to investigate the questionable bulk purchases of Mr. Wright's book, ''Reflections of a Public Man,'' as a way to circumvent House limits on outside income.

''I am particularly concerned that the unusual purchases by the Teamsters Union, the New England Mutual Life Insurance Co., a Fort Worth developer, and a Washington lobbyist will not be investigated.

''I believe many will perceive this action as an attempt by the Ethics Committee to control the scope and direction of the investigation.''

Gingrich requested a copy of the contract arranged between the Ethics Committee and Mr. Phelan. He also asked to know the extent of Mr. Phelan's subpoena power.

Gingrich said, ''The House of Representatives, as well as the American public, deserve an investigation which will uncover the truth. At this moment, I am afraid that the apparent restrictions placed on this special counsel will not allow the truth to be uncovered.

''The rules normally applied by the Ethics Committee to an investigation of a typical Member are insufficient in an investigation of the Speaker of the House, a position which is third in the line of succession to the Presidency and the second most powerful elected position in America. Clearly, this investigation has to meet a higher standard of public accountability and integrity.''

SPENDING CUTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Madam Speaker, I read in last Friday's Congress Daily that the chairman of the Budget Committee in the other body is looking for between $150 and $200 billion in discretionary cuts as part of his effort to bring about a balanced budget. Some might see that as a difficult or even an impossible task. But a careful and honest assessment of all discretionary accounts yields heartening news. It can be done, I say. It can be done. There is at least this much nonpriority spending we can eliminate. In fact, I would argue that there is much more than $150 to $200 billion. As we move toward the budget and appropriations process, it is imperative that we address the wasteful spending that bloats our Federal budget, as everybody knows. As I have done for the last 3 years, I have again submitted to the budgetary leaders of both Houses of Congress my annual list of discretionary spending cuts for their consideration. These 75 cuts would save the American taxpayer $275 billion over 5 years.

Madam Speaker, critics of the balanced budget amendment contend that it would mandate draconian cuts in entitlement programs because our discretionary budget simply just does not offer significant savings. The facts clearly show otherwise. In reality, we continue to fund outdated and duplicative programs that operate in the shadows serving our bureaucracy and special interests rather than the American people we work for. We desperately need to shed some light on these ancient programs. The Appalachian Regional Commission, a Great Society era created as a temporary response to poverty, continues to spend hundreds of millions of dollars annually with little discernible impact on the long-term economic health of the United States of America.

These are probably very worthy projects, but I do not think they really are getting at the core of poverty and they probably would not compete as well with other Federal dollars for more urgent needs. Only in Washington could this be construed as a legitimate response to poverty. The Rural Electrification Administration, which provides electricity for my home in Sanibel, formed in 1935 when only 10 percent of projects have included funding for the NASCAR Hall of Fame and most recently $750,000 toward a new football stadium in South Carolina. Rural America had electricity, continues to spend billions of dollars subsidizing rural electric and telephone companies—this despite the fact that today 99 percent of rural America has electricity and 98 percent has phones. I suggest those who do not have it do not want it. Taken alone, each of these programs may not amount to large costs—but when you start adding them up, going through a whole list of projects, you can see why we have a budget crisis.

Unfortunately, programs like these are the rule rather than the exception. Of course, Government must lead by example. That is why I have proposed

also reducing the legislative and executive branch appropraition by 20 percent, which would save $3 billion over the next 5 years. The American people spoke clearly last November—they want to downsize the Government. We should understand that message. And that process needs to begin at the top with Congress and the President. To be credible, we must not only eliminate wasteful spending but we must also be willing to look at good programs and prioritize our limited financial resources so we get the most important served. I do not pretend to think that we can correct decades of neglect and abuse overnight. While these 75 proposals which I offered are not a cure-all, they will hopefully serve as the first shot in the coming budgetary battle between the defenders of the status quo and those of us who came here to make a difference.

The debate is between the habitual big spenders in the District of Columbia and those newcomers who have dared to suggest maybe the Federal Government should stop the waste, fraud, and abuse of the precious tax dollars. There is no one in America who has come forward to claim or even to imply that every Federal dollar spent is a dollar well spent. On the contrary, there are tens, if not hundreds, of millions of Americans who know we are not handling their tax dollars as wisely as possible and they are asking us to do better. There is no excuse for us not to do better. We can start now, we can start today. I urge my colleagues to look at my list of spending cuts, and if they do not like my list, make your own. There are plenty of places to cut spending.

CUTS IN VETERANS' BENEFITS CALLED CALLOUS AND UNCONSCIONABLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. STOKES] is recognized during morning business for 3 minutes.

Mr. STOKES. Madam Speaker, last week the House Appropriations Committee voted to drastically cut $206 million in funding for programs that serve our Nation's veterans. I do not think this is the proper way to demonstrate our commitment to individuals who have made the ultimate sacrifice in serving this Nation and protecting our lives and property.

It is especially callous that these cuts come from funds earmarked for medical equipment and ambulatory care facilities. The Veterans' Administration currently has an unmet need of necessary medical equipment exceeding three-quarters of a billion dollars. The bill passed by the Appropriations Committee would increase that unmet need by at least $50 million.

How can we even consider such reductions when information we hear daily tells us of new and emerging medical conditions being experienced by our veterans. Just when our veterans' medical centers and medical teams are recognizing and attempting to address these problems, the Republican-controlled House wants to slash funds that would be used to purchase such types of equipment as cat scanners, x-rays, EKG machines, and other vital equipment. Already, due to budget constraints, the VA is not able to replace and improve medical equipment nearly as often as the private sector.

Even more shocking is the $156 million reduction in construction projects. These funds are targeted for ambulatory care facilities—a crucial aspect of the VA's medical care agenda at a time when our aging World War II veterans are requiring more medical assistance. Clearly, this is not the time to cut back on ambulatory care facilities.

If the rescissions have been recommended by the Republicans on the committee to offset the costs of the California earthquake and other natural disasters, it will create another disaster for thousands of our veterans. If these actions are intended to offset the cost of future tax cuts—including capital gains for middle-class families and affluent investors—it is unconscionable.

These cuts are ill-considered. The veterans of this Nation have dutifully served this country. We owe them the same full measure of devotion they gave in protecting this Nation with their lives.

THE ROLE OF THE ARMS CONTROL AND DISARMAMENT AGENCY IN INTERNATIONAL AFFAIRS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. LINDER] is recognized during morning business for 5 minutes.

Mr. LINDER. Madam Speaker, this past week in a press conference with the President's Presidential press secretary, we heard him say that, ''Prime Minister Rabin is calling. I think it is fair for us to say because he is upset and alarmed by the action taken in the House of Representatives to cut back on funding in the fiscal year 1995 supplemental bill for debt forgiveness for Jordan.''

While he said that, we do not know if that is why Prime Minister Rabin was calling. We have learned that very often what this White House says has no relation to the facts, but that is what he said.

He further said the President told the Prime Minister in candor that we face a very tough audience on Capitol Hill. ''This is an example of the tilt toward isolation that you now see in the Republican-dominated Congress.''

That is vintage Bill Clinton, blame the other guy, ''I didn't do it, I am trying to help you, the devil made me do it, the dog ate my lunch, the dog ate my homework.''

Madam Speaker, the President's entrance into the Middle East is to first make it partisan and to politicize foreign affairs. It is most shameful that it is done in one of the most troubled areas of the world. Why does he do this? Because for 2½ years this Nation has lacked a coherent global vision, a global view.

What are our U.S. national security interests? When I look across world, I see our friends in NATO, the former Soviet bloc, it is absolutely in the interests of the United States that the former Soviet-bloc nations discover that capitalism and freedom work.

I see our increasingly important trading partners on the Pacific rim and, of course, the tinderbox for the world, the Middle East. And where are our troops that are supposed to be the shield of the Republic and the shield of our foreign affairs? Our troops are in Rwanda, Somalia, Haiti, Cambodia, Macedonia, northern Iraq, hardly a reflection of a coherent world view.

The peace process today in the Middle East has been carried out without United States leadership. This is the first administration of the last four that has shown no interest in leadership in the Middle East peace process.

The PLO agreement was reached, not in the United States, but in Oslo. Of course, the great handshake took place on the south lawn, but we were not involved until after the agreement had been reached.

The Jordanian-Israeli agreements were bilateral. The agreements were signed on the south lawn, but we were not there in the leadership. But lacking any domestic agenda this year, the President has decided to weigh in on the Middle East and has done so by politicizing it and making it partisan. He can do something about this right in his own administration. Israel is a nation that is in a defensive posture, with armed aggressors all around her, and is building a defensive ARROW missile system for protection to shoot down incoming ballistic missiles. We now have an Arms Control and Disarmament Agency that has been in effect since 1972—and an ABM agreement—that is negotiating further agreements with former Soviet-bloc nations for reasons that absolutely escape me.

We are the only Nation that can add to the technology required for a bullet to intercept a bullet. We have done that with the ERINT missile, called the PAC–3, built by Rockwell. But this administration, under what I presume to be simply bureaucratic inertia, has chosen to limit further technological advances in this intercept missile technology to 3 kilometers per second, precisely what we have now. I do not know why we would want to limit any future technology, since there is not a nation in the world competing with us in this technology, why would we ask them to agree with us to limit what we can do?

Mr. President, if you want to do something about the Middle East and for the future safety of this very vulnerable friend in this troubled part of the world, abolish the Arms Control

and Disarmament Agency, get out of ABM, and let her protect herself.

VETERANS' RESCISSIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Illinois [Mr. GUTIERREZ] is recognized during morning business for 3 minutes.

Mr. GUTIERREZ. Madam Speaker, you know, we keep calling these cuts rescissions. But let us face it. These are not rescissions, but rather a retreat, a retreat from recent promises to fund programs during this fiscal year, a retreat from long-standing promises to serve veterans. And, just as an army in retreat turns its back and runs, those who support this package are also turning their backs.

Obviously, the Appropriations Committee has done a disservice to all Americans affected by those cuts. But, let us consider how shameful it is to do a disservice to people who have already given their service to this country. That means America's veterans. These cuts are financing 14 years of failed, phony, fiscal policy from the GOP—two sets of Republican budget-busters that are squeezing working families like a vice.

In 1981, a Republican President began to cut taxes for the wealthy and build up our defense. And in 1995, a Republican Congress wants—sound familiar?—to cut taxes for the wealthy and build up our defense. To quote that same Republican President, ''there they go again.''

Let us see how flawed these rescissions are.

Just look at the decision to cancel improvements at the VA hospital in San Juan, Puerto Rico. Now I do not know whether any member of the Appropriations Committee has traveled to the facility in San Juan. But I have. I can speak firsthand of the overcrowding and long delays as patients try to access the services supposedly available to them. I can attest to the urgent need for the proposed renovation of the hospital. But rather than break ground on a new veterans' facility, the Republicans would prefer that we break a promise.

And, it is not just happening in San Juan, but at 5 other facilities in the VA system affected by these cuts—areas where more than 1 million veterans reside. Furthermore, these cuts show that these rescissions are not just an abandonment of compassion, but an abandonment of reason. That is because, rather than produce the great savings that the Republicans so grandly advertise, these rescissions would cancel exactly the kind of services—like outpatient care—that rein in the escalating costs of medical care.

In addition, I want to state two simple facts about outpatient care, or ambulatory care: first, it saves lives; second, it saves money. You would think that the Republicans would at least care about one of those facts.

You know, many of us have accused the Appropriations Committee of using a hatchet or a meat ax to make these cuts when a scalpel would have been better. Well, it turns out that VA surgeons will not even be using scalpels pretty soon, since the Republicans will not let them buy any new ones. As I said earlier, these Republican rescissions are really a retreat.

When they were young, these veterans were sent overseas, to lands far from their home. And if they wanted to, these service men had plenty of reasons to retreat. But rather than retreat from battle, they endured. Rather than shirk from duty, they stood up for principles. I want to encourage this House to show the same determination. I want this House to show the same willingness to carry through on principle.

Rather than retreat, I urge the House to muster up the courage to fight, to fight for what is right, to fight for, not against, the American family, to fight for those who fought for us, to reject this rescission package.

OSHA'S NIGHTMARES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized during morning business for 5 minutes.

Mr. NORWOOD. Madam Speaker, I have for you today a couple of OSHA nightmares which illustrate OSHA's overbearing enforcement policies. Although OSHA eventually dropped the charges in both cases, I think they still provide valuable insight into the mentality of an out-of-control agency.

In the first OSHA nightmare, a Maine dentist, Dr. Jeffrey Grosser, was fined $17,500 as the result of an OSHA office inspection. The fines included an $8,000 infection control citation and a $7,000 citation for improper hazardous materials information and training.

OSHA charged that Dr. Grosser's employees ''were exposed to the hazard of being infected with hepatitis B and/or HIV through possible direct contact with blood or other body fluids.'' However, Dr. Grosser's only employee is a receptionist who does not work with patients. For that, Dr. Grosser incurred an $8,000 infection control fine.

So what, you may ask did Dr. Grosser do in the case of the $7,000 fine?

In this instance Dr. Grosser was charged $7,000 for not providing hazardous materials information and training.

What were the hazardous materials in question?

Chemical developer used in a self-contained x-ray machine and bleach used to mop the floor. That's right, ordinary household bleach.

Madam Speaker, in the second OSHA nightmare, Dr. Steven Smunt was fined $4,400 for citations that included removing his eyeglasses when administering anesthetic to a child, and inadequately labeling a first-aid kit that had a ''first-aid'' sticker on it.

The sum $4,400 is a lot of money no matter what line of work you're in. Regulatory actions like this can only end up hurting consumers. This is particularly the case when this Nation is trillions of dollars in debt, and we are spending the money hard-working Americans send to us on OSHA nonsense like this.

But, Madam Speaker, some people continue to believe that our regulatory reform efforts are wrong-headed. They think that all our regulations are fine and wonderful. Some people just do not get it. In this Sunday's Washington Post, Jessica Matthews wrote that our regulatory reform package was too drastic and based on false premises. Well Ms. Matthews, maybe it is OK with you that OSHA tried to declare bricks a poisonous substance. Maybe it is OK with you that OSHA wants you to get a environmental impact statement everyday you come to work, and maybe it is OK with you when OSHA writes new rules that cost an industry $2 billion but produce no measurable improvement in worker safety. Or maybe it is OK with you that regulations in this country cost us $500 billion annually—nearly $10 thousand for the average family of 4—maybe that is OK with you, but it is not OK with me, and it is not OK with the American people.

OSHA is one agency that has turned a reasonable and important mission into a bureaucratic nightmare for the American economy. Common sense was long ago shown the door at OSHA. OSHA is one agency that needs to be restructured, reinvented, or just plain removed.

SPENDING CUTS? NOT WITH MY VOTE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. OLVER] is recognized during the morning business for 3 minutes.

Mr. OLVER. Madam Speaker, in just a couple of weeks we are going to be beginning debate on the cornerstone of the Republican Contract on America, and that is a tax cut of $200 billion over 5 years. Never mind that those tax cuts are going to add to the deficit, never mind that these tax cuts make balancing the budget harder. But let us examine what these tax cuts actually do.

In this first chart that I have here, this chart shows who benefits from the tax cuts. If you look at this, 50 percent of the tax cuts go to 10 percent of the families, with over $100,000 of income per year—50 percent of the cuts to 10 percent of families.

At the lower end, the first two categories, which represent 71 million families or two-thirds of all families in the United States, they get less than 20 percent of the tax cuts.

Well, if that is a little bit difficult to understand, then let us look at this chart instead. On this chart, this shows how much each family gets. Families with more than $200,000 per year of income would get, on average, $5,000 of tax reduction. And 49 million families, about 45 percent of all Americans, that have under $30,000 of income per year, they would get on average $57 a year, or about $1 per week would be their share of this tax cut.

Now, they claim they are not going to make the deficit larger, so we are going to be debating this next week the so-called rescissions bill, a $17 billion rescissions bill.

Well, Madam Speaker, in NEWT GINGRICH's America, Republican will cut infant mortality prevention and prenatal nutrition and children's foster care and safe and drug-free schools for children, education for disadvantaged children, and domestic violence prevention and shelters for homeless families. But they will not do it with my vote.

Next week, in NEWT GINGRICH's America's these radical-right Republicans will cut vocational and technical education and Americorps, the National Community Corps, school dropout prevention, college scholarships and summer jobs. But not with my vote.

And next week, in NEWT GINGRICH's America, these Republican extremists will cut rental assistance for low-income families and public housing maintenance and safety and home heating assistance for 6 million American families, every one of who happens to lie in this lower category. But not with my vote.

In NEWT GINGRICH's America, to go back to this we are going to take $16 billion of cuts, over $300 for every single family in this category, and transfer it to families in this category.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ELIMINATION ACT OF 1995

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Colorado [Mr. HEFLEY] is recognized during morning business for 5 minutes.

Mr. HEFLEY. Madam Speaker, French economist Jean-Baptiste Say is famous as the author of Say's Law, sometimes summarized as ''Supply creates its own demand.'' In economic circles, this law is still the subject of debate.

Here in Washington, however, the Department of Housing and Urban Development has been proving Say's Law for the past 30 years. We keep increasing spending on public housing, and the problem just gets worse.

Contrary to popular belief, housing assistance was not cut during the Reagan years. Discretionary Federal assisted housing outlays have grown from $165 million in 1962 to $5.5 billion in 1980 and $23.7 billion in 1994, resulting in 55 percent more families being assisted today than in 1980.

Has this dramatic growth solved the problem? No. Today, after HUD's budget has grown by over 400 percent in 15 years, only 30 percent of the families eligible to receive housing assistance are doing so.

And what kind of housing are they receiving? The 1992 report on severely distressed public housing found many public housing residents afraid to leave their own homes due to prevalent crime while others were living in decaying conditions that threatened their safety and health.

According to HUD's own statement of principles issued January of this year, ''the rigidly bureaucratic, top-down, command-and-control public housing management system that has evolved over the years has left tens of thousands of people living in squalid conditions at a very high cost in wasted lives and Federal dollars.''

Three decades of HUD and homeownership is down, homelessness is up, and millions of low-income Americans are condemned to live in substandard housing which would be unacceptable if it were owned by anyone else.

Say's Law indeed.

Quite simply, HUD has failed its mission of providing decent, low-income housing to America's poor. On the other hand, it has done an excellent job of providing jobs to over 4,000 Washington bureaucrats who oversee the hundreds of programs within the Department.

For these reasons, I have introduced legislation to abolish HUD by January 1, 1998, and consolidate its needed existing programs into block grants and vouchers.

If it is truly the job of government to subsidize low-income housing, then let's do it without the middle man. Rent vouchers allow low-income people to choose their own home, rather than have some bureaucrat choose it for them. Block grants give money directly to the States and local governments—that much closer to the taxpayers who pay the bills.

These reforms are in line with the recommendations recently outlined by HUD itself. The administration's own reform plan proposes eliminating all direct capital and operating subsidies to existing public housing authorities and converting these funds to rent certificates.

For years, conservatives and liberals alike have been championing similar reforms, and it's good to see the current administration jumping onboard.

On the other hand, the administration's effort falls short of the bottom line. Bill Clinton proposed to consolidate HUD's 60 public housing programs into three general funds. He then requested an increase in HUD's budget.

Madam Speaker, America's poor do not just suffer from a surplus of bureaucrats telling them where to live and what to do. They also suffer from excess government that destroys jobs and opportunity.

With $200 billion deficits projected into the next century, it isn't enough to just consolidate many little programs into a few big programs. We have to reduce the size of Government overall. We need to eliminate entire departments. We need to abolish HUD.

It is time to admit that Uncle Sam makes a lousy landlord and end this 30-year experiment in socialist domestic policy. As Bill Clinton said in his State of the Union Address, ''The old way of governing around here actually seemed to reward failure.''

Let us stop rewarding HUD's failure by abolishing HUD and eliminating the unnecessary bureaucracy. The alternative is to continue investing in instant ghettos and Federal bureaucrats.

That's a solution we have tried for 30 years, and it just has not worked.

VA RESCISSIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Virginia [Mr. SCOTT] is recognized during morning business for 3 minutes.

Mr. SCOTT. Madam Speaker, the strength of our national defense has always depended not only on the size of our armory, but in the people who serve. Stock piles of bullets, bombs, and ships are of no use without the brave men and women who are willing to put aside personal hopes and dreams for a time to serve the common good. We owe a tremendous debt of gratitude to these Americans; and one of the ways we have done this is to provide health care services to our veterans. Unfortunately, these services are now the subject of proposed budget cuts.

The rescissions that target Veterans' hospitals, and more specifically remove funding for ambulatory care facilities at Veterans' hospitals, will reduce access to general health care for our veterans, and will make it more difficult to deliver important preventive health care services at these facilities.

The construction of the ambulatory facility at the VA hospital in Hampton, VA is also considered a top priority by the 177,000 patients that currently receives its services. As the fourth oldest hospital in the system, the VA Medical Center in Hampton provides outpatient and inpatient care to veterans who have defended our country in its time of need. This veterans' facility and the others across the country are able to return the favor by meeting health care needs of these dedicated veterans.

The six projects under attack in the GOP rescissions, are not new projects. Several have been under consideration for congressional funding since 1989. The funding has been approved in the past. It is only now, as the new majority looks for ways to finance tax cuts, that the ambulatory care facilities are at risk.

Mr. Speaker, the veterans who use these facilities are not wealthy, or

even middle class in some circumstances. The services they receive at the VA hospital constitute their sole access to health care. As we move from inpatient care to primary care in the general delivery of health care, it is important that we continue to offer similar services to our veterans. These preventive services reduce the need for costly inpatient services. In the long run, this will go further toward saving taxpayer dollars than the assorted tax cuts being proposed by the majority.

I call upon my colleagues to vote to restore the funding to the VA ambulatory care projects when the rescission package is brought to the floor next week. These projects make sense, and send a clear message that we are committed to our veterans and to their well-being. It is the least we can do to thank them for their service.

TERM LIMITS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Florida [Mr. MCCOLLUM] is recognized during morning business for 5 minutes.

Mr. MCCOLLUM. Madam Speaker, I want to call the attention of our colleagues to the fact that 1 week from today the U.S. House of Representatives will have a historic first. We will have an opportunity for the first time in the history of this country to vote on a term limits constitutional amendment, an amendment that would limit the length of time that Members of the U.S. House and the U.S. Senate may serve in these two august bodies.

This amendment proposal will have many variations to be voted on out here, and there are certain preferences that some of us have as to one version or another. I know for one, I have been working for years in an effort to get a 12-year limit on both the House and the Senate. Six 2-year terms in the House and two 6-year terms in the Senate. Actually, I prefer that we lengthen the terms in the House and have three 4-year terms.

Whatever the debate may be over the number of years, the important bottom line is that we move along with the process and get a final passage vote that gets us to 290 and makes a bold statement out here.

The reason why we need term limits seems apparent to most people. A record 77 percent of the American people favor term limits. Sometimes the poll has been as high as 80 and other times as low as 70. But that is strong support for term limits which has been there for years and years and years.

What the American people have seen, that many in Congress have not admitted to in recent years, is the fact that we really have become very career-oriented in this body, in the House particularly but, to a large extent in the Senate as well.

Members here are serving full time, a way that the Founding Fathers would not have envisioned. A year-round Congress is something, again, that the Founding Fathers had not envisioned.

Back years ago, we had a situation where Members came here for a very brief period of time at the beginning of the year, as in Senate legislatures, and serve for a couple of months, go home, and not come back again for another year. At the same time, Members served rarely more than two terms as Congressmen in the House and they went home and were citizen legislators in the true sense of the word.

Today's Government is too big for this. We are going to have, for the foreseeable future, a full-time U.S. House and Senate doing the will of the public, a job that is intended to be done. But at the same time what has happened that goes along with this that I think is a real problem is that Members are becoming increasingly concerned that it is a full-time job and a career as well. Not all feel that way, but a substantial number do. We need to take the career orientation out of Congress and put a finite limit on the length of time that you can serve here.

The reason why this seems to me to be important is because those who are constantly seeking reelection, viewing it as a career, are inevitably consciously or unconsciously going to try to please every interest group to get reelected. Believe you me, there is an interest group for every proposal that comes before Congress and certainly for every spending proposal. That is a good reason why we have not had a balanced budget.

In addition to needing to mitigate the career orientation of too many Members of Congress, we need to put a permanent rule in place, something in the Constitution that would limit the power of any individual Member to control a committee or to be involved as a chairman or been in a powerful position for too long a period of time. Only a term limit amendment can do that.

Then, term limits would provide also a certainty we are going to have new, fresh ideas here regularly, coming forward out of the public.

I would suggest to my colleagues who oppose term limits and say we need to have the experience and wisdom here of Members who are very good and talented, I would say, yes, there are a few, but there are thousands and thousands of other Americans who can replace those whom we turn out, who could come here, serve their country just as well and would serve just as well as those of us who might think a few of those Members are very talented who are here.

I happen to favor 12 years, as I have said. I think that makes more sense. Twelve years in the Senate and 12 years in the House rather than 6 years in the House or 8 years in the Senate or some other number that is appropriate.

My judgment is that if we go with a number different from the Senate and the House, that we are going to weaken this body as opposed to the Senate.

When we have conference committee meetings and we have other opportunities to debate the issues of the day with the Senate, they will have the more experienced Members in the room, they will have a tougher staff situation, and the House will be weakened. That is not good public policy.

I also happen to think that 6 years is too short. I think you need to be here a couple of terms before you are chairman of a full committee, you need to be in 6 years before you come into the leadership, because this is a full-time job right now whether we like it or not. It is a big Government. I think you open yourself, as term limits supporters, to the critics who oppose term limits altogether who will say the staff will run this place if you support the 6-year version. Twelve years in both bodies makes a lot of sense to me.

But the bottom line is we need, those of us who support term limits, to stick together. Our latest whip check shows we have about 230 Members openly pledged to support term limits in one form or another, coming out here for a vote next week. It is truly remarkable. Two Congresses ago we only had 33 Members of Congress willing to openly support term limits. In the last Congress we got up to 107. In this Congress now it appears that we are going to have at least 230 Members saying, ''Yes, we want term limits in one form or another,'' and I hope all 230 and 60 more which we need to get to the two-thirds to pass the amendment, will be here for whatever version emerges on final passage, whether 6 or 8 or 12, whatever. I urge all Members to seriously consider term limits, remember it is a historic vote out here next Tuesday.

VETERANS' ADMINISTRATION 1995 RESCISSIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 3 minutes.

Ms. DELAURO. Madam Speaker, cutting funding for veterans to pay for tax cuts to the wealthy is wrong. Clearly, my Republican colleagues from the House Appropriations Committee disagree. Last week, under the continued assault of the Contract With America, veterans learned that Republicans cut $206 million from the Department of Veterans Affairs budget to help pay for tax cuts for the wealthy.

These cuts represent more than just money—they represent the breaking of a solemn promise Congress made with sick and disabled veterans across the Nation last year. These cuts target some of the most vulnerable groups in our society—aging World World II and Korean conflict veterans and other who have sacrificed so much for our Nation.

This funding is sorely needed. The Department of Veterans Affairs has been counting on this assistance to pay

for six critically needed ambulatory care projects and to replace worn our medical equipment.

This was not money unwisely appropriated. In the case of the ambulatory care projects, each of these projects have been carefully considered and authorized. Further, they are an essential part of the Department's plan to move away from costly inpatient care to delivering cost-effective outpatient care; part of the Department's plan to invest taxpayers dollars and make the VA medical delivery system more efficient.

One of these projects, the West Haven VA Medical Center, is located in my district in West Haven, CT. The West Haven VA Medical Center serves the entire Veterans Administration's medical system. It is the site of the National Post Traumatic Stress Disorder Research Center and the only VA AIDS diagnostic laboratory. Despite its notable reputation, the center's buildings are in extremely poor condition.

The proposed ambulatory care clinic at West Haven would connect the two main, deteriorating buildings and provide the space that is necessary to respond to the number of outpatient visits at the hospital which have doubled since 1984.

Madam Speaker, this, in the words of Lauren Brown, a nurse at West Haven, is not any way to treat ''* * * vets [who] served their country regardless of party affiliation or which party was sitting in the White House.''

In Connecticut, we are lucky. The West Haven Project is supported by the entire delegation—Republicans and Democrats alike. It is my hope that Members will follow the example Connecticut has set and stand in support our veterans by restoring funding for the Veterans' Administration.

Madam Speaker, our obligation to our veterans must be kept. These cuts are mean-spirited. They do not save money. They must be reversed. When there cuts are debated on the floor next week, I urge my colleagues to support an amendment that will restore this crucial funding to the Department of Veterans Affairs medical construction and equipment accounts.

VETERANS RESCISSIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Puerto Rico [Mr. ROMERO-BARCELÓ] is recognized during morning business for 3 minutes.

Mr. ROMERO-BARCELÓ. Madam Speaker, last Thursday, the House Appropriations Committee voted to cut six Veterans' Administration ambulatory clinic projects totalling $156 million and $50 million in medical equipment purchases which already face an $800 million backlog.

One of these projects happens to be the San Juan Veterans' Affairs Medical Center Outpatient Clinic addition, a project designed to address a 15-year problem of severe overcrowding at the facility. Considered as a VA priority for many years. The area currently used for ambulatory care at the San Juan VA Medical Center provides only 40 percent of the space required according to VA standards. Therefore, temporary measures such as converting storage space and corridors into clinical and examination rooms have been the mode of addressing these chronic space deficiencies for many years. Currently, some outpatient clinics and medical interviews are being performed in the hallways and nursing stations of the facility and exit corridors have been converted into additional waiting areas, potentially comprising the health and safety of both patients and visitors.

After a 15-year struggle by Puerto Rican veterans, Congress finally appropriated the necessary funding—34.8 million—to finalize the construction of the vitally needed outpatient clinic at the San Juan Va Medical Center last year. The project had already been authorized and $4 million had been appropriated for its design a year earlier. Puerto Rico's 145,000 veterans, particularly the sick and disabled, celebrated this long-awaited achievement, construction of which is scheduled to begin this year, only to see the House Appropriations Committee decide to take away all the funds a few months later.

However, the fact that strikes me the most is that these proposed cuts will be particularly devastating to the VA medical system because the targeted facilities are all ambulatory outpatient care facilities. The rescissions come at a time when the VA is involved in the effort of shifting from hospital inpatient care to outpatient and non institutional care settings, which is in keeping with the new general trend in providing medical care throughout the Nation. The purpose is not to put patients in the hospitals, but to keep them out of hospitals.

In the words of Veterans Affairs' Committee Chairman BOB STUMP—and I will quote from his February 28, 1995, letter to Appropriations Committee Chairman BOB LIVINGSTON—

> The particular projects selected for rescissions by the subcommittee—VA/HUD Appropriations—are unfortunately the type of projects the Veterans' Affairs Committee has been encouraging the VA to pursue. It is my strong belief, shared by veterans and their service organizations, that giving greater priority to ambulatory care projects is clearly the right approach to improve service to veterans.

Mr. STUMP went on to conclude—and I once again quote—that ''in striking contrast to the needs the VA faces, these cuts move VA in the wrong direction.''

The Department of Veterans Affairs has consistently ranked the six targeted ambulatory projects as the ones with their highest priorities. They are an integral part of the Department's effort to move away from costly inpatient care and provide more accessible, cost effective and efficient outpatient care. Ultimately, all these projects will save the VA medical system and, therefore, the American taxpayer, millions of dollars.

However, by proposing the rescission of these six projects, the Republicans are sending a very clear message: The health of our Nation's veterans is not a priority

Madam Speaker, we owe a great debt to our veterans. A reduction in hard earned medical services to deserving veterans is not the way to pay for a tax cut for the wealthy and the most wealthy, influential corporations.

I urge my colleagues from both sides of the aisle to support restoring this vital funding when this ill-conceived rescissions package is brought to the floor next week. While it is a small reward for the sacrifices our deserving veterans have made, it is the very least we can do.

PROPOSED BASE CLOSURES IN GUAM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 3 minutes.

Mr. UNDERWOOD. Madam Speaker, under the Secretary of Defense's recently released list of base closures to be considered by BRAC, Guam is the hardest hit American community on the list. Four of Guam's facilities, all from the Department of the Navy, were slated for closure or realignment by the Department of Defense, affecting some 2,700 civilian and 2,100 military positions. In terms of total personnel affected, Guam is targeted for more reductions than such large States as California, Virginia and New York.

The proposed reductions could be devastating to Guam's economy. The reductions represent between 5 and 10 percent of the entire work force on Guam, and as much as a quarter of Guam's economy could be adversely affected. Let me repeat: up to 10 percent of the entire work force will be thrown out of work. And these are the DOD's own figures, not my estimates. To put it in perspective, if this magnitude of cut were undertaken in California, almost 1.5 million jobs would be affected.

But these types of reductions did not occur in California. In fact, according to testimony by the Secretary of the Navy Dalton yesterday, four bases in California were spared because of the potential economic impact. Does anyone doubt whether they even considered the economic let alone the human impact of their cuts on Guam.

To compound the job loss, the Navy is trying to have it both ways. They're closing down facilities, saying they don't need them, and at the same time holding on to all the assets in case they need them in the future. Under the proposal to close the ship repair facility, or SRF, the Navy would not transfer the piers, floating drydocks, its typhoon basin anchorage, floating

cranes and other equipment to the local community. Similarly, they would retain all the pier space with the closure of a number of naval activities at the naval station.

Their decision would be like moving all the troops out of Fort Ord, but holding onto the base. They cannot and should not have it both ways. Either they retain the facilities or turn them over to the local community so that Guam can recover the job losses. This schizophrenia will leave our community in a straitjacket without the tools for our own economic survival. If the Navy closes down these facilities and retains the assets we will be left with no access to the waterfront and a few empty buildings. This does not bode well for forming a successful reuse plan when we cannot even be given the opportunity to use our own resources.

According to recent statements by the Secretary of Defense William Perry and other officials in the Pentagon, the decision to pull back from Guam was opposed by some high ranking uniformed officers, including the Commander in Chief, Pacific Command, Adm. Richard Macke. Apparently, Admiral Macke indicated that without Guam, the Navy will be forced to count on foreign facilities in Japan to meet their needs and would lose the most forward deployed U.S. military base on American soil in the Pacific. The CINC understands the big picture and the need for Guam as a strategic base. However, the computer model used by the Pentagon did not consider these implications.

Computer models, bean counters, and technocrats did not consider such factors as reliability, loyalty and the long-term effect of these closures on our position in the Pacific. Apparently suits in the Pentagon overruled some of our uniformed military personnel who understand the need to maintain an SRF in Guam.

A more logical approach than the one taken in the Secretary's recommendation would be a joint use agreement with the local government. Under such an arrangement, the Government of Guam could act as a corporate operator of the major facility, SRF. The Navy would then pay the government of Guam to operate the facility and retain access to it in times of crisis. In this way, the equipment and quality of work force is maintained and used for commercial use but the Navy does not have to pay for the entire cost anymore. It makes good economic sense by saving the Navy money and giving the local community the economic tools to survive.

If this approach is rejected and BRAC decides that Guam is not needed as a forward deployed base then the Navy must turn over the assets and land upon completion of the closure. Otherwise, there is no way that the people of Guam could possibly recover the 25 percent loss to their economy and 5 to 10 percent reduction in the work force. The least the Navy can do if they are going to close these facilities is to give the local community the tools to recover from the loss.

Since the Navy has taken the easy way out by making a wishywashy decision, it is now up to BRAC to decide.

Madam Speaker, I urge BRAC to make the right decision.

SAVE FLORIDA VETERANS PROJECTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Florida [Ms. BROWN] is recognized during morning business for 2 minutes.

Ms. BROWN of Florida. Madam Speaker, last week the Republican members of the House Committee on Appropriations voted to rescind $206 million in the VA's budget for this year. These funds were intended for six VA facilities and medical equipment to provide better health care for our Nation's veterans.

Of these six projects that were cut, two were in the Florida, Gainesville ambulatory care unit that has been on the list for over 18 years, and one in Orlando that is a win-win situation, an example of how Government works well.

When the Base Closure Commission recommended closing the naval training facility, the Department of Defense, along with Veterans' Affairs, worked together to turn that facility over to the veterans who really needed the facility in the Orlando area. The amount of this funding was $14 million. There could be no backing down on this matter. A vote to keep our veterans projects is a vote to keep our promise to our veterans.

These cuts targeted at veterans are another example that the Republican ''Contract With'' is a ''Contract on America,'' and a Contract on American veterans.

Madam Speaker, one project was for a $14 million project to allow the VA to relocate from its present location to the Orlando Naval Training Center hospital, identified for base closure, for use as a satellite outpatient clinic and a 120-bed nursing home facility.

The existing outpatient clinic in Orlando is a disgrace. It lacks sufficient examining rooms, waiting areas, and bathrooms. There is no privacy for examining women veterans and parking is severely limited. These veterans in east central Florida have already waited too long for access to a quality health care facility.

The other funds were $17.8 million for a VA ambulatory care addition in Gainesville. Funds have already been obligated for the Gainesville ambulatory care addition. In fact, last week the VA announced a contract award for the project. This project has been identified by the VA as critically necessary to relieve outpatient overcrowding problems. Lack of space prevents the medical center from offering care in a timely manner. This Gainesville project has been designed to include an ambulatory surgery facility in renovated space, along with facilities for primary care, specialty outpatient care, and women's health.

It is a national disgrace that Republicans cut these funds to provide better care for veterans. The list obviously was quickly and thoughtlessly compiled. Our Nation's veterans—men and women—who have been called upon to put their lives on the line in remote parts of the world and under the most difficult conditions. If they survive this ordeal, they should at least be able to have good care when they return to the United States.

These canceled projects prevent us from expanding our outpatient services, a national trend in health care delivery, and making our health care system more efficient and cost effective. These canceled projects are aimed at one of the most fragile groups in our society—aging World War II and Korean conflict veterans. These and all veterans should expect and receive good care. If we cannot protect them at their time of need, how can we ask them to stand in harms way to protect us?

SUPPORT AN AMENDMENT TO THE RESCISSIONS BILL

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized during morning business for 2 minutes.

Mr. MONTGOMERY. Madam Speaker, I want to thank the gentlewoman from Florida [Ms. BROWN] and the gentleman from Guam [Mr. UNDERWOOD] for giving me part of their time.

Madam Speaker, I rise to support, and I hope all Members would support, an amendment to the rescissions bill. This amendment would restore the $206 million for veterans' programs which the Committee on Appropriations proposes to rescind.

Madam Speaker, I hope the Committee on Rules will permit us to offer a clean amendment to restore these funds.

The six VA projects which the committee has recommended be canceled are needed in order to improve access to necessary outpatient care in an area where over 1 million veterans reside.

Rather than producing real savings, the proposed rescissions would tend to have the opposite effect because they would cut projects aimed at making VA health care delivery more cost-effective.

As the President of the United States said yesterday, ''These cuts would harm those veterans who most need the Nation's help.'' Enacting this measure would contradict the Speaker's assurance to me in January that Congress would not cut veterans' programs.

Madam Speaker, in some parts of the country the VA really does not have the proper health facilities to meet the veterans' needs. I am told that the clinics are too small. For example, in Puerto Rico eye doctors are forced to perform eye examinations in hallways. Many VA outpatient clinics were built so long ago that there is no privacy for women veterans. In most of these older facilities, there is only one examining

room per doctor. We would like to provide two examining rooms for each doctor, which would facilitate and speed up the process. We hope we will have the support when we offer this amendment to restore the $206 million cut by the Committee on Appropriations.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 11 a.m.

Accordingly, at 10 o'clock and 28 minutes a.m., the House stood in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker.

PRAYER

The Most Reverend Augustin Roman, Auxiliary Bishop of Miami, Miami Shores, FL, offered the following prayer:

Father in Heaven, Lord and Ruler of all the Earth and its nations; You have given all peoples one common origin and Your will is to gather them as one family in Yourself.

Look upon this assembly of our national leaders and fill them with the spirit of Your wisdom so that they may act in accordance with Your will. Through their deliberations, may they seek to overcome the selfishness that divides our human family and thus help secure justice for all their brothers and sisters. For it is justice guaranteed for all and denied to no one that rightly orders our liberty while accepting Your lordship over us and so assures the security of a true and lasting peace worthy of man created in Your image and likeness. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. GENE GREEN] come forward and lead the House in the Pledge of Allegiance.

Mr. GENE GREEN of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The Chair announces that there will be 20 1-minutes on each side.

A WELCOME TO BISHOP ROMAN

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, this morning we were blessed by hearing Auxiliary Bishop Augustin Roman of the Archdiocese of Miami deliver the opening invocation. My colleagues, LINCOLN DIAZ-BALART, BOB MENENDEZ, and I welcome him.

We have recently come to the floor to remind our colleagues of the great contribution that immigrants make to this country. Bishop Roman is another perfect example.

Bishop Roman arrived in the United States in 1966, after having been expelled from Cuba by the tyrannical regime of Fidel Castro.

In 1979, Bishop Roman became the first Cuban in 200 years to be named a bishop in the United States. The bishop holds advanced degrees in theology and human resources and serves as director of the ''Ermita de la Caridad,'' a shrine to Our Lady of Charity, which he helped create. He has been a spiritual guide for the people of south Florida during troubled times.

Bishop Roman is also active in seeking freedom for the Cuban rafters detained at Guantanamo.

When called by the local press a hero, the bishop humbly responded that ''a bishop, a priest is a servant, not a hero.'' This humility and compassion is what has made the bishop of one south Florida's heroes, or as he would put it, its servant.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 2

Ms. DUNN of Washington. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of House joint resolution No. 2.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentlewoman from Washington?

There was no objection.

REPUBLICANS IN THE SCHOOL LUNCH PROGRAM

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

Mr. GENE GREEN of Texas. Mr. Speaker, last night and this last weekend we heard the Republican majority defend their school lunch changes. It is the great Republican shell game for school lunch.

They promise a 4.5-percent increase under one shell, but they do not tell us what is under the Appropriations Committee shell. What is under the State shell, when they can cut 20 percent from the School Lunch Program and transfer it to other programs?

The Republicans are playing budgetary shell games with school lunches. They are taking a guaranteed school lunch for children and subjecting it to the authorization process, to the appropriations process, and then subjecting it to whatever a State may want to do up to 20 percent. On one hand they promise an increase in funding, on the other hand the Committee on Appropriations has been cutting the summer youth jobs and other programs for children.

Are we going to protect the lunch program, or are we going to subject it to the Committee on Appropriations and what they are doing now? Will school districts be forced to end programs when massive rescissions bills come down after they have already bought food? Maybe we should go to the kids during the year after they have already had that luncheon say, you need to give it back.

Why is Congress trying to fix a program that has been working since 1946?

REPUBLICAN CONTRACT WITH AMERICA

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

Mr. HOBSON. Mr. Speaker, our Contract With America states the following: On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third, and cut the congressional budget. We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we kept our promise; commonsense legal reform to end frivolous lawsuits—we plan to complete that today;

Welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for middle-income families; senior citizens' equity act to allow our seniors to work without Government penalty, and congressional term limits to make congress a citizen legislature.

This is our Contract With America.

REPUBLICAN PROPOSAL TO END THE SCHOOL LUNCH PROGRAM

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute.)

Ms. VELÁZQUEZ. Mr. Speaker, 2 weeks ago the Republican Party released its most extreme proposal. Republicans voted to dissolve the most successful child nutrition programs in our schools today—the school lunch program. With a 5-year, $5 billion program cut, the GOP will raise the nutritional deficit of thousands of school age kids.

Republicans need to understand that in their callous and inhuman proposal, they will be hurting the most vulnerable of Americans—our Nation's children. Members of the GOP argue that their program will cut bureaucrats and will not endanger our children. Well I have news for them, cutting school lunches does endanger our children. How can we prepare our youth for the jobs of the 21st century when we deny them the basic requirements for a healthy body and sound mind.

Members on the other side of the aisle need to stop playing schoolyard bully. Their actions are an insult to millions of Americans and their children. I urge this body to defeat any action against the health and well-being of our Nation's kids.

REFORM FOR THE NEXT GENERATION

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute.)

Mrs. SEASTRAND. Mr. Speaker, in trying to help the least advantaged among us, our Federal Government has instead created a culture of poverty that is destroying the next generation. It created a safety net that works as a hammock instead of a trampoline. It created reliance when we wanted self-help. And it started a cycle of dependency when we wanted charity. The clients of the welfare system have instead become its victims.

Now Congress has the opportunity to change the system. We have the obligation to reform the system. And we have the moral imperative to transform this system of dependency. While others have come to defend the welfare state, they have instead declared war on our children of the next generation because they don't recognize this era has raised the white flag over the current culture of poverty. Mr. Speaker our welfare system is normally bankrupt and only through a mixture of compassion and tough love will we be able to keep our country from declaring moral chapter 11 and defaulting on the next generation—our children.

TOP 10 REASONS FOR SUPPORT OF 1–800–BUY–AMERICAN

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

Mr. TRAFICANT. Mr. Speaker, the top 10 reasons to cosponsor my 1–800–Buy–American bill.

No. 10, the bill pays for itself. No. 9, it passed the House last year overwhelmingly. No. 8, no government bureaucrats. No. 7, no more Ross Perot specials and graphs. No. 6, the Chinese are coming. No. 5, it beats all those 1–900 phone sex calls for your family. No. 4, the American workers demand it. No. 3, Japan hates it. No. 2, it should be a part of the Contract With America. And No. 1, David Letterman is absolutely fed up with those Chinese toasters.

1–800–Buy–American, H.R. 447, passed the House, the Senate did not show the wisdom. Cosponsor H.R. 447.

LIABILITY LAWSUIT SYSTEM

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

Mr. TIAHRT. Mr. Speaker, America's liability lawsuit system has imposed huge costs on the economy and our society. Even Little League baseball has not been exempt. Its liabilities insurance rates have climbed 1,000 percent in 5 years. So Americans are going to have to pay more for their children to play baseball.

I feel safe in saying that if our current liability system had existed 100 years ago, we would not be flying airplanes. And being from the air capital of the world, Wichita, KS, that is a startling thought. Americans are brave and adventurous people. We like to take risks. We have historically been willing to pay the price for progress. But all we are paying today is the cost of frivolous and predatory lawsuits brought by lawyers who in many cases are only out to protect their fees.

Mr. Speaker, $300 billion a year. That is what our system costs Americans each year in higher prices and lost wages and in lost jobs. While we need to ensure that people with legitimate grievances have access to the justice system, we also need to make commonsense reforms.

SCHOOL LUNCH

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the war on kids just got extremer and meaner yesterday. We all know about the war on the lunch program and paper plates are coming in in the mail every day to my office saying please save it, please save it. But yesterday we saw one more step that I really could not believe.

We saw them take out of the Child Support Enforcement Act a provision saying a deadbeat parent could have their driver's license taken away. Now, I think that is amazing.

As they are taking away a child's lunch, they are not at all hesitant to leave a deadbeat parent with their driver's license. Heaven forbid.

What is a child supposed to do? The child, I guess, is supposed to pick better parents before birth. I do not think that is a good answer.

WELFARE REFORM

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

Mr. JONES. Mr. Speaker, the defenders of the old order have been telling us for weeks how much they want to help the children. But their idea of helping children is expanding a welfare system that has proven to be a failure—especially for children.

Consider this recent poll result. When asked, ''do you think children are generally better off today or worse off than when you were a child,'' 60 percent of all Americans—and 77 percent of black Americans—said children today, were worse off.

All you have to do is look around to see that the people are right. And the welfare system is a large part of the reason why.

So why do the Democrats fight so hard to save a failed system?

I think it has a lot to do with the poverty industry that has grown up around the Democratic Party.

The Democrat Party may need poverty, but America does not.

It is time to act, Mr. Speaker. It is time to change a failed system that has done irreparable harm to America's children.

□ 1115

CHILDREN AT RISK WITH CUTBACKS ON SCHOOL LUNCH PROGRAM

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

Mr. SERRANO. Mr. Speaker, let me see if I can get this right. The Republican approach is to lower taxes for the rich by taking the school lunch away from the children. The contract with America is undoing the legend of Robin Hood.

Republicans who were elected last November never told the voters that they intended to bring pain to the children of our country. The mean-spirited Republicans continue to set their sights on attacking those members of our society who are least able to fight back.

This time they have gone too far and the American people are aware of the all-out assault on children in this country. The Republicans can try to mislead the people about the Social Security cuts but they are not going to be able to hide their attacks on the school lunch program and the children in our country.

Day after day, Republicans come up with a new way to hurt helpless little

children. Are the children a special interest group Republicans want to do away with?

The voices of the American people are being heard. Do not hurt the children.

CHANGES IN THE LEGAL SYSTEM PROVIDED BY THE CONTRACT WITH AMERICA

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

Mr. CHABOT. Mr. Speaker, this is a true story. A man in New York tried to commit suicide by jumping in front of a subway train? He survived, and then he sued the city for damages, and he won $1.2 million.

This is just the type of case which tells why three-fourths of Americans say that the current liability lawsuit system is in need of major repair.

The American people are sick and tired of our culture of victimization. Murderers go free because they were supposedly abused as children. A woman spills coffee on herself, and then she collects millions of dollars in punitive damages.

Whatever happened to personal responsibility? This is no small matter. Frivolous lawsuits cost Americans $300 billion in higher prices and in lost wages, but we are going to reform this system, while ensuring that all those with legitimate grievances will have access to the justice system. This is our Contract With America.

SCHOOL LUNCHES NOT JUST A LUXURY, SAYS MISSISSIPPI EDUCATOR

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

Mr. KLINK. Mr. Speaker, William Billups, the Principal at the all black Jefferson Elementary School in Jefferson County, MS, rural, poor, and 85 percent black, says that school lunch programs are not just a luxury.

Principal Billups is a Republican, and he says he likes a lot of the changes that are taking place in Washington these days, but ending the Federal School Lunch Program and block granting the money to the States is not his idea of making things better.

Billups calls it a crapshoot. Adding that you just do not know what they will do with the money.

Having watched Mississippi State politics like I have watched politics in my State of Pennsylvania, Billups knows that ''They'll take a little here and take a little there. It'll be political.'' And he adds, we shouldn't be political. about food. Maybe we should send our Republican friends back to Jefferson Elementary School in Jefferson County, MS, to learn that lesson.

PROTECT BIODIVERSITY AND ECOSYSTEMS

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

Mr. GILCHREST. Mr. Speaker, Dr. Norse, chief scientist for the Center for Marine Conservation, reminds us that biodiversity and ecosystems do such things as maintaining climate, removing pollutants from the atmosphere, building soils to sustain the agricultural industry, and protect coastlines, and these are essential, all of the things I just described, to human existence.

Just as our astronauts are absolutely dependent on expensive, engineered life support systems to sustain them in the cold void of space, what sustains the entire Earth in the cold void of space is the life-supporting functions of the world's ecosystems and biodiversity. These things provide the habitat that all species need, including humans.

Unfortunately, our responsibility for being stewards of the land often conflicts with our apparent and obvious need to produce and consume resources.

Just as we would never sell the original Constitution of the United States or the Chesapeake Bay to foreign investors for any amount of money, we should not sell our biological diversity for a percentage. We must reexamine our knowledge on these issues.

SAVE THE SCHOOL LUNCH PROGRAM; REJECT CAPITAL GAINS TAX CUT

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

Mr. BROWN of Ohio. Mr. Speaker, yesterday I visited three elementary schools in my district, Hamilton and Homewood in Lorain, OH, and Franklin Elementary in Elyria. I talked with students, parents, cafeteria workers, teachers, and administrators about school lunches. The school lunch program, they told me, begun in 1946 by Harry Truman, is a Government program that works. They simply said ''Don't mess with it.''

Almost one in three children in the Lorain and Elyria public school systems, middle American cities, certainly qualify for some type of assistance in school lunches. That is good, sound, fundamental policy. It helps the kids, for sure. For some of them it is the most nutrition they will get in a day. Just ask some of the physicians and nurses in Lorain County whether they think the school lunch program is a good investment.

I am a budget deficit hawk, but cutting school lunches for working-class and poor kids, Mr. Speaker, simply goes too far. Republican extremists last week, though, increased military spending by $3.2 billion, and Republican extremists announced that they will pass a capital gains tax break for the wealthiest 1 percent of our society. Mr. Speaker, this is extremism. It should be rejected.

GOOD NEWS FOR SENIOR COMMUNITIES

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

Mr. GOSS. Mr. Speaker, this week we expect some long-overdue good news for seniors. The Department of Housing and Urban Development will release its new rule defining the ''significant facilities and services'' requirement for senior communities under the Fair Housing Act. We well remember HUD's first attempt to set such standards—a disaster that sparked vigorous and legitimate protest from seniors across the country. From what we have seen, it appears HUD learned its lesson the second time through. I thank all those who made themselves heard. It made a difference. The new rule recognizies the unique social and physical characteristics of senior communities. And it will enable existing senior-only communities to qualify for the exemption without great expense. It is about time the bureaucracy acts to alleviate the unnecessary fears and anxiety caused by the vagueness in current law. I hope the millions of Americans impacted by this proposed new rule will take a close look and let us know what they think.

UNDER ''LOSER PAYS,'' WINNERS TREATED AS LOSERS

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

Mr. GUTIERREZ. Mr. Speaker, the legal bill we are debating today can be summed up in two words.

Loser pays.

Loser pays. An appropriate phrase for this Congress.

Because all across America, people who are winners are being treated like losers.

Hard-working American families who are busy meeting their mortgage and making their car payment and saving for school supplies.

Middle income Americans who are too busy trying to stretch their dollars to attend the thousand dollar a plate dinners for Republican insiders.

Loser pays.

Well, to my Republican colleagues, I guess the people who hold the champagne glasses and wear the designer dresses at their fundraisers are the winners, and the people who serve the drinks and clean up afterward are the losers.

But today we have a chance to preserve the right of Americans to be winners in court by rejecting the lobbyist-sellout the majority calls ''legal reform.''

When we do, the losers who pay will not be American families, they will be the lobbyists left alone when the lights go out at their party.

THE COMMON SENSE LEGAL REFORM ACT WILL RESTORE THE BASIC PRINCIPLES OF LAW

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

Mr. WHITE. Mr. Speaker, I would like to spend just a couple minutes this morning talking about my second year in law school, not the first year; the first year we studied the traditional principles of law and I understood those. In the second year we started to get into the more recent developments that we have seen in our legal system, and those, frankly, I did not often understand.

These are principles, for example, that allow someone who is only responsible for 10 percent of the damages caused to someone to be liable for 100 percent of all the payments that have to be made. It allows someone who is drunk to recover full damages, even though it was his drunkenness or the fact that he was on drugs that caused his own damages.

Frankly, Mr. Speaker, that is something I did not understand, and 15 years of practicing law confirmed to me that our legal system is dramatically out of whack. That is why I am so happy to be here today as we debate the Common Sense Legal Reform Act.

This act will do many things, but most important, Mr. Speaker, it will restore the principles that our law used to be based on back to the law today, principles of personal responsibility, principles of right and wrong. I urge my colleagues to vote for it.

A PLEA FOR RESTORED FUNDING FOR LIHEAP

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, it is not easy to be poor in this country; it is not easy to be old; and it is not easy to get through a harsh New England or Midwestern winter if you are either.

For that reason, we enacted the low-income energy assistance program, or LIHEAP. In fiscal year 1993, more than 5 million households benefited from funding under LIHEAP. More than 70 percent of these recipients have annual incomes of less than $8,000.

In my own State of Connecticut, not only are our winters harsh and our economy in deep difficulty—our fuel costs are disproportionately high. The average price of natural gas in Connecticut is 291 percent higher than it is in Alaska. Without LIHEAP, many families may be faced with the starkest of choices: Heat versus gas for the car, or clothes for the children, or a roof over your head.

It is not easy to be poor, or old, or sick. And it's not easy to be overlooked. Let us not ignore these people least able to speak for themselves. Let us restore funding for LIHEAP.

GOP KEEPING ITS PROMISE TO CHILDREN

(Ms. DUNN of Washington asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Speaker, Republicans are keeping their promises—and that includes the promise to help millions of children currently forced to live on welfare because one of their parents has abandoned them. This Nation's No. 1 natural resource is its children, and they deserve the protection that Republicans offer them in our welfare reform plan.

For decades our Nation has seen a huge welfare bureaucracy continue to grow while Congress stood idly by failing to hold parents accountable for the precious children they have brought into the world and then carelessly chose to abandon. We cannot allow this tragic status quo to continue.

Under the Republican welfare reform bill States will finally get the assistance they need to track down deadbeat parents—especially the 30 percent who move out of the State often to avoid paying child support. Our proposal will help to find these individuals and require them to pay the $34 billion they owe in child support to the children they have deserted—children who might have been kept off welfare if the parent had kept his commitment.

Mr. Speaker, it is a tough approach but a fair one. And, above all else, it is the approach that can save children from falling into the welfare trap of a lifetime of dependence on the Government.

We can end the status quo. Let us help States find those deadbeat parents, and let's keep our promise to the children.

COMMENDING BISHOP ROY LAWRENCE HAILEY WINBUSH

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

Mr. FIELDS of Louisiana. Mr. Speaker, when men look through the halls of time, it is leaders in our community who literally stand out, those who shake the very ground on which we walk.

It brings me great pleasure to take this moment to recognize a leader not only in my State, but a leader in this entire Nation, Bishop Roy Lawrence Hailey Winbush, who was recently elected the chairman of the Congress of the National Black Churches, an organization that has an active participation of over 65,000 churches nationwide.

Bishop Winbush took this esteemed position it will be 40 years ago. He served as a community leader, and made an incredible mark on this country as a leader who recognizes and represented the cities of Alexandria, Lake Charles, Lafayette, Monroe, and Shreveport.

Bishop Winbush also is a general board member of the Church of God in Christ, an organization that represents over 5 and a half million members nationwide. Bishop Winbush is also a public servant. When faced with the problem of crime, community, and family, President Clinton requested his presence, along with others, to address the problem within the African-American community.

I am happy to say this gentleman lives in my community, and I commend him today.

CHILD NUTRITION PROGRAMS INCREASED, NOT CUT

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

Mr. NORWOOD. Mr. Speaker, that the other side continues to accuse us of cutting funding for child nutrition programs is ludicrous. I voted in committee to increase the funding child nutrition programs are receiving, yet people are calling my office worried that we are gutting these programs. We are increasing the funding and eliminating the wasteful Federal bureaucracy to send more money to the States. The charge that we are cutting funding is patently false. Mr. Speaker, I would simply ask that Americans look at the facts. It is a fact that we are putting more money in to child nutrition. It is a fact that our bill dismantles part of the Federal bureaucracy. And it is a fact that many Democrats receive significant campaign contributions from Federal bureaucrats every year. All I ask is that Americans consider the facts.

IN OPPOSITION TO CHILD NUTRITION AND SUMMER JOB CUTS

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, I hold in my hands the Constitution of the United States of America, which has in some parts of it the opportunity for all of us to pursue happiness and to establish equality. I simply ask, who is working for the children?

It is interesting to hear expressions about how much these block grants and these votes will provide more dollars for school breakfasts and lunches. In fact, they really do not. What they actually do is cut the dollars, because they do not take into consideration the increased need of our children and our mothers, who are in fact fighting every day to survive.

Mr. Speaker, I rise today to speak against the runaway legislative freight train that threatens to crush the lives of millions of America's children. In particular, as a Representative for the 18th Congressional District in the State of Texas, I acknowledge that there are businesses, small businesses, there are working people, middle class, but I also say that my district has a wealth of children who are in fact in need of school breakfasts and school lunches.

My Republican colleagues indicate and are the conductors of the unconscionable train. Mr. Speaker, we must realize that we have to stand for the children. We cannot lose $670 million in my home State of Texas alone between now and the year 2000.

Mr. Speaker, let us not cut nutrition for our children, let us stand up and fight and uphold the Constitution.

Mr. Speaker, I must rise today to speak against the runaway legislative freight train that threatens to crush the lives of millions of America's children.

My colleagues from the other side of the aisle are the conductors of this unconscionable train, and they continue to drive that train at breakneck speed through this body without any consideration about what and who they will leave lying bloody on the tracks behind them.

Their agenda—already declared immoral by Cardinal John O'Connor—will slash child nutrition programs—more than $670 million in my home State of Texas alone between now and the year 2000.

And now, as if nutrition cuts were not horrific enough, the mad conductors of the runaway train have set their sights on summer job programs. Bear in mind, these are the same folks who complain about welfare dependency and cycles of poverty. Do they not see, Mr. Speaker, that denying some 600,000 needy young people a summer job will only make it that much more difficult for them to get the work experience they'll need to break our of poverty?

Mr. Speaker, I fear these Republican conductors do not see the damage their runaway train will wreak because they are blinded by their zeal to cut taxes, with no real focus on the deficit of working Americans.

For the sake of America's children, this train must be stopped.

□ 1130

TIME FOR COMMONSENSE LEGAL REFORM

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

Mr. CHRISTENSEN. Mr. Speaker, yesterday this body began the monumental task of reforming America's legal system.

Mr. Speaker, for too many years ridiculous legal judgments have been handed down in frivolous lawsuits where the only real winners are the lawyers.

Mr. Speaker, some have suggested that we should leave this up to the individual States to decide. I am a true federalist at heart and I believe that in States where the State statute is stronger than the Federal law that State law should prevail. But there are States where the abuses of the judicial system have run amuck.

Case in point, Alabama. Steve Flowers is a 13-year veteran of the Alabama legislature and chairman of the Insurance Committee for the Alabama House.

In 1987 Mr. Flowers was the primary sponsor of Alabama's legal reform legislation, but he now strongly favors Federal legislation in this area.

Why? Because in 1993 the Alabama Supreme Court in Henderson versus Alabama Power Company ruled that the Alabama legislature did not have the authority to impose limits on punitive damages.

Mr. Speaker, in the first 11 months of 1994, juries in Alabama awarded more than $170 million in punitive damages, not including wrongful death actions.

The time is now for true commonsense legal reform. This body must act now to turn the tide of lawsuit abuse and pass this measure to protect hard working Americans from the long arm of the trial lawyers.

CONTRACT PUNCHES HOLES IN CONSTITUTION

(Mr. WATT of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. WATT of North Carolina. Mr. Speaker, when I showed up yesterday with my hole puncher in one hand and the Constitution in the other hand and represented that the Contract With America was beginning to punch holes in the Constitution, I got calls yesterday saying, ''Are you crying wolf?'' So I went back and here is the record.

Line item veto, article I, section 1.

Effective death penalty action, habeas corpus, article I, section 9.

National Defense Revitalization Act, this review commission, article II, section 2.

Exclusionary Rule Reform Act, fourth amendment, punched a hole.

Takings legislation, fifth amendment, punched a hole, America.

The Contract With America is punching holes in our Constitution. As the Speaker comes in here to punch a hole in this contract, they are punching a hole in the Constitution of the United States.

WHAT IS REALLY GOING ON

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

Mr. HOKE. I wonder if that applause coming from the other side of the aisle, if those Members who applauded, if perhaps they also voted back on the first day of Congress, of the 103d Congress, 1992, to seat delegates, to allow them to vote in the Committee of the Whole in contravention of article I, section 2 of the Constitution, punch-punch.

We continue to hear the same thing over and over and over, and it just begins to make you wonder if you repeat it long enough and loud enough, if the big lie might not take effect, might not actually stick.

The fact is that we are increasing the amount of money that goes to School Lunch Programs. Everybody knows that on both sides of the aisle, including when one takes into effect demographics and changes in population.

What is amazing, though, is that the same lie would be repeated. So what is it all about? Is it not really just about power and the loss of constituencies and the loss of bases? I think that is really what is going on here.

Clearly those friends of mine on the other side of the aisle have been supported for years and years by the Federal employees PAC's, and that is really what is going on here.

SUPPORT FEDERAL NUTRITION PROGRAMS

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, we are pedaling backward fast, crushing kids as we go. Cut the heat at home, cut the lunches at school. There is no escaping the cuts, kids.

Have we forgotten the shameful revelations of hunger and poverty that produced the American majority for school lunches, WIC and low income energy assistance? What about that contract?

Contracts are supposed to be win-win propositions. Tax cuts for the wealthy paid for with lunch money from kids is a rotten tradeoff. As $5 billion wallop at WIC and child nutrition programs is child abuse.

If Washington cannot afford to feed hungry kids, cash-starved cities like the District will hardly be able to pick up the pieces—or the children. It is time we stopped eating our young and their lunches.

THE ALTERNATIVE MINIMUM TAX REPEAL ACT OF 1995

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

Mr. ENGLISH of Pennsylvania. Mr. Speaker, today I am introducing the Alternative Minimum Tax Repeal Act of 1995. It is my sincere hope that this legislation will provide a starting point for this Congress to consider eliminating economic distortions caused by the Tax Code and encourage new investment in manufacturing.

This legislation would repeal the alternative minimum tax that was created as part of the Tax Reform Act of 1986. This tax is a major impediment to

new investment for many capital intensive and rapidly growing manufacturing firms in the chemical, electronic equipment, energy, metal, paper, steel, and transportation industries. It is a parallel tax system that takes away a portion of a company's depreciation deductions if their income as computed under the alternative minimum formula is higher than their income calculated under the regular tax system.

While it was designed and intended to prevent otherwise profitable companies from escaping taxation altogether through the use of exclusions, deductions, and credits, it has instead resulted in large interest-free loans to the Government by companies that experienced real economic losses during the early 1990's. Congress never intended for companies to incur a permanent increase in tax liability due to this tax. Put simply, the alternative minimum tax is not working as it was intended.

While many members of the House Ways and Means Committee, on which I serve, are very concerned about this tax, by introducing this legislation I hope to ignite a broader interest in this exact type of much needed tax reform. I am pleased to offer this bill to the House.

LEAVE THE KIDS ALONE

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

Mr. LEWIS of Georgia. Mr. Speaker, yesterday I ate breakfast and lunch with students at two schools in Atlanta, Payton Forest Elementary School and Thomasville Heights Elementary School. Many of these children were receiving these meals through the School Lunch and Breakfast Programs. For some of them it was the first decent meal they had had since Friday, the last time they were in school.

Mr. Speaker, it is cold and heartless, it is just plain mean, for the Republican majority to deprive these children of their school breakfast and lunches. This program is a success. It provides the food necessary for children to learn. Children cannot learn on an empty stomach, they cannot learn if they are hungry.

The cost of my breakfast and lunch yesterday was a combined $2.70. Surely, this is not too great a cost to pay to feed our children, to give them the nutrition they need to learn and to grow.

In their rush to provide tax breaks to the wealthy, the Republican majority would steal lunch money from our kids. I, for one, do not want any part of that contract and I don't think the American people do either.

THE SIMPLE FACTS

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

Mr. HAYWORTH. Mr. Speaker, I certainly have a great deal of affection and admiration for the gentleman who preceded me here in the well. I was pleased to see that he was back at school as were many of my liberal Democrat colleagues yesterday. But the fact is that with all due respect, my friends should not spend time exclusively in the lunchroom, they should go back to math class, because here are the simple facts of this case.

We are actually increasing $200 million in excess of what the President is calling for in school nutrition programs. We are calling for a 4.5-percent increase in these school nutrition programs. Yes, we are asking to fine tune the responsibility to give the responsibility to people on the front lines fighting the battle, but friends, it is an increase.

Only in Washington can an increase be called a cut and be called heartless and mean spirited when in fact we are public spirited trying to get control of this problem, trying to feed the truly needy and trying not to make this a crass political issue.

SUPPORT FEDERAL NUTRITION PROGRAMS

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

Mr. WARD. Mr. Speaker, I have a prepared text for today to talk about child nutrition programs, but I have to react to what we have just been hearing. To say that they are not going to cut these child nutrition programs is the big lie, ladies and gentlemen, because if you make a block grant, you take last year's figure which may be higher than the year before's but say, ''We are not going to raise it in the future, we are just going to let the States spend it,'' you are cutting it.

If you do not take into account economic downturns, if you do not take into account what happens in community after community across this country which may be different than what is happening here, and then have the audacity to blame the Democrat support on our connections with Federal bureaucrats, that is just too absurd for words.

Ladies and gentlemen, we need to continue to support our children.

FEAR TACTICS EMPLOYED IN SUPPORTING FEDERAL NUTRITION PROGRAMS

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

Mr. DREIER. Mr. Speaker, pathetic is the only way to describe the message which has been emanating from the other side, trying to frighten the people of the United States of America about our goals for dealing with the issue of child nutrition.

We do not have a cut. We have a 4.5-percent increase. That is very clear. But as my friend from the other side of the aisle just said, we somehow in transferring this to the States will in fact allow a tremendous cut to take place. Baloney. There is a provision in this legislation which states that 80 percent of those funds that are provided must go toward the nutrition program and the requirement also states that no more than a 2-percent overhead can be provided.

We are increasing the level of funding, we are trying to make it more responsible so that in fact we do not see what exists today, 20 percent of those young people benefiting from the program coming from homes with incomes in excess of $50,000 a year.

We want the truly needy to benefit from this, we are increasing the level of funding for it, and they should quit the kind of fear tactics that they are imposing.

TORT REFORM

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

Mr. SAM JOHNSON of Texas. I will not even address the lies coming from the other side.

Mr. Speaker, I want to talk about tort reforms we are considering this week. They are important to every citizen in this country, so important that each of the 50 States is currently considering some type of overhaul of their own legal system.

In my home State of Texas, Governor Bush has declared a state of emergency to address these reforms and with good cause. Texas ranked fourth in the Nation in million-dollar verdicts between 1990 and 1993. Lawsuit abuse is out of control, so out of control it is crippling businesses, destroying jobs, and costing every household in Texas $2,700 per year.

Last year alone in Texas prisons there were 1,000 suits filed by prisoners for crazy reasons. One for being licked. Yeah, I said licked by a horse while on a work detail.

The time has come for my colleagues to take a giant step for America and answer the plea seen on a billboard in a town in south Texas that reads, ''Stop Lawsuit Abuse Now.''

FIXING THE WELFARE MESS

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

Mr. RIGGS. Mr. Speaker, I first of all will join with my colleagues who have used adjectives such as pathetic and audacious to describe the fear tactics and the continuing politics of envy that we hear coming from the other side of the aisle. I will add another,

though, adjective to describe what I have been seeing take place, and that is unconscionable. It is unconscionable for the House Democratic Party to treat welfare recipients as a political constituency for political gain.

Mr. Speaker, Americans have said that they are sick of a failed liberal welfare system that traps people in a cycle of dependency. Five million families, 9 million kids on AFDC, and at any given time over 50 percent of those families have been on AFDC welfare for over 10 years.

It is a system that ruins generation after generation, a system that has cost us as a country $5 trillion while making the situation worse. Two out of three black babies born out of wedlock, 20 percent of white children born out of wedlock.

Mr. Speaker, the American people want us to fix the welfare mess before it does any more damage and fix it, we will.

□ 1145

WELFARE REFORM

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

Mr. SHAW. Mr. Speaker, I have been sitting here listening to the speakers that came before me here this morning on the House floor criticizing the Republicans for what they are trying to do that is to reform welfare, criticizing the Republicans for bringing a child support bill to the floor and saying that it was not tough enough.

I will say to my friends in the Democrat Party you had 40 years to bring welfare reform to the floor and you never brought it; you had 40 years to bring a child support bill to the floor that was tough, and you never did it.

Now we are looking to you and we are reaching out to you as we are to the President, who gave a speech within the last hour on welfare reform, we are reaching out and saying come now and join with us because we are moving it forward. We are going to have welfare reform. It is going to pass this House. We are going to have a lot of Democrats that are going to be joining the Republicans who are pushing this agenda forward.

And you know what? We are going to be doing things for the poor that you never did. We are going to be doing things for the children that you neglected and we are going to reform welfare.

SUPPORT FOR TORT REFORM

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

Mr. WELDON of Florida. Mr. Speaker, it is a pleasure for me to rise today and speak in support of the tort reform or lawsuit reform being brought before the House by the Republican leadership. As a physician who has practiced medicine in the community for the past 7 years, I can say that I have seen firsthand the terrible effect of this runaway problem with lawsuits on our Nation and in particular on our ability to practice good, high quality, cost effective medicine.

The people who have been paying for this runaway crisis in excessive lawsuits are the people of the United States. The patients have been playing the costs.

The time has arrived, it is long overdue. Reform is needed and reform is now, this week, before the House of Representatives. And I beseech all of my colleagues on both sides of the aisle to support the Republican programs for dealing with this problem in our Nation and restoring true balance to our criminal and civil justice system.

DEMOCRATS SCARING CHILDREN ABOUT SCHOOL LUNCHES

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

Mr. BURTON of Indiana. Mr. Speaker, last week the Speaker of the House, NEWT GINGRICH, went out to a school here in Washington, DC, to try to support a program called the Earn and Learn Program. That is where they pay children $2 for reading a book and it is to encourage kids to learn. It is a great program; it is being adopted in many schools across this country.

But before he got there, two Members of the Democrat minority went out there and had lunch with the kids and told them that the Speaker was coming out and that he was going to take away their lunches, that the Speaker of the House was against them, he was going to take away the school lunch for all of the kids across the country and scared those little kids to death.

Now, that is wrong; that is wrong. The fact of the matter is we are going to increase school lunch funding by 4 percent, we are going to increase it. What we are going to cut is the bureaucracy. We are going to send it to the States in block grants, so that the Governors who understand their States and the mayors who understand their cities can distribute this money properly so that it goes to the intended purpose without a lot of bureaucratic expense.

And I really want to say to my colleagues on the Democrat side, if you criticize us for the school lunch program, criticize your colleagues for going out and scaring those little kids last week. That is wrong.

ATTORNEY ACCOUNTABILITY ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 104 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. 988.

□ 1159

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. 988) to reform the Federal civil justice system, with Mr. HOBSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, March 6, 1995, the amendment offered by the gentleman from Ohio [Mr. HOKE] had been disposed of and the bill was open to amendment at any point.

Two and one-half hours remain for consideration of amendments under the 5-minute rule.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: In section 2, page 4, line 1, insert at the beginning of the line ''25 percent of''.

And on line 5, strike the period, insert a comma and add the following new language ''or the Court may increase the percentage above the 25 percent if in the opinion of the Court the offeree was not reasonable in rejecting the last offer.''

Mr. BURTON of Indiana. Mr. Chairman, I believe that if there is a frivolous lawsuit filed there ought to be a penalty assessed on the plaintiff. I believe that should be the case. I do not believe, however, it should be a 100 percent losers paying totally, and the reason I say that is because I have known a number of people who have been involved in litigations of this type who have had a legitimate lawsuit, and because of the jury or because of the judge or for whatever reason the ruling was against them, and they were not in a position to be able to pay exorbitant legal fees on the part of the defendant.

Many times these defendants are lawyers for large corporations who can drag these suits on for long periods of time and spend an awful lot of money. Look at some of the trials like you see on TV right now like the O.J. Simpson trial, you see how much time and effort and money is being spent on legal defense.

Some of these people are very proficient at what they do. Can you imagine, we are not talking about a murder trial now, but can you imagine a person in a civil case that is suing somebody and they have the ability to hire the kind of legal counsel you see in the O.J. Simpson case where millions of dollars might be spent in defending someone?

So I believe that there ought to be some middle ground. And that middle ground is exhibited in my amendment, and my amendment says that if the plaintiff loses the case, there is a 25-percent penalty. But if it is a frivolous

flagrant case, the judge has the ability to expand that up to 100 percent. So there is somewhat of a sliding scale.

I talked to the gentleman from Virginia [Mr. GOODLATTE] last night, the bill's sponsor, and he said he thought he could live with some kind of sliding scale. The problem is that neither the gentleman from Virginia [Mr. GOODLATTE], nor I, nor anyone in the body could come up with a sliding scale. So the next best thing is to come up with a hard percentage, like the 25 percent I am talking about, and then leave discretion to the judge in the event he feels like it is a case that was not meritoriou and was frivolous and he can raise that fee. I think that will discourage an awful lot of lawsuits.

In addition, I think this will bring both sides closer together than the loser pays provision that is already in the bill because it is going to encourage the plaintiff, because he knows there is a penalty if they lose the case; and it is going to encourage the defense because they know they are not going to get 100 percent even if they hire high-powered lawyers to win the case. So I think this will force more people to settlement, even more so than the entire loser pays provision in the bill.

So, Mr. Chairman, I believe this is a sound, reasonable amendment. It strikes a middle ground. It comes as close to the sliding scale the gentleman from Virginia [Mr. GOODLATTE] said he would accept without going to an actual sliding scale, which I think is an impossible thing to achieve.

Ms. HARMAN. Mr. Chairman, I rise in support of the Burton amendment.

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, I would like to commend the gentleman from Indiana [Mr. BURTON] for trying to do something that concerns many of us in this body who have listened intensely to the debate on this issue. I think that everyone here does not want to deter meritorious lawsuits, but it is also true that there are abuses, and we do want to deal with those abuses in a fair way.

I think that the Goodlatte language, especially as amended by him, goes a long way toward doing that, but there are possible excesses in that language, and the gentleman from Indiana [Mr. BURTON] has suggested a remedy that would amount to a sliding scale of fee awards that would deal with those excesses.

I know the gentleman from Indiana [Mr. BURTON] speaks here from personal experience, and I think it is very commendable that he would offer this. I also want to say that should his amendment fail, I intend to offer an amendment to provide a different approach to this very difficult subject, which I think also merits consideration.

My bottom line here is this is not a partisan issue, this is about fairness, it is about curbing abuse, but it is also about permitting meritorious action.

I urge support for the Burton amendment.

Mr. MOORHEAD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana. The amendment would limit loser pays to a 25-percent recovery. This would in effect defeat the concept of loser pays. What this does is substantially reduce the incentive for the parties to settle their cases out of court.

If we are going to go on with a loser-pays provision, let us not weaken it or water it down to such a point that it defeats the whole purpose.

The other part of the amendment giving the judge discretion to increase the 25 percent would only lead to further litigations on whether the offer is reasonable or unreasonable. The amendment I believe would seriously weaken loser pay.

We have a number of provisions in the legislation now that puts restrictions on loser pay. We have tried to reach the areas where it is between, where the judgment is between the offer of the defendant and the offer of the plaintiff; there would be no loser pay involved there. There are provisions that a judge can use his discretion as to whether to provide for loser pay in the legislation.

I think that if we are going to go in this direction there is not much left of the loser-pay provision. I do not think that the 25 percent still left in here will have much effect on encouraging people to settle. I do not think it will have much to do to cut down on overall litigations. And for that reason I would ask for a ''no'' vote on this amendment.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I do not quite understand the chairman's argument. He said that this would eliminate the forcing of a settlement before the trial takes place. It seems to me that this puts more of a balance into the legislation instead of having all of the burdens shifted over to the plaintiff.

Right now you are shifting 100 percent of the costs to the plaintiff if he does not settle and the judgment is below what was the last offer. And it seems to me that that is putting undue pressure on the plaintiff.

What I was trying to do was to try to reach a middle ground that was more fair than what the original legislation intended.

Mr. MOORHEAD. But actually it applies to both the defendant and the plaintiff. The plaintiff is not the only one that could be caught paying the other person's fees.

But I can tell the gentleman that you can limit the amount of money you may have to pay by prior to 10 days before trial making your final offer and you will not have to pay the fees that have accrued prior to that time. You may be able to strike under the present bill a large percent of what you might otherwise have had to pay.

But I do think that if you go down from there and have only 25 percent of what would accrue from that time forward, you do not have very much left out of your loser pays.

Mr. BURTON of Indiana. If the gentleman will yield on one further question. The further question is did the gentleman understand, he did not mention in his comments, that the judge does have latitude to increase that 25 percent to 100 percent if he chooses to do that?

Mr. MOORHEAD. I understand that, and I did comment on that in my comments, that you come to another argument when you go into that. You lead to further litigation and dispute as to whether the offer has been reasonable or unreasonable, many other things that could be involved there, and we are going to have an irregularity between one judge and another as to what you get out of the law as we intend it to be.

□ 1200

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman would yield further, I ask, ''Don't judges already have latitude?''

Mr. MOORHEAD. To a certain extent.

Mr. BURTON of Indiana. Then why would this exacerbate that situation?

Mr. MOORHEAD. I say to the gentleman, ''Primarily because, whey you cut from 100 percent to 25 percent, you're gutting the very issue we're talking about.''

Mr. BURTON of Indiana. But the fact of the matter is judges have latitude right now. What we are setting is a floor of 25 percent, and we are allowing them to go to 100 percent.

So what the gentleman wants to do is he does not want the judges to have any latitude; is that correct?

Mr. MOORHEAD. They do have some latitude under the bill as it is written.

Mr. BURTON of Indiana. But the gentleman does not want them to have this latitude.

Mr. MOORHEAD. Latitude in every single case where they have not found that it will work an injustice.

We have in our legislation that we have, we have provisions in those extreme cases where the judge does have a latitude.

Mr. BURTON of Indiana. Well——

Mr. MOORHEAD. I just think, if the gentleman is not in favor of loser pays, of course he is not going to like this at all. But under the amendments that we have put into the bill, a lot of the sting of loser pays has been taken out already——

Mr. BURTON of Indiana. If the gentleman would yield——

Mr. MOORHEAD. In the Goodlatte amendment.

Mr. BURTON of Indiana. One more brief comment, and that is this, that I

do agree that there should be a penalty, and I agree that the penalty should be pretty severe. Twenty-five percent is not peanuts in many of these cases, but what I disagree with——

The CHAIRMAN. The time of the gentleman from California [Mr. MOORHEAD] has expired.

(On request of Mr. BURTON of Indiana and by unanimous consent, Mr. MOORHEAD was allowed to proceed for 1 additional minute.)

Mr. BURTON of Indiana. What I disagree with is that this is putting such a huge burden on, in many cases, people who could not afford to pay the 100 percent, and—but at the same time the gentleman is still giving the judge latitude in the event it is a frivolous case. It seems to me this is as close to a sliding scale as the gentleman from Virginia [Mr. GOODLATTE] requested, as we can possibly come.

Mr. MOORHEAD. It is a sliding scale though.

Mr. BURTON of Indiana. Well, Mr. Chairman, I say to the gentleman, ''Well, you're giving the judge latitude; I mean that's a sliding scale.''

Mr. MOORHEAD. Possibility.

I say to the gentleman, ''I think you're just defeating loser pays.''

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

Mr. MOORHEAD. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, the gentleman from Indiana [Mr. BURTON] and I have been discussing since last night the gentleman's concerns, and what I would first say to the gentleman is that let us not forget that we are talking about diversity cases in Federal district court. We are not talking about, by any means, all tort cases. In fact, what we are really talking about are the vast majority of these cases not being the kind of tort cases the gentleman described. They are being mostly contract cases and issues——

The CHAIRMAN. The time of the gentleman from California [Mr. MOORHEAD] has expired.

(On request of Mr. GOODLATTE and by unanimous consent, Mr. MOORHEAD was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, would the gentleman yield further?

Mr. MOORHEAD. I yield to the gentleman from Virginia.

Mr. GOODLATTE. It would be my hope that we could work something out along the lines of the amendment that I suggested there which would help out in the case where a plaintiff actually got a judgment against a defendant, but the defendant offered more under the proceeding that is provided for in the bill than what the plaintiff got from the jury, and under those circumstances, because a case is really two parts; it is part liability and part proving damages, and clearly the plaintiff would have proven liability in those circumstances. Then there is an argument to be made that it should be less than 100 percent. It would make it 50 percent.

If the gentleman would work with us along those lines and withdraw his amendment, it would be very helpful.

Mr. BURTON of Indiana. Mr. Chairman, would the chairman yield briefly?

Mr. MOORHEAD. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Let me just make two comments.

First of all, many of the States are working on similar legislation of this right now as far as State litigation is concerned. We all know that. I believe that what we do here today will serve as a model for many of those States, so this reaches beyond just Federal litigation in my view in the long run.

In addition to that, I read the gentleman's amendment, and, while I think that is a step in the right direction, the problem I have with that is we still have some jurors and some judges that may rule against a legitimate case, and what the gentleman's amendment does is only deals where the plaintiff gets some kind of a settlement. If the plaintiff does not get any settlement, then he or she still pays 100 percent of the defense cost for the defendant, and in my view, as my colleagues know, that could work an undue hardship.

My amendment, my amendment right now, says that they do have a 25-percent penalty, and, if it is truly a frivolous case, the judge can assess more than that, but it does leave some discretion with the court, and to me that makes some sense.

Mr. GOODLATTE. Mr. Chairman, will the gentleman yield further?

Mr. MOORHEAD. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Let me say to the gentleman from Indiana, let us not forget that under the current system that exists right now that the circumstances the gentleman just described where a judge or a jury unfairly ruled against a party, if they rule against a defendant, they are stuck right now paying attorney fees, and substantial attorney fees. Under a contingency fee case the gentleman describes, that would not be true of a plaintiff; you see?

So there is a definite disparity in the law as it exists right now.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman would yield, let me just say that all cases are not on a contingency basis.

Mr. GOODLATTE. That is correct.

Mr. BURTON of Indiana. And the gentleman keeps talking about a contingency basis, but many of those are on hourly rate, and so the plaintiff does pay legal fees in many of these cases on an hourly rate, and it is pretty doggone high.

So this contingency thing is real, but that is not 100 percent.

Mr. GOODLATTE. If the gentleman would yield further, the gentleman is correct, but in tort cases I think he would find the overwhelming majority, if not all of them, are going to be on a contingency fee basis. I am sure there are a few that are not, but very, very few.

What we are really talking about are other types of contract actions and so on where that would be the case, but then again that would be true of both parties facing that liability under the circumstances that the gentleman describes. My amendment would cure the difficulty that we are talking about here.

Mr. BURTON of Indiana. If the gentleman would yield further, I say to the gentleman, if your amendment would deal, in addition to those cases where the plaintiff got a settlement, but below the last best offer; if it went further than that, even where the plaintiff lost, I could probably accept that amendment, but the gentleman completely eliminates that possibility.

I say to the gentleman, in your amendment here that you just presented to me, if the plaintiff gets a zero grant or zero decision from the court, he still picks up 100 percent of the defense's legal fees. So that part of the amendment I don't think is good, and I could not accept that.

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

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend my colleague, the gentleman from Indiana [Mr. BURTON], for bringing a real-life situation into this debate which demonstrates the severe adverse impact that this bill would have on ordinary working people in this country. I also want to commend him for this effort to improve the provisions of the underlying bill, which I think his amendment would do. However at the same time I want to point out the problem that the amendment demonstrates that the underlying bill presents to us.

I say to my colleagues, ''When you try to apply this bill to other than frivolous cases, you are inevitably going to get into the very kind of situation that Mr. BURTON's amendment is trying to address, and, once you start to do this sliding scale approach, or once you try to do 25 percent, or 50 percent, or 75 percent, or 10 percent, what you have started to do is demonstrate the sheer irrationality of the entire approach that is being applied here because, once you get on that kind of slippery slope, as we used to call it in the law, you can't figure out where to draw the line in a way that it makes any kind of sense, and it doesn't show that a higher threshold necessarily makes any more sense. What it shows is that the underlying approach that you are using when you apply it to nonfrivolous lawsuits doesn't make any sense.''

So, Mr. Chairman, while I commend the gentleman for coming forward with the amendment, which is an improvement, it gets us on that slippery slope and moves us on this sliding scale toward a better bill, we would really be

better served if we went back to the approach of limiting the underlying bill only to frivolous cases.

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

Mr. Chairman, I rise in opposition to this amendment. The effect of this amendment would be to say in a case where somebody loses a lawsuit for whatever reason that not only are their attorney fees limited in the fashion they have already been limited in the bill, and we have limited them in several respects: First of all, we have limited them to 10 days before the trial through the trial, and we have done that for good reason.

It has been pointed out that a party to a lawsuit through the discovery process could drive up the amount of attorney fees by loading up the other party with discovery motions, and depositions and so on. So we limit it to 10 days before trial through the trial, which is the time when one is, generally speaking, preparing for trial and preparing the case. Second, we have limited it so that the losing party would not be required to pay the prevailing party more than the attorney fees that the prevailing party is—the losing party is paying their own attorney.

The fact of the matter is that that also has a good purpose in the bill because it prevents the deep pockets that so many on the other side have talked about from loading up the attorney fees by bringing four attorneys into trial and so on. They cannot, by adding costs on their side, make the nonprevailing party, the losing party, pay more costs because it is limited that they cannot pay the other side more than they pay their own attorney. So they have the ability to some extent to control and to limit that.

Finally, we have in this bill a provision which allows the court in its discretion to not apply the provisions of this bill under two circumstances. One circumstance is where it finds that it would be manifestly unjust to do so, and that certainly gives the court discretion. In addition, the court can find that the case presents a question of law or fact that is novel and important and that substantially affects nonparties, and if a—and can exempt it for that reason as well.

This amendment will take that 75 percent further. Three quarters of the attorney fees that are provided for that are left in this bill would be taken out of the bill with this amendment. It is not a good amendment from that standpoint. It is not reasonable to think that just the 25 percent will have the kind of effect that we need to have on frivolous lawsuits, fraudulent lawsuits, nonmeritorious lawsuits, and not the kind of effect we need to have that is provided in this bill to encourage greater settlement of these cases. The effect of this will be say, ''Yes, you might have to pay a little bit of attorney fees, but it's going to be you don't have to pay a lot.''

For those reasons I would strongly urge that my colleagues defeat this amendment. This is not a good amendment from the standpoint of trying to do something about the explosion of litigation in this country.

The fact is that the Girl Scouts; we have talked about all these big corporate defendants in this country. Well, one of the organizations that supports the legal reforms we have are the Girl Scouts, and the Girl Scouts' counsel here in Washington, DC, says that the first 87,000 boxes of Girl Scout cookies that they have to sell goes to raise the $120,000 to pay their liability insurance. The effect of that is that, before one penny can be spent to help Girl Scouts with all the wonderful programs that Girl Scouts have, not one penny can be spent until they sell 87,000 boxes and raise $127,000 to deal with the liability.

Little Leaguers are opposed, are in favor, of legal reforms because they know that it is becoming increasingly difficult to get people to participate in allowing them to use their fields for ball diamonds because of the fact that they face greater and greater exposure to lawsuits, and the loss of insurance, and the risk of being brought in as parties to these cases.

This is not a problem that deals with corporate America alone. It certainly does add to the cost of consumer goods when corporations raise those prices to consumers. It certainly does have an effect on insurance companies when they raise insurance premiums to all Americans for their automobiles, for homeowners insurance, for any kind of insurance that we want to name. The costs are going up, and they are going up rapidly.

Mr. Chairman, the cost of our litigation system in this country is rising at a faster rate than the cost of our medical system in this country, which we spent all of last year addressing——

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 2 additional minutes.)

Mr. GOODLATTE. Mr. Chairman, the fact of the matter is that legal costs in this country are rising at a rate of 12 percent a year, far in excess, far in excess of what is happening even in the cost of medical care, but certainly three or four times the rate of inflation in this country.

□ 1215

And this amendment will reduce drastically the ability to use this provision to say, when you file a lawsuit, you take a risk. You have made the risk way too small, I would say to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Let me just say that I think that a 25-percent penalty is an inducement for settlement. The gentleman keeps acting like it is nothing. Twenty-five percent of the legal fees of the defendant can be an awful lot of money, especially in a Federal case. We are not talking about peanuts. I think that this will dissuade people from going to trial, and it will force a settlement. The gentleman acts like if it is not 100 percent, it is not going to force a settlement.

The other thing you are discounting is that if it is a frivolous case, the judge can start at the 25 percent and go all the way to the 100 percent level. So you can have total loser pays.

This is a good middle ground. It will dissuade people from going to court. It will force settlements. So I think the gentleman is overstating the case. It will not be as onerous as far as forcing settlements as 100 percent. But it certainly is going to force a lot of these people to settle out of court without going to trial. Twenty-five percent is a step in the right direction, and it still gives the judge latitude to go all the way to 100 percent. I think this is a good amendment.

Mr. GOODLATTE. Reclaiming my time, I would say to the gentleman that the mechanism I offered to deal with the case where the plaintiff proves the case but has been unreasonable in their settlement negotiations and gives them some relief there would be something that would be tolerable. But 25 percent in all cases regardless of whether or not they are meritorious or not, we know that when discretion is given to judges in these cases——

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has again expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 2 additional minutes.)

Mr. GOODLATTE. When you take that in all cases and then ask the judge to give more, the history with rule XI sanctions is that it is very, very, very rarely done. And the attorneys know it, and they do not worry about rule XI sanctions because they know that the odds of them being applied to them are very, very remote. If you put this provision in, they are going to know that it is 25 percent. Maybe there is a remote chance of getting more, but it is not going to be 100 percent in the cases that it should be 100 percent in.

Mr. BURTON of Indiana. Mr. Chairman, if the gentleman will continue to yield, I understand the gentleman does not think the judges will assess this additional 75 percent in a case where it is a flagrant example of a frivolous case. But I do not think I agree with that. At least there is 25 percent penalty, a flat 25 percent right off the top.

Let me just say something about the amendment you referred to. The problem with your amendment that you suggested as an alternative, and it is a step in the right direction, is that it is 50 percent if the plaintiff gets less than

the last best offer. But in the event he or she gets zero, they still pay 100 percent of the defendant's legal expenses. And in many cases, I wish the gentleman would just pay attention here for a second, in many cases, you may have a jury or a judge who for one reason or another does not like the way the plaintiff looks and they rule that they should not get anything and then they have to pick up 100 percent of the cost.

If the gentleman made this 50 percent across the board, I would accept it.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I just wanted to say that I heard the gentleman citing the Girl Scouts, I just came from the Committee on Rules where they are citing the Girl Scouts. On Friday the Girl Scouts were on the front page of the Wall Street Journal saying please, please, this is not their legislation. Today in the Wall Street Journal, on the first section of section B, they are saying that once again. Let me quote, it says, ''It is not at all true, we have been harangued with frivolous lawsuits. That is absolutely not the case.''

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has expired.

(On request of Mrs. SCHROEDER, and by unanimous consent, Mr. GOODLATTE was allowed to proceed for 30 additional seconds.)

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will continue to yield, that is what the head of the Girl Scouts says. Having been a Girl Scout, when I was younger, the one thing they believe in is in truth. It says, ''Truth has been the first casualty.'' I really wish Members would stop citing the Girl Scouts, when they have been frantically trying over and over again to say they have not been inundated with frivolous lawsuits and you do not have to sell all of those cookies to pay this off. They really would like to get that out there. So I really think we ought to stop calling this the Girl Scout cookie bill because the Girl Scouts do not want that name.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. GOODLATTE] has again expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, I thank the gentlewoman for her comments. The fact of the matter is, the representative of the Girl Scouts here in the Washington Area District Girl Scout Council told me this personally, 87,000 boxes of cookies sold to raise $120,000 to pay liability insurance before they ever can spend a penny on anything else.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will continue to yield, I assume that the national office keeps those records. I think what happens here, it is like the old game we used to play in Girl Scouts called telephone. I think probably some of the leaders have heard that passed along. The national Girl Scout office has said that is not true.

Mr. GOODLATTE. Reclaiming my time, the representative of the Girl Scouts for the Washington District Council told me and a number of other Members of Congress and others personally that that was the fact. I am not representing that as something I know personally. I am representing it as what was told to me by a representative of the Girl Scouts.

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

I just want to quickly answer that I think in all honesty that we ought to be listening to the Wall Street Journal which has now made two passes at that. We also ought to be listening to the National Girl Scout office of New York which would be handling those complaints. I think that that is very key. They have said this over and over again. This whole debate is full of all sorts of stories that get blown out of proportion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

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

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 214, not voting 18, as follows:

[Roll No 204]

AYES—202

Ackerman
Andrews
Baesler
Baker (LA)
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Burton
Buyer
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Duncan
Durbin
Edwards
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gephardt
Gilman
Gonzalez
Gordon
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hunter
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Livingston
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDermott
Meehan
Menendez
Mfume
Miller (CA)
Mineta
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Moakley
Mollohan
Moran
Morella
Murtha
Myers
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Quillen
Rahall
Reed
Regula
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—214

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
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Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
DeLay
Dickey
Dreier
Dunn
Ehlers
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Lucas
Manzullo
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Montgomery
Moorhead
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quinn
Radanovich
Ramstad
Riggs
Roberts
Rohrabacher
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)

Weldon (FL)	Wicker	Zeliff
Weller	Wolf	Zimmer
White	Young (AK)	
Whitfield	Young (FL)	

NOT VOTING—18

Collins (MI)	Gibbons	Rangel
Condit	Jefferson	Rogers
Dornan	McDade	Roth
Flake	McKinney	Stockman
Funderburk	Meek	Waters
Gejdenson	Orton	Weldon (PA)

□ 1241

The Clerk announced the following pair:

On this vote:

Mr. Flake for, with Mr. Jefferson against.

Messrs. BRYANT of Texas, CREMEANS, TAYLOR of Mississippi, SISISKY, and PORTER changed their vote from ''aye'' to ''no.''

Messrs. MYERS of Indiana, RICHARDSON, and TORRES changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment that has been redesignated the Conyers-Nadler amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 6, after line 24, insert the following:

(e) LIMITATION ON APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to civil actions to which any of the following applies:

(1) Section 772 of the Revised Statutes of the United States (42 U.S.C. 1988).

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(3) The Fair Housing Act (42 U.S.C. 3601 et seq.).

(4) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(5) The Equal Access Act (20 U.S.C. 4071 et seq.).

Rule 11 of the Federal Rules of Civil Procedure, as in effect immediately before the effective date of such amendments, shall apply with respect to such civil actions.

Mr. CONYERS (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 Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, this is an amendment which has been referred to indirectly throughout the debate, and it might gather the support of the manager of the bill on the other side. I will present it and hope that it does.

□ 1245

I want to thank the gentleman from New York [Mr. NADLER], my colleague on the committee, for his work on a very important part of this bill.

This is an amendment that would preserve our citizens' hard-earned right to protect their civil and other constitutional rights including religious rights.

What we are doing essentially is exempting civil rights cases, religious cases, and gender cases from the bill in terms of attorney sanctions and payments. This leaves the decision on the merit in the hands of the courts.

The people of this country, the Members of this body, have fought too long and hard for religious and civil rights groups in this country to see these precious rights slip away in a little-noticed procedural provision in the Contract With America.

My amendment would safeguard these rights by providing that cases involving religious, racial, and gender discrimination can be brought without undue fear of chilling legal sanctions. Importantly, the amendment would allow rule 11 as it currently exists to provide for discretionary court-imposed sanctions to continue to apply in civil rights and religious cases. This contrasts with the mandatory court sanctions which are contained in the bill before us.

This is a very important distinction because we have a list of lawsuits and attorneys that have been sanctioned under this measure, in a disproportionately large amount of civil rights cases and religious cases. The attorneys have been brought to heel under rule 11, and we are very, very much afraid of what would happen if we would change this to mandating the court to impose these sanctions.

In cases where our citizens have to go to court to protect their constitutional rights, it is imperative that we have as open and fair a court procedure as possible. While rule 11 may have some limited role to play in these cases, it should not have a dominant or overreaching role as would be the case under this bill.

I remind the Members of the fire storm that erupted on Capitol Hill as a result of a 1992 Supreme Court decision, in Employment Division versus Smith, where the court discarded decades of free exercise jurisprudence by holding that the free exercise clause does not relieve individuals of obligations to comply with supposedly neutral laws that restrict their freedom of religion.

How would this occur? What we would do under H.R. 988 is make it more difficult for courageous citizens to bring legal actions to redeem their constitutional rights. It would mandate that litigants pay the other side's legal fees whenever a legal pleading was somehow shown to be unworthy. It would completely remove any equitable discretion by the courts. It also would create a great amount of contention among the parties.

I want to just tell Members a little bit about where rule 11 has come from over the years. We have got a number of studies, but one from the Georgetown Law Journal by Professor Nelken found that 22 percent of the rule 11 motions between 1983 and 1985 were filed in civil rights cases, even though these cases comprised only 7 percent of the civil docket.

At Fordham University, there was a study that in all reported cases from 1983 to 1987, rule 11 sanctions against civil rights plaintiffs were imposed at a rate of 17 percent greater than against all other plaintiffs.

In other cases, we found that the safe harbor provision in rule 11 now was very important and should be preserved.

Please support this civil rights amendment.

Mr. MOORHEAD. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. CONYERS].

If I thought for 1 minute that rule 11 sanctions had fallen disproportionately on civil rights attorneys I would have crafted an amendment exempting them, but that's not the case.

The 1991 Federal Judicial Center study on the operation and impact of rule 11 was designed to examine several of the questions about the effects of the rule. The study found:

While the incidence of rule 11 activity has been higher in civil rights cases than in some other types of cases, the imposition rate of sanctions in civil rights cases has been similar to that in other cases.

The study found that rule 11 had not been invoked or applied disproportionately against represented plaintiffs and their attorneys in civil rights cases.

The FJC concluded that rule 11 has not interfered with creative advocacy or impeded the development of the law.

Professor Maurice Rosenberg, Columbia University School of Law, reviewed a subset of sanctioned civil rights cases and commented in his 1990 testimony to the Committee on Rules and Practice and Procedure:

Many complaints strain hard to pretend they involve civil rights claims so that, for example, attorneys' fees may accompany a successful or partially successful outcome.

If a complaint alleges that the towing away of plaintiff's car by the police or the refusal of the San Francisco authorities to allow softball to be played on the hardball field violated the plaintiff's civil rights, is that claim correctly counted as a ''civil rights action?'' That designation covers a wide assortment of grievances, many of which are pressed in order to break new legal ground or, as suggested above, for ulterior purposes.

Finally, the issue of fair administration of rule 11, like many other procedural issues, depends upon the fairness and competence of the Federal judiciary. When properly applied, rule 11 should not unjustly deter litigation by civil rights plaintiffs or any other group.

I urge a ''no'' vote on the amendment.

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

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

Mr. CONYERS. I thank the gentleman for yielding. Is he aware that the Judicial Conference studied the rule in 1989 after 16 experts and they made the two changes? First they

made the change that would leave the sanctions to the court's discretion and they created this safe harbor passage for rule 11 motions for 21 days.

This has been working very, very effectively and has cured the problem that I was pointing out to you, that there is no question that before that, we had a serious problem of civil rights and religious rights organizations' lawyers being sanctioned.

Is the gentleman familiar with the procedure, the change that rule 11 underwent?

Mr. MOORHEAD. Senior U.S. District Judge Milton Shadur of the northern district of Illinois said he generally would welcome the restoration of the old rule.

''The most recent changes watered it down,'' he says, ''by offering an out for lawyers who get caught when filing frivolous pleadings.''

''At this point rule 11 is pretty much dead,'' he said.

That dealt with what was done with these amendments that you are talking about. We are putting it back in as rule 11 was for 10 solid years, and virtually all of the judges across the country believed it helped them and it brought a better quality of justice to the courts.

Mr. CONYERS. If the gentleman would yield a final time, the gentleman was aware that this was studied by the Judicial Conference, went to the Supreme Court, passed muster there, is working very well. We are talking about December 1993. This is a very premature decision for us without sending it back up the chain of command for rulemaking in the Federal judiciary to snatch the discretionary sanction of the judge away from him after such a short notice.

I would urge the gentleman to realize the seriousness of what he is proposing here in opposing this very modest rulemaking sanction that I am modifying.

We are not eliminating rule 11. We are just saying the judge would have the discretion that he had as a result of all the work the judges did in 1993.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment to exempt civil rights lawsuits from the mandatory rule 11 provision of the bill and to leave it up to the discretion of the judges. I hope that some of the gentlemen on the other side will listen to what I am about to say because I do not think it has been said before.

Last year, we passed the Religious Freedom Restoration Act to undo the Supreme Court decision in the Smith case. There are a number of other court decisions narrowing religious freedom which have not been undone and which people seek to try to challenge for reconsideration in court.

For example, there are a number of decisions narrowing the Religious Accommodations Act which various religious groups want to litigate as well as to try to get this Congress to change.

A memo that I have here from the Christian Legal Society says, for example, an attorney arguing a religious discrimination case and urging the courts to reject the reasoning in any of the existing cases could well be subject to the rule 11 sanctions as contained in this bill. The litigation route presently presents the only opportunity religious individuals will have to seek relief in employment discrimination cases. On this basis, and on the basis of the inclusion in the amendment to the Equal Access Act, the Christian Legal Society and the National Association of Evangelicals will support the amendment.

I have here, Mr. Chairman, and I hope the gentleman from California will pay attention to this so we can comment on it, a letter from the Christian Legal Society and the National Association of Evangelicals in support of this amendment, and I am going to read excerpts from it.

On behalf of the Christian Legal Society's Center for Law and Religious Freedom and the Public Affairs Office of the National Association of Evangelicals, we express our full support for any amendment that would exempt civil rights suits including those under the Equal Access Act and the Religious Freedom Restoration Act from this bill's purview.

The history of religious liberty demonstrates that the powerless sometimes must look to the courts in cases that ''push the envelope'' of the law in order to vindicate our most precious freedoms in ways that existing law does not. We are concerned that mandatory sanctions will discourage the bringing of meritorious religious claims, not just frivolous ones. The first freedom of the first amendment is too precious to risk such a chilling effect. Any interest in judicial efficiency is far outweighed by our duty to keep open the doors of the Federal judiciary to such cases.

Moreover, the preemptive effect of this bill is unnecessary in civil rights cases. Unlike commercial lawsuits, people rarely sue the government merely seeking a nuisance settlement. The few who do can still be dealt with under a discretionary rule 11. Federal judges have not shown that they need to have their judgment handcuffed in this way, at least not in civil rights litigation.

For any and all of these reasons, we support your amendment to section 4 of H.R. 988.

Thank you, * * *.

Respectfully yours, Steven T. McFarland, Director, Center for Law and Religious Freedom of the Christian Legal Society, and Forest Montgomery, General Counsel, Office of Public Affairs for the National Association of Evangelicals.

Mr. Chairman, I think this graphically shows why it is necessary to adopt this amendment if we are going to take our usual protective attitude toward religious liberty. I do not agree with this bill in general and I do not agree that we need to have mandatory rule 11 sanctions. But even many of those who do agree with that I would hope could recognize the distinction on civil rights and religious liberty cases. If someone is suing on a products liability case or a contract case or whatever, if you have a defendant with deep pockets, there are nuisance lawsuits, there are occasions where people will file frivolous claims, but if you are filing a constitutional claim on religious liberty, on religious accommodation, you are not going to have frivolous claims. No one is going to deliberately bring a frivolous religious liberty claim, rarely. We have not seen that problem in the courts and where we do, if we ever do, the nonmandatory, the discretionary rule 11 sanction could do. But to make a mandatory rule 11 sanction here when the religious liberty attorneys are going to have to be trying to persuade a court to change the existing precedent, to push the envelop is going to have a real chilling effect on that, and I do not think we need a real chilling effect on religious liberty.

I would hope that there would be reconsideration on this amendment and that it would pass.

□ 1300

The CHAIRMAN. The time of the gentleman from New York [Mr. NADLER] has expired.

(At the request of Mr. MOORHEAD and by unanimous consent, Mr. NADLER was allowed to proceed for 3 additional minutes.)

Mr. NADLER. I yield to the gentleman from California

Mr. MOORHEAD. Mr. Chairman, I think a lot of argument here is based upon a misunderstanding of what the law is presently and what we are doing to it.

Under sanctions in the present law it says if on a notice and a reasonable opportunity to respond the court determines that a subdivision had been violated the court may, subject to conditions stated below, impose an appropriate sanction upon the attorneys, law firms or parties who have violated subdivision (b) or are responsible for action. We changed that ''may'' to ''shall.'' But there is an awful lot of discretion there in the finding of whether there is a violation or not, and what any kind of a sanction, mild or otherwise, there should be. But that is present law.

We do take out of the bill the opportunity under motion to at the last minute, after it has been found they have violated the code by putting in amendments and other pleadings that should not be there, we give them 21 days to change their position, but that is after you are caught with the cookie jar in your hand, we say that they can change that. We have taken that 21-day grace period out and that is principally what the bill does to begin with.

I would like to say this as far as the National Association of Evangelicals and the Christian Legal Society. I have great respect for them. I have worked with them on many, many occasions. I think I have a 100-percent voting record with them, so I am not putting them down or anything else. But I do not think they understand what this is all about.

Mr. NADLER. Reclaiming my time, sir, I think they do understand. We do

not have a problem with the present law. But of course this bill would change the present law and what the Christian Legal Society and the National Association of Evangelicals are saying and what other religious groups that I have been speaking to in the last few days have said to me, is that making mandatory rule 11 sanctions, making it mandatory would have a chilling effect in this area. It may have a chilling affect in other areas and we are not talking about them. We do not have a problem with frivolous suits in civil rights and other areas and they are looking at pushing the envelop and they are very concerned about that.

Mr. MOORHEAD. If the gentleman will yield, that is of course not what this amendment is all about. It exempts a number of different acts of Congress from any portion of this thing which is certainly not in the present law, nothing that we have talked about before.

I will say this, as far as the National Association of Evangelicals who I know very well, they have not come in and testified, they have not commented to me about this in any way if they have a problem.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will struggle on this issue to be nonemotional. I will struggle because I remember 25 years ago the very day I returned to North Carolina to practice law in what was regarded and is regarded as a civil rights law firm. In the middle of the night someone came and set a fire to the law firm office before I had practiced law in that office one day.

I will struggle because I have seen how much courgage it takes for a plaintiff or a group of plaintiffs to come forward in the face of racial oppression and assert their civil rights.

I will struggle because I have been before judges, 99 percent of whom I would remind my colleagues here are members of the majority race in this country, and I have heard them not understand the underlying basis of a civil rights claim because they have no history to relate that claim to, and to have them in the final analysis find that some portion of the claim is frivolous because they just simply cannot relate to people being abused and having their rights abused in that way.

My colleagues, this is not about some kind of theoretical fear that is being expressed here. There is a concern with frivolous lawsuits, but I remind my colleagues that in this amendment, and I want the gentleman from California to read the amendment, starting at line 9 of the amendment it specifically says ''rule XI of the Federal Rules of Civil Procedure as in effect immediately before the effective date of such amendments shall apply with respect to such civil actions.'' This is not doing away with rule XI.

I have heard my colleague here, the gentleman from Michigan [Mr. CONYERS], read without anybody paying attention, apparently, the disparity in the percentages of frivolous and sanction cases that exist in civil rights cases, 7 percent of the cases yielding a substantially disproportionate share of the sanctions. But I will remind my colleagues that nobody comes forward in the South in the time in which I grew up and brought forward any kind of frivolous civil rights action. It took courage. It took running the risk that your House would be burned down; it took running the risk that your law office would be burned down; it took running the risk that your friends down the street who call you Mr. Charlie would not speak to you again if you brought to light the fact that the employer down the street was discriminating on the basis of race in hiring of people.

This is not some theoretical concern that is being expressed in this amendment. I beg of my colleagues to take this amendment seriously, and vote it up and agree to put this exception in, and provide the kind of protection that these hardworking people, these law-abiding people who simply want to have their civil rights vindicated are bringing to the courts.

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

Mr. Chairman, I want to add just one other point to this very briefly and that is that you could go through all of that what the gentleman from North Carolina said, and in fact you could have a winning lawsuit and still be forced to pay opposing attornerys' fees if you come in under an offer made sometime during the middle of trial.

Mr. Chairman, the reason that we have attorneys' fees provided in these kinds of cases is that the damage, the financial damage is ususally so small that you have an empty promise in discrimination laws if this amendment is not passed. The empty promise without attorneys' fees is you go to court and you will pay more than you could possibly get.

I would hope that this amendment would pass, would keep the law as it is, and that people who are discriminated against be vindicated and have those rights vindicated in court.

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

Mr. SCOTT. Mr. Chairman, I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding.

Just a point of winning a law suit and still being required to pay attorney's fees, this would not apply to any of these actions, would it not, because these are all Federal question issues and would not come up under the modified losers pay provisions in the bill which only apply to diversity cases?

Mr. SCOTT. If you are calling it a Federal question, then the passage of this amendment would have no effect in the gentleman's interpretation.

Mr. GOODLATTE. I agree with that; but they are two different types of actions. They are mutually exclusive of each other.

Mr. SCOTT. Mr. Chairman, I would say to the gentleman if that is his interpretation, then the passage would do no harm to the bill and it ought to be adopted just to make sure.

Mr. GOODLATTE. Mr. Chairman, if I can follow up because the comments of the gentleman from North Carolina are indeed impressive, is there something about, and this is what troubles me from my side, is there something about an attorney or an individual who misbehaves with one of those cases and incurs sanctions that would differ from somebody, regardless of their background, regardless of their race or age or sex or anything else in any of the other areas where we apply the ''shall'' provision, which is what the amendment does, instead of the ''may'' provision, which is what the gentleman wants to preserve for these particular issues?

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

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

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I would just simply say to the gentleman, there is a predisposition, there is a disposition, and fortunately over time it is beginning to wane I would acknowledge, and I do not want to leave the impression that our whole Federal or State benches are still where they were 15 or 20 years ago, but I would submit to the gentleman that in these cases there is a substantially higher likelihood that goes beyond insignificant statistical probability, if you go back and look at the statistics that the gentleman from Michigan [Mr. CONYERS] was talking about, that a finding of frivolousness is going to be found in these cases.

Mr. GOODLATTE. Does the gentleman think that is changed based upon changing it from ''may'' to ''shall''? I mean, if there is a discriminatory predisposition that the gentleman describes, would that not also be likely to occur in a circumstance where the judge has the discretion under the law as it exists now?

Mr. WATT of North Carolina. If the gentleman will yield further, I think what the gentleman is doing is sanctioning by this bill that kind of attitude, and giving latitude to it by saying you shall make, you shall do this; and the finding of frivolousness that there will be an inclination to do it anyway, and once you add on to it the word ''shall'' what we have done here is sanctioned that kind of attitude.

At least under the other standard we can at least try to get in the head of the judge and say look, Judge, you are applying a different standard in noncivil rights cases than you are in civil rights cases and try to embarrass him. But once you give him that extra little piece of ammunition, the ''shall'' in this bill, you have given that judge

who may be inclined, the literary license he needs to abuse the system.

Mr. SCOTT. Mr. Chairman, in summary I think I do not want to get away from the point this is a decision a person has to make before they even have the nerve to come forward, and this is just one more barrier to scaring them and daring them to come forth and vindicate their rights in court.

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

Mr. Chairman, I come forward as a former chair of the Equal Employment Opportunity Commission, very disquieted that in this bill mandatory sanctions could apply to civil rights actions, and disquieted on the basis of the record.

First, I ask my colleagues to be consistent. We have already exempted civil rights matters from the unfunded mandates bill and from the Regulatory Transition Act. Let us repeat that consistency here.

Why did we do it there and why should we do it here?

□ 1315

Civil rights actions are very difficult to bring. They always have been. They are more difficult to bring today than they were 30 years ago when the acts were passed. At that time getting an attorney was more likely because the discrimination was so widespread, and on the surface there was a bar, a private bar, that developed. Ten years after the act, when I came to chair the EEOC, that bar had virtually disintegrated. The reason is that when lawyers take an action under a civil rights case, they are taking a very large chance. They are hoping to get their fees back. They have to borrow money in order to mount a substantial case.

So if there is any hurdle in the way, what we found, even 10 years after the act—and we find 30 years after the act now—they hesitate and the bar itself simply was not available.

First of all, for a person to come forward, that plaintiff has to make a very difficult decision. She is almost always going against power. Who are the plaintiff's lawyers in the first place? These are usually small practitioners going up against counsel from large corporations. These people have lawyers on staff that can file endless motions to tie up these small practitioners whom we have said we want to bring these cases in order to vindicate civil rights.

Do we want people to bring these cases, or do we not want people to bring these cases? We have said in these two previous bills we do not need to destroy or disassemble the civil rights superstructure that we have put in place. We have not been inconsistent here.

Civil rights actions are different in all kings of ways. For example, for most of those actions, punitive damages are not available. Compensatory damages are often unavailable. Under Title VII, all you can get is your back pay. Most of these cases are settled by the time the case gets to court. The case has gone through some kind of conciliation often, or at least there has been an attempt to settle the case.

If we want to chill the right to bring a civil rights action, then we go back to these mandatory sanctions. I do not know where we could find a lawyer, almost all of them small practitioners, willing to come forward under these circumstances.

Mr. Chairman, the courts are very experienced. They know how to handle cases that are frivolous in the civil rights area. There have been hundreds of thousands of civil rights cases. This is a unique area of the law. We have encouraged people to come forward. We have continued to do so in the 104th Congress with the two bills I have named, the unfunded mandates bill and the Regulatory Transition Act.

I ask my colleagues please to be consistent. Let us stay together yet again on a civil rights provision. Let us support the Conyers amendment.

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

Mr. Chairman, yesterday I spoke in my opposition to this bill in general, and I will speak in favor of this amendment at least.

Mr. Chairman, I am sad to report that one of the great intellects, one of the great playwrights of the 20th century, died less than 3 weeks ago, Robert Bolt. Robert Bolt wrote ''A Man for All Seasons,'' and I commend that to my colleagues who are contemplating voting for this bill let alone voting against this amendment.

Let me quote very briefly from the body of the work, ''A Man for All Seasons.'' As you may recall, this is about Sir Thomas More.

Sir Thomas More found himself in the position of having to defend the church, and there was an argument over religious freedom. And this was not the kind of argument that we may be having here today. He was having an argument with his prospective son-in-law, a man named William Roper. William Roper is described by Robert Bolt in a manner that I think might fit some of the people who are not thinking clearly about this today: ''William Roper, a stiff body in an immobile face with little imagination and moderate brain but an all too consuming rectitude, which is his cross, his solace, and his hobby.'' And I feel we have many people here like that today, Mr. Chairman.

So when Sir Thomas More was confronting his prospective son-in-law, young Mr. Roper, when Roper wanted to have someone seized and arrested because of their views, Roper says, ''There is! God's law.''

And Sir Thomas More said, ''Then God can arrest him.''

Then Roper said this is ''sophistication upon sophistication''—the kind of argument we are hearing on this floor today.

And More said, ''No, sheer simplicity. The law, Roper, the law. I know what's legal not what's right. And I'll stick to what's legal.''

''Then you set man's law above God's!

''No, far below; but let me draw your attention to a fact—I'm not God. The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. I doubt if there's a man alive who could follow me there, thank God.''

And if he should go, ''if he was the Devil himself, until he broke the law!''

Then Roper says, ''So now you'd give the Devil benefit of law!''

Then Sir Thomas More said, ''Yes. What would you do? Cut a great road through the law to get after the Devil?''

Roper said, ''I'd cut down every law in England to do that.''

More said, ''Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake.''

Mr. Chairman, we need to give the Devil the safety of law for our own benefit, for our own safety's sake. And on the question of religious freedom, how can we even be contemplating such a change as is being imagined in the underlying law which we are proposing to pass in this bill?

When the last law is down and the Devil turns on you, where will we hide?

Loser pays. Loser pays is a vestige of this history in England, and in which class warfare prevails. This is the aristocrats against the commoners. That is exactly what it is all about.

No one in good conscience, if they are going to think today, can find themselves resisting this amendment, and I hope and I pray that Members will think further upon what we are doing here.

I know the gentleman from California [Mr. MOORHEAD] as a colleague. I have had the opportunity to speak with him. I respect him. I think he is among the most decent persons that I have met in the Congress. I respect his civility. Some of the people I have talked to about this bill I respect as libertarians.

The CHAIRMAN. The time of the gentleman from Hawaii [Mr. ABERCROMBIE] has expired.

(By unanimous consent, Mr. ABERCROMBIE was allowed to proceed for 2 additional minutes.)

Mr. ABERCROMBIE. Mr. Chairman, I find myself discussing this not as a question of partisanship, not as a question of Democrats versus Republicans.

I do not find myself in a position, Mr. Chairman—and I refer again to my good friend, the gentleman from California, and some of the others I have discussed this with—of looking at this even as a question of winners and losers. On the particular issue, I think we are ill-served by this contract.

This is not a question of loser pays in regard to clients and lawyers. This is a question of whether we are losing as freedom-loving individuals. Some of my libertarian friends that I have on the other side of the aisle find themselves stumbling for an explanation to me as to how they can be for this. This is the ultimate defense of the individual against the State.

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

Mr. ABERCROMBIE. Yes, I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, the gentleman has given the most classic conservative argument I have ever heard. He is asking for us to protect our rights as individuals against forces that otherwise would prevail, whether they are the power of government or the power of wealth. The reference he has made to ''a man for all seasons'' is one of my favorites. I thank the gentleman for bringing it into this debate.

Mr. ABERCROMBIE. Mr. Chairman, I thank the gentleman.

As I bring this up, let me say that I make it a practice of reading this play at least once a year to remind myself of why I am in the Congress. This is one of the reasons why I am here, and I want to tell the Members that this debate has energized me. Sometimes I get up tired in the morning, and I am sure we all have done that. I read in the Post today how tired we all are because we have been moving at a fast pace. That is all right. I do not mind myself, but I realize I am here dealing with the fundamentals, not just me but all of us here, my dear friends and colleagues. We are dealing with the fundamentals. This is what this is all about.

More paid with his head. More paid with his head for standing up for freedom. We will not have to do that today. This is my political head or your political head. What difference does that make? Nobody is going to be shot coming out of this Chamber. Nobody is going to be arrested under these circumstances, not coming out of here. But it is not rhetoric for those whom it affects. And when it comes to religion, this is the first, Mr. Chairman. The first of all our amendments, Mr. Chairman, is freedom of religion, Minus this, we lose the entire basis of what the United States and democracy is all about.

I plead with the Members, please, to examine the basis of what we are doing here. It is not important to pass everything. It is not important to say yes, every ''i'' was dotted and every ''t'' was crossed in this contract, regardless of how we have come to feel about it. That is why we are having this debate.

I wish we had had more time in the committee hearing, but we did not. I appeal to the Members, at least on this amendment, please realize that the basis is not Democrat versus Republican. It is a matter of standing up for the fundamentals, standing up for the freedom of the people of the United States.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 229, not voting 11, as follows:

[Roll No. 205]

AYES—194

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gilman
Gonzalez
Goodlatte
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—229

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

NOT VOTING—11

Condit
Flake
Gibbons
Jefferson
McDade
McKinney
Meek
Olver
Rangel
Roth
Weldon (PA)

☐ 1347

The Clerk announced the following pairs:

On this vote:

Mr. Jefferson for, with Mr. Roth against.

Mr. Flake for, with Mr. Weldon of Pennsylvania against.

Mr. DAVIS and Mr. SCHUMER changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

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

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

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

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment. I would like to say I will not ask for a recorded vote on this amendment.

The CHAIRMAN. The gentleman is recognized for debate only on Mr. GOODLATTE's time. The Chair will have to reserve the ability to separately recognize for the purpose of offering an amendment.

PARLIAMENTARY INQUIRIES

Mr. GOODLATTE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GOODLATTE. Mr. Chairman, do I have the ability to yield to the gentleman from Michigan [Mr. SMITH] for the purpose of offering an amendment?

The CHAIRMAN. The gentleman has only the ability to yield for the purpose of debate. The amendment must be offered by the gentleman from Michigan in his own right.

Mr. GOODLATTE. I yield to the gentleman for the purpose of debate. I apologize to the gentleman that he will not be allowed to offer an amendment under these circumstances.

Mr. SMITH of Michigan. Mr. Chairman, then I would yield back to the gentleman, because I am still in hopes that I can have the 5 minutes to offer my amendment.

Mr. GOODLATTE. Mr. Chairman, that being the case, I yield back my time.

Mr. SMITH of Michigan. Mr. Chairman, I have a parliamentary inquiry

The CHAIRMAN. The gentleman will state it.

Mr. SMITH of Michigan. Inasmuch as my amendment was printed in the RECORD, do I understand I have a right to have a vote on that amendment?

The CHAIRMAN. If the gentleman is recognized before the expiration of 7 hours at 2:20, the time set for consideration of the bill under the rule, then the gentleman will be accorded the opportunity to offer and have a vote upon his amendment.

Mr. SMITH of Michigan. It is my understanding, Mr. Chairman, that I have the right to be recognized and to have that vote on the amendment, even if there is no debate, is that correct?

The CHAIRMAN. The gentleman is correct, if the gentleman offers his amendment before 2:20.

AMENDMENT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BRYANT of Texas: AMENDMENT NO. 1: Page 4, insert the following after line 21 and redesignate the succeeding paragraph accordingly:

''(8) This subsection applies only to a claim brought against a small business concern as defined under section 3 of the Small Business Act.''.

Mr. BRYANT of Texas. Mr. Chairman, the bill before the House today, as those who have carefully watched this debate now, is one that would for the first time in American history shift the burden from where it has always been to the loser in a lawsuit to pay the costs of the winner for bringing the lawsuit, so that if a person brings a case, even though it appears to be meritorious, even though it is a case that anyone would agree could go either way, when he accidentally, for some reason, unforeseeably loses, he then faces the enormous burden of paying all of the expenses of the person on the other side. The result of that, of course, is to make it very difficult for people of little means to ever have access to our system of justice in the United States.

Now, the rationale given for this bill is that we have to somehow, according to the advocates of it, make business life a little bit easier for the overburdened manufacturer, the small manufacturer out there, who cannot do business because he is constantly faced with the possibility of being sued and losing.

Yet the bill applies to any type of manufacturer of any size whatsoever. When we complain that the bill is simply making it easy for the biggest and the largest and the strongest companies in our country to produce products of an inferior type that might later injure someone, and yet never be sued, they say oh, no, we are not trying to protect the big boys. We are just trying to create an even playing field. We are really looking at a way to protect the little guys.

Well, the amendment which I have before the House at this moment does just that. What it says is that the loser-pay bill on the floor today only applies when the defendant is a small business as defined by the section 3 of the Small Business Act. What is that? That is a business with 500 or fewer employees.

I submit to you that we are embarking on a mission here for which we have no evidence, for which we have been given no direction based upon any empirical data. If we are going to do that, for goodness' sake, we ought to limit the effect to small businesses and not allow the biggest of the businesses, the ones that can well afford to pay their own costs, to be exempt from any type of a lawsuit that is brought against them, in effect because no one will ever dare to bring a lawsuit for fear they might lose because of the color or their skin or the side of the head on which they part their hair or some other frivolous reason.

All of those involved in litigation understand there is always a risk that a case can be lost, even a case that is firmly grounded as to the facts of the case and the law. When you add the loser-pay rule to our Federal jurisprudence, you put an average person in the extremely difficult position of deciding whether to risk the equity in their homes or the money that they put away for their children before pursuing even the most meritorious of claims.

Let me point out, this does not hurt rich folks because they can afford to absorb the costs. It does not hurt poor folks because a poor person is not going to be in any position to pay an opposing side's attorney fees. They can simply get their obligation in that regard discharged in a bankruptcy proceeding. But it goes to middle class Americans who do not have enough to be unconcerned about the costs, and have a great deal to lose if they are so unhappy so as not to win a case which otherwise appears to be meritorious.

If we are going to have a law like that, and I do not think we should, but if we are going to have a law like that on the books, by golly, the effect of it ought to be limited to cases in which the defendant is a small business, not a gigantic business that can well afford to handle its own litigation costs.

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

Mr. BRYANT of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want to commend the gentleman, because in the closing hours on this debate, the gentleman has done as much to improve it as any provision that has been brought. It would be a protection only for small businesses who would be exempt from the loser-pay feature of this bill.

Mr. BRYANT of Texas. That is correct.

Mr. CONYERS. I am pleased to support it and accept it on our side, and I hope that because of the limited debate opportunity that the gentleman has, that the other side would consider it carefully in terms of accepting it as well.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments.

To recapitulate, the amendment says that the loser-pay bill on the floor today will only apply when the defendant is a small business, that is, one with 500 employees or less. A small business is defined in the amendment as the term ''small business'' is defined by section 3 of the Small Business Administration Act.

Mr. Chairman, I urge Members' support for the amendment.

Mr. MOORHEAD. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas.

Mr. Chairman, his amendment would limit the settlement and attorneys fees provisions of H.R. 988 to cases against small business. We do not intend to limit the application of these provisions to a large or a small business. As now written under the bill, it applies to

any litigant in Federal court under the diversity statute.

The purpose of this legislation is to try and encourage all parties to settle and not go to trial whenever possible. I do not know what percentage of cases filed under the diversity statute are filed by small businesses or how often they are the defendants, but loser-pays should be applied to everybody, and not be based on the size of a business to the exclusion of ordinary litigants. The focus of loser-pays is on the strength of a claim and to discourage weak and frivolous cases.

Mr. Chairman, I urge a ''no'' vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BRYANT].

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

RECORDED VOTE

Mr. BRYANT of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 214, not voting 13, as follows:

[Roll No. 206]

AYES—177

Abercrombie
Baesler
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Schumer
Scott
Serrano
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—244

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

NOT VOTING—13

Andrews
Condit
Cox
Flake
Gibbons
Jefferson
McDade
McKinney
Meek
Rangel
Roth
Torricelli
Williams

☐ 1417

The Clerk announced the following pairs:

On this vote:

Mr. Flake for, with Mr. Cox against.

Mr. Jefferson for, with Mr. Roth against.

Mrs. FOWLER changed her vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. INGLIS of South Carolina. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman is recognized for 3 minutes.

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

Mr. INGLIS of South Carolina. I yield to the gentleman from Michigan.

Mr. SMITH of Michigan. Mr. Chairman, I appreciate the gentleman yielding to me.

It is somewhat of a frustrating experience to have amendments, as Members from both sides of the aisle have had only to be pre-empted and ultimately denied the opportunity to offer those amendments.

The members of that committee are given priority. Mr. Chairman, the members of that committee are essentially all attorneys, so those of us who are members of other occupations get little opportunity to say ''wait a minute.''

Mr. Chairman, the title of this bill is ''The Attorney Accountability Act.'' In fact, this bill as currently written does little to make attorneys accountable. The only part of this bill that does anything to make lawyers accountable for their actions is the change in rule XI.

That change, requiring a mandatory penalty for violation of the rule, applies only in the small number of cases in which an attorney is actually sanctioned by a judge under rule XI. As we have heard from most everybody, Mr. chairman, there are very few sanctions that take place. If ever this sanction does take place, the judge even has the right to waive the penalty on the attorney and assess all of the sanction penalties on the client.

Mr. Chairman, my amendment would have required attorneys to accept some responsibility for their actions by making them liable for 50 percent of the unpaid costs of unnecessary litigation that the client does not pay fully. I think this is important.

Mr. Chairman, under H.R. 988 as currently drafted, attorneys seeking a big, contingency fee payday have an incentive to litigate weak cases aggressively. If the client wins, the lawyer cashes in. If the client loses, the client is stick with the bill. It's even better if the client's poor—then no one has to pay.

My amendment makes an attorney liable for half of any attorney's fee award that a client can't pay. This sanction is not unduly harsh. There can be no award of fees unless:

First, a settlement is offered;

Second, the offer is rejected; and

Third, the jury returns a verdict less than the offer.

In the few cases in which these conditions are met, the award is limited:

First, it's capped at the amount of the offeree's expenses;

Second, it's limited to the actual cost incurred from the time of the offer through the end of the trial; and

Third, the judge has discretion to moderate or waive the penalty when it would be manifestly unjust.

These modest steps are necessary if we truly intend to make attorneys accountable. My amendment tells lawyers: This is a court, not a lottery office. You're an officer of this court. As an officer of this court, you have a responsibility to the court and the other litigants not to waste their time and money. And if you ignore these responsibilities, you can be held liable. I ask the House to vote ''yes'' on the Smith amendment to H.R. 988.

Mrs. SCHROEDER. Mr. Chairman, I regret that the time constraints imposed by the rule precluded consideration of the Harman amendment, which replaces H.R. 988's ''loser pays'' provision with the attorneys fees standard in the securities bill.

The goal of deterring frivolous lawsuits is a worthy one. However, H.R. 988's loser pays provision goes well beyond that; it gives a wealthy party the power to slam the courthouse door shut in the face of a middle-income or poor individual with a reasonably strong case. The Harman amendment strikes a better balance—it deters suits that are frivolous, but allows ordinary people to pursue close cases.

Assume a case in which the damages are high—for example, $500,000—and the amount of damages is essentially undisputed. However, the defendant's liability is not a certainty. The plaintiff's attorney advises him that the liability question is fairly strong, but it isn't a slam dunk. The attorney estimates that the odds are perhaps 70–30 in favor of winning the liability question. In this kind of case, under our current system, the plaintiff will either win a judgment of something very close to $500,000, or will win nothing. This is clearly not a frivolous case; it is a reasonable case for the plaintiff to pursue, even if, in the end, he loses. Under current law, even a poor or middle-income plaintiff will be able to pursue this case, because he can obtain representation on a contingency fee basis, and does not assume any risk of having to pay the other side's attorneys fees if he loses.

But let us assume that H.R. 988 is in effect. Assume that the defendant is a large corporation, whose decisionmaking with respect to the case is not particularly affected by the possibly of recovering its attorneys fees, because they are considered to be a routine cost of doing business. The defendant makes a $1 offer to the plaintiff, which is filed and served very early in the case. The defendant's primary motivation is not to reach a reasonable settlement; it is to try to deter the lawsuit altogether by playing on the plaintiff's unwillingness to roll the dice on his life savings on a 70–30 gamble.

The plaintiff is a middle-income individual who has a contingency-fee agreement with his attorney, and has managed to salt away some savings, which he hopes to use for his children's college education, or perhaps to support either his own retirement, or his parents in the event they need his support later in their lives.

Under the terms of section 2 of H.R. 988—the Goodlatte loser pays provision—if the plaintiff loses the case, he will end up losing his life savings to pay the defendant's attorneys fees. These fees will be considerable; because the plaintiff has a contingency fee agreement with his own attorney, he will be required to pay the defendant a fee calculated on an hourly rate limited only to the number of hours his own attorney worked. Because liability was a close question, his own attorney worked many hours to prepare this case. There is no reasonable counter-offer the plaintiff can make that will protect him from having to pay attorneys fees if he loses, because the only offer that would protect him would be an offer to dismiss his case. Because H.R. 988 does not give him a way to avoid risking his life savings if the defendant offers him $1, the plaintiff has to be willing to gamble his life savings in order to pursue a case with high damages and a 70–30 probability of winning liability. The Harman amendment, by contrast, protects the individual who seeks access to the courts in a case where liability is reasonably likely, but not a slam dunk. Unless we adopt the Harman amendment, the results of this bill are:

First, the middle-income plaintiff, who is strongly risk-averse, can pursue even a relatively strong case only by putting his life savings on the line.

Second, the bargaining power between individuals and large corporations is very uneven, because the plaintiff is risking his life savings, while all of the risks on the defendant's side are absorbable as a cost of doing business.

Third, the court cannot step in to level this playing field, because even though H.R. 988 allows the court to decline to order the loser to pay if the court finds that requiring payment would be manifestly unjust, the report filed by the Judiciary Committee states very clearly that the standard governing this exception is ''an exceptionally high one, extending well beyond the relative wealth of the parties.'' Thus, the fact that the winning defendant is a large corporation, and the losing plaintiff is a middle-income plaintiff who will have to use all of his life savings to pay the defendant's attorneys fees, is not something that the Republican majority believes is a manifest injustice.

The respected conservative British magazine, the Economist, has called for the repeal of the so-called English rule, that is, loser pays, in England, precisely because it shuts the courthouse door to middle-income parties. Let's not make the mistake of giving large corporations and wealthy individuals an unfair advantage in our civil justice system. The American way is equal justice under law. H.R. 988 replaces that with a system of all the justice you can afford. I urge adoption of the Harman amendment.

The CHAIRMAN. All the time has expired.

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.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore, Mr. BARRETT of Nebraska, having assumed the chair, Mr. HOBSON, 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. 988), to reform the Federal civil justice system, pursuant to House Resolution 104, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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, as amended.

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

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit H.R. 988 back to the Committee on the Judiciary with instruction to report back forthwith with the following amendment:

Strike section 2 of the bill, and insert the following:

SEC. 2. AWARD OF COSTS AND ATTORNEY'S FEES IN FEDERAL CIVIL DIVERSITY LITIGATION.

Section 1332 of title 28, United States Code, is amended by adding at the end the following:

''(e) AWARDS OF FEES AND EXPENSES.—

''(1) AUTHORITY TO AWARD FEES AND EXPENSES.—In any action over which the court has jurisdiction under this section, if the court enters a final judgment against a party litigant on the basis of a motion to dismiss, motion for summary judgment, or a trial on the merits, the court shall, upon motion by the prevailing party, determine whether (A) the position of the losing party was not substantially justified, (B) imposing fees and expenses on the losing party or the losing party's attorney would be just, and (C) the cost of such fees and expenses to the prevailing party is substantially burdensome or unjust. If the court makes the determinations described in clauses (A), (B), and (C), the court shall award the prevailing party reasonable fees and other expenses incurred by that party. The determination of whether the position of the losing party was substantially justified shall be made on the basis of the record in the action for which fees and other expenses are sought, but the burden of persuasion shall be on the prevailing party.

''(2) SECURITY FOR PAYMENT OF COSTS IN CLASS ACTIONS.—In any private action arising under this section that is certified as a class action under the Federal Rules of Civil Procedure, the court shall require an undertaking from the attorneys for the plaintiff

class, the plaintiff class, or both, in such proportions and at such times as the court determines are just and equitable, for the payment of fees and expenses that may be awarded under paragraph (1).

''(3) APPLICATION FOR FEES.—A party seeking an award of fees and other expenses shall, within 30 days of a final, nonappealable judgment in the action, submit to the court an application for fees and other expenses that verifies that the party is entitled to such an award under paragraph (1) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses are computed.

''(4) ALLOCATION AND SIZE OF AWARD.—The court, in its discretion, may—

''(A) determine whether the amount to be awarded pursuant to this subsection shall be awarded against the losing party, its attorney, or both; and

''(B) reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the action.

''(5) AWARD IN DISCOVERY PROCEEDINGS.—In adjudicating any motion for an order compelling discovery or any motion for a protective order made in any action over which the court has jurisdiction under this section, the court shall award the prevailing party reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorneys' fees, unless the court finds that special circumstances make an award unjust.

''(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit or impair the discretion of the court to award costs pursuant to other provisions of law.

''(7) PROTECTION AGAINST ABUSE OF PROCESS.—In any action to which this subsection applies, a court shall not permit a plaintiff to withdraw from or voluntarily dismiss such action if the court determines that such withdrawal or dismissal is taken for purposes of evasion of the requirements of this subsection.

''(8) DEFINITIONS.—For purposes of this subsection—

''(A) The term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorneys' fees and expenses. The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of services furnished.

''(B) The term 'substantially justified' shall have the same meaning as in section 2412(d)(1) of title 28, United States Code.''.

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, this has been a long 2 days on a bill that has presented a lot of problems to people. I am, on the motion to recommit, introducing a concept that was presented by the gentlewoman from California [Ms. HARMAN] which would limit the so-called loser pays provisions to those cases where the settlement offer was reasonable and made in good faith.

This is the same standard being adopted in the context of the Republican bill on securities litigation, H.R. 1058. This is the precise language in the Republican bill on securities scheduled to be on the floor shortly.

I would hope that my Republican colleagues would be able to see the logic of extending the same standard to injured tort victims as they do to stockholders. If someone loses a limb in a product liability case, they should have the same access to justice as an investor who has received fraudulent information.

The English rule, which requires losers to pay the legal fees of winners, which I had not thought would ever be popular in America, since we have the American rule, would substantially eliminate justice for the middle class members of our society.

As in England, those without a significant financial cushion will simply be unable to afford the risks of losing litigation.

Ms. HARMAN. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from California.

Ms. HARMAN. Mr. Speaker, I thank the gentleman for his heroic attempt to allow me to offer an amendment that is now part of the motion to recommit.

Essentially the motion would borrow fee-shifting provisions from the 1980 Equal Access To Justice Act, which is now a Federal law, and from the precise language that will be offered later today in the securities litigation reform bill by the gentleman from California [Mr. COX], which sets up a three-part standard for fee shifting. We feel that this would be much more fair than the language of the gentleman from Virginia [Mr. GOODLATTE] in the present bill.

Mr. Chairman, I would commend the gentleman from Virginia [Mr. GOODLATTE] for his enormous effort to provide a standard that is fair, but I would point out that in making that standard mandatory, he could very well cause unfair results in close cases and the Cox language, which we will debate fully later, would take care of those problems.

I would urge support for the motion to recommit, and I would urge consideration of this much better language.

Mr. CONYERS. Mr. Speaker, in closing, the loser pays is a phrase that appeals to everyone who has heard it. It removes itself to anecdotes about court cases that appeared or produced an absurd or abusive outcome, but government by anecdote can produce disastrous policy.

Although the Contract With America claims that the loser pays provision is intended to penalize frivolous lawsuits and discourage the filing of weak cases, it is almost certain to have adverse consequences which limit access to justice.

The Harman amendment to recommit essentially cushions some of the worst features that now exist in the bill, and, as I have said before, it duplicates the bill on securities litigation by adopting the very same standard.

Please support the motion to recommit this bill.

Mr. MOORHEAD. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. MOORHEAD] is recognized for 5 minutes.

Mr. MOORHEAD. Mr. Speaker, the motion to recommit, unlike the loser pays language in H.R. 988, would take control out of the hands of the party and give it to the courts.

Moreover, an award of attorneys' fees under this amendment is merely discretionary with the court and not mandatory, like the language of H.R. 988. This amendment would also make the losing party's lawyer vulnerable for attorneys' fees.

This approach completely overlooks the fact that a decision to settle the case or press the case to trial is a decision of the party and not their lawyer. The lawyer cannot settle a case without the consent of his client.

The ultimate decision must be the client's as to whether a settlement is made or not. If the approach in this amendment were adopted, the lawyer would have to evaluate every case with a view toward his own liability, which would easily conflict with the interests of the party he purports to represent.

Mr. Speaker, this amendment, while appropriate for securities cases, should not be applied across the board. It will gut the loser pays language in H.R. 988. I urge its defeat.

Mr. Speaker, I yield the balance of my time to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding to me, and I thank the chairman of the subcommittee for his fine work on this legislation, and the other side for the very civil way this debate has been conducted.

However, Mr. Speaker, I must rise in opposition to this motion to recommit, because it will return us to the situation we gave right now.

□ 1430

It will eliminate the opportunity we have to truly say that when you go into Federal court, you have to be responsible, you have to be prepared to take responsibility for your own actions. By giving to the judge the discretion of whether or not to apply attorneys' fees, you will put us back to the situation we have right now with rules like rule 11, which has the effect of saying, ''Yes, we have sanctions, but, gee, maybe we wont't apply them,'' and the evidence is that they have not been applied.

There are some other problems with this amendment. For one thing, this amendment incorporated in the motion to recommit could allow the court to require that the winning party's legal fees be paid by the losing party's attorney.

This is a very wrongheaded concept in American justice. You should not ever drive a wedge between anybody and their lawyer who has all kinds of ethical responsibilities in the representation of their client.

Ms. HARMAN. Mr. Chairman, will the gentleman yield just for one question?

Mr. MOORHEAD. I yield to the gentlewoman from California.

Ms. HARMAN. Is this not the precise language that will be offered in the next bill we take up, the securities litigation bill, that was drafted by the gentleman from California [Mr. COX], including the possibility that attorneys could pay the fee awards?

Mr. GOODLATTE. I have to say I am not on the committee who produced that bill, so I do not know. You may be correct. If so, I will attempt to change that language in that bill.

But the point is here that if we take away the mechanism that has been set up in this bill, we will have eliminated all of the incentives we created to settle cases, all of the incentives we have created to not bring frivolous, fraudulent, or nonmeritorious lawsuits in U.S. district court. The compromise that we have come up with as changed from the original bill is a very, very good effort to control the overload of lawsuits in our courts without having to go back to a system now where there is no pressure on some individuals not to be responsible when they decide to bring an action in court.

I strongly urge the defeat of this motion to recommit.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

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. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 193, not voting 10, as follows:

[Roll No. 207]

AYES—232

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

NOES—193

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Buyer
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
Lantos
LaTourette
Laughlin
Lazio
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—10

Condit
Flake
Gibbons
Jefferson
Johnson (CT)
McDade
McKinney
Meek
Rangel
Roth

☐ 1450

The Clerk announced the following pairs:

On this vote:

Mrs. Johnson of Connecticut for, with Mr. Flake against.

Mr. Roth for, with Mr. Jefferson against.

Mr. CHAPMAN changed his vote from ''aye'' to ''no.''

Mr. BACHUS and Mr. SHAYS changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOORHEAD. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 988, the bill just passed.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1058, SECURITIES LITIGATION REFORM ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1058 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 105

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed eight hours. The bill shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. Points of order under clause 7 of rule XVI against the amendments printed in the report of the Committee on Rules accompanying this resolution are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. H. Res. 103 is laid on the table.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I might consume. All time yielded will be for debate purposes only.

(Mr. DREIER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. DREIER. Mr. Speaker, this is a modified open rule providing for consideration of H.R. 1058, the Securities Litigation Reform Act, with 1 hour of general debate. Following general debate, the bill will be open for amendment under the 5-minute rule for a period not to exceed 8 hours.

While there is no requirement that amendments be printed in the RECORD prior to their consideration, priority in recognition can be accorded by the Chair to Members who have had their amendments preprinted.

Mr. Speaker, the rule waives clause 7 of rule XVI relating to germaneness for two amendments. One is the amendment offered by my friend from the other side of the aisle, the gentleman from Oregon [Mr. WYDEN], which establishes audit procedures to detect financial fraud in securities matters. The second amendment is offered by a Member of the majority, the gentleman from California [Mr. COX], to exempt securities fraud from the RICO statute.

Upon completion of the consideration of all amendments to the bill the rule provides for one motion to recommit to the minority.

Mr. Speaker, this is a fair rule, providing for an open amendment process. While there is a cap on total time for amendments, the minority is able to give priority consideration to whatever germane amendments their leadership considers most important. Let me repeat: that they are able to give priority consideration to whatever germane amendments they consider most important.

The Committee on Rules majority is not shutting particular amendments out of the process. Securities litigations reform is a critical step in our effort to help create more high-quality private-sector jobs right here at home.

Private securities legislation is undertaken today in a system that encourages meritless cases, destroys thousands of jobs, undercuts economic growth, and raises the prices that American families pay for goods and services.

Mr. Speaker, the defenders of the status quo in the minority have said on issue after issue this year: ''If it ain't broke, don't fix it.'' Well, this is one time there is no doubt that the current system is broke, and we are very fortunate that the bill being reported forward from the committee will fix it.

H.R. 1058 creates a system that swiftly finds and punishes real fraud and allows the victims of fraud to be fully compensated for their losses. At the same time it will free innocent parties from wasteful and baseless litigation designed to enrich litigators alone. While Chairman BLILEY of the Commerce Committee and Chairman FIELDS of the Subcommittee on Telecommunications and Finance have done tremendous work in bringing this bill to the floor, I would like to note the tireless efforts of my friend from Newport Beach, CA [Mr. COX].

Mr. COX is a former securities lawyer and has been involved in securities litigations reform since his days at Harvard Law School. He has pushed this important reform effort throughout his 6 years in the House, and was ready to move forward when the new majority in the Congress made real reform possible. His hard work and leadership has been critical to this effort.

Mr. Speaker, presenting this modified open rule to the House reminds me of a report that I heard last week on National Public Radio's Morning Edition. It was about a graduate school course offered by American University here in Washington, DC. The subject of the course was lobbying. As I listened to the trials and tribulations faced by those in the lobbying community with all of the changes occurring here in Congress, I was very proud to hear that the professional lobbyists under the new majority's policy of open rules find the issue of dealing with open rules extraordinarily difficult.

In the words of the lobbyist that has taught the course for years, and I quote:

> A position of more open rules is a detrimental thing to a lot of lobbying interests. One of the lobbyist's commandments is ''keep it off the floor.'' If you can get something done in committee and have it sealed and come out with a closed rule, then you're safe. If everything is amendable on the floor, that makes the job of the lobbyist that much harder because then you're dealing with 218 folks instead of just 22 or 23.

Mr. Speaker, lobbyists know that the new Committee on Rules has brought a new openness to the House, and they do not like it. The new majority on the Committee on Rules and the many Members of Congress that are supporting the more open rules are doing right by the American people.

House Resolution 105, this rule, is no exception. It is another in a growing series of rules that do not pick and choose amendments to stifle debate. I urge my colleagues to support this very fair, balanced, modified open rule as we proceed with debate on the Securities Litigations Reform Act.

Mr. Speaker, I include for the RECORD material on the amendment process under special rules reported by the Rules Committee, 103d Congress versus the 104th Congress.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 7, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	18	86
Modified Closed [3]	49	47	3	14
Closed [4]	9	9	0	0
Totals:	104	100	21	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 2, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/2?/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95).
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote.

Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

□ 1500

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must rise in opposition to this rule. Legislation of this complexity and which may ultimately have an enormous impact on securities markets and investor transactions in this country deserves informed and considered debate. H.R. 1058 was not thoroughly examined in the Commerce Committee, and now, this rule does not give the House an opportunity to thoroughly consider this legislation. In fact, Mr. Speaker, there is ample proof that in the haste to send this legislation, along with the other pieces of H.R. 10, to the full House, a significant issue was left out, or perhaps forgotten.

That issue, relating RICO to securities transactions only came to the attention of the Rules Committee yesterday afternoon—2 days after the original rule, H.R. 103, had been reported to the House. In order to provide for the consideration of the RICO issue, it was necessary for the Rules Committee to meet and report yet another rule on H.R. 1058. Yet, in spite of the fact that another issue was added to the debate on H.R. 1058, the Rules Committee did not see fit to allow the House any more time to debate these important issues through the amendment process.

Mr. Speaker, House resolution limits consideration of all amendments to H.R. 1058 to 8 hours. That 8 hours includes time for voting—which, in effect, places strict limits on the consideration of amendments. I opposed this limit during the debate on this rule in the Committee on Rules last Friday and last night and I bring my opposition to the floor today. Limiting the time to consider amendments ultimately limits the debate and the number of amendments which may be offered. This limitation is contrary to the stated objectives of the Republican majority to open the House to free and unfettered debate. Considering the complexity of this legislation and the potential impact it may have on our economy, I question whether 8 hours is really an adequate amount of time to debate this matter in a free and unfettered manner.

In fact, Mr. Speaker, the gentleman from Michigan [Mr. DINGELL] originally requested 12 hours for consideration of amendments on this bill. The majority has asked that the Democrats on the Rules Committee confer with our leadership to determine the number of hours that we feel would be adequate to cover the anticipated amendments to legislation scheduled for the floor. The Democratic members of the Rules Committee made a responsible request last Friday: that request was based on our best estimates of the time needed to thoroughly debate this legislation. Our request was based on our discussions with the ranking minority member of the Commerce Committee after his consultations with his members.

Last week, the majority of the Rules Committee saw fit to only grant 66 percent of the requested time. And, last night when an additional issue, some say a major issue, was added to the issues to be considered by the House, the majority refused to grant any additional time for consideration of amendments to H.R. 1058. Mr. Speaker, it is for this reason that I must oppose this rule. Last week we made a good faith offer under the terms articulated by Chairman SOLOMON and last night we reiterated our position.

Mr. Speaker, the Democratic members of the Rules Committee believe the 8-hour time limit is inadequate for the consideration of this legislation because of the enormity of the issue, as well as the addition of the RICO amendment. We support efforts to deter those who abuse the judicial system by filing meritless lawsuits. We support efforts to provide substantive sanctions on those who engage in these activities. The desire to make corrections in the process is indeed bipartisan—the only question is how to accomplish those corrections. Members need time to consider all the options.

Democratic members have made a good faith effort to participate in the deliberations on the rule for this bill, but again our efforts have been rebuffed. In spite of bipartisan desires to end frivolous lawsuits while protecting average investors and honesty in the securities market, this is not a bipartisan rule. For this reason, I urge defeat of the rule.

AMOUNT OF TIME SPENT ON VOTING UNDER THE RESTRICTIVE TIME CAP PROCEDURE IN THE 104TH CONGRESS

Bill No.	Bill title	Roll-calls	Time spent	Time on amends
H.R. 667	Violent Criminal Incarceration Act.	8	2 hrs. 40 min.	7 hrs. 20 min.
H.R. 728	Block Grants	7	2 hrs. 20 min.	7 hrs. 40 min.
H.R. 7	National Security Revitalization.	11	3 hrs. 40 min.	6 hrs. 20 min.
H.R. 450	Regulatory Moratorium	13	3 hrs. 30 min.	6 hrs. 30 min.
H.R. 1022	Risk Assessment	6	2 hrs	8 hrs.
H.R. 925	Takings	8	2 hrs. 40 min.	9 hrs. 20 min.
H.R. 988	Attorney.			

MEMBERS SHUT OUT BY A TIME CAP—104TH CONGRESS

This is a list of Members who were not allowed to offer amendments to major legislation because the 10 hour time cap on amendments had expired. These amendments were also pre-printed in the Congressional Record. This list is not an exhaustive one. It contains only Members who had pre-printed their amendments; others may have wished to offer amendments but would have been prevented from doing so because the time for amendment had expired.

H.R. 728—Law Enforcement Block Grants: 10 Members.

Mr. Bereuter, Mr. Kasich, Ms. Jackson-Lee, Mr. Stupak, Mr. Serrano, Mr. Watt, Ms. Waters, Mr. Wise, Ms. Furse, Mr. Fields.

H.R. 7—National Security Revitalization Act: 8 Members.

Ms. Lofgren, Mr. Bereuter, Mr. Bonior, Mr. Meehan, Mr. Sanders (2), Mr. Schiff, Mrs. Schroeder, Ms. Waters.

H.R. 450—Regulatory Moratorium: 15 Members.

Messrs. Towns, Bentsen, Volkmer, Markey, Moran, Fields, Abercrombie, Richardson, Traficant, Mfume, Collins, Cooley, Hansen, Radanovich, Schiff.

H.R. 1022—Risk Assessment: 3 Members (at least three other Members had amendments

prepared but were not allowed to offer them: Mr. Doggett, Mr. Mica, Mr. Markey).

Mr. Cooley (2), Mr. Fields, Mr. Vento.

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

Mr. DREIER. Mr. Speaker, I yield 4 minutes to my friend and classmate, the gentleman from Humboldt, TX [Mr. FIELDS], the distinguished chairman of the Telecommunications Subcommittee.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of the rule on H.R. 1058, the Securities Litigation Reform Act.

Today's votes will bring to an end the debate on one of the least understood and potentially most important legal reforms the Congress will address this year. The arcane subject of securities litigation reform concerns a great many more people than just the nine law firms that dominate this practice. It concerns more than the handful of law school professors who seem intent on examining the individual trees and missing the forest. It concerns more than the accountants and the brokers and the lawyers.

H.R. 1058 concerns desperately needed reforms that focus on the need to protect the employers of American workers from being abused by a handful of lawyers. It concerns protecting American shareholders who invest their savings and use them to provide for their own welfare, the education of their children, and to insure they have a secure retirement. American investors are entitled to see us protect them from watching their hopes and confidence disappear when the companies in which they invest their savings are victimized by those who file abusive and frivolous lawsuits.

Perhaps the greatest contribution to the debate on this subject has been to help people understand there are shareholders on both sides of these cases, and that in most cases they all lose. Even SEC Chairman, Arthur Levitt, has noted:

> there is a sense in which class action lawsuits simply transfer wealth from one group of shareholders, those who are not members of the plaintiff class, to another group of shareholders. Large transaction costs accompany this transfer, as the total amount paid to attorneys on both sides may equal or even exceed the net amount paid to the plaintiff class.

Something is very wrong with a civil litigation system in which only the lawyers win.

H.R. 1058 is about Congress removing the incentives that exist in the current system for lawyers to sue a company because the price of its stock has dropped. It is about protecting the corporations that play so large a role in this country's economy from having to divert resources that are used to run and expand their businesses into defending frivolous lawsuits. This legislation is sorely needed, it is not an academic exercise. Witnesses have testified before the Commerce Committee for the last two Congresses that abusive litigation costs have led their companies to contract their business, to cancel research and development, and to be less forthcoming with financial information to their shareholders.

This is an open and fair rule, that allows consideration of all legitimate amendments. Let us cure this sickness, Mr. Speaker, and restore the health of America's employers. I urge my colleagues to support the rule.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 6 minutes to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MOAKLEY].

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 8 minutes.

Mr. MOAKLEY. Mr. Speaker, I thank the gentlemen for yielding.

Mr. Speaker, the rule we are considering today adds another Republican broken promise to that ever growing heap. The Republicans promised to let the American people have their say in Government by granting 70 percent open rules. They are breaking that promise.

Republicans promised to consider every single contract item under an open rule. Mr. Speaker, they are breaking that promise also.

I guess, Mr. Speaker, legislating is not as easy as it looks. In their hurry to finish the contract and begin the April recess, the Republicans forgot to put the civil RICO amendment offered by the gentleman from California [Mr. COX] in H.R. 10. They also made a series of mistakes in the committee report which would have opened all sorts of points of order.

But they decided to throw away the old bill and come up with a new one that has never seen the inside of a congressional committee room. That way they protect the bill from all types of points of order.

Once again, the Republicans sang the praises of a deliberative democracy. Where is that chorus now, Mr. Speaker? It certainly was not in committee. In fact, the amendment this rule adds was not even considered by a congressional committee. It had no hearing, and it was never reported out.

How is that for sunshine? Mr. Speaker, this restrictive rule will keep the people's representatives from improving this bill by capping the time allowed for amendments. Democrats asked for 12 hours for amendments, and the Republicans said they had time only for 8 hours, because they did not want anything to interfere with their April 8 recess.

Well, I cannot help it, Mr. Speaker, if the Republicans put themselves on schedules, but we at least, if we are not part of the schedule, we should not have to abide by all of the schedules.

Then they added the controversial rewrite of the civil RICO laws, and they still refused to increase that 8 hours to 10 or 12 hours.

I would add, Mr. Speaker, that Republican time caps are even worse than they look, and all the time caps that we had issued in the last couple of Congresses, not one person was ever frozen out of bringing their amendment forward.

Under the Republican time caps, they include actually the voting time. That means an 8-hour rule or an 8-hour debate time is only about 6 hours, and once again, they have broken their promises.

Mr. Speaker, just so I can show you what they mean by moderate open rules, H.R. 728, law enforcement block grants, shouted to the rafters, ''This is an open rule, this is a moderate open rule,'' they froze out 10 Members with their amendments.

Let me tell you, the Members frozen out were the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Ohio [Mr. KASICH], the gentlewoman from Texas [Ms. JACKSON-LEE], the gentleman from Michigan [Mr. STUPAK], the gentleman from New York [Mr. SERRANO]; at least this is an equal opportunity freezing out of all kinds of Members.

On H.R. 7, the National Security Revitalization Act, moderate open rule, ''This is what we promised you,'' eight Members, and their amendments died on the altar down there.

The Regulatory Moratorium Act, H.R. 450, 15 members were not able to bring their amendments forward; 1022, H.R. 1022, risk assessment, three Members, and at least three other Members had amendments prepared but were not allowed to offer them. And even the Attorney Accountability Act, four Members were frozen out, the gentlewoman from California [Ms. HARMAN], the gentleman from Michigan [Mr. SMITH], the gentleman from Mississippi [Mr. PARKER], and the gentleman from Ohio [Mr. LATOURETTE]. ''These are open rules.''

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I am happy to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend from south Boston, the former chairman of the Committee on Rules, for yielding.

The reason I underscore the fact he is the former chairman of the Committee on Rules, Mr. Speaker, is that it is so apparent the disparity that one must look at between the 103d Congress and the 104th Congress.

The gentleman from Massachusetts [Mr. MOAKLEY], Mr. Speaker, has just said that these Members were knocked out, prevented from having the opportunity to offer these amendments. The Committee on Rules did not have a single thing to do with that, Mr. Speaker. The Committee on Rules said that we will provide a process that is open and accountable. We made it very clear this is a modified open rule. This is a modified open rule.

Mr. MOAKLEY. Reclaiming my time, the Committee on Rules had everything to do with this, because the Committee on Rules could have given more time in order that those Members who struggled to get those amendments in proper form could have brought them forward.

Mr. DREIER. If the gentleman would yield further, the point is very clear, and that is the Committee on Rules did not make the decision which amendments could and could not be offered, as has been the case in past Congresses. It is up to the leadership of each party to establish their priorities.

We are not trying to say that an idea cannot be considered here on the House floor. What we are saying is that with this outside time constraint of 8 or 10 or 12 hours, which we have had, what we have said is you all establish your priorities and then bring them to the House floor and have an up-or-down vote on them.

Mr. MOAKLEY. It is really up to the Committee on Rules to offer the amendments, to offer the time to bring these amendments to the floor, and I do not care how my friend cuts it and talks about leadership. Being on the Committee on Rules, you can make a bill, if it is a germane bill, or you waive points of order, and you bring it to the floor, if you give it time, it can be heard.

□ 1515

Last year we had time caps on half a dozen bills. Not one person was frozen out from the debates. Under their time caps, there is not a bill that goes by that people are not frozen out.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman for yielding.

Mr. Speaker, not one person was frozen out in debate. What happened in the 103d Congress was that Members were frozen out from the third floor, frozen out because they were told their amendments could not even be offered because we had so many closed rules.

Down here we are saying any amendment that is germane can be offered. We have an outside limit of sometimes 8 to 12 hours.

Mr. MOAKLEY. Mr. Speaker, reclaiming my time——

The SPEAKER pro tempore. (Mr. DICKEY). The gentleman from Massachusetts has 5 seconds remaining.

Mr. MOAKLEY. Five seconds? Well, thank you.

Mr. DREIER. Mr. Speaker, I yield an additional 5 seconds to the gentleman from Massachusetts.

Mr. MOAKLEY. I am overwhelmed. I want to make the point that the Republican Party came down and said, ''What happened in the 103d Congress will never happen again. We are going to give out open rules.'' Well, where are they?

Mr. DREIER. Mr. Speaker, I am happy to yield 2 minutes to my friend and classmate, the gentleman from Findlay, OH [Mr. OXLEY], Chairman of the Subcommittee on Commerce and Trade.

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

Mr. OXLEY. I thank the gentleman for yielding this time to me, and I rise in support of the rule as well as H.R. 1058.

Our committee has worked long and hard on providing for a reasonable set of rules that these kinds of debates can take place. I think we have achieved that.

I want to pay particular tribute to the gentleman from Texas, the chairman of the Subcommittee on Telecommunications and Securities, and also to the gentleman from California [Mr. COX], and my friend from Louisiana, who has really been the godfather of this provision for a number of years. We appreciate his ability to work with the majority in crafting what I think is a very effective bill that will start to get some common sense back into our legal process and at the same time permit people who are truly aggrieved to pursue their claims in court.

I thought the debate in the committee was lively, informative, and I suspect the same thing will occur on the floor during general debate and the amending process.

Securities litigation reform is a bill whose time has come. It is a provision that will allow for, I think, some dealing with securities litigation that is long overdue. Numerous groups throughout the country support this effort. We think that those companies that are just starting out, entrepreneurial companies particularly, are highly vulnerable to these kinds of strike lawsuits. That is exactly what this bill tries to mitigate and to change.

I think the gentleman is correct, the rule is proper, and the bill is a good step in the right direction and true commonsense legal reform.

Mr. Speaker, today I rise in strong support of H.R. 1058, The Securities Litigation Reform Act.

Is there a person in this Congress or in this country who honestly believes that our current system of securities fraud litigation does not require serious and immediate reform?

H.R. 1058 is the answer.

As we speak, a strike suit plague is devastating our Nation and crippling American competitiveness.

Unprincipled lawyers are spreading this plague at an alarming rate. One firm in particular files a strike suit every 4.2 business days, and 1 of every 8 companies listed on the New York Stock Exchange has been crippled by strike suits.

While these lawyers claim to sue in the name of the investor, a number of recent studies show otherwise. For example, the National Economic Research Association has concluded that investors recover just 7 cents on every dollar lost.

Their actual recovery is even lower. Plaintiffs' lawyers usually take one-third of all the settlement proceeds.

The strike suit plague is forcing our companies to squander resources rather than devoting them to productivity and job creation. It stifles innovation and adds tens of millions of dollars to the cost of doing business. It is time we rid our countryside of this disease and cure our Nation's economy.

Strike suits are devastating our Nation. A study by the Rand Institute of Civil Justice says excessive litigation—largely designed to coerce settlements from successful defendants—may cost our economy as much as $36 billion each year.

All Americans pay a hidden litigation tax to subsidize the massive cost of strike suits. Some pay with their jobs, as workers are laid off in the wake of extorted settlements. Scores of other able-bodied Americans are never hired in the first place. Research and development and other investments that spur economic growth are slashed. Consumers pay higher prices for their goods and services. All of us pay the price for strike suits as the lawyers quietly walk away with fortunes in extorted settlements.

It is time to rid our Nation of this strike suit epidemic. It is time for a litigation tax cut.

I urge you all to support H.R. 1058 in the name of the fiscal health of all Americans.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

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

Mr. DINGELL. Mr. Speaker, make no mistake of it, H.R. 1058 will encourage securities fraud. It is a bad bill. Milken, Boesky, people like that would have been delighted to have functioned under the provisions of this legislation.

The rule is a bad rule; it is unfair, and it does not give sufficient time for the matters involved in this legislation to be properly addressed. Both should be rejected by the House.

Now, I am no water or spear carrier for trial lawyers. I began pushing product liability over 10 years ago. Two weeks ago I voted for legislation to reform product liability laws. I have long felt there was a real need for reforming medical malpractice and for dealing with securities litigation, which does happen to constitute a problem.

But this legislation goes well beyond meeting needs. It does what the old Chinese story tells about: It burns down the barn to cook the pig.

H.R. 1058, in its zeal to eliminate abuses, goes too far. It creates shelters, it creates loopholes, and it creates incentives for securities fraud. It will impair the transparency, the fairness of our marketplace, and it will make it more difficult for the SEC to deal with problems of securities fraud, and it will raise real questions about whether Americans can continue to trust and to believe that their securities markets are the best and fairest and most open in the world.

This legislation is opposed by a large number of people and agencies that should be listened to carefully.

It is opposed by the Securities and Exchange Commission, the State securities regulators, Attorney General of the United States, the U.S. Conference of Mayors, the Government Finance Officers Association, individual investors and all major consumers groups—all opposed.

The American Association of Retired Persons, the Gray Panthers, Consumers Union, Consumer Federation of America—all oppose it.

Citizen Action, Public Citizen, and the U.S. Public Interest Research Group all oppose this legislation.

Why? Because it is bad legislation, because it does not adequately protect the interests of the honest, innocent and small investors, and because it threatens the trust of the American people in the American securities market.

I need to remind my colleagues on the Republican side of the aisle that one of the reasons the United States is regarded as the wonders of the world in terms of our securities markets and capital-raising system is the fact that our system is known to be fair and people know they can trust it. This is a peculiarity not found elsewhere in the world.

The bill suffers from multitudes of defects, and these reveal the extreme goals of the supporters, goals like ''losers pays,'' establishing a defense against recklessness that allows a miscreant to get off by the simple statement of, ''Ooops, I forgot the law,'' and imposing harsh pleading requirements that are impossible to meet for real-life plaintiffs with good cases.

I would observe that under the requirements for Scienter in the pleadings in this legislation a person who has been wronged by securities fraud will need not only a layer but he will need a psychiatrist and a psychic to tell him what was going on inside the mind and head of the wrongdoer who skinned him and thousands of other Americans of their hard-won and thousands of other Americans of their hard-won and hard-earned savings.

The process? The process was intolerable. Neither I nor the ranking member of the relevant subcommittee were included in the discussions on the bipartisan compromise.

Members and staff received markup documents the night before markup. That is insufficient time to review and prepare amendments and statements. We were then presented with totally different documents and totally different legislation the next day, without time to review or to understand the changes.

Debate was inexplicably and unfairly shut down at 2:30 p.m. on Thursday, February 16, in a markup which had already been shortened by prolonged recesses for negotiations and by a process which permitted neither adequate hearings nor opportunity to amend or to ask questions or witnesses.

This was dictated by the Republican leadership because of scheduling the bill on the floor. Originally, it was not even intended for the SEC to be heard. The SEC came forward and said that the bill, as originally drafted, would even foreclose their anti-fraud actions at the Securities and Exchange Commission.

This legislation still has significant defects. It ought to be recommitted, it ought to be defeated, it ought to be amended, but it should not be passed.

Mr. DREIER. Mr. Speaker, I am happy to yield 3 minutes to the distinguished gentleman from east Petersburg, PA [Mr. WALKER], chairman of the Committee on Science.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I have been fascinated by the series of speeches that have been made on this rule and several others that seem to basically complain about the fact that things are actually getting done in the U.S. Congress these days.

Now, they are not things that the Democrats want to have done, so they bleed and bray out here on the House floor about the nature of the process.

But the fact is that we are moving legislation they do not happen to agree with, and particularly a lot of the left-wing special-interest groups they are beholden to do not agree with, several of whom were named by the gentleman from Michigan.

It is true those groups probably do not agree with what we are doing, but then they always were for big-government solutions to virtually everything that comes down the pike.

But I am particularly fascinated by the discussions that we have had on the floor today about the process by which we are passing legislation and particularly the concept of open rules.

I have consistently come to this floor over a period of years and talked about need for open rules. I made those points within the leadership of the House of Representatives. I would prefer things come out here under an open rule. But I must say that I was somewhat disappointed in the earliest days of this process when apparently the Democrat leadership decided to sabotage open rules and were part of a process that called adjournment votes and a variety of other things in order to try to undermine that process, simply so they could come to the floor now and complain about the fact that the rules are not open as they would like.

I think that is a nice tactic, it makes for good legislation. It makes, though, for a very difficult process to defend.

I would also say that I think the complaints about the fact that it is done under a period of time is also a rather interesting argument. The period of time, of course, forces the Democrat leadership to actually pick amongst their Members who have amendments to bring forward, or to refuse to pick among them, which is what they are really doing now, in an act of total ineffectual leadership they are refusing to pick among their Members.

So, against what you give them a full day to debate, 8 hours, 10 hours, 12 hours, and so on, and they cannot manage their time well enough to figure out how to get various amendments to the floor, which leaves them then in the position of being able to go to the floor and say, ''This Member, somehow during a 10-hour period, was unable to work his amendment in.''

I would suggest that at the very least what we are doing is debating these issues under a 5-minute rule and having a free and open debate about the issues, a debate which is much better than the system the Democrat leadership would like to go to, which picks the members in the Rules Committee.

You see, what the Democrat leadership would really like to have done is they would like to go up to the Rules Committee and have the Republicans choose the Democrat who will be able to offer amendments. That gets them off the hook. Then they get a chance to complain about the fact that this Member was knocked out and it was the terrible Republicans who did not allow this Member to have his amendment.

Well, actually I think it is a better system to allow Members to come to the floor freely and offer their amendment and debate them under the 5-minute rule. And if the Democrats want to do the job of picking and choosing amongst their Members, they can certainly do that. But the system is far better than the closed system operated by the Democrats for all too many years.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I rise in opposition to this rule for one very simple reason: It is not going to allow us enough time to debate a very complex and important issue that will potentially affect every single American.

At the subcommittee level we debated only from 1 until 7, with many rollcalls on the floor during that markup. At full committee we started in the morning, but it was the day we were breaking for Jefferson/Jackson weekend. As a result, with many rollcalls on the floor, we only had, again, a couple of hours to debate these very important issues.

We went before the Committee on Rules and we asked, quite reasonably, I think, for an open rule with unlimited time so we could bring these issues out on the floor.

The problem now, as we know, is that the majority is limited by their Contract With America in allocating any time to any of these very important issues. So, as a result, despite the fact we are given 8 hours here on the floor, 1 hour is on the rule, 1 hour is on general debate, 6 hours are left over. And

to add insult to injury, the Republicans on the Rules Committee have now reported out a second rule allowing for a nongermane amendment to be made by the gentleman from California [Mr. COX], and that will also come out of the time of the consideration of this legislation.

Let me say quite simply that there are four good reasons to oppose the legislation substantively as well. One, an English rule which the very conservative——

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I would be happy to yield on the gentleman's time.

□ 1530

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MARKEY].

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from Massachusetts has an additional minute.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I simply wanted to inquire of my friend, the gentleman from Massachusetts; did he say that the 1 hour that the rule is being considered is out of the 8 hours that is considered for the amendment process?

Mr. MARKEY. Mr. Speaker, I have been informed that that is, in fact, accurate, and I thank the gentleman from California for his clarification.

Mr. DREIER. And the 1 hour of general debate is also——

Mr. MARKEY. Mr. Speaker——

Mr. DREIER. Eight hours is an amendment process——

Mr. MARKEY. The staff of the Committee on Rules has just informed me of that.

Mr. DREIER. I want my friend to enjoy his entire additional 30 seconds.

Mr. MARKEY. I thank the gentleman very much, but at the same time we have to note that all the rollcall time does come out of that 8 hours, and the time for the additional amendment that the Committee on Rules has put in order to allow a nongermane amendment is also coming out of the time of our ability to consider this legislation.

A English rule is built into this law which puts the burden on the loser in any lawsuit. It makes it almost onerously impossible for anyone to bring a lawsuit against a large financial institution in this country. It, second, imposes an I-forgot defense. That is, if any of the people who are engaging in any of this fraud say, ''Well, I forgot,'' then they are protected.

Remember the old Saturday Night Live skit where Steve Martin would stand up at the end and say, ''Well, I've got a sure-fire, guaranteed defense.''

I say to my colleagues, ''Anytime you're stymied for an answer to any charge which is being made against you, just say, 'I forgot,'" and that is our defense here today.

Mr. Speaker, we are going to allow that as a defense in these important cases, and, third, we have the depleting requirements which require a specific pleading at the get-go of any of this legislation requiring any plaintiff to be Carnac in terms of their ability to know what was going on in the intent of the defendant's mind at that time, although they know with some certainty that some fraud has been perpetrated, and finally the fraud on the market——

The SPEAKER pro tempore. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think it is important to clarify that we have 8 hours of time on amendments, an hour of general debate, and an hour on this rule, a total of 10 hours.

Mr. Speaker, I yield 2 minutes to my friend and another classmate from Richmond, VA, the gentleman from Virginia [Mr. BLILEY], the chairman of the Committee on Commerce.

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

Mr. BLILEY. Mr. Speaker, I rise in support of this rule to provide for consideration of H.R. 1058, the Securities Litigation Reform Act. This bill is title II of H.R. 10, the Common Sense Legal Reforms Act, as reported by the Commerce Committee. It is ground breaking legislation, part of the original Contract With America.

As we said in the contract, America has become too litigious a society. We sue each other too often, too easily, and regrettably, too well. The burden on the Federal courts is enormous. The number of lawsuits filed each year has almost tripled in the last 30 years. President Bush's Council on Competitiveness concluded the American litigation explosion carries high costs for the American economy. We see it everyday as manufacturers withdraw products from the market, or discontinue product research, reduce their work forces, and raise their prices.

There is a problem even more insidious than an increase in the number of lawsuits filed. It is the realization that an increasing number should never have been filed in the first place. The Congress has been petitioned repeatedly over the last few years by executives of some of America's fastest growing high tech companies, as well as the accounting and securities professions, who believe the civil liability system is broken. In case after real case, they can show from their experiences that the system no longer recovers damages for investors who are actually wronged and it unfairly focuses the enormous costs of litigation on reputable public companies and not upon those who engage in fraud.

The subject of litigation reform has been before our committee under both Democrat and Republican control. Late in the 103d Congress the committee held two hearings on the subject, and early in the 104th we held two more. Empirical studies show that virtually all claims in 10b–5 class actions, meritorious and frivolous, are settled. Unfortunately, the settlement amounts bear no relationship to the underlying damages, but instead are related principally to the amount claimed, or the defendants' insurance coverage.

Much of H.R. 1058 is no longer controversial, despite the continuing cries of the plaintiffs' bar and their supporters in the State securities commissions. Most Members of Congress now understand and agree with us that lawyers should not pay referral fees to brokers who send them clients, or that named plaintiffs should be barred from receiving bounty payments. Most Members are appalled that the current system is a race to the courthouse which rewards the first to file, regardless of how little merit the case has. Only the most strident supporters of plaintiff lawyers disagree with the provisions of H.R. 1058 that require disclosure to class members of settlement terms or that private plaintiffs legal fees should not be paid out of SEC disgorgment pools.

H.R. 1058 will not cure all the ills of a litigious society that looks to the courts to solve its problems. But it will help to restore some balance between plaintiffs and defendants and to constrain that small group of plaintiff securities lawyers who have gamed the procedure and turned our judicial system into a weapon against American businesses, workers, and shareholders.

This rule is drafted to provide for an open and constructive debate of the problems and the solutions proposed in H.R. 1058. I urge my colleagues to support the rule.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, this is a bad rule for a good bill, a bill I will probably support.

We have just concluded a frustrating debate on the Legal Reform Act under a bad rule, and many ideas that could have perfected that bill could not be considered. I, for one, had hoped to change the fee shifting mechanism in that bill to make it identical to the fee shifting provisions in this bill. A bipartisan group wanted to make the change, but the inadequate time for debate elapsed before we could offer our substitute. Had the substitute been considered, I believe it would have passed, and this Member and many others would have supported that bill.

H.R. 1058, to which this rule pertains, includes important and meritorious steps to reform securities litigations to

reduce the costs and distractions of unwanted litigation. Several amendments to be offered by the gentlewoman from California [Ms. ESHOO] and the gentleman from California [Mr. MINETA] will further ensure that high technology companies, which are essential to U.S. competitiveness, are reasonably and properly protected by its provisions.

In true bipartisan style, Mr. Speaker, I would like to commend the gentleman from California [Mr. COX], my friend and colleague, for his leadership on this issue. He described himself yesterday as a recovering corporate attorney. Not only did he and I attend the same law school, but I suffer from the same affliction. I, too, am a recovering corporate attorney.

Securities litigation needs reform. This is a good bill. It is a shame debate will be so truncated.

Mr. Speaker, the future of our Nation's future competitive advantage lies in our ability to develop products and services that are on the leading edge of technology and research. The business ventures which undertake such activities are among the fastest growing sectors of our economy. Indeed, they are the pride of our economy.

Regrettably, many of these business ventures are saddled by the costs and distractions of unwarranted and meritless lawsuits, filed when stock prices fluctuate for reasons often beyond the control of business management. The consequences of these abusive suits are settlements and costly legal proceedings unconnected to the merits of the underlying case. Despite the absence of wrongdoing by managers, corporations are essentially forced to pay large sums to avoid even larger expenses associated with legal defense. Advocates of litigation reform cite empirical studies that show virtually all claims in 10b–5 class actions, meritorious or not, are settled.

Let me share an example from the world's leading manufacturer of computer workstations, Sun Microsystems.

Founded in 1982, the company now has annual revenues in excess of $4 billion with over 13,000 employees world-wide, including many in my district.

Since it's initial public offering in March 1986, the company has been profitable every quarter except June 1989. In that quarter, as the result of the introduction of new technology and the switch-over to a new internal management system, the company reported a loss.

When it issued a special public advisory it was hit with three securities class actions within days.

And, when the company actually announced its earnings results, two more class actions quickly followed. The five suits were consolidated into a single suit seeking over $100 million.

In September 1990, despite the fact that Sun Microsystems had a profitable quarter, two more suits followed the company's announcement that earnings were about 10 cents per share less than what analysts expected. These two suits were consolidated into a suit seeking over $200 million.

Mr. Speaker, these suits have drained a staggering amount of money from Sun Microsystems—money that could have been devoted to product development, research, even a return on earnings. In the period from June 1989 to January 1993, Sun Microsystems spent over $2.5 million on attorney's fees and expenses. And this does not include the value of the time lost by management.

Because of the possible exposure of $300 million, and with only $35 million covered by insurance, the company agreed to settle the first suit for $25 million and the second suit for $5 million.

Amazingly, after these settlements were announced, Sun was hit with an unprecedented derivative action in State court alleging that the settlements were too generous. These actions were also settled, with Sun paying plaintiff's attorney $1.45 million and its own attorneys $500,000.

Mr. Speaker, what did shareholders get because of these suits? Nothing more than minor changes to Sun's internal policies.

Mr. Speaker, the record is replete with such examples. Examples like Silicon Graphics, Inc. of Mountain View, CA and Rykoff-Sexton, Inc. of Los Angeles. Examples that do not even begin to measure the huge waste in resources spent defending as well as prosecuting such suits.

These are resources which companies, like small high-technology and emerging growth companies, can better devote to research, and product development and promotion.

The bill, and the improvements that will be offered through the amendments, will reform securities litigation, end abusive lawsuits, and lift the unwarranted burden placed on companies that provide the competitive edge of America's economy.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Newport Beach, CA [Mr. COX], the foremost congressional authority on securities litigation.

Mr. COX of California. Mr. Speaker, I will reserve for general debate most comments on the substance of the legislation, but I would like to speak a little bit about the process by which this bill came through subcommitte, came through committee, after two hearings and is coming to the floor.

I found, when I first was elected to Congress, that the House and the Senate were in the business, rather routinely, of producing thousand-page epics that nobody read. The S&L bailout bill comes to mind. Nineteen hundred and eighty-nine it came up here, drafted by the administration. Nobody in the House or Senate read it. We know that because it was not printed in the RECORD until after the vote took place. It happened that when we did the 6-year transportation reauthorization bill, even though I was on the Subcommittee for Surface Transportation, we did not get a markup for the 6-year transportation reauthorization, not in subcommittee, and in committee we got the whole bill the first time, and for the record my hands are probably a foot or so apart. The whole bill got plunked down on our desks the very day of the markup, and that was the first time we saw that bill, and then, when it went to conference, it was changed so dramatically that nobody knew what was going on. It was produced, I think, about three in the morning, or something, and we voted on this huge bill without anybody having read it or understood it. This has become rather routine.

Contrast with the way the Congress used to run what we have been doing with securities litigation reform. We had two hearings, this Congress. We have had hearings in prior Congresses as well. The bill was bottled up in committee, and, after those hearings, we went to subcommittee markup, and we had a very long subcommittee markup that was so long that we were arguing about adjectival modifiers of words in particular lines. The bill itself is not very long, and of course everyone has read it. Then we went to full committee, and we made still more amendments. There was some criticism in full committee because amendments were allowed, that we were changing the bill in committee, although that is what markups are supposed to be all about, and here we are on the floor with a rule that is so open that just about everybody who wants to offer amendments is able to do so.

Nonetheless, I understand how the ranking member might be upset because the bill came out of committee with only 10 Democrat votes. It was produced 33 to 10, a huge bipartisan majority for a very, very sound bill. If it did anything like what we have been hearing here on the floor today, of course those Democrats and all of the Republicans would not have voted for it, but it protects investors. It protects investors by providing a guardian ad litem or a steering committee that their class-action lawyer will now deal with to make sure that the clients get represented. It prevents bonus payments to favored plaintiffs in a class action so all the class is treated equally. It says that in the future the lawyers are going to have to pay attention to their clients when they file these kinds of lawsuits, and they are going to have to know that they have a case first so that the investors in a company that might be extorted from will also be protected.

Finally I should point out that some of this I-forgot business relates to the fact that this is a fraud statute, it is not a negligence statute, and we do not have negligence in the securities laws now, nor will we have it after this bill.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Texas [Mr. FROST] of the Committee on Rules for according me this time, and I rise on this rule to point out with strong vehemence my opposition to this last minimum effort to completely undercut the jurisdiction of the Committee on the Judiciary and allow the majority to offer an amendment to H.R. 1058 that would end civil RICO lawsuits for securities fraud.

The Racketeer Influence and Corrupt Organizations legislation would now be brought to an end with one sentence that has never been examined in either the former Committee on Commerce, the present Committee on the Judiciary, in any subcommittees or full committees. As a matter of fact, it was not even on this rule. It was through a remeeting that this rule even allowed it to be joined, and this is one of the great protections against fraud that exists in our law today.

It is absolutely incredible that the RICO amendment that is included in here is broader than any RICO amendment that Congress has ever considered before. The previous attempts at this legislation have failed, and those attempts do not ever go as far as this sweeping amendment that we are considering with such a short amount of time.

We need more time. We could use the whole time for this bill on RICO alone, and it is with great regret that I have to make these points about a very important part of this rule.

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Westbury, NY [Mr. FRISA], a new member of the Committee on Commerce.

Mr. FRISA. Mr. Speaker, I thank the gentleman from California [Mr. DREIER], my friend, for yielding this time to me.

Mr. Speaker I am happy to rise in support of the rule which will provide more than ample time for careful, thoughtful, deliberate consideration of this much needed measure which will finally bring about reforms to our legal system.

□ 1545

Mr. Speaker, the American people want our system to work, and we know that right now it has not been working. I find it rather amazing that my good friends on the Democrat side, who have not been able to do anything about these reforms for 40 years, are now complaining that we are moving toward reform too quickly.

Well, I think the American people spoke last November 8, Mr. Speaker, and they have sided with the Republican majority in saying it is long past time to act, to use some common sense, to enact some changes to our system.

Let us roll up our sleeves and get down to work. Mr. Speaker, constituents in my district, hard-working, taxpayers, put in an 8-hour day, and they can get the job done. I do not know why the Democrats in Congress cannot get the job done in 8 hours to amend this legislation.

Mr. Speaker, I urge all of my colleagues to rise in support of this rule so we can get to debate on the bill itself, and then for a full 8 hours, a full day's work, to amend the legislation, pass it, move it to the Senate, so finally we will have those legal reforms.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 1 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I will shortly offer an amendment that stipulates that if there is a major fraud that corporate managers refuse to remedy, the corporate auditor would have to report the fraud to Government regulators.

I want to thank Chairman SOLOMAN and Mr. HALL from the Committee on Rules for their effort to support it, and would like to note that the gentleman from Louisiana [Mr. TAUZIN] joins me as a cosponsor in offering this amendment.

This amendment has passed the House twice, it has the support of the Securities and Exchange Commission and the accounting profession. I would like to note that if this amendment had been the law of the land in the Keating case, the auditor, instead of slinking away when the auditor saw the wrongdoing, the auditor would have been required to bring that to the attention of Government regulators and taxpayers would have been spared considerable liability.

Mr. Speaker, I urge my colleagues to support this amendment. The last time it came before the Committee on Commerce it passed unanimously with the support of every member of the committee.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana.

The SPEAKER pro tempore (Mr. DICKEY). The gentleman from Louisiana [Mr. TAUZIN] is recognized for 3 minutes.

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

Mr. Speaker, I have great sympathy for those who believe this bill is moving too fast this session, but I remind my colleagues that I offered this bill two Congresses ago. I crafted this bill two Congresses ago with the hopes we could have hearings two Congresses ago. We got no hearings.

I refiled it last year, 182 Members of the Congress last year cosponsored it; 67 Democrats. And we could get no hearings until the very last week or two of the session when it was too late for us to take any action on the bill.

There were 4 years for this Congress to move on this bill if we had wanted to take that time. But for 4 years, we could never even get this bill moving, except finally a series of hearings right at the end of the session.

We have had hearings again this year. We have had markups, subcommittee and the full committee. We will have a full and active debate the next day and a half, with 8 hours for folks to offer amendments under this modified open rule. And I am excited that we will finally get a chance to fix something that desperately needs fixing.

The old rule that ''If it ain't broke, do not fix it'' not only applies here, it applies in buckets. When 93 percent of these cases settle, most of them at 10 cents on a dollar, we have a system that is ultimately broke. We have a system made for the attorneys. When 8 cents on the dollar is all that is recouped for the stockholders, when most of the suits are brought to shake down companies, to shake them down any time their stock prices drop a couple points, when these suits are produced on Xerox machines, when the same plaintiff repeatedly appears in the suit time after time, one of them 35 times, you begin to see a picture of professional plaintiffs.

I ask the attorney who brought that suit for the same plaintiff 35 times if perhaps he did not have a professional plaintiff, or if maybe this was the most unlucky person in America.

It is time for us to put an end to that kind of a legal system. When a legal system preys upon our economy instead of trying to render justice, something is wrong. The bill we will present to you today had the support of eight Democrats on the Committee on Commerce, almost half of our membership. It will have the support of many Democrats and Republicans on the floor today and tomorrow. It will truly be a bipartisan effort to put an end to a terrible legal system and to replace it with one that works, one that corrects fraud, one that urges plaintiffs to bring good cases and take them to a conclusion, to prove fraud exists, and to make the guilty parties pay, and to end this business of frivolous shakedown lawsuits that is threatening to cripple many small businesses just trying to get going and discourage them to disclose more information to us, not keep it all secret because they are afraid of another lawsuit right around the corner.

Mr. Speaker, this is a day we have long waited for. This day and the next day ought to produce a good legal system instead of the rotten one we have. I look forward to it under this rule.

Mr. FROST. Mr. Speaker, for the propose of debate only, I yield the remaining time to the gentleman from West Virginia [Mr. WISE].

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. WISE] is recognized for 4 minutes.

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

Mr. WISE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think somewhere there has to be a middle ground between the previous Republican speaker who was ecstatic that we were going to be allowed 8 full hours of debate. Of course, that includes voting time, which, if you look at the chart of the last bills under this so-called open rule procedure, means about 25 percent of

that debate time is taken up. Somewhere between 8 hours that the Republican gentleman was excited about and the 200 years of common law in jurisprudence and getting into court, that threatens to be upset. So somewhere between 8 hours of debate time and 200 years, perhaps we could have a little more debate time.

I am delighted that the gentleman from Louisiana is happy. I am happy it is coming to the floor. But I think on something of this magnitude, dealing with the securities industry, one of the pillars of the economy in our country, that you need better than 8 hours of debate time, including the voting time.

Remember, the voting time takes a minimum of 17 minutes. Now, let us look at the chart in the past on voting time. To those who say that the problem is that the Democratic minority does not allocate its time wisely enough or manage it, I might point out on the H.R. 728, the Law Enforcement Block Grants, there were at least two Republicans, Mr. BEREUTER and Mr. KASICH, who joined a number of Democrats in being shut out from offering amendments. H.R. 7, the National Security Revitalization Act, Mr. BEREUTER and Mr. SCHIFF joined a number of Democrats in being shut out from being able to offer amendments. The regulatory moratorium, there were at least three Republicans shut out. Mr. MICA was shut out on the risk assessment bill. Just most recently, Ms. HARMAN, who has appeared here already, was shut out, and Mr. SMITH of Michigan, a Republican, was shut out as well.

Once again, we cannot even get in the Republicans to offer their amendments. Some might say if Republicans and Democrats are being shut out, what is the difference? The difference is on the Republican side, being in the majority, they get to craft the bill. Democrats do not. So the best bite we get at the apple is here on the floor.

Also, I might point out the only bite many of us get at the apple is on the floor, right here, and that is why this kind of rule is restrictive and not open, and I think violates the promise that the Republicans gave us of open rules on the contract items.

So picking right back up again, because this is the only time I get under this with the time limitations, I would just urge people to understand that on these very important contract items, when they say there is an open rule, there is no open rule; that indeed 25 percent of the time is being taken up alone on votes. Meritorious votes, some called by Republicans, some called by Democrats, some called by Members of both sides, interestingly enough, when it is clear that is an overwhelming majority. So you get a situation on the risk assessment bill, 10 hours of debate, with 2 hours taken up by rollcall votes alone.

Mr. Speaker, we can do business better than this, If you were in a courtroom, even under the legal reform being put forward this week, you would get a chance to make your arguments. You would get a chance to have a full and open hearing. You would get a chance for every point of view to be offered for all evidence, if you would, if you consider an amendment to be offered. You would get a chance to have that done. Not here. Not here.

Talk about a contract, there is a breach of contract, and that is that open rules will precede each of these items. There is no open rule in this. No matter how you dress it up or put it, it is a race to the clock. A race is what is involved in here. How quickly can you talk and can you get a vote and will there be time for the next person, Republican or Democrat, to be able to offer their amendment.

Mr. DREIER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman from California [Mr. DREIER] is recognized for six minutes.

Mr. DRIER. Mr. Speaker, this is not a so-called open rule. This is not a wide open rule. This is a modified open rule. What it means very simply is the Committee on Rules did not say what amendments are going to be made in order. The Committee on Rules said that any Member who has a germane amendment can stand up here on the floor and say ''Mr. Speaker, I have an amendment at the desk,'' and that amendment has to be considered.

The only constraint is the outside 8-hour limitation on debate, and that limitation simply means that we have to responsibly determine exactly what priorities there are and what they should be.

Now, there have been some arguments that have come forward from my friends on the other side of the aisle that somehow this is a rule which is closed and we are shutting out people. Well, we have heard from the gentleman from Louisiana, making this clearly a bipartisan modified open rule. The gentleman believes , as I am sure other Democrats do, along with Republicans, that this rule will allow for consideration of legislation that for years and years and years Democrats and Republicans have tried to bring up to deal with the question of securities litigation reform. Tragically, because of the recalcitrant leadership of the past, they were unable to do that.

This rule allows every single idea that is out there to be considered.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. DRIER. I yield to the gentleman from West Virginia.

Mr. WISE. I understand what the gentleman is saying in terms of anyone can bring any idea up. But do you not think it is a closed rule if any idea will not be able to be offered because of the clock, including Republicans' ideas, as precedence goes to members of the committee first.

Mr. DRIER. Reclaiming my time, the answer is a resounding no. This is a modified open rule, because what it says to my friend is if he has an amendment that he wants to offer, and one of his colleagues also has an amendment that he decides is equally as important, they should say let us take 10 minutes each so we can get the full membership of this House on record to vote up or down on this amendment.

So my point, Mr. Speaker, is that every idea, every single idea, can be considered if we can structure it in such a way that all of those proposals move forward.

Mr. WISE. If the gentleman will continue to yield, if that is the case, why did Mr. BEREUTER and Mr. KASICH, for instance, when they were protesting, particularly Mr. BEREUTER the other day on the law enforcement block grants, why did not Members of your party get together? The fact is this closes people out.

Mr. DRIER. Unfortunately, they did not get together. That was something that was not able to be worked out under that process. What we are saying to both leaderships is establish priorities, but under an open amendment process. Let us proceed with making this institution accountable.

In years past the Committee on Rules would kill ideas from the left or the right, not allowing them to even be considered here. Now every one of those ideas can come up under an 8-hour time limit.

Now, as I listen to the people whom I represent, they know that the Gettysburg Address was delivered in 3 minutes. They believe that we should, within an 8- or 10- or 12-hour period, we will be spending as Mr. MARKEY said, a total of 10 hours on this, with 1 hour for general debate, 1 hour of debate on the rule, and 8 hours for amendments, they believe within 10 hours we might be able to under an open amendment process consider these ideas.

Mr. WISE. If the gentleman will yield further, do they know how many days it took to prepare that 2-minute Gettysburg Address?

Mr. DREIER. I do not know, the 3-minute address.

Mr. WISE. The shorter it is, the longer is spent to prepare it.

Mr. DREIER. Reclaiming my time, I would say Mr. TAUZIN, who said that three Congresses ago he introduced this legislation, that totals 6 years that it took to prepare this, and I believe that Mr. TAUZIN and others who have been involved in this should have an opportunity to consider this, and it is going to be done under a fair and open process. I suspect the gentleman from south Boston would like me to yield.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

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

□ 1600

Mr. MOAKLEY. Is it not true though that the gentleman's party promised

open rules, more open rules than they had the year before?

Mr. DREIER. The gentleman is absolutely right. That is exactly what we have provided, many more open rules than we had in the 103d Congress or the 102d Congress. What we have got is a structure where modified open and open rules are 82 percent, about 82 percent of the legislation that we have considered. I think that, as we listen to people like Cokie Roberts, who, when I was quoting National Public Radio earlier——

Mr. MOAKLEY. She erred, she was in error.

Mr. DREIER. Cokie Roberts erred by saying that we are doing this under an open process. Well, Cokie happens to have spent a great deal of time observing this institution. She also has, there have also been a lot of other people who have looked from the outside. And they have watched this on television and they have said, ''You all are doing it under an open process.'' Why? Because they see that a modified open rule, while it does have an outside time cap, does in fact give every Member the right to offer their amendment, have it considered, have it voted on.

Mr. MOAKLEY. The gentleman promised that the contract on America would be based on all open rules.

Mr. DREIER. I do not know about a contract on America. I know about a Contract With America.

Mr. MOAKLEY. Was it not true that the gentleman's people said that these would be all open rules?

Mr. DREIER. Well, my people said that we would consider——

Mr. MOAKLEY. Did not the Speaker say that?

Mr. DREIER. It was said that we would consider these proposals under an open amendment process. That is exactly what we are doing. We are doing it under a modified open rule.

Mr. MOAKLEY. The gentleman is changing it. He is going to consider them under an open process. It does not mean an open rule.

Mr. DREIER. Mr. Speaker, I suspect that it would be best for me to say that I urge an ''aye'' vote on this fair and responsible modified open rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution. The previous question was ordered.

The SPEAKER pro tempore (Mr. DICKEY). The question is on the resolution.

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

Mr. FROST. 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 257, nays 155, answered ''present'' 1, not voting 21, as follows:

[Roll No. 208]

YEAS—257

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

NAYS—155

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Holden
Jackson-Lee
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thurman
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

ANSWERED ''PRESENT''—1

Lowey

NOT VOTING—21

Bono
Chapman
Condit
Dicks
Durbin
Flake
Frank (MA)
Gibbons
Greenwood
Hinchey
Jefferson
Largent
Livingston
McCrery
McDade
McKinney
Meek
Metcalf
Rangel
Roth
Weldon (PA)

☐ 1620

Mr. MOLLOHAN changed his vote from ''yea'' to ''nay.''

Mr. RAHALL changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BONO. Mr. Speaker, I was unavoidably detained, and was not able to vote on rollcall vote 208.

Had I been here, I would have voted ''aye'' on rollcall 208, the rule on H.R. 1058, Securities Litigation Reform Act.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 481

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 481.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Alabama?

There was no objection.

SECURITIES LITIGATION REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 105 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1058.

□ 1621

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 consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

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

Mr. Chairman, I rise in support of H.R. 1058, the Securities Litigation Reform Act. A recent survey by the National Venture Capital Association found that 62 percent of responding entrepreneurial companies that went public in 1986 had been sued by 1993. The survey concluded that, if historical rates continue, ''unprecedented numbers of newly public companies are likely to be sued in the coming years.'' This is a national tragedy and a situation the Congress cannot allow to continue. H.R. 1058 is an important first step in our continuing review of litigation reform.

H.R. 1058 is the product of months of intensive negotiations. I would like to highlight for the Members of this body major changes that were made to this legislation during the committee drafting process.

The entire bill has been modified where necessary to make clear that restrictions on bringing legal actions based on the antifraud provisions of section 10 of the Securities Exchange Act and rule 10b–5 apply only to private suits, not to SEC enforcement actions. The legislation was intended to curb strike suits, not SEC enforcement actions, and that is now what it does.

Similarly, the bill has been modified to apply only to implied actions under section 10b, and does not override other sections of the securities laws that provide their own express causes of action. Strike suits are almost always brought under section 10, and actions based on other sections of the securities laws have not been a problem.

The intentional fraud-only standard of H.R. 10 has been modified. H.R. 1058 provides for actions based on misrepresentations or omissions done recklessly, but a defendant found reckless can only be held for the proportionate share of his liability. The definition of recklessness is based, in part, on language taken from the leading case in this area. Intentional fraud will still bring joint and several liability, as well it should. Anyone who intentionally breaks the law should know that he will be responsible for all damages that flow from his actions.

The bill preserves the principle of ''fraud on the market'' by removing the obligation in H.R. 10 to prove reliance in each instance of misrepresentation. Existing case law allowing plaintiffs to meet their obligation of showing reliance by relying on the market price will be codified for the first time. Members who seek to apply fraud on the market to all securities and not just those with liquid markets do not understand the legal principle and economic theories that underly the legislation.

The provision governing fee shifting, ''Loser Pays,'' has been modified significantly under the terms of H.R. 1058. The prevailing party can recover his costs only if he can prove that the losing party's case was without substantial merit, and that imposing those costs on the loser will not be unjust to either side. This entire provision applies to judgments; if a case is settled, it does not apply.

One thing has not changed. H.R. 1058 addresses the same issue as H.R. 10 did, that is, the crying need to reform the process by which securities class actions are litigated. H.R. 1058 is a refinement of H.R. 10, brought about by debate and consultation between many Members on both sides of the aisle. I urge its support by all Members of the House.

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

Mr. MARKEY. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, what I would like to do to help all those who are trying to decide how they are going to vote here today is to perhaps assist them by applying a multiple choice test, so that people can choose themselves, as we go through the test, which they think would be the correct answer.

Let me begin by asking which one of these four categories would be hurt by H.R. 1058: A, insider traders; B, fraudulent derivative brokers; C, wrongdoer accountants; or D, fraud victims.

The correct answer there is D, fraud victims would in fact be harmed, because it is going to essentially cripple the ability of private fraud actions to be brought by individual investors who have in fact had their life savings ripped off by investors, by companies that have misled them in their investment strategy.

Next question: out of the 235,000 suits filed in 1994, how many were securities fraud cases in this country: A, 31,800 out of the 235,000; B, 9,500; C, 18,670; D, 290, 290 out of the 235,000 cases. The correct answer is 290 cases in the securities fraud area.

The next question, by what percentage have securities fraud class actions increased over the last 20 years in our country: A, a 150-percent increase; B, a 100-percent increase; C, a 50-percent increase; D, minus 4.3-percent. The correct answer is D, a 4.3-percent decrease in securities fraud actions brought over the last 20 years.

□ 1630

Next question, just trying to be helpful:

Out of the 14,000 public companies, how many were sued each year on average in securities fraud class actions over the last several years?

A. 7,000 public companies sued each year.

B. 3,500 public companies sued each year.

C. 1,400 companies in America sued each year.

D. 125 companies sued for fraud each year in the United States.

The correct answer, D, only 125 companies are sued each year in the United States for securities fraud.

Next question:

Which is H.R. 1058's solution to the derivatives crisis facing dozens of municipalities and other counties in the United States?

A. Improve the supervision and regulation of derivatives dealers.

B. Strengthen fraud liability.

C. Increase customer protections.

D. Make it virtually impossible for victims to recover their losses from fraudulent brokers.

The answer, D, make it impossible for all intents and purposes for there to be a recovery when individuals have been injured.

Next question:

Which one do the English not like?

A. Tea.

B. Soccer.

C. Fish and chips.

D. The English rule.

The correct answer is the English rule. they do not like the English rule in England.

Economist, the leading conservative periodical in that country, last month editorialized against the English rule arguing that the American rule is a better rule if ordinary individuals are to be compensated for harm which has befallen them because of fraudulent activity in the financial marketplace.

Next question:

Which is not a defense to securities fraud under H.R. 1058?

A. The plaintiff did not plead specific facts of my state of mind.

B. The plaintiff did not read on line 12 of page 68 of the prospectus where I made my fraudulent misrepresentation.

C. Sorry, I forgot the truth.

D. None of the above.

The answer, D.

H.R. 1058 requires plaintiff's complaints to make specific allegations which, if true, would be sufficient to establish scienter as to each defendant

at the time the alleged violation occurred. In addition, it is expressly made insufficient for this purpose to plead the mere presence of facts inconsistent with a statement or omission alleged to have been misleading.

Next question:

How much will H.R. 1058 reduce the Federal budget?

A. By $100 million.

B. By $50 million.

C. By zero.

D. It will increase it by up to $250 million over the next 5 years.

The answer, D, it will increase the Federal deficit by $250 million according to the Congressional Budget Office because of the needed additional enforcement by the Securities and Exchange Commission out in the financial marketplace.

Finally, under H.R. 1058, who will pay fraud victims the share of the damages caused by the primary wrongdoer who is in jail or bankrupt?

A. The reckless wrongdoers who participated in the fraud.

B. Aiders and abetters in the fraud who helped to make it possible.

C. The accountants who claim they forgot to disclose the fraud.

D. Nobody.

The answer is, D, nobody else would have to pay if somebody lost their life's fortune after being misled into a terrible investment with information which was completely and totally erroneous.

That is the problem we have with this bill. We hope that as we move into the specific amendments that those who are concerned about integrity and honesty in the financial marketplace will support some of the amendments we have to improve the bill.

Mr. BLILEY. Mr. Chairman, for purposes of debate only, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS], chairman of the Subcommittee on Telecommunications and Finance.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Chairman, I begin with a quiz of my own.

Were the remarks of my friend:

A. Inaccurate.

B. Misleading.

C. Entertaining.

D. Good-natured.

I think the answer is ''all of the above,'' and we are going to have plenty of time to debate this.

I rise in support of H.R. 1058, the Securities Litigation Reform Act. This legislation revolutionizes the standard by which all disputes under securities laws will be litigated.

For example, the Securities Litigation Reform Act will introduce the concept of proportional liability into the Federal securities laws for the first time. A defendant may be liable for joint and several damages only if found to have acted knowingly. Defendants found liable for recklessness will be held proportionately liable. A person will be liable for all the damages he causes but only the damages that person causes. The concept is common sense and so simple one must wonder why it was not adopted long ago.

Arguably, the adoption of proportional liability alone is the most significant development in private securities litigation in the 61 years since the Federal securities laws were passed. This provision alone will go a long way toward eliminating strike suits, in that deep-pocket defendants will no longer be subject to the same coercive pressure to settle. By the adoption of this provision, we will eliminate the abuses of the current system that amount to a socialization of the risk. More importantly, Congress should do everything it can to ensure that the constitutional right of wrongly accused defendants, yes, even corporate defendants, to have an opportunity to defend themselves in court is protected. The costs of defending frivolous lawsuits today prevents that from happening. Proportional liability is a reform that will help accomplish this objective.

It is impossible to review the impact of spurious litigation and the abuses possible within the current securities class action system and not realize how important this bill is for the economic welfare of our country.

Critics of this legislation will tell us that private securities litigation is a critical addition to an effective enforcement program at the Securities and Exchange Commission. We agree, but surely frivolous lawsuits are not a necessary part of the Securities and Exchange Commission enforcement mechanism. Lawsuits brought solely for the purpose of coercing settlements out of deep-pocket defendants have no place in our law enforcement mechanism.

The frightening implication of the arguments of opponents of litigation reform is that everything is just fine the way it is. They see strike suit lawyers bringing lawsuits as a regulatory device that should be encouraged to promote market efficiency. We on this side of the aisle could not disagree more. We believe the only justifiable purpose for a lawsuit is to recover damages for people who have been injured. Academic studies of class action strike suits, however, show that even successful plaintiff shareholders recover just pennies on the dollar. The lawyers without clients who bring these suits take home millions of dollars in fees. Strike suits do not contribute to market efficiency. They contribute to affluent lifestyles of strike suit lawyers.

H.R. 1058 is dramatic, it is revolutionary legislation because that is what is necessary. The old ways of doing things are just not working. The bill provides that the losing party, his attorney or both will pay the prevailing party's legal fees if a court enters a final judgment against them. The court has discretion not to award fees if the losing party establishes that its position was substantially justified. The court will require the attorney, the class, or both to post security for costs to ensure that funds are available to pay the legal fees if they are awarded. This section represents a compromise from the original ''loser pays.'' It will be a powerful deterrent to the filing of frivolous suits. It will also ensure that successful plaintiffs receive a full recovery of their damages and that successful defendants do not suffer injury from having been wrongly accused.

Some provisions in this legislation are not revolutionary but just good public policy. For the first time in the securities laws, a standard for reckless conduct is defined. Similarly for the first time the Federal securities laws have been modified to specifically allow proving reliance by demonstrating a fraud on the market, that that has occurred. Finally, the bill creates a safe harbor for forward looking statements issued by companies so that they need not fear litigation if projections they make in good faith do not turn out as expected.

H.R. 1058 is a breakthrough piece of legislation. I urge the support of all my colleagues.

Mr. MARKEY. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana [Mr. TAUZIN].

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

Mr. TAUZIN. Mr. Chairman, a good legal system is not one that is measured by the number of lawsuits that are filed. It is not one measured by the length of those lawsuits, about how many judgments are rendered. Quite the contrary. A good legal system is one that deters bad behavior and, therefore, leads to fewer lawsuits. It is one in fact that encourages settlements of merited cases rather than the massive settlement of all cases regardless of merits.

On that test, this legal system we are trying to reform today is a rotten one. The gentleman from Massachusetts has told you that there were only a few cases filed. Let me give Members the facts.

In 1993, there were 723 of these cases pending, more than any other year except 1974. In fact, in the last 4 years, from 1990 to 1993, there have been 1,180 of these cases filed and that is almost equal to the number filed in the 10 previous years. Many more lawsuits. While Federal lawsuits are generally declining by 30 percent, these lawsuits are up by 10 percent.

Second, these lawsuits are not sailboats sailing on the ocean of litigation. These are massive carriers, massive lawsuits. The 723 cases pending today estimated request $28.9 billion in damages. These are huge lawsuits that clog up the system and that send a message out to everybody across America that the lawsuits are waiting for you the first time your stock prices drop.

The ripple effect of these lawsuits is massive. To businesses sued and those

not sued, the message is simple: ''Don't tell investors anything about your company because anything you say will be held against you in a lawsuit filed by lawyers who xerox the claims, appoint their own clients and get a lawsuit going worth billions of dollars in which most of the parties end up settling at 10 cents on the dollar.''

Let me ask Members something: When 93 percent of these cases never reach a jury, when most of them are settled for 10 cents on the dollar, do you not get the impression I get, that this is a system where merit does not matter, everybody settles all the time?

Why? Because these are massive lawsuits and merit does not count. The liability is so huge, the shotgun effect of the lawsuit against all parties is so dramatic, the damages claimed is so huge that the temptation is to get out of it as fast as you can, 10 cents on the dollar, take care of the lawyer, do not worry about the stockholders, is the way this system works.

This is a bad legal system. And when we are told, as we are told, that only 6 cents on the dollar ends up being recovered for stockholders under this system, you and I ought to be deeply concerned about it. It means that real fraud is not being prosecuted. It means that meritless cases are filed and stockholders get nothing, but a few big law firms in America are doing quite well.

When you have that kind of a system where merit does not matter, where lawsuits are filed on a Xerox machine, where one lawyer in California says, ''I have the best law practice in America, I have no clients,'' he just names whoever he wants to represent the class and files a lawsuit.

When you have professional plaintiffs appearing time after time on these lawsuits and bounties, legal bounties paid in order to get these lawsuits going, when you have got that kind of a system, is not time to reform it?

For 4 years now, I have been asking this Congress to do that and I am delighted today we will have that chance. As we debate amendments over the next 8 hours, let me tell Members that we have tried to accommodate concerns. We have tried to bring this bill this year as close as we can to the Dodd-Domenici bill of last year and to the Tauzin bill of last year that got 182 cosponsors, 67 Democrats to cosponsor it.

We will see when this debate is over an awful lot of Members on both sides of this aisle voting for this measure. We will improve it in the process in the next 8 hours. It will be a better bill, closer to the bill that we offered last year and the year before. I am proud to tell Members the coalition that I have been working with has endorsed this bill and the effort to improve it is still on this floor. We will join with many other Democrats in a bipartisan effort to improve this section of the law.

When we are through, we are going to have a statute that discourages fraud because it counts on real merited cases to be filed, and it counts on them to be brought to fruition and the guilty parties punished. It will be a system that discourages frivolous, shakedown strike lawsuits that benefit no one in this country except the few law firms who make a havoc of our legal system and a ton of money over it.

Mr. FIELDS of Texas. Mr. Chairman, I yield 7 minutes to the gentleman from California [Mr. COX], one of the principal authors of the legislation.

Mr. COX of California. Mr. Chairman, it is frequently said that lawyers are turning America into a nation of victims. Thanks to the trial bar which makes its living fanning these flames, not only real injuries but every imaginable harm is now compensable in court, except one; the one category of injury for which there is seemingly no recompense is injury inflicted by lawyers themselves.

What is the remedy for the ruinous economic losses, the delays, and the sheer misery caused by the fraudulent abuse of our laws, in particular of our securities laws? The answer is none. None. Fraudulent securities litigation may be the most egregious instance of this cure today. It is a legal torture chamber for plaintiffs and defendants alike, more suitable to the pages of Charles Dickens' ''Bleak House'' than a nation dedicated to equal justice under law.

The current system of private securities litigations is an outrage and a disgrace. It cheats both the victims of fraud and innocent parties by lavishly encouraging meritless cases, it has destroyed thousands of jobs, undercut economic growth and American competitiveness and raised the prices every American pays for goods and services.

It mocks the many victims of real fraud who receive pennies on the dollar while the lawyers take millions. The only beneficiaries are the lawyers. Their clients typically get a pittance for their claims.

Who are the victims of these strike suits which are brought to generate settlement value, which are brought in order to generate a nuisance value so that the lawyers can be paid simply to stop their harassment? First and foremost, victims of this kind of system are the victims of real fraud.The current system herds them into powerless classes of plaintiffs who are completely under the thumb of strike suit lawyers. The class members do not even have the chance to participate personally; oftentimes they are not even identified until very late in the proceedings.

Earlier today we heard from a company in Arlington, VA, just across the river from the Capitol, who spent hundreds of thousands of dollars responding to one of these strike suits generated for the purpose of making the company pay the lawyers to go away. The class representative that was selected by these lawyers as the most representative of all of the plaintiffs finally sent a postcard to the company and ended it this way by saying, ''I did not know the lawyer was going to do this; he talked to my wife. He acted against my wishes. I was in the hospital at the time. I like your company.''

That is the degree to which class action lawyers are able to control this kind of litigation. The lead plaintiffs who supposedly represent the victims' interests are not average investors. As often as not the so-called lead plaintiffs are virtually employees of the counsel. As one of the leading attorneys in this area once put it, and as the gentleman from Louisiana [Mr. TAUZIN] so eloquently reminded us, he said, ''I have the greatest practice of law in the world. I have no clients.'' That is the way class action securities strike suit lawyers view their opportunity to harass ordinary investors.

The same stable of tame lead plaintiffs appears in case after case. That is why our bill puts a limit on the number of suits that professional plaintiffs can bring to five in every 3 years.

How bad is this problem? Harry Lewis has appeared as lead plaintiff in an estimated 300 to 400 lawsuits. Rodney Shields has been in over 80 cases. William Weinberger has appeared in 90 cases just since 1990. One court recently called one of these professional plaintiffs the unluckiest investor in the world. Obviously, a wry sense of humor, that judge.

With the lawyers in charge of the litigation, it is little wonder they manage to benefit their own interests at the expense of their clients. Many recent studies have shown that the current system encourages strike suits lawyers to ignore even overwhelming cases of fraud. Flagrant cases that should lead to 100 percent recovery are instead settled for cents on the dollar while the lawyers get millions in settlement fees.

Even when the fraud victims get a full recovery the current winner-loses system unique to America still ensures they will never get fully compensated. Their attorneys' fees and costs come right off the top. And because the plaintiffs' lawyers, not the victims, control the litigations, they make sure those attorneys' fees are top dollar no matter how meager their clients' recovery.

The current system ensures that investors will suffer ever more avoidable losses in the future. Even good faith reasonable predictions about the future events of a company's prospects are penalized under the current securities laws. The threat of lawsuits over so-called forward looking information, how is this company going to do in the future, is so serious that many if not most CEO's these days refuse to talk to the press at all about their company's performance and yet that is exactly the kind of information the market needs to operate. How a company has performed in the past is interesting, but everybody wants to know what is going to happen from here forward.

That is the information the market seeks out. Because the market is after that information they are now getting it through the black market and under the table. We would like to make sure that it is quality information, that a reasonable statement made in good faith should be available and should come from the source.

Strike suits claim virtually every American as a victim. Most particularly by this I mean ordinary workers and consumers all are victims of the heavy litigations tax levied by strike suit lawyers. The tens of millions of dollars siphoned off each year by strike suits represents thousands of workers not hired, new products delayed or canceled outright and vital research that will never be done, and price increases imposed on consumers. This tax will fall most heavily on high-tech biotechnology and other growth companies, the very industry most critical to American competitiveness.

One out of every four strike suits targets high-tech companies. High-tech and biotech companies have paid 40 percent of the costs of strike suit settlements handing out some $440 million, however, over the last 2 years alone.

Strike suits claim a last category of victims: tens of millions of Americans who have invested in securities through their labor union pension funds, ESOP's or their individual mutual fund. They suffer twice. They suffer whenever price fluctuation triggers the suit, and they suffer again through the costs of litigating and settling the strike suits that follow.

The current system is not protecting them; our legislation will.

Mr. MARKEY. Mr. Chairman, I yield 2 minuted to the gentlewoman from California [Ms. ESHOO].

Ms. ESHOO. Mr. Chairman, at the first Committee on Commerce hearing on this issue I stated that our final objective must be the Congress must pass and the President should sign into law legislation which provides relief from meritless lawsuits and do it this year. Let me state the plain facts. Meritless lawsuits are crippling our high-technology industry. They cost money, they cut investment and stifle initiative. They must be stopped.

Twenty-six of the 40 largest high-tech companies in Silicon Valley have been sued. In fact I think if you place them all in the room, all of the players in Silicon Valley, the only difference between them is those that have sued and those that will be.

H.R. 1058 attempts to stop these suits and I commend my colleagues for bringing this issue to the floor. We share the same goal of ending frivolous lawsuits.

In my view, in the effort to right the wrongs, many of the reform proposed by H.R. 1058 go too far. By eliminating such protections as the recklessness standard for fraud, this legislation would strip the ability of shareholders with legitimate claims, let me underscore that again, with legitimate claims to go to court.

Just yesterday the White House called H.R. 1058 ''manifestly unfair,'' and the chairman of the SEC, Arthur Levitt, has said the Commission cannot support the bill. That is why it is being debated, that is why it has been brought to the floor, and that is why there are many key amendments that will be offered to improve the bill.

So Mr. Chairman, high technology businesses should not have to wait another year. They need relief now.

Recently I introduced legislation, H.R. 675, along with my colleague, the gentleman from California, Mr. NORM MINETA, who is my next-door neighbor and represents part of the Silicon Valley, which mirrors the broad bipartisan legislation introduced again this year by Senators DODD and DOMENICI. I believe H.R. 675 will put an end to frivolous suits while protecting investors' rights. This bill, I believe, protects investors' rights and is a bill which ultimately I think will break a legislative stalemate which would only delay protection for our high technology community.

We must craft a piece of legislation that stops the frivolousness and yet still protects shareholders and investors, and the bill before us today I think is a step in the right direction.

In my view, the balance of the work still remains to be done. As H.R. 1058 advances through the legislative process, our objective again must be to end meritless lawsuits quickly and efficiently and with fairness, and I think that is an operative word.

Mr. Chairman, my constituents need and deserve relief, and I look forward to working on producing that for them.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in support of H.R. 1058, the Securities Litigations Reform Act.

This week we are going to be debating a number of important legal and economic issues, and one of the most critical will be finally addressing the explosion of abusive and speculative litigation known as ''strike suits.'' For too many years American high technology and manufacturing companies have faced the unreasonable risk and threat of litigation at the cost of higher product prices, diminished earnings shareholder returns, reduced capital investment, and a less vibrant American economy.

As a result many people are not willing to serve on the boards of directors of these companies. Many companies, even where there is no fraud and no negligence committed, are faced with the tremendous cost of litigations. It also makes companies far less willing to disclose useful and valuable information to the public. Such abuses simply cannot be allowed to continue unchecked.

Robert Samuelson, a noted economist, pointed out the huge increase in legal costs in our society. Over a 22-year period legal fees as a percent of the gross national product increased nine-tenths of 1 percent to 1.7 percent, nearly double.

When you consider that 3 or 4 percent is considered good growth in the economy, and you drain off 1.7 percent in nonproductive fees of this sort, it is clear the tremendous harm that it does to our economy, the harm it does to jobs and to the standard of living of the average working American.

Let me close by quoting from Jim Kimsey, who represents the American Electronic Association, before the Telecommunications Committee.

Of the explosion in securities litigation he said: "We believe the current securities litigation system promotes meritless litigation, shortchanges investors, and costs jobs. It is a showcase example of the legal system run awry. It is bad law, bad policy, and bad economics."

Mr. Chairman, the time has come to act and pass securities reform litigation.

Mr. MARKEY. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL] the ranking minority member of the full committee.

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

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to use a modest display.

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

There was no objection.

Mr. DINGELL. Mr. Chairman, there are ways of cleaning up the abuses that exist with regard to citizens' suits regarding securities. But this legislation is not the way that it should be done.

My colleagues on the Republican side would have us believe that the securities industry and the marketplaces of this country are some kind of kindergarten or perhaps a cloistered nunnery where nothing that is good for us is brought out. No, sir, nothing could be further from the truth. The hard fact of the matter is this is the place where rascals and rogues go to plunder the American people, honest investors who invest their life savings and that is all. And this legislation, while it might correct abuses of which the other side complains, will also strip law-abiding citizens of their rights to litigate where wrongdoing has been done to them and where their assets have been stolen by wrongdoing.

□ 1700

This is not a handout from the trial lawyers. This is a prestigious business publication. It says, ''Can you trust your broker?'' The answer is you may be able to, but you may not. It is inside the publication, and I would commend it to the reading of my colleagues.

Look at some of the things that have had happened recently in the securities industry, and you will understand why

it is that this is bad legislation: a billion-dollar collapse of Barings investment banking firm in England. The lawsuits against the perpetrators of that wrongdoing would have probably been sheltered by this legislation. Similarly, the $2 billion collapse of Orange County investments that led that county to declare bankruptcy probably would be sheltered by this legislation. Limited partnership fraud so far has cost Prudential Securities better than $1 billion. Twelve billion dollars in litigation in a fraud case against Drexel Burnham Lambert; the case was settled for $3 billion, no shakedown by trial lawyers, but action by the Federal Government.

How about the securities fraud and insider trading scandals perpetrated by Ivan Boesky, Dennis Levine, Martin Siegel and others on Wall Street?

What about some other splendid securities frauds which probably would have been sheltered under this legislation? Lincoln Savings and Loan, Charlie Keating and his cohorts; they sold worthless bonds to the elderly in bank lobbies; Washington Public Power Supply System, a massive default of $10 billion and more in bonds, led to a class-action lawsuit which resulted in more than an $800 million settlement, probably would have been proscribed under the legislation that we are addressing. In Salomon Brothers, a group of elite institutions worked together to raid government bonds auctions; probably lawsuits would have been banned under the legislation we are talking about. At Miniscribe, the company shipped bricks in boxes instead of hard disk drives, or at Phar-Mor, where executives maintained two sets of books so that as much as $1 billion could be diverted for personal interests. Those are some of the better.

But you know that in some 35 other communities other than Orange County, some publicly supported institutions also reported massive losses in 9 months, these because of exotic derivatives, and it goes on and on, Kemper Financial Services, which was recently charged by the SEC with illegally diverting stock trades for the benefit of its own profit-sharing plan. Kemper settled a similar charge earlier with the SEC for $10 million. We do not know how much they are going to come up with on this one.

The Wall Street Journal reported the SEC charged more than a dozen individuals and companies with wireless cable fraud bulking 3,000 investors out of $40 million. On February 27, the Journal and the Times reported Hanover, Sterling & Co., a brokerage company, was ordered to cease all operations. Why? Because thousands of investors in the 16 stocks to which the firm was a market-maker suffered massive losses ranging from 57 percent to 80 percent when the shutdown was reported.

Business Week on February 20 said, ''Can you trust your broker?'' The answer, as I have said, was not reassuring. It says a rising wave of cynicism, both inside and outside the industry on widely accepted ways of doing business at the largest and most prestigious firms.

What we are talking about here is legislation that has been offered by my Republican colleagues that shelters wrongdoing. It does not only protect innocent people against strike suits, but it requires, for example, that in pleading, a pleader has to prove what was going on inside the head and the mind of the wrongdoer, and the question then is, what is the representative of the hurt litigant? Is it a lawyer? Is it a psychic or is it a psychiatrist?

This is outrageous legislation and should be rejected.

Mr. FIELDS of Texas. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Colorado [Mr. SCHAEFER].

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

Mr. SCHAEFER. Mr. Chairman, I rise today in support of H.R. 1058, the Securities Litigation Reform Act.

As a member of the Telecom and Finance Subcommittee, I have long supported similar legislation to fix our broken securities litigation system. The system is broken for defrauded investors who recall and recover only a small amount of their losses when part of valid cases. The system is broken for businesses, especially the startup high-tech firms who rely on capital markets for financing. And it is broken for the general public who ultimately must pay the price of frivolous litigation in the form of slower economic growth, fewer jobs, and higher prices.

It is very clear we have a serious problem. I say to my colleagues, strike a blow for our small businesses and startup enterprises. Support H.R. 1058.

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, I rise today in strong support of H.R. 1058.

We must end abuse that is eroding our legal system. As stated by SEC Chairman Arthur Levitt, private actions are intended to compensate defrauded investors and deter securities violations.

If the current system fails to distinguish between strong and weak cases, it serves neither purpose effectively. I could not agree more.

Unfortunately, this is precisely with what we are left today, an ineffective system.

The changes mandated by this legislation would help restore responsibility and respectability to our corporate system. First, the provision that imposes loser-pays rules when the court determines the position of the losing party was not substantially justified are warranted. This would prevent the consummate race to the courthouse. Plaintiffs will have to weigh the merits of the case before filing suit. Opponents claim this will have a chilling effect on plaintiffs' right to sue. This is simply not the case.

The modified loser-pays provision will only result in fee shifting in cases that should not have been brought in the first place. The only thing chilled by this provision would be meritless suits which I believe deserve to be put in the deep freeze.

Second, as for the definition of recklessness, the current law is vague and uncertain. Parties may engage in nearly identical conduct, yet courts reach completely different results. The vagueness and uncertainty of the current standard has led to a great deal of inconsistency, confusion, and unfairness in our judicial system.

I think all of us would agree that by creating consistency we can increase fairness and decrease the probability of injustice in our legal system.

In general, most strike suits under current law do more harm than good. Reform is needed for two main reasons. No. 1, proper plaintiffs must have a place to redress valid grievances.

Mr. MARKEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would just like to point out to my colleagues that there are 435 votes in this House to improve class action security fraud lawsuits.

We want to stop the race to the courthouse. We want to sanction lawyers who bring frivolous cases or bring them in bad faith.

But what we really hear from the other side about the virtues that our antifraud laws bring to our investors and to our market, we rarely hear about the need for a balanced approach to reform. We rarely hear the mention of the terrible frauds that have occurred over the last 10 years, and we never hear assurances from the other side that their legislation will not adversely impact these disastrous situations like Drexel and Milken and Boesky and Lincoln Savings and Keating and Miniscribe and many others.

If the legislation brought here today was meant to shut down these legal firms that take professional plaintiffs and terrorize private corporations across this country, I think we can find a consensus. The truth of the matter is though the legislation we are considering here today shuts down the good suits, the legitimate suits, the suits that have to be brought by individuals in this country against Boesky and against Milken and against Keating and against all of those S&L scam artists that were out there in the 1980's, the scam artists that resulted in the U.S. Congress being forced to vote for 100 to 150 billion dollars' worth of taxpayer dollars in order to insure that those who had put their life savings in the S&L's and banks across this country did not in fact face bankruptcy.

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

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I thank the gentleman, the distinguished chairman of the subcommittee, who wrote this legislation.

Mr. Chairman, the engine of economic growth in this country is under assault from some lawyers who give the term ''gone fishing'' an entirely new meaning.

These strike-suit lawyers are trolling for easy money won from vulnerable companies whose only crime is being subject to a volatile market.

Entrepreneurial high-tech companies in my State such as EMC Corp. based in my district are being hit with strike suits which seek damages for loss in stock value. This is a company that has created thousands of jobs in the State of Massachusetts. Since going public in 1986, it has been the subject of two such suits. One was filed less than 24 hours after the company disclosed quarterly earnings lower than the previous quarter.

This kind of situation is not unusual. Hundreds of suits are filed by lawyers and professional plaintiffs who prey on small high-tech firms because their stocks tend to be more volatile and they are more inclined to settle.

In fact, between 1989 and 1993, 61 percent of all strike suits were brought against companies with less than $500 million in annual sales, and 33 percent against companies with less than $100 million in sales.

Mr. Speaker, the problem is critical, because these high-tech companies are the job-creating innovators, where many of our cutting-edge products originate. These are companies that are leading our export efforts in our economy. Biotechnology companies in my district are developing treatments for cancer and AIDS. These kinds of strike suits are jeopardizing the development of those life-saving products by holding these companies hostage.

These companies are forced to divert resources, energy, talent, and money to fighting these unwarranted strike suits.

Mr. Chairman, I urge my colleagues to support this bill, and let us have a strong growth export economy.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. CONYERS], the ranking minority member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I thank the gentleman from Massachusetts for yielding to me and commend him on the excellent job that he has done today and through the years on this very important subject.

Ladies and gentlemen, the committee report explaining why this legislation is needed talks about the typical case of high-growth, high-technology stock which experiences a sudden change in price, thereby giving rise to securities lawsuits and a claim for damages by shareholders.

But that is not the type of lawsuit that would be affected by the one killer amendment by the gentleman from California who will offer it very soon in this debate. By blocking all possibility of civil RICO lawsuits for securities fraud, the Cox amendment would incredibly harm plantiffs such as the elderly bondholders who were cheated out of their life's savings by Charles Keating in the Lincoln Savings and Loan debacle. It would deny any effective remedy for the thousands of depositors of the Bank of Credit and Commerce International, the notorious BCCI, which regulators from 62 countries united to shut down because of the bank's fraudulent practices.

Why an amendment of such a broad sweep that it would prevent lawsuits against some of the biggest white-collar criminals in the Nation's history, even though the sponsors of the amendment may not have intended such a result? The answer is this amendment was hastily put together without the benefit of any hearings or debate in any committee or the possibility of a markup where there could have been important improvements, and now within an 8-hour ambit, we are asked to consider the revocation of the greatest single crime-fighting bill provision, RICO, on the law books today.

□ 1715

It is a shame for what is going on now.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California [Mr. COX], who is a member of the Committee on the Judiciary, by the way.

Mr. COX of California. Mr. Chairman, I point out that the RICO amendment, which the gentleman is accurate in stating that I will soon offer, was in fact inadvertently left out of the bill when we combined the Commerce and Judiciary portions. It was in the original bill introduced on January 4, also in the original bill of last year and introduced and made public as part of the Contract With America in October. It has always been in the bill.

Mr. CONYERS. Well, may I just respond to the gentleman? Could we inadvertently leave it out when there were no hearings on it? It was mentioned in the bill, but there were a lot of things mentioned in the bill. On this pretext, anything that was not put in the bill could have been accidentally left out.

The problem that we have is that the gentleman's amendment is asking the Congress in broad daylight to believe that the biggest amendment for fighting civil fraud that has ever been put on the books was accidentally left out. I guess we accidentally did not have any hearings. I guess there accidentally were not any witnesses. I guess this was all an accident that needs to be corrected right now.

If it was an accident, let us go back and do it correctly. The provision of this amendment is broader than any attempt at a modification of RICO, and the gentleman knows it.

Mr. FIELDS of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. I thank the gentleman for yielding to me.

Mr. Chairman, something I learned a long time ago from my father that I think would do us all well and that is his definition of a good lawyer. And a good lawyer is somebody who solves problems rather than creates them.

The legislation that we are considering has in fact addressed an issue before us that is causing and wreaking havoc with a large number of America's most consistent job-providing industries.

I believe the American people are sick and tired of those who feed off of our system and weaken American competitiveness. They are sick of the unscrupulous few who make a mockery of our concept of justice by exploiting the legal system for their own personal gain.

Mr. Chairman, a glitch in the Securities and Exchange Act of 1934, called rule 10 B–5, created a new group of parasites known as professional plaintiffs. These professional plaintiffs are recruited by those who figured out how to exploit our judicial system by filing frivolous lawsuits.

Currently, exploitation of rule 10 B–5 allows these clever few to sue companies through the use of professional plaintiffs for fraud whenever the price of a stock drops. These professional plaintiffs, or parasites, if you will, who hold only a tiny share of stock, launch fishing expeditions and rack up formidable discovery fees to force the defendants to settle out of court rather than to pay the costs of defending themselves. The result has been a threefold explosion of securities fraud suits over the last 5 years. One out of every eight companies on the New York Stock Exchange has been hit with this type of suit. I believe America's economic growth is stifled by such a perversion of our legal system by a small handful of lawyers that file the lion's share of suits, hitting one in every four high-technology firms in our country today. Just nine law firms in this country have accounted for two-thirds of the 1,400 class suits filed between 1988 and 1993.

The threat that exploitation of rule 10 B–5 poses to our time, our peace of mind, and our pocketbooks, the pocketbooks of the average American, is immoral and should be illegal.

I am supporting the Securities Reform Act because it will free American Businesses from the ever-present threat of baseless and expensive lawsuits. This bill will deter the practice of frivolous lawsuits that serve only to line the pockets of those who rob our corporations of investment capital and rob them of the resource for competitive research and development and ultimately rob us of an increased standard of living and high-wage jobs.

I therefore urge passage of H.R. 1058.

Mr. MARKEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. I thank the gentleman for yielding this time to me.

You know, proponents of this so-called securities litigation reform are arguing that private securities and class action suits are making it virtually impossible for public companies to raise capital and are preventing these companies from going public.

But they will tell you only anecdotes about their friends in big business who would prefer not to be sued because they really cannot rely on the facts. The facts will show that our markets have been tremendously successful in raising capital for public companies. Every important statistical measure of the success of our securities markets, the number and proceeds of initial public offerings, the volume and value of common stock offerings, the volume of trading, have been at all-time highs. The number of initial public security offerings has risen 9,000 percent in the last 20 years while the proceeds raised have skyrocketed 38,000 percent.

The staff report of the Senate Subcommittee on Securities has found that, ''Despite the claims by critics that securities litigation is hampering capital formation, initial public offerings have proceeded at a record pace in recent years.''

We all know that recently the Dow-Jones Industrial Averages surpassed the 4,000 mark, which is an all-time high. That has to make us all wonder how can it be that there is such a serious problem from the roughly 300 fraud class action cases filed each year.

In light of the facts, claims by companies that they are afraid to go public to raise capital because of fear of litigation are nothing but really self-serving nonsense. If they are really are so concerned about litigation, they would not be restricting the minuscule number of private securities fraud class actions, they would be restricting the huge and increasing numbers of business-versus-business suits.

As the Rand Corp.'s recent study of the litigation patterns of Fortune 1,000 companies demonstrates, by far, is that you are seeing many more firms that are suing other firms. As the Wall Street Journal, in an article of December 3, 1993, entitled ''Suits by Firms Exceed Those by Individuals,'' noted, ''Businesses may be their own worst enemies when it comes to the so-called litigation explosion.''

So why is it that proponents are seeking to limit only private actions and not business suits?

Mr. FIELDS of Texas. Mr. Chairman, I yield 2 minutes to our good friend on the other side of the aisle, the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I do not know if there are others of my colleagues who have been stockbrokers at some time in their life, but I was for 10 years. I have watched what has happened in the securities marketplace. The gentleman from Michigan [Mr. DINGELL] is absolutely right: There are corporate abuses.

Mr. KLINK, the gentleman from Pennsylvania, is also correct that the securities market itself is doing quite well.

But the fact remains that there is an abuse within this industry that does need to be corrected. And it is focused primarily on those firms that provide the highest rate of growth to our economy, those firms that take the greatest risks, in the area of high-technology.

Legent Corp., in Herndon, VA, now in Vienna, actually, they had a slight change in their earnings expectation, the stock dropped. Immediately they were hit with one of those strike lawsuits. They required 200,000 pages of documentation, many, many days of very valuable employee time was spent, and they wound up settling for $2 million in legal fees even though it was acknowledged it was a frivolous lawsuit.

Metrix Corp., same thing happened; A small reduction in their earnings expectation, the stocks began to drop, and they got hit with a strike lawsuit. They had to produce 50,000 documents, 200,000 electronic messages to the plaintiffs' lawyers, 20 employees had to spend full time on this. They wound up settling for $975,000.

Mr. Chairman, I want you to recognize this: The investors, the shareholders got $400 or less. The lawyer got $330,000. That is what this is all about. They are fishing expeditions for lawyers who have found a way to abuse the system. It should not be tolerated in the courts and it should not be tolerated in the Congress.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. I thank the gentleman for yielding this time to me.

Mr. Chairman, I was inspired after hearing my friend, the gentleman from Virginia [Mr. MORAN], for whom I have great respect, enormous respect. After I heard him speak, I want to say that he voices the sentiments by many of us on this side that we ought to make some modifications that deal with the real problems.

But the bill we have before us today is one of a long line of measures that are so extreme, that go so far and that are so, in many respects, absurd as to, I think, astonish anyone who is an observer or a participant in the system of jurisprudence in America today.

If the problem was as it has been described by the majority, surely the Securities and Exchange Commission would have been here saying so. But they came before the committee and did not say that this bill was the solution.

The gentleman from Virginia, [Mr. MORAN] quoted anecdotes. There are many anecdotes; some of them are right on point. But when you get to anecdotes and you look at them carefully, you begin to find that the point one wishes to make by using anecdotes begins to fall apart.

Mr. FIELDS of Texas. Mr. Chairman, I yield 1 minute to the gentleman from New York State [Mr. PAXON].

Mr. PAXON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong support of H.R. 1058. This needed legislation strikes at the very heart of the serious problem, the strike suits and abusive litigation.

As we have heard from previous speakers, our capital markets are the envy of the world, but that position is being seriously threatened. It is threatened by a privileged few, a group of people who are not injured in any way, but have found a system for legal extortion, a system where all you need is to read stock quotes for a falling stock and pair it up with a data base, and there is a comprehensive list of ready plaintiffs.

Mr. Chairman, for far too long this has been going on. It is time to stop it and for Congress to approve this important legislation.

I believe it is a balanced approach that will benefit all Americans.

It will not eliminate the ability of injured Americans to bring claims, but it will stop get-rich attorneys from filing spurious claims against companies.

I am proud of our Committee on Commerce, the work product they have put forth, and particularly the work of the gentleman from California, Mr. COX, the gentleman from Texas, Mr. FIELDS, and the gentleman from Virginia, Chairman BLILEY.

Mr. MARKEY. Mr. Chairman, I yield myself the 2 minutes to conclude.

Mr. Chairman, the cover of NewsWeek just out tells the story: ''The boy who lost a billion dollars, Nick Leeson, the 28-year-old trader who bankrupted England's oldest investment firm.''

Now, Nick Leeson is an interesting case. It is not directly on point here, except to the extent to which there are Nick Leesons out there and they do prey upon innocent investors, they do engage in practices that risk the life savings of individuals who believe that the holding out, the representation made by the S&L, is in fact accurate.

Now, with the Dow-Jones Industrial Average rising to 4,000 this week, there is unprecedented confidence in the American marketplace, that it is honest and efficient, but honest above all.

That is what our American laws have given assurances to the rest of the world over the last 60 years. If you go to Singapore, if you go to England, if you go to any other place in the world, you go to a country that has lower standards than our country. It is this system of laws which we have put in place which has given the reason for individual investors to look at the thousands of companies which we have, take their savings and put them into these companies that have allowed our

Dow-Jones Industrial Average to rise to 4,000. That is what we should be extremely cautious about as we deal with this issue here today.

Our system works. If we want to deal with rogue lawyers, if we want to deal with frivolous law cases let us deal with them, but let us not also kid ourselves, there are many here who are interested in ensuring that the legitimate cases that have to be brought to protect the public are also excluded as well.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself the remaining minute.

□ 1730

Mr. Chairman, some of the examples we have heard from the other side of the aisle, Milken, Keating, Leeson, they all share something important. Each of these acted with intent. Each of these acted with the intent to defraud.

The legislation that we are considering today would not affect shareholder actions against those people or people like them in the future. Those people would be jointly and severally liable. That has not changed in our legislation, and, Mr. Chairman, I think that is a compelling point in ending this debate.

Mr. HASTINGS of Florida. Mr. Chairman, while H.R. 10 is called the Common Sense Legal Reform Act, the more accurate title would be the Citizens' Rights Reduction Act. For more than 200 years, the citizens of the United States have possessed the right by their own States to hold wrongdoers accountable. Under H.R. 10, such rights would be taken away from the citizens of the States. With an apparent Congress-knows-best attitude, the proponents of this bill want to take away the rights of ordinary Americans to hold wrongdoers accountable and to seek fair and just compensation when they are wronged. This bill is wrong.

Mr. HASTERT. Mr. Chairman, I rise in support of H.R. 1058, the Securities Litigation Reform Act, a bill that will discourage meritless suits.

There is a securities litigation explosion in this country. In 1993 we saw the highest number of pending cases in any year for which data are available except 1974. Since 1990, filings have increased dramatically. The number of cases filed in the 4 years from 1990 to 1993 nearly equals the number filed in the previous 10 years combined.

Some argue that H.R. 1058 will hurt investors, but just the opposite is true. The current litigation explosion punishes investors because companies increasingly fear so called strike suits which are filed each time their stock fluctuates. Thus, companies reveal less and less information to investors that could be used against them in the future. Clearly, investors lose when they do not have access to information when making decisions about where to place their life savings.

Investors are also hurt under current law because they, in reality, are the ones who pay the costs when a company has to go to court to defend itself against a meritless lawsuit. They also pay the high cost of maintaining insurance against these strike suits.

Finally, investors, who have legitimate claims, receive less money than they deserve because it is common practice to simply settle out of court. Companies settle out of court, whether or not the suit has merit, because it costs an average of $692,000 in legal fees and 1,055 hours of management time to successfully defend a strike suit. When meritless suits can be dismissed, the cases of real fraud will be brought to court. Then, investors will get paid the real value of their loss.

That is just not the case today. Today, investors receive between 6 and 14 cents on the dollar lost.

Securities litigation reform will reward investors by removing these punishments. However, in addition, specific provisions are included in the bill to give investors the same authority over their attorney as other clients, in other types of litigation, have. The bill provides for a court-appointed steering committee to make sure that lawsuits are maintained in the client's best interest. It also requires settlement offers to disclose the amount paid to lawyers and class members per share of stock. These significant changes favor those investors who have legitimate and important suits.

But investors are not the only ones punished by meritless strike suits. High-technology and high-growth companies are also punished. One in every eight companies listed on the New York Stock Exchange is hit with a strike suit. Even more startling is that one of every four strike suits targets these high-growth companies. The average settlement, which is over $8.6 million, has, in essence, become a litigation tax on these companies.

Those who have a tangential relationship to these suits, primarily the accountants who certify the books, are also punished. The long arm of the law has sought to include them, even when there is no fraud on their part, just because they have deep pockets.

It's time that we reform our judicial system so that those who commit crimes are the ones who are punished, not those who abide by the law. H.R. 1058 will restore integrity to our system and I urge my colleagues to join me in voting to pass this important bill.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of H.R. 1058 is as follows:

H.R. 1058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Securities Litigation Reform Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Prevention of lawyer-driven litigation.
(a) Plaintiff steering committees to ensure client control of lawsuits.
''Sec. 36. Class action steering committees.
''(a) Class action steering committee.
''(b) Membership of plaintiff steering committee.
''(c) Functions of plaintiff steering committee.
''(d) Immunity from civil liability; removal.
''(e) Effect on other law.''
(b) Prohibition on attorneys' fees paid from Commission disgorgement funds.
Sec. 3. Prevention of abusive practices that foment litigation.
(a) Additional provisions applicable to private actions.
''Sec. 20B. Procedures applicable to private actions.
''(a) Elimination of bonus payments to named plaintiffs in class actions.
''(b) Restrictions on professional plaintiffs.
''(c) Awards of fees and expenses.
''(d) Prevention of abusive conflicts of interest.
''(e) Disclosure of settlement terms to class members.
''(f) Encouragement of finality in settlement discharges.
''(g) Contribution from non-parties in interests of fairness.
''(h) Defendant's right to written interrogatories establishing scienter.''
(b) Prohibition of referral fees that foment litigation.
Sec. 4. Prevention of ''fishing expedition'' lawsuits.
''Sec. 10A. Requirements for securities fraud actions.
''(a) Scienter.
''(b) Requirement for explicit pleading of scienter.
''(c) Dismissal for failure to meet pleading requirements; stay of discovery; summary judgment.
''(d) Reliance and causation.
''(e) Allocation of liability.
''(f) Damages.''
Sec. 5. Establishment of ''safe harbor'' for predictive Statements.
''Sec. 37. Application of safe harbor for forward-looking Statements.
''(a) Safe harbor defined.
''(b) Automatic protective order staying discovery; expedited procedure.
''(c) Regulatory authority.''
Sec. 6. Rule of construction.
Sec. 7. Effective date.

SEC. 2. PREVENTION OF LAWYER-DRIVEN LITIGATION.

(a) PLAINTIFF STEERING COMMITTEES TO ENSURE CLIENT CONTROL OF LAWSUITS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 36. CLASS ACTION STEERING COMMITTEES.

''(a) CLASS ACTION STEERING COMMITTEE.—In any private action arising under this title seeking to recover damages on behalf of a class, the court shall, at the earliest practicable time, appoint a committee of class members to direct counsel for the class (hereafter in this section referred to as the 'plaintiff steering committee') and to perform such other functions as the court may specify. Court appointment of a plaintiff steering committee shall not be subject to interlocutory review.

''(b) MEMBERSHIP OF PLAINTIFF STEERING COMMITTEE.—

''(1) QUALIFICATIONS.—

''(A) NUMBER.—A plaintiff steering committee shall consist of not fewer than 5 class members, willing to serve, who the court believes will fairly represent the class.

''(B) OWNERSHIP INTERESTS.—Members of the plaintiff steering committee shall have cumulatively held during the class period not less than—

''(i) the lesser of 5 percent of the securities which are the subject matter of the litigation or $10,000,000 in market value of the securities which are the subject matter of the litigation; or

''(ii) such smaller percentage or dollar amount as the court finds appropriate under the circumstances.

''(2) NAMED PLAINTIFFS.—Class plaintiffs serving as the representative parties in the litigation may serve on the plaintiff steering committee, but shall not comprise a majority of the committee.

''(3) NONCOMPENSATION OF MEMBERS.—Members of the plaintiff steering committee shall serve without compensation, except that any member may apply to the court for reimbursement of reasonable out-of-pocket expenses from any common fund established for the class.

''(4) MEETINGS.—The plaintiff steering committee shall conduct its business at one or more previously scheduled meetings of the committee, of which prior notice shall have been given and at which a majority of its members are present in person or by electronic communication. The plaintiff steering committee shall decide all matters within its authority by a majority vote of all members, except that the committee may determine that decisions other than to accept or reject a settlement offer or to employ or dismiss counsel for the class may be delegated to one or more members of the committee, or may be voted upon by committee members seriatim, without a meeting.

''(5) RIGHT OF NONMEMBERS TO BE HEARD.—A class member who is not a member of the plaintiff steering committee may appear and be heard by the court on any issue relating to the organization or actions of the plaintiff steering committee.

''(c) FUNCTIONS OF PLAINTIFF STEERING COMMITTEE.—The authority of the plaintiff steering committee to direct counsel for the class shall include all powers normally permitted to an attorney's client in litigation, including the authority to retain or dismiss counsel and to reject offers of settlement, and the authority to accept an offer of settlement subject to final approval by the court. Dismissal of counsel other than for cause shall not limit the ability of counsel to enforce any contractual fee agreement or to apply to the court for a fee award from any common fund established for the class.

''(d) IMMUNITY FROM CIVIL LIABILITY; REMOVAL.—Any person serving as a member of a plaintiff steering committee shall be immune from any civil liability for any negligence in performing such service, but shall not be immune from liability for intentional misconduct or from the assessment of costs pursuant to section 20B(c). The court may remove a member of a plaintiff steering committee for good cause shown.

''(e) EFFECT ON OTHER LAW.—This section does not affect any other provision of law concerning class actions or the authority of the court to give final approval to any offer of settlement.''.

(b) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

''(4) PROHIBITION ON ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court, funds disgorged as the result of an action brought by the Commission, or of any Commission proceeding, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.''.

SEC. 3. PREVENTION OF ABUSIVE PRACTICES THAT FOMENT LITIGATION.

(a) ADDITIONAL PROVISIONS APPLICABLE TO PRIVATE ACTIONS.—The Securities Exchange Act of 1934 is amended by inserting after section 20A (15 U.S.C. 78t–1) the following new section:

''PROCEDURES APPLICABLE TO PRIVATE ACTIONS

''SEC. 20B. (a) ELIMINATION OF BONUS PAYMENTS TO NAMED PLAINTIFFS IN CLASS ACTIONS.—In any private action under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the portion of any final judgment or of any settlement that is awarded to class plaintiffs serving as the representative parties shall be equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class. Nothing in this subsection shall be construed to limit the award to any representative parties of actual expenses (including lost wages) relating to the representation of the class.

''(b) RESTRICTIONS ON PROFESSIONAL PLAINTIFFS.—Except as the court may otherwise permit for good cause, a person may be a named plaintiff, or an officer, director, or fiduciary of a named plaintiff, in no more than 5 class actions filed during any 3-year period.

''(c) AWARDS OF FEES AND EXPENSES.—

''(1) AUTHORITY TO AWARD FEES AND EXPENSES.—If the court in any private action arising under this title enters a final judgment against a party litigant on the basis of a motion to dismiss, motion for summary judgment, or a trial on the merits, the court shall, upon motion by the prevailing party, determine whether (A) the position of the losing party was not substantially justified, (B) imposing fees and expenses on the losing party or the losing party's attorney would be just, and (C) the cost of such fees and expenses to the prevailing party is substantially burdensome or unjust. If the court makes the determinations described in clauses (A), (B), and (C), the court shall award the prevailing party reasonable fees and other expenses incurred by that party. The determination of whether the position of the losing party was substantially justified shall be made on the basis of the record in the action for which fees and other expenses are sought, but the burden of persuasion shall be on the prevailing party.

''(2) SECURITY FOR PAYMENT OF COSTS IN CLASS ACTIONS.—In any private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the court shall require an undertaking from the attorneys for the plaintiff class, the plaintiff class, or both, in such proportions and at such times as the court determines are just and equitable, for the payment of the fees and expenses that may be awarded under paragraph (1).

''(3) APPLICATION FOR FEES.—A party seeking an award of fees and other expenses shall, within 30 days of a final, nonappealable judgment in the action, submit to the court an application for fees and other expenses that verifies that the party is entitled to such an award under paragraph (1) and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing on behalf of the party stating the actual time expended and the rate at which fees and other expenses are computed.

''(4) ALLOCATION AND SIZE OF AWARD.—The court, in its discretion, may—

''(A) determine whether the amount to be awarded pursuant to this section shall be awarded against the losing party, its attorney, or both; and

''(B) reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the action.

''(5) AWARDS IN DISCOVERY PROCEEDINGS.—In adjudicating any motion for an order compelling discovery or any motion for a protective order made in any private action arising under this title, the court shall award the prevailing party reasonable fees and other expenses incurred by the party in bringing or defending against the motion, including reasonable attorneys' fees, unless the court finds that special circumstances make an award unjust.

''(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit or impair the discretion of the court to award costs pursuant to other provisions of law.

''(7) PROTECTION AGAINST ABUSE OF PROCESS.—In any action to which this subsection applies, a court shall not permit a plaintiff to withdraw from or voluntarily dismiss such action if the court determines that such withdrawal or dismissal is taken for purposes of evasion of the requirements of this subsection.

''(8) DEFINITIONS.—For purposes of this subsection—

''(A) The term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorneys' fees and expenses. The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of services furnished.

''(B) The term 'substantially justified' shall have the same meaning as in section 2412(d)(1) of title 28, United States Code.

''(d) PREVENTION OF ABUSIVE CONFLICTS OF INTEREST.—In any private action under this title pursuant to a complaint seeking damages on behalf of a class, if the class is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall, on motion by any party, make a determination of whether such interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the class.

''(e) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—In any private action under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, any settlement agreement that is published or otherwise disseminated to the class shall include the following statements:

''(1) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

''(A) AGREEMENT ON AMOUNT OF DAMAGES AND LIKELIHOOD OF PREVAILING.—If the settling parties agree on the amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title and the likelihood that the plaintiff would prevail—

''(i) a statement concerning the amount of such potential damages; and

''(ii) a statement concerning the likelihood that the plaintiff would prevail on the claims alleged under this title and a brief explanation of the reasons for that conclusion.

''(B) DISAGREEMENT ON AMOUNT OF DAMAGES OR LIKELIHOOD OF PREVAILING.—If the parties do not agree on the amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title or on the likelihood that the plaintiff would prevail on those claims, or both, a statement from each settling party concerning the issue or issues on which the parties disagree.

''(C) INADMISSIBILITY FOR CERTAIN PURPOSES.—Statements made in accordance with subparagraphs (A) and (B) concerning the amount of damages and the likelihood of prevailing shall not be admissible for purposes of any Federal or State judicial action or administrative proceeding.

''(2) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties

or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on a per-share basis, together with the amount of the settlement proposed to be distributed to the parties to suit, determined on a per-share basis), and a brief explanation of the basis for the application. Such information shall be clearly summarized on the cover page of any notice to a party of any settlement agreement.

''(3) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name and address of one or more representatives of counsel for the class who will be reasonably available to answer written questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

''(4) OTHER INFORMATION.—Such other information as may be required by the court, or by any plaintiff steering committee appointed by the court pursuant to section 36.

''(f) ENCOURAGEMENT OF FINALITY IN SETTLEMENT DISCHARGES.—

''(1) DISCHARGE.—A defendant who settles any private action arising under this title at any time before verdict or judgment shall be discharged from all claims for contribution brought by other persons with respect to the matters that are the subject of such action. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution or indemnity arising out of the action—

''(A) by nonsettling persons against the settling defendant; and

''(B) by the settling defendant against any nonsettling defendants.

''(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to verdict or judgment, the verdict or judgment shall be reduced by the greater of—

''(A) an amount that corresponds to the percentage of responsibility of that person; or

''(B) the amount paid to the plaintiff by that person.

''(g) CONTRIBUTION FROM NON-PARTIES IN INTERESTS OF FAIRNESS.—

''(1) RIGHT OF CONTRIBUTION.—A person who becomes liable for damages in any private action under this title (other than an action under section 9(e) or 18(a)) may recover contribution from any other person who, if joined in the original suit, would have been liable for the same damages.

''(2) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in any such private action determining liability, an action for contribution must be brought not later than 6 months after the entry of a final, nonappealable judgment in the action.

''(h) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES ESTABLISHING SCIENTER.—In any private action under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.''.

(b) PROHIBITION OF REFERRAL FEES THAT FOMENT LITIGATION.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(c)) is amended by adding at the end the following new paragraph:

''(8) RECEIPT OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept remuneration for assisting an attorney in obtaining the representation of any customer in any private action under this title.''.

SEC. 4. PREVENTION OF "FISHING EXPEDITION" LAWSUITS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 10 the following new section:

"SEC. 10A. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

''(a) SCIENTER.—

''(1) IN GENERAL.—In any private action arising under this title based on a fraudulent statement, liability may be established only on proof that—

''(A) the defendant directly or indirectly made a fraudulent statement;

''(B) the defendant possessed the intention to deceive, manipulate, or defraud; and

''(C) the defendant made such fraudulent statement knowingly or recklessly.

''(2) FRAUDULENT STATEMENT.—For purposes of this section, a fraudulent statement is a statement that contains an untrue statement of a material fact, or omits a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading.

''(3) KNOWINGLY.—For purposes of paragraph (1), a defendant makes a fraudulent statement knowingly if the defendant knew that the statement of a material fact was untrue at the time it was made, or knew that an omitted fact was necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading.

''(4) RECKLESSNESS.—For purposes of paragraph (1), a defendant makes a fraudulent statement recklessly if the defendant, in making such statement, is guilty of highly unreasonable conduct that (A) involves not merely simple or even gross negligence, but an extreme departure from standards of ordinary care, and (B) presents a danger of misleading buyers or sellers that was either known to the defendant or so obvious that the defendant must have been consciously aware of it. For example, a defendant who genuinely forgot to disclose, or to whom disclosure did not come to mind, is not reckless.

''(b) REQUIREMENT FOR EXPLICIT PLEADING OF SCIENTER.—In any private action to which subsection (a) applies, the complaint shall specify each statement or omission alleged to have been misleading, and the reasons the statement or omission was misleading. The complaint shall also make specific allegations which, if true, would be sufficient to establish scienter as to each defendant at the time the alleged violation occurred. It shall not be sufficient for this purpose to plead the mere presence of facts inconsistent with a statement or omission alleged to have been misleading. If an allegation is made on information and belief, the complaint shall set forth with specificity all information on which that belief is formed.

''(c) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS; STAY OF DISCOVERY; SUMMARY JUDGMENT.—In any private action to which subsection (a) applies, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of subsection (b) are not met, except that the court may, in its discretion, permit a single amended complaint to be filed. During the pendency of any such motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party. If a complaint satisfies the requirements of subsection (b), the plaintiff shall be entitled to conduct discovery limited to the facts concerning the allegedly misleading statement or omission. Upon completion of such discovery, the parties may move for summary judgment.

''(d) RELIANCE AND CAUSATION.—

''(1) IN GENERAL.—In any private action to which subsection (a) applies, the plaintiff shall prove that—

''(A) he or she had knowledge of, and relied (in connection with the purchase or sale of a security) on, the statement that contained the misstatement or omission described in subsection (a)(1); and

''(B) that the statement containing such misstatement or omission proximately caused (through both transaction causation and loss causation) any loss incurred by the plaintiff.

''(2) FRAUD ON THE MARKET.—For purposes of paragraph (1), reliance may be proven by establishing that the market as a whole considered the fraudulent statement, that the price at which the security was purchased or sold reflected the market's estimation of the fraudulent statement, and that the plaintiff relied on that market price. Proof that the market as a whole considered the fraudulent statement may consist of evidence that the statement—

''(A) was published in publicly available research reports by analysts of such security;

''(B) was the subject of news articles;

''(C) was delivered orally at public meetings by officers of the issuer, or its agents;

''(D) was specifically considered by rating agencies in their published reports; or

''(E) was otherwise made publicly available to the market in a manner that was likely to bring it to the attention of, and to be considered as credible by, other active participants in the market for such security.

Nonpublic information may not be used as proof that the market as a whole considered the fraudulent statement.

''(3) PRESUMPTION OF RELIANCE.—Upon proof that the market as a whole considered the fraudulent statement pursuant to paragraph (2), the plaintiff is entitled to a rebuttable presumption that the price at which the security was purchased or sold reflected the market's estimation of the fraudulent statement and that the plaintiff relied on such market price. This presumption may be rebutted by evidence that—

''(A) the market as a whole considered other information that corrected the allegedly fraudulent statement; or

''(B) the plaintiff possessed such corrective information prior to the purchase or sale of the security.

''(4) REASONABLE EXPECTATION OF INTEGRITY OF MARKET PRICE.—A plaintiff who buys or sells a security for which it is unreasonable to rely on market price to reflect all current information may not establish reliance pursuant to paragraph (2). For purposes of paragraph (2), the following factors shall be considered in determining whether it was reasonable for a party to expect the market price of the security to reflect substantially all publicly available information regarding the issuer of the security:

''(A) The weekly trading volume of any class of securities of the issuer of the security.

''(B) The existence of public reports by securities analysts concerning any class of securities of the issuer of the security.

''(C) The eligibility of the issuer of the security, under the rules and regulations of the Commission, to incorporate by reference its reports made pursuant to section 13 of this title in a registration statement filed under the Securities Act of 1933 in connection with the sale of equity securities.

''(D) A history of immediate movement of the price of any class of securities of the issuer of the security caused by the public dissemination of information regarding unexpected corporate events or financial releases.

In no event shall it be considered reasonable for a party to expect the market price of the security to reflect substantially all publicly available information regarding the issuer of the security unless the issuer of the security has a class of securities listed and registered on a national securities exchange or quoted on the automated quotation system of a national securities association.

''(e) ALLOCATION OF LIABILITY.—

''(1) JOINT AND SEVERAL LIABILITY FOR KNOWING FRAUD.—A defendant who is found liable for damages in a private action to which subsection (a) applies may be liable jointly and severally only if the trier of fact specifically determines that the defendant acted knowingly (as defined in subsection (a)(3)).

''(2) PROPORTIONATE LIABILITY FOR RECKLESSNESS.—If the trier of fact does not make the findings required by paragraph (1) for joint and several liability, a defendant's liability in a private action to which subsection (a) applies shall be determined under paragraph (3) of this subsection only if the trier of fact specifically determines that the defendant acted recklessly (as defined in subsection (a)(4)).

''(3) DETERMINATION OF PROPORTIONATE LIABILITY.—If the trier of fact makes the findings required by paragraph (2), the defendant's liability shall be determined as follows:

''(A) The trier of fact shall determine the percentage of responsibility of the plaintiff, of each of the defendants, and of each of the other persons or entities alleged by the parties to have caused or contributed to the harm alleged by the plaintiff. In determining the percentages of responsibility, the trier of fact shall consider both the nature of the conduct of each person and the nature and extent of the causal relationship between that conduct and the damage claimed by the plaintiff.

''(B) For each defendant, the trier of fact shall then multiply the defendant's percentage of responsibility by the total amount of damage suffered by the plaintiff that was caused in whole or in part by that defendant and the court shall enter a verdict or judgment against the defendant in that amount. No defendant whose liability is determined under this subsection shall be jointly liable on any judgment entered against any other party to the action.

''(C) Except where contractual relationship permits, no defendant whose liability is determined under this paragraph shall have a right to recover any portion of the judgment entered against such defendant from another defendant.

''(4) EFFECT OF PROVISION.—This subsection relates only to the allocation of damages among defendants. Nothing in this subsection shall affect the standards for liability under any private action arising under this title.

''(f) DAMAGES.—In any private action to which subsection (a) applies, and in which the plaintiff claims to have bought or sold the security based on a reasonable belief that the market value of the security reflected all publicly available information, the plaintiff's damages shall not exceed the lesser of—

''(1) the difference between the price paid by the plaintiff for the security and the market value of the security immediately after dissemination to the market of information which corrects the fraudulent statement; and

''(2) the difference between the price paid by the plaintiff for the security and the price at which the plaintiff sold the security after dissemination of information correcting the fraudulent statement.''.

SEC. 5. ESTABLISHMENT OF ''SAFE HARBOR'' FOR PREDICTIVE STATEMENTS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

''(a) SAFE HARBOR DEFINED.—In any action arising under this title based on a fraudulent statement (within the meaning of section 10A), a person shall not be liable for the publication of any projection if—

''(1) the basis for such projection is briefly described therein, with citations (which may be general) to representative sources or authority, and a disclaimer is made to alert persons for whom such information is intended that the projections should not be given any more weight than the described basis therefor would reasonably justify; and

''(2) the basis for such projection is not inaccurate as of the date of publication, determined without benefit of subsequently available information or information not known to such person at such date.

''(b) AUTOMATIC PROTECTIVE ORDER STAYING DISCOVERY; EXPEDITED PROCEDURE.—In any action arising under this title based on a fraudulent statement (within the meaning of section 10A) by any person, such person may, at any time beginning after the filing of the complaint and ending 10 days after the filing of such person's answer to the complaint, move to obtain an automatic protective order under the safe harbor procedures of this section. Upon such motion, the protective order shall issue forthwith to stay all discovery as to the moving party, except that which is directed to the specific issue of the applicability of the safe harbor. A hearing on the applicability of the safe harbor shall be conducted within 45 days of the issuance of such protective order. At the conclusion of the hearing, the court shall either (1) dismiss the portion of the action based upon the use of a projection to which the safe harbor applies, or (2) determine that the safe harbor is unavailable in the circumstances.

''(c) REGULATORY AUTHORITY.—In consultation with investors and issuers of securities, the Commission shall adopt rules and regulations to facilitate the safe harbor provisions of this section. Such rules and regulations shall—

''(1) include clear and objective guidance that the Commission finds sufficient for the protection of investors,

''(2) prescribe such guidance with sufficient particularity that compliance shall be readily ascertainable by issuers prior to issuance of securities, and

''(3) provide that projections that are in compliance with such guidance and that concern the future economic performance of an issuer of securities registered under section 12 of this title will be deemed not to be in violation of section 10(b) of this title.''.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be deemed to create or ratify any implied private right of action, or to prevent the Commission by rule from restricting or otherwise regulating private actions under the Securities Exchange Act of 1934.

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act are effective on the date of enactment of this Act and shall apply to cases commenced after such date of enactment.

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 8 hours.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COX of California: Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 6. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting '', except that no person may bring an action under this provision if the racketeering activity, as defined in section 1961(1)(D), involves conduct actionable as fraud in the purchase or sale of securities'' before the period.

Mr. COX of California. Mr. Chairman, I offer an amendment that would prevent plaintiffs' attorneys from bringing actions alleging securities law violations under the Racketeer Influence and Corrupt Organizations Act which we know as RICO.

Today we are fulfilling our Contract With America by curbing frivolous securities litigation. For many years now shrewd plaintiffs' attorneys have been using RICO to evade the requirements that Congress has established in the Federal securities laws. Supreme Court Justice Thurgood Marshall called our attention to this problem as far back as 1985 when he explained that the civil RICO statute, quote, ''virtually eliminates decades of legislative and judicial development of private civil remedies under the Federal securities laws.'' Today's amendment seeks only to reform RICO in the area of securities legislation, but I should point out that this House under its previous control by today's minority, the Democrats, have previously passed wholesale RICO reform by an overwhelming margin. This reform measure, authored by the gentleman from Virginia [Mr. BOUCHER] and the gentleman from Florida [Mr. MCCOLLUM], now the chairman of the Judiciary Subcommittee on Crime, enjoyed overwhelming bipartisan support. My amendment is fully consistent with this effort, if more limited.

The provision originally in the Contract With America that addressed the problem of civil RICO actions in the securities area, as I explained in my colloquy a moment ago with the gentleman from Michigan, was omitted from the bill as reported out of committee inadvertently. It was not opposed in committee. If we do not reinsert this provision by adopting my

amendment, we will fail to address a significant number of frivolous actions based on alleged securities law violations, but brought under the RICO statute. When Congress enacted RICO back in 1970, we intended that it be used as a weapon against organized criminals, not as a weapon against ordinary investors and the business community.

The problem posed by the widespread use of civil RICO is one recognized by legal experts across the spectrum. In the Supreme Court case from which I just quoted, in 1985 Justice Marshall, along with Justice Powell, was in the dissent but the majority who said that the law needs to be changed still agreed that the abuse of RICO is very real.

Let me quote from the majority opinion:

> In its private civil version RICO is evolving into something quite different from the original conception of its enactors; in other words, Congress. The extraordinary uses to which civil RICO has been put appear to be primarily the result of the failure of Congress.

That from the majority of the Supreme Court, so the majority and the minority of the Supreme Court agreed that RICO is being abused by its application in the securities area.

Plaintiffs' attorneys' inappropriate and abusive use of RICO has also been recognized by the current White House counsel, Abner Mikva. While still a judge for the U.S. Circuit Court of Appeals for the District of Columbia, Mr. Mikva detailed his observations of RICO abuse when testifying before the House Committee on Criminal Justice in 1985. Mr. Mikva, of course, has been a Member of Congress in 1970, and he had warned back then that RICO might be stretched and abused in a way. Here is his testimony in 1985 before the House Subcommittee on Criminal Justice:

> I stand amazed to realize that my hyperbolic horrible examples of how far the law would reach pale into insignificance when compared to what actually has happened. What started out as a small cottage industry for Federal prosecutors has become a commonplace weapon in the civil litigation arsenal.

Most significantly, those that have the responsibility of regulating our securities markets support my amendment. For the past 10 years the chairman of the Securities and Exchange Commission, the SEC, have all supported civil RICO reform. Beginning in 1985, former SEC Chairman John Shad testified before Congress in support of legislation to amend RICO in this way. In 1986, Mr. Chairman, the SEC even submitted draft legislation for civil RICO reform. In 1989, the SEC General Counsel, Dan Goelzer, testified before Congress in favor of this civil RICO reform, and today the SEC continues to support civil RICO reform.

In testimony before our committee, Mr. Chairman, the chairman of the SEC, Arthur Levitt, stated that H.R. 10, as originally drafted, contained the kind of civil RICO reform that is necessary. He recently wrote a letter to our Committee on Commerce chairman, the gentleman from Virginia [Mr. BLILEY], stating that the SEC fully supports this provision that I am offering today.

The reason this area is one of such wide-ranging consensus is because almost everyone who studied the issue recognizes that the civil RICO statute has been abused in securities fraud legislation to distort the incentives and remedies that the Federal securities laws are supposed to provide. They have done this by taking advantage of a loophole in RICO that has permitted inclusion of securities laws violations as a predicate act for which the defendant may be tagged as a racketeer and held liable for treble damages and attorney fees.

Additionally, because many claims that could be asserted as securities laws claims can also be characterized as mail or wire fraud——

The CHAIRMAN. The time of the gentleman from California [Mr. COX] has expired.

(By unanimous consent, Mr. COX of California was allowed to proceed for 5 additional minutes.)

Mr. COX of California. Because many claims that could be asserted as securities laws claims can also be characterized as mail or wire fraud, and because mail and wire fraud are also predicates for civil RICO liability, Plaintiffs' attorneys have a devastating, potent, and readily available alternative for bringing actions under RICO instead of under our securities laws. As the SEC general counsel stated in his 1989 testimony before the House Committee on the Judiciary, and I quote now,

> The commission is concerned that the civil liability provisions of RICO can, in many cases, convert private securities law fraud claims into RICO claims. Successful plaintiffs in such cases are entitled to treble damages, despite the express limitations on recovery under the securities laws to actual damages. Private plaintiffs may be able to bypass the carefully crafted liability provisions of the securities laws and thereby recover damages in cases in which Congress or the courts have determined that no recovery should be available.

Congress initially passed securities laws in order to impose a uniform system of duties and liabilities upon the securities industry and to protect investors. Each time we have acted to amend the securities laws we have balanced the need to provide the maximum amount of consumer protection against the need to maintain fluid, stable and reliable markets. Today we are seeking to enact litigation reforms because we have identified significant problems and abuses in the current system that are hurting investors, consumers, and the Nation as a whole.

Mr. Chairman, the failure to adopt this amendment would undermine the reforms we are hoping to achieve because attorneys could then do an end run around all of the reform by simply using the RICO statute. In evading the reforms that we are seeking to achieve today enterprising lawyers will have the continuing ability to extort settlements from innocent defendants based on claims that will allow them no chance of recovery under the reforms that we have today. Lest we have any doubt about the ability of plaintiffs' attorneys to leverage settlements from defendants under civil RICO, we need only listen again to Justice Thurgood Marshall who explained that, quote,

> Many a prudent defendant, facing ruinous exposure, will decide to settle a case even with no merit. It is, thus, not surprising that civil RICO has been used for extortive purposes, giving rise to the very evils it was designed to combat.

Mr. Chairman, unless we adopt my amendment, a plaintiff's attorney alleging a single violation of the securities laws will be able to bring an action under civil RICO and leverage a hefty settlement from an innocent victim. Because an element of RICO is a pattern, plaintiffs would have the latitude to conduct discovery of records dating as far back as 10 years. Discovery costs like that run up a tab of millions of dollars. Often, faced with the cost of these multimillion-dollar discovery fees, the prospect of being labeled a racketeer and the prospect of being held liable for treble damages and attorney fees, defendants, as Thurgood Marshall has said, are forced to settle meritless cases brought under RICO.

Mr. Chairman, our economy's health depends on the efficient operation of America's capital markets. We must continue to balance the provisions of adequate remedies for injured investors and the imposition of excessive penalties on all participants in our capital markets. The treble damage blunderbuss of RICO undermines this balance and imposes exorbitant litigation costs, impedes the raising of capital, and

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

Mr. COX of California. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Chairman, I just took note of the fact that the gentleman said a moment ago that for some kind of a loophole in the RICO statute that allows people to sue securities dealers who they believe are guilty of a pattern of fraudulent activity, but I am looking here at the language from the statute: 18 U.S.C. says that actually racketeering; that is, predicate action with the RICO statue, include, quote, any fees involving fraud and the sales of securities. I ask, ''In view of that, how can you describe this as a loophole?''

Mr. COX of California. As I mentioned, the Supreme Court, all of the Justices, both in the majority and minority of this RICO case, viewed this as an area where congressional action is richly needed because RICO, although technically being exploited within the letter of the law, was never intended to apply to securities cases.

Mr. BRYANT of Texas. Well, I just read the statute to the gentleman which specifically related to——

Mr. COX of California. Well, reclaiming my time——

Mr. BRYANT of Texas. Fraud and the sale of securities——

Mr. COX of California. So I can fully and adequately respond to the gentleman——

The CHAIRMAN. The time of the gentleman from California [Mr. COX] has expired.

(By unanimous consent, Mr. COX of California was allowed to proceed for 1 additional minute.)

Mr. COX of California. The SEC chairman came and testified before our Committee on Commerce, and here is what he said. It is very brief, and I will just share it with the gentleman:

For many years the Commission has supported legislation to eliminate the overlap between the private remedies under RICO and under the Federal securities laws. The securities laws generally provide adequate remedies for those injured by security fraud. It is both unnecessary and unfair to expose defendants in securities cases to the threat of treble damages and other extraordinary remedies provided by RICO.

Mr. BRYANT of Texas. Mr. Chairman, would the gentleman yield further?

Mr. COX of California. This is according to the Clinton appointment to head up the Securities and Exchange Commission.

Mr. BRYANT of Texas. If the gentleman would yield further just to point out the gentleman said it was a loophole, and I read to the gentleman the law indicating it is not a loophole. Now the gentleman is reading to me testimony, or something, from the SEC, but we never had hearings on the issue of RICO in the committee that the gentleman and I are members of. We never had any hearings——

Mr. COX of California. Reclaiming my time, we did, of course, have hearings on this testimony that was given at that hearing——

Mr. BRYANT of Texas. There were no hearings on RICO——

Mr. COX of California. The SEC.

Mr. BRYANT of Texas. The gentleman will have to acknowledge we had no hearings on RICO.

Mr. COX of California. Mr. Chairman, I think my 60 seconds have expired.

Mr. Chairman, I offer an amendment that would prevent plaintiffs' attorneys from bringing actions alleging securities law violations under the Racketeer Influenced and Corrupt Organizations Act [RICO]. Today we are fulfilling our Contract With America by curbing frivolous securities litigation. For many years now, shrewd plaintiffs' attorneys have been using RICO to evade the requirements we have established in the Federal securities laws. Supreme Court Justice Thurgood Marshall called our attention to this problem as far back as 1985 when he explained that the civil RICO statute ''virtually eliminates decades of legislative and judicial development of private civil remedies under the Federal securities laws.'' *Sedima, S.P.R.I.* v. *Imrex Company, Inc.,* 105 S.Ct. 3292, 3294 (1985) (dissenting). Indeed, while today's amendment seeks only to reform RICO in the area of securities litigation, the House—Democrats in control—has previously passed wholesale RICO reform by an overwhelming margin. This reform measure, authored by the gentlemen from Virginia [Mr. BOUCHER] and Mr. MCCOLLUM, the chairman of the Judiciary Subcommittee on Crime, enjoyed overwhelming bipartisan support. My amendment, I believe is fully consistent with this effort.

This provision originally in the Contract With America that addressed the problem of civil RICO actions in the securities area (H.R. 10, Title I §107) was omitted from the bills reported out of committee. If we do not reinsert this provision by adopting my amendment, we will fail to address a significant number of frivolous actions based on alleged securities law violations, but brought under the RICO statute. When we enacted RICO back in 1970, we intended that it be used as a weapon against organized criminals, not as a weapon against ordinary investors and the business community.

The problem posed by the widespread use of civil RICO is one recognized by legal experts across the spectrum. In addition to Justice Marshall, Chief Justice Rehnquist has observed:

> Virtually everyone who has addressed the question agrees that civil RICO is now being used in ways that Congress never intended when it enacted the statute in 1970. Most of the civil suits filed under the statute have nothing to do with organized crime.

(Rehnquist, Reforming Diversity Jurisdiction and Civil RICO, St. Mary's L.J. 5, 9 (1989) (originally presented at the Brookings Institution's Eleventh Seminar on the Administration of Justice, April 7, 1989). Plaintiffs' attorneys' inappropriate and abusive use of RICO has also been recognized by current White House Counsel Abner Mikva. While still a judge for the U.S. Circuit Court of Appeals for the District of Columbia, Mr. Mikva detailed his observations of RICO abuse when testifying before the House Subcommittee on Criminal Justice in 1985. While a Member of Congress in 1970, Mr. Mikva had warned his colleagues about RICO's overbreadth. In 1985, in testifying before the House Subcommittee on Criminal Justice, he noted the following about his comparison of his initial thoughts on RICO back in 1970 with the subsequent reality:

> I stand amazed * * * to realize that my hyperbolic horrible examples of how far the law would reach pale into insignificance when compared to what has actually happened * * * What started out as a small cottage industry for federal prosecutors has become a commonplace weapon in the civil litigation arsenal.

As we learned yesterday, Mr. Mikva and the Administration have a number of problems with the legislation before us today. However, as observed above, my amendment is one provision upon which we all agree.

Also, most significantly, those that have the responsibility of regulating our securities markets similarly support my amendment. For the past 10 years, the Chairmen of the Securities and Exchange Commission [SEC] have all supported civil RICO reform. Beginning in 1985, former SEC Chairman John Shad testified before Congress in support of legislation to amend RICO. In 1986, the SEC even submitted draft legislation to Congress that would have significantly limited civil RICO claims based on alleged securities law violations. In 1989, SEC General Counsel Dan Goelzer testified before Congress in favor of civil RICO reform. And today, the SEC continues to support civil RICO reform. In a recent letter to Commerce Committee Chairman BLILEY, SEC Chairman Arthur Levitt stated that the SEC fully supports this provision I am offering today.

The reason why this is one area where there is such wide-ranging consensus is because almost everyone who has studied this issue recognizes that plaintiffs' attorneys have used the civil RICO statute to distort the incentives and remedies that the federal securities laws provide. They have done this by taking advantage of a loophole in RICO that has permitted inclusion of securities law violations as a predicate act for which a defendant may be tagged as a racketeer and held liable for treble damages and attorneys' fees. Additionally, because many claims that could be asserted as securities law claims can also be characterized as mail or wire fraud, and because mail and wire fraud are also predicates for civil RICO liability, plaintiffs' attorneys have a devastating potent and readily available alternative for bringing actions under RICO rather than under our securities laws. As SEC General Counsel Goelzer stated in 1989 testimony before the House Judiciary Committee:

> The Commission is concerned, however, that the civil liability provisions of RICO can in many cases convert private securities law fraud claims into RICO claims. Successful plaintiffs in such cases are entitled to treble damages, despite the express limitations on recovery under the securities laws to actual damages. Private plaintiffs may be able to bypass the carefully crafted liability provisions of the securities laws, and thereby recover damages in cases in which Congress or the courts have determined that no recovery should be available under those laws. As a result, civil RICO places increased and unwarranted financial burdens on commercial defendants, including securities industry defendants.

Congress initially passed securities laws in order to impose a uniform system of duties and liabilities upon the securities industry, and to protect investors. Each time that we have amended the securities laws, we have balanced the need to provide the maximum amount of consumer protection possible against the need to maintain fluid, stable, and reliable markets. Today, we are seeking to enact litigation reforms because we have identified significant problems and abuses in the current system that are hurting investors, consumers, and the nation as a whole. We are seeking to enact changes to our federal securities laws in those areas where we have identified reforms are needed. We are seeking a losers pay provision to punish plaintiffs for bringing frivolous actions. In addition, we are seeking a limitation on joint and several liability to restore fairness to the federal securities laws. The failure to adopt my amendment would undermine the reforms we are hoping to achieve today without any award, unscrupulous attorneys could do an end run around the reforms by using the RICO statute. Through the use of civil RICO, plaintiffs will be able to initiate law suits based on alleged securities law violations, and will be entitled to seek treble damages and attorneys' fees.

In evading the reforms we are seeking to achieve today, enterprising plaintiffs' attorneys will have the continuing ability to extort settlements from innocent defendants based on claims that would allow them no chance of recovery under the reforms before us today. Lest we have any doubt about the ability of plaintiffs' attorneys to leverage settlements from defendants under civil RICO, we need only listen again to Justice Marshall, who explained that ''[m]any a prudent defendant, facing ruinous exposure, will decide to settle even a case with no merit. It is thus not surprising that civil RICO has been used for extortive purposes, giving rise to the very evils it was designed to combat.'' *Sedima,* 105 S.Ct. at 3295. Unless we adopt my amendment, a plaintiff's attorney, alleging a single violation of the securities laws, will be able to bring an action under civil RICO and leverage a hefty settlement from an innocent victim. Because an element of a RICO action is a ''pattern,'' plaintiffs have the latitude to conduct discovery of records dating back 10 years or more. Such discovery costs defendants millions of dollars. Often, faced with the cost of these multi-million dollar discovery fees, and the prospect of being labeled a racketeer, and being held liable for treble damages and attorneys' fees, defendants are forced to settle meritless cases.

Our economy's health depends on the efficient operation of its country's capital markets. We must continue to balance the provision of adequate remedies for injured investors and the imposition of excessive penalties on all participants in our capital markets. The treble damage blunderbuss of RICO undermines this balance and imposes exorbitant litigation costs, impedes the raising of capital and ultimately puts these costs on the shoulders of consumers and emerging innovative companies.

Mr. Chairman, at this point I would like to read several comments from judges across the country who have commented on the abuses prevalent in civil RICO litigation. If there is one message we should extract from these opinions, it is that we must reform RICO to prevent plaintiffs' attorneys from bringing actions more appropriately brought under our securities laws.

''It is true that private civil actions under the statute are being brought almost solely against such defendants [respected and legitimate businesses], rather than against the archetypal, intimidating mobster. Yet this defect—if defect it is—is inherent in the statute as written, and its correction must lie with Congress.'' The Supreme Court, *Sedima,* 105 S. Ct. at 3286–87.

''I have a feeling about RICO in the civil world * * * as being the most conspicuous case I know of legislation requiring Congressional attention to revision.''—Former U.S. District Court Judge Simon Rifkind of the Southern District of New York.

''An imaginative plaintiff could take virtually any illegal occurrence and point to acts preparatory to the occurrence, usually the use of the telephone or mails, as meeting the requirement of pattern.''—U.S. Circuit Court of Appeals for the 5th Circuit Judges Higginbotham, Politz, and Jolly (*Montesano* v. *Seafirst Commercial Corp.,* 818 F.2d 423, 424 (5th Cir. 1987)).

''Congress * * * may well have created a runaway treble damage bonanza for the already excessively litigious.''—Federal Circuit Court of Appeals for the 7th Circuit Judges Wood, Cummings, and Hoffman (*Schacht* v. *Brown,* 711 F2d, 1343, 1361 (7th Cir. 1983)).

''[O]ne of the proliferating developments in civil litigation has been the use of RICO * * * in civil claims, in routine commercial disputes, including those arising under the federal securities laws. I think that the proliferation of these claims and the use of a law that was designed to eliminate organized crime is a very bad influence on the commercial community.''—U.S. District Court Judge Milton Pollack of the Southern District of New York.

''McCarthy, though armed with substantial damage claims, with a requested ad damnum of $312,220 in compensatory and $1 million in punitive damages, obviously cannot resist the treble damages and attorneys' fees lure of RICO.''—Judge Shadur, U.S. District Court for the Northern District of Illinois (*McCarthy Cattle Co.* v. *Paine Webber, Inc.,* 1985 WL 631 (N.D. Ill., April 11, 1985).

''[The plaintiff's complaint] demonstrates at least two facts of life in an urban district court in a litigation-prone society: * * * RICO's lure of treble damages and attorneys' fees draws litigants and lawyers * * * like lemmings to the sea.''—Judge Shadur (*Wolin* v. *Hanley Dawson Cadillac, Inc.,* 636 F. Supp. 890, 891 (N.D. Ill. 1986).

Mr. CONYERS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. COX].

Mr. Chairman and members of the committee, this amendment, we must never forget, has arrived here by extraordinary means. It was accidentally, like when you sweep up trash at night in the Committee on the Judiciary. This little slip of paper called RICO fell to the ground in a corner. Nobody noticed it, and, therefore, we have a whole securities bill that went to the Committee on Rules, was dealt with, and then the Committee on Rules came back again and said, ''Oh, we overlooked civil RICO, and we have an amendment, not to modify it as applies to securities, which has been the main use of civil RICO in securities ever since RICO was started. We said we will not pare it down, we will not deal with the other amendments that have always applied to RICO before in the Committee on the Judiciary without so much as mentioning this name RICO. We now have a measure in one sentence that will remove it from all securities legislation from this point on.

□ 1745

Are you aware of the magnitude of what it is we are proposing to do here as the first amendment to this legislation on the floor? We are now saying that the fact that RICO was used in all of the major fraud cases, that we have now reached the point on the basis of a Supreme court case that goes back 10 years to say that now RICO is so abused we must now get rid of it.

Remember, the last time I saw an idea about RICO was when the former gentleman from New Jersey [Mr. HUGHES] developed a gatekeeper concept, in which we would filter through under a very strict set of principles which cases might make it to a RICO suit.

But now—and I disagreed with that. But the gatekeeper concept was a very modest one. It kept RICO alive in terms of civil litigation. It was much more carefully crafted than a blanket exemption from RICO in all securities cases.

What we are saying is that all of the major fraud cases in which RICO busted people who were bilking millions of dollars, sometimes billions of dollars, is now going to be thrown in the trash heap, and we will not need it anymore.

That is why those who want to preserve RICO includes the Association of Attorneys General, the National Association of Insurance Commissioners, the U.S. Conference of Mayors, the North American Securities Administration associations. It is very clear that public prosecutors and regulators are aghast at the Cox amendment and the implications of what it has in store in us trying to police this very tricky, complex area of money crimes that is now still as much a problem has it has always been.

Civil RICO, with their treble damages, which frequently are used for great leverage purposes, can recover money which pay attorney fees and are a vital remedy that should not be diminished in any way. RICO is critical in the fight against savings and loan fraud, bank and insurance and financial crimes. Using civil RICO, the victims of white collar crime can sue these malfeasors for triple their losses, and it is frequently the only effective means for victims.

Do not throw the baby out with the bath water. There has never been a minute's hearing in any of the committees of jurisdiction, certainly not Judiciary, and I really must say that this is the most outrageous proposal in terms of securities regulation that I have ever heard. Vote down the Cox amendment.

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

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

Mr. MCCOLLUM. Mr. Chairman. I rise in support of the amendment offered by the gentleman from California. In the last several Congresses the subject of RICO reform and, in particular, the use of the RICO statute in civil business disputes, has received significant attention. Hearings have been held; bills have been introduced; but in the end, nothing has happened. A law that was originally intended to strike a major blow to organized crime and racketeering, has continued to be used as a hammer in routine civil cases.

Today, we take a step toward meaningful civil RICO reform. This amendment will end inappropriate use of the civil RICO statute in an area of the law where it has been most abused—the securities law area. Congress never intended for the RICO statute to be used as the principal means of litigating disputes over securities transactions. The

securities laws themselves provide aggrieved buyers and sellers with private causes of action so that they may seek compensation for their losses. The increases in the use of the racketeering statue for this purpose, however, has produced consequences that Congress never intended. The threat of RICO sanctions has had a chilling effect on entrepreneurship and ultimately economic growth.

Mr. Chairman, the civil RICO statute is tough, and it should be. The statute's provision for treble damaged and attorneys fees awards were designed to help private citizens strike back against criminal enterprises and other corrupt organizations. But they were never intended to be used as a means to litigate disputes between parties to bona fide securities transactions.

The amendment offered by the gentleman from California will begin the process of restoring the civil RICO statute to the uses that Congress intended. This amendment will put an immediate stop to one of the greatest abuses of the civil RICO statute.

It must be noted, however, Mr. Chairman, that adopting this amendment will not remedy all of the problems with the way the civil RICO statute is being misused. As Chairman of the Subcommittee on Crime, where jurisdiction over this issue resides, I intend to introduce RICO reform. It is my hope that the subcommittee will bring forward legislation to help ensure that the RICO statutes are used in the manner that Congress originally intended.

In the interim, however, this amendment will stop some of the most egregious abuses of the civil RICO statute. This amendment is an important first step in the RICO reform process. I urge my colleagues to support it.

Mr. Chairman, I also want to commend the gentleman from Virginia [Mr. BOUCHER] for his work on the other side of the aisle in trying to get civil RICO reform over the past sessions of Congress. Many hearings were held in this past decade. Where there might not have been one this session of Congress, we have certainly had plenty on the subject in the past.

The truth of the matter is the House once even passed a reform of RICO that did not go through the Senate, which would have required a prior criminal conviction before you could get civil RICO. I dare say, to allay the gentleman from Michigan's concerns, there are plenty of remedies for those bad apples that commit serious fraud out there without going and using the civil RICO statute for the kind of abusive purposes that have been happening in the securities area and in many others.

So I commend the gentleman from California for offering the amendment, I urge my colleagues to support it, and I appreciate the time.

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

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

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is a most extraordinary day. When we considered the bill in the committee, this is the headline we got in the Wall Street Journal, a well-known bastion of left wing liberalism and excessive regulation said this: ''Fraud Shields for Companies Gain in House.''

I do not know whether we ought to amend RICO or not. There is not one scintilla of evidence in the record of the Committee on Commerce whether we should or we should not. And there is nothing there which says that we ought to take away the right of a person to sue civilly under RICO where there is interstate trafficking in stolen securities. RICO had securities violations as the subject of civil suits from the very first day that it was enacted into law.

Now, we have a market which is the most trusted in the world. It is for two reasons: One, because we have good enforcement at the SEC. The other is because we have an extraordinarily good system of private enforcement, enforcement by private citizens suing wrongdoers to collect for wrongdoing. And millions and millions of dollars are collected for this reason.

My colleagues never saw this language in the committee. We never knew it was coming until late last night, when the Committee on Rules decided that something should be done about this matter. No discussion was offered in the committee. The author of the legislation had nothing to say on this subject. No one on the Republican side had anything to say about the need to address the wrongdoing under RICO.

It is interesting to note that in Russia they are now saying, and this is what the chairman of the Russian Securities Fund had to say, ''Each scandal chips away at investors' trust, and trust is the only thing we can rely on to get more business.''

I have told the securities industry time after time, people think that the securities industry and the markets in this country run on money. They do not. They run on public confidence. And if there is public confidence, then everyone will make lots of money. What we are doing here is sneaking out of the Committee on Rules a proposal to repeal RICO, and it is not going to contribute to the trust of the American people in the securities market or in the marketplace.

The only confidence that is going to be boosted by this amendment is going to be the confidence of rascals and scoundrels, who will then be secure in the knowledge that if they engage in theft of resources belonging to others, that they are not going to get sued. That is all.

This legislation comes to the floor with abbreviated hearings and not adequate opportunity for amendments to be offered. The legislation is controlled by the Committee on Rules, which has said we will add RICO, which is not germane to the bill, and which is not even in the Committee on Energy and Commerce.

We are amending a statute which is not even under the jurisdiction of the Committee on Energy and Commerce, and we are amending it without ever having a word of hearings or a bit of evidence or testimony taken on the subject. Why is RICO taken up now when it could be addressed in another committee in proper fashion after appropriate hearings? I have no explanation. Perhaps the gentleman from California who offers the amendment has, but I seriously doubt if he does or will.

Many Americans had hoped that the Contract on America would be an engine for progress by making needed and targeted reforms. This amendment is just another demonstration that the contract instead has become a gravy train for any special interest with enough money and resources that they can get aboard and go where they want to go at the expense of the ordinary American.

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

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I would just point out, we just saw an exhibit on the floor and, as is so often the case when one reads the headlines, you miss the story. In the fine print the gentleman from Michigan forgot to tell us the last sentence of that happens to be a concise statement of the purpose of the bill. It says, ''The purpose of the bill,'' and this was actually on what he presented to us, but you could not read it, only the headline, ''The purpose of this bill remains to reduce litigation to cut down on fraud committed by unscrupulous lawyers and professional plaintiffs.''

Mr. FIELDS of Texas. Mr. Chairman, reclaiming my time, today we are seeking to enact fundamental reforms of the manner in which securities actions are litigated. In order to ensure that our reforms are comprehensive, we must make every effort to identify oversights or omissions in our legislation that could potentially hamper the effectiveness of H.R. 1058.

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

Mr. FIELDS of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. I was much impressed by the comments of the gentleman from California. The quote that he gave is an excellent one: ''The purpose of the bill is to cut down on litigation and to cut down on fraud committed by

unscrupulous lawyers and professional plaintiffs.'' And the authority that is quoted in the article is, guess who? The gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, if the gentleman will yield further, I think that the gentleman from Michigan earlier pointed out that the Wall Street Journal usually understands where to get their information, and there is not much question but that that is what the bill does, and in particular this amendment will help us to achieve that objective.

Mr. FIELDS of Texas. Mr. Chairman, reclaiming my time, as I was pointing out, there have been oversights, and this amendment seeks to address an oversight of the drafting. In the current bill we have failed to prescribe civil RICO actions based on conduct that is actionable in fraud and the purchase or sale of securities. Left uncorrected, this omission would seriously undermine our efforts today.

The original drafters of H.R. 10 recognized this fact and included this identical provision in title I, section 107. As a result of sheer error, section 107 was not included in any of the versions reported out of committee. By offering this amendment, the gentleman from California [Mr. COX] is seeking to do no more than reinsert this provision back into the Contract With America.

Mr. Chairman, it is particularly important to note that this amendment has the support of the U.S. Securities and Exchange Commission. In providing the views of the Commission to the Committee on Commerce on title II of H.R. 10 on February 23, 1995, this year, Chairman Levitt stated the Commission supports the elimination of civil RICO liability predicated on security law violations.

□ 1800

The enactment of this legislation will provide much needed reform by helping curb frivolous securities actions. This amendment will go a long way toward guaranteeing meaningful reform because civil RICO actions are well-recognized vehicles for bringing frivolous lawsuits. If we do not adopt this amendment, plaintiffs' attorneys will be free to evade our reforms by merely bringing securities actions under RICO, thereby frustrating the efforts of this legislation.

We should have no doubt that if we fail to adopt this amendment, plaintiffs' attorneys will take full advantage of our omission. Almost every claim that a plaintiff alleges as a violation of securities laws may also be pled as a RICO violation. Plaintiffs' attorneys can easily allege both the enterprise and the pattern elements necessary to turn a securities action into a RICO claim, because most security law violations are committed in the course of conducting the affairs of a business or an enterprise.

Moreover, virtually all securities transactions involve the use of the mail or telephone.

Further demonstrating the need to enact this amendment is the significant number of securities fraud cases brought as RICO claims. As early as 1985, the American Bar Association found that 40 percent of all civil RICO cases filed in Federal courts were based on securities fraud. If we fail to pass this amendment, we will continue to leave this avenue wide open for the plaintiffs' bar. The failure to amend RICO to exclude issues for conduct that is actionable as a securities law violation would enable plaintiffs' attorneys to continue to seek treble damages and to evade the most important elements of the types of reform we hope to accomplish.

We need only compare the provisions of this legislation with those of the RICO——

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

(By unanimous consent, Mr. FIELDS of Texas was allowed to proceed for 3 additional minutes.)

Mr. FIELDS of Texas. Mr. Chairman, we need only compare the provisions of this legislation with those of the RICO statute in order to identify those reforms that plaintiffs' attorneys will be able to avoid. H.R. 1058, this legislation, has a losers pay provision. RICO does not. H.R. 1058 preserves a one year statute of limitation. The RICO statute of limitations is longer. H.R. 1058 limits joint and several liability to knowing securities fraud; RICO does not. The list continues.

But the point is clear, unless we eliminate the RICO alternative, our reforms under this legislation will be undermined.

The U.S. Supreme Court Justice, Chief Justice Rehnquist, Justice Marshall, and the Judicial Conference have all recognized the ability of plaintiffs' attorneys to bring meritless actions under RICO and leverage substantial payments for defendants through such actions. As Justice Marshall explained about civil RICO actions in 1985, and I quote:

> Many a prudent defendant, facing a ruinous exposure, will decide to settle even a case with no merit. It is thus not surprising that civil RICO has been used for extortive purposes, giving rise to the very evils that it was designed to combat.

Mr. Chairman, we enacted civil RICO many years ago to provide private citizens with a weapon against organized crime and racketeering. We did not intend RICO to be a supplement to the Federal securities laws. We never intended to give trial lawyers treble damages in these types of civil lawsuits.

Nonetheless, unless we adopt this amendment, plaintiffs' attorneys will use RICO to evade our efforts of reform.

I urge all of my colleagues to support the Cox amendment and follow through with our promise to the American people to provide common sense and comprehensive legal reform.

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

Mr. Chairman, the whole purpose of this debate, the whole purpose of this multi-year effort to bring this issue to the floor and eventually hopefully to pass this bill, is to change the incentives in this system, in this legal system, to change them in a very positive way, to create an incentive system that says, if you find knowing fraud, prosecute it. You will have, under knowing fraud, under the examples illustrated by several of my colleagues on this side, you will have the full recourse of 10(b)(5) litigation remedies at your disposal. You will have full joint and several liability available to you. You sue all the parties. They are all 100 percent responsible. It is up to them to figure out who is going to contribute to each other in a knowing fraud case.

It says where there is not knowing fraud—and by the way, the original statute we are amending never talked about anything but knowing fraud. Courts have invented another standard of violations of the statutes. Courts have invented something that they said was called recklessness, something close to knowing. It was so close to knowing they said that you almost had to be believed to have known that you were committing a fraud or you were so reckless, you were so in fact in violation of common standards of what we perceive to be good behavior that you literally will be presumed to have known.

In those cases where it is a reckless behavior, not a knowing behavior, this statute creates a new liability structure. It says, in those cases that you identify the persons who were reckless. You identify their percentage liability or the court does eventually in the judgment, and each is proportionately liable for their share of the recklessness, as opposed to the joint and several liability that attaches to knowing fraud, the guys that intend to harm you and, in fact, do harm you.

It is the purpose of this statute to create these two liabilities for one simple reason: Without a change in the law, as this bill suggests, plaintiffs will, plaintiffs' lawyers will continue to file these shakedown lawsuits, scattershot everybody connected with the company, everybody associated with it, officers, board members, accountants, lawyers, everybody connected with a company, and then sit back and do discovery and continue the litigation until somebody says, wait a minute, we have had enough, here is 10 cents on the dollar. We are out of here. That has been the practice.

If you want to discourage that, you need to make this important change in the way these kinds of lawsuits are brought. Remember we are talking about civil lawsuits. This bill does nothing, nothing to change the authority nor the responsibility of the SEC to

prosecute claims of fraud under its enforcement authority already guaranteed in law and preserved in this statute.

What this amendment does, and it is supported by the SEC, is to say that plaintiff lawyers who do not like these reforms, who want to continue bringing these massive lawsuits to shake people down, will not be able to use the civil processes of RICO to do that. They are going to use this reform statute. Without this amendment, this reform is meaningless. Lawyers can simply continue to do, as some have suggested they will do, and that is use the treble damage approach of the RICO statute to avoid the reforms of this legislation and, therefore, continue to wreak havoc upon a legal system that is creating some awful problems for us in the marketplace.

We have heard through witnesses before our committee in the last Congress and this Congress what some of those awful problems are, problems in which small companies, particularly growth companies, who are doing their best with a new invention to get it going and to produce it and sell it to the marketplace find that their stock may jump up one day, jump down the next. And all of a sudden they are in a massive lawsuit, they and everybody connected with them

Problems that we have found in companies across the board where they have said, we would like to tell you more about our company, if you want to invest in it, but we are afraid to tell you anything because whatever we say somebody is going to say we misled you in a lawsuit next week. And we are going to find ourselves involved in another massive litigation with a lot of court costs and legal fees.

If we do not cure those problems soon, this legal mess created under 10(b)(5) will continue to erode the productivity of small growth companies who are desperately trying to employ Americans and to produce more products not only for our marketplace but for the marketplaces of the world. It is that simple.

Lawyers who actually use this system today and who want to fight these reforms would love to have somewhere else to go, some other system, and using the civil RICO is the way they might go. This amendment needs to be passed.

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

Mr. Chairman, I will not take 5 minutes because this is really a very simple argument. If Members do not want to reform the securities laws, then they do not want to vote for this amendment. But if they do want to reform the securities laws, this amendment is absolutely essential. Why? Because the RICO statute which this amendment would take away from applying to securities laws has become the stealth bomber of civil litigation in our society.

This is a statute that is so poorly drafted by this body that plaintiffs' lawyers can apply it to everything but the kitchen sink. And anybody who has practiced law knows that the way around an established regime in the statutory framework is to file a civil RICO suit because then none of the laws apply.

That is why a statute designed to apply to racketeering and organized crime in 40 percent of the cases now applies to securities lawsuits. This is a statute that is out of control. If we do not exempt this litigation from this statute, we will never get this job done.

Mr. Chairman, we are trying to reform the securities laws. Reform is desperately needed. I think almost all of us acknowledge that. But if we do not eliminate RICO, we are not going to get this reform done.

RICO is a loophole large enough for any plaintiff's lawyer to drive the largest Mercedes Benz through. We have to exempt it from this statute. I urge every single one of my colleagues who believe in securities law reform to vote for this amendment.

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

Mr. Chairman, I would like to start by saying, I really think that the offering of this amendment today is a low point in the operation of this House this year. This is an amendment that has a sweeping impact, yet we never had any hearings on this matter. Why? Because the committee with jurisdiction over this bill, which the gentleman from Texas, [Mr. FIELDS] presides over, at least the subcommittee, does not even have jurisdiction over RICO.

The result of that is that we are going to hear in this debate today, we have already heard, we are going to continue to hear a whole series of misstatements and a lot of remarks that are going to be read that somebody else wrote. Why? Because nobody in the debate on either side knows very much about RICO.

I used to be the cosponsor in previous Congresses of a bill, along with a number of my colleagues on this side of aisle and that side of the aisle, to reform the RICO statute. There are problems with it. But I dare say, nobody who has spoken so far on that side of aisle or on this side of the aisle knows what they are. The fact of the matter is, we never saw this amendment until late last night. We never had any hearings on it. I just have to say that bringing a sweeping proposal like that to the House that has such an enormous impact without anybody really knowing what it is is, in my view, not the way to legislate. I urge Members to look at it in that light.

We have heard a number of interesting statements. The last speaker a moment ago, the gentleman from California [Mr. COX], has gotten up and said, we have got to get rid of RICO. It is a loophole in the law. You probably believe that it is loophole in the law. Somebody our staff told you that. Maybe a lobbyist told you that.

But I read to the gentleman from California [Mr. COX] just a moment ago and I will read for the benefit of this gentleman as well, 18 United States Code which says, ''Any offense involving fraud in the sale of securities is one of the predicate acts of racketeering.'' It has been there in there from the very beginning. It is not a loophole. It has always been in there. Surely the gentleman would not wish to mislead the House. I am not sure he did not intend to. We have all made mistakes.

The fact is, when you do not have any hearings on a proposal, when it has not been seen by anybody until the night before the bill comes up, there are going to be mistakes made. And that is one of them.

We heard the gentleman from California [Mr. COX] and others stand up and praise the SEC and say the SEC wants this. We do not know if the SEC wants it or not. There was language that was sort of a side bar language in their testimony with regard to the underlying bill that made some statements with regard to the need to reform RICO. I agree that there is a need to reform RICO. But the fact is, the SEC did not testify on RICO. Why? There have not been any hearings on RICO before the House of Representatives or any of its committees this year. So we do not know what their clear view is of RICO.

Also they invoked the SEC. They say we should look at these casual remarks that they have made and apply them to our own judgment of RICO. What about the SEC's opinion of the loser-pays bill that you brought up here? They think it is a bad idea. What about their opinion of your standard of recklessness? They think it is a bad idea. What about the SEC's opinion of your definition of fraud on the market? They think it is a bad idea. And what about the SEC's opinion of the pleading requirements which you have put in the bill? They think those are a bad idea as well.

□ 1815

I note that the gentleman repeatedly gets up and says, ''It is a shame that plaintiff just does not recover enough in these cases.'' This is a RICO statute that provides treble damages. That is the one you want to repeal with this amendment. You might not have even realized that, inasmuch as there were no hearings, and very few people in this debate today are going to know very much about what the RICO statute even says.

Finally, I think it is perhaps maybe a symbol of this whole debate, but after the gentleman from Michigan, Mr. DINGELL, made a stirring speech condemning this whole effort, the gentleman from California, Mr. COX, gets up and referred to Mr. DINGELL's clipping, and reads to him from the last line of the

clipping, making it appear that somehow the Wall Street Journal has said the opposite of what Mr. DINGELL says.

Then Mr. DINGELL gets up and realizes who Mr. COX is quoting; he is quoting himself. Why? Because he did not have any hearings, and he does not have anybody else to quote. This amendment is not based upon any hearings, it is not based upon any jurisprudential, it is not based upon any data, any economic study, it is based upon an idea those guys had late last night.

I urge Members to vote this amendment down and restore some dignity to the proceedings of this House.

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

Mr. Chairman, I happen to have heard my colleague, the gentleman from Michigan, mention in not too glowing terms the concept of rascals and rogues who had capitalized off of certain situations in our society. My question is as to who are the rascals and who are the rogues.

Frankly, when we have 40 percent of the cases under the RICO being identified as being not as the original intention to the depth of what the original intention was supposed to come out, Mr. Chairman, there are rascals and rogues who would manipulate the law for their own personal gains. This amendment would try to rectify that problem.

I do not think anybody who voted for the original intention expected it to be a free ride for those in the legal profession, to be able to dig deep into other people's pockets, or to be able to have procedures that they could not use in any other civil cases.

However, to take advantage of a law that was meant to stop racketeering, to take advantage of legislation that was meant to protect the people of this country from organized crime, truly is immoral. Frankly, I think that this abuse that has been recognized by the Supreme Court is probably a good example of why the bar associations of this country probably are not doing their job, and because of that, we need to do our job here to straighten out abuses that have become obvious, obvious to the point to where we have to correct the well-intentioned RICO regulations.

Mr. Chairman, I think that we do have rascals and rogues out there, a segment of our society that refuses to live by the rulings and the good intentions that the rest of us take for granted. There are those that take a look at legislation and say what a great opportunity not to have to play by the rules.

I think this amendment, Mr. Chairman, will help to straighten it out and say we will live by the rules, and I think that the amendment will say that the rules will be set the same for these cases.

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

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

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

Mr. Chairman, about the gentleman's concern, does he know that alleged Mafia links in securities cases would not be prosecutable under RICO? Is that part of his intention in repealing RICO, as applies to securities?

Mr. BILBRAY. Of course not, Mr. Chairman. There are 40 percent of the cases being used under this. Is the gentleman saying that 40 percent of the cases under RICO are all racketeering?

Mr. CONYERS. No, I have no idea.

Mr. BILBRAY. Here is the point: RICO is meant to go after racketeering. It is being misused by attorneys, because it means they do not have to play by the other rules.

Mr. CONYERS. If I could remind the gentleman, we have already read the statute on the floor. It includes as a predicate offense securities violations. It is in plain English, and it was there from the first day that RICO was enacted into law, having passed this Congress.

However, my point is, would the gentleman preclude Mafia activities with securities from being a prosecutable offense under RICO? Because when we take RICO away, we are taking away the opportunity to prosecute Mafia involvement with securities.

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

Mr. BILBRAY. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, I apologize to the gentleman on the other side of the aisle that I do not have the statute book with me, but as the gentleman knows, the civil part of RICO is just one or two sentences, and that is that one or two sentences that has made a number of civil actions to be brought under RICO. That is not what our intent is.

Mr. BILBRAY. It does not constitute 40 percent of the legislation.

Mr. FIELDS of Texas. If someone is breaking the law, as the gentleman alleges, as a Mafia mobster, that person would still be penalized under the criminal sections of RICO.

Mr. BILBRAY. Mr. Chairman, what we are talking about, those one or two sentences, are being manipulated for 40 percent of the actions. I do not think the legislation, and the gentleman was here, probably, I was not, I cannot believe the gentleman meant for 40 percent of this law to be used in this manner. I cannot believe that was his intention.

Mr. CONYERS. If the gentleman will yield, we did not mean any percentages, Mr. Chairman. Nobody had any percentages in mind. The fact of the matter is if the law can apply in a case being prosecuted civilly, it ought to apply.

Treble damages under RICO is an incredibly important tool, without which we are going to be at a loss for a lot of violations, including Mafia violations that are being reported in the Wall Street Journal.

Mr. BILBRAY. I think that what the gentleman is saying, see, the gentleman is trying to use that. This law was meant to go after the Mafia. The fact is it is being abused.

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

Mr. Chairman, I rise in opposition to this amendment. This is Congress operating at its worst. The amendment that we have here on the floor was never considered before our committee. There were no hearings that were called on this issue. In fact, the statute that we are amending right now is a separate statute altogether, the RICO statute. It has nothing to do with the jurisdiction of this committee.

In fact, Mr. Chairman, this subject was never referred to our committee for consideration. Moreover, the Committee on the Judiciary, which does have jurisdiction over this issue, did not consider it, and had no witnesses on this subject as part of the process of bringing this bill out onto the floor.

Mr. Chairman, we can all have a debate about whether or not racketeering should be considered to cover this, that, or another category, or potential defendants in suits, but let us not kid ourselves. When our subcommittee held hearings on penny stock fraud in 1989 and 1990, we had to have our witnesses testify with bags over their heads because of the fear of retaliation by organized crime in the penny stock market of this country.

Mr. Chairman, for any of the Members who think that as we talk about racketeering, that somehow or other it is exclusive of the securities marketplace, believe me, the penny stock market was rife with organized crime, so much so that there were life-threatening circumstances that many of our witnesses felt they were going to encounter.

Mr. Chairman, that is even apart from the central question, though, that we have to answer tonight: Is it proper for this Congress to take up an issue of such a magnitude with no hearings, in fact, with markups before our committee, that is, a process by which we could make amendments to the legislation, that resulted in both subcommittee and full committee markups being truncated down to a point where there was no more than 2 or 3 hours on each occasion, even to consider amendments to the subject which was before us, much less this, which was not before us?

To then come out here with a historic amendment to a separate piece of legislation with the Committee on Rules having a special hearing last night to put in order a nongermane amendment to a piece of legislation that has nothing to do with the business, and then asking our Members to rush out here at 6:30 and cast a vote on that, it is unfair. It is wrong. Congress

should not operate this way. It is completely unnecessary.

The Committee on the Judiciary, chaired by the gentleman from Illinois, is fully capable of having a hearing on RICO that considers all aspects of it, that has witnesses coming in from the Justice Department, from the States, from the private bar, and from all others to give testimony.

Congress tonight is being asked to cast a historic vote on a subject with no information before us except the opinions of a few Members who have been able to get a nongermane amendment put in order. It is Congress at its worst.

I recommend to all Members to vote ''no'' on such an important subject, and send that signal that this subject should be sent back to the Committee on the Judiciary so that they have hearings on the issue, and send us out a bill that deals with that relevant subject in a way that dignifies this most important of all legislative bodies in the country.

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

Mr. MARKEY. I am glad to yield to the gentleman from Michigan.

Mr. DINGELL. I would like to address, if the gentleman would permit, the substance of the amendment, Mr. Chairman. The amendment says ''Except no person may bring an action under this provision if the racketeering activity as defined in section 1961,'' and so forth, ''involves conduct actionable as fraud in the purchase or sale of securities'' before the period.

What this means is if fraud involving securities is involved in the question that is involved in the lawsuit——

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 4 additional minutes.

Mr. COX of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DINGELL. What this says, Mr. Chairman, because the language of the amendment reads as it does, is that if you are charged in a civil suit with violation of wire laws, of narcotics, or any of the other things which are prohibited under RICO, you had better make darned sure that you have been involved in some way with securities, because then you get a wash.

This amendment guts RICO. It guts civil suits under RICO. It should be rejected.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(At the request of Mr. FIELDS of Texas and by unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. Mr. Chairman, I yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, just so that we understand, because of the redundant way in which the amendment is drawn, it says that if the suit by a citizen involves securities, you cannot sue under RICO, so you would not be able to sue under RICO for any of the other things which are prohibited under RICO: for example, murder; for example, violation of narcotics laws; for example, participating in a criminal enterprise of any kind, or for any kind of interstate fraud, gambling, narcotics, or whatever it might happen to be.

Mr. Chairman, if we are going to deal with the question of RICO reform, then good sense says that we should deal with it well. We ought not offer, simply because the individual can rush into court and say ''But you cannot sue me under RICO for gambling or narcotics because I was involved in securities, and the language of the Cox amendment says that I can't be sued if securities were involved.''

I do not blame the gentleman from California for objecting, because I would not want anybody to say these things about me on the floor, but the hard fact is the legislation is poorly drawn, it is hurried to the floor without proper hearings, without any intelligent consideration, and it has results far different, far broader, far worse from the standpoint of RICO, law enforcement, and getting at criminals generally. That is what is involved here.

The amendment ought to be rejected, if for no other reason than it is sloppy work. It is an embarrassment to the House. It may not embarrass the author of the amendment, but it assuredly embarrasses me, because I believe that this body should legislate well and efficiently. It should legislate wisely, so we do not surprise ourselves with the stupid consequences of irresponsible, unwise, and careless work. I urge that the amendment be rejected.

□ 1830

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words, and I yield to my colleague the gentleman from California [Mr. COX].

Mr. COX of California. I thank the gentleman for yielding.

I am disappointed with the intemperate remarks of the gentleman from Michigan who certainly knows that we have had ample testimony on the subject of RICO in many, many committees in this Congress over years and years and years which I recounted when the gentleman apparently was not on the floor commencing in 1985, dating all the way up to this year when just a few weeks ago, the current Commissioner of the Securities and Exchange Commission came before our Committee on Commerce and supported this amendment. He also has sent a letter to the current chairman of the Committee on Commerce supporting this amendment.

I mentioned that Abner Mikva has testified before Congress in support of this amendment, in support of RICO reform. I mentioned that the Supreme Court of the United States when it examined this issue 10 years ago found that it is up to Congress to fix this problem and both the majority and the minority in that Supreme Court decision said that RICO is being stretched beyond what Congress originally intended in the securities area.

I even quoted from Justice Thurgood Marshall. Thurgood Marshall was in the dissent, in the minority in that case, and it was Thurgood Marshall and Justice Powell who would have voted to limit RICO in the Supreme Court, but we are doing it here in Congress because majority said it is really Congress' mistake, Congress should fix it. The SEC's general counsel has testified in favor of this and we quoted from his testimony. I have submitted for the RECORD comments from judges across America who have said that this is an abuse. Almost all of the examples that we just recently heard were examples where criminal RICO, which is the whole bulk of the statute, civil RICO is only a few sentences, where criminal RICO should be used.

It is certainly important that criminals be prosecuted and that is exactly what will happen before and after this amendment. But what we do not want to see is for our carefully crafted Federal securities laws to be shunted aside and instead for people to be able to use a statute never intended to apply in these civil cases in this way so that they can get treble damages, something not provided for in our securities laws, so that they can get discovery going all the way back 10 years to show a pattern which is part of RICO, not part of the securities laws, and in short so they can gin up settlements where a settlement is not in order.

This is exactly the kind of securities litigation fraud that we are here to punish and we certainly should not do anything that would permit it to continue.

I urge my colleagues very strongly to support his amendment. If there are no further comments, I would ask for a vote.

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

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

RECORDED VOTE

Mr. FIELDS of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 292, noes 124, answered ''present'' 1, not voting 17, as follows:

[Roll No. 209]

AYES—292

Ackerman	Ballenger	Bilirakis
Allard	Barcia	Bishop
Andrews	Barr	Bliley
Archer	Barrett (NE)	Blute
Armey	Bartlett	Boehlert
Bachus	Barton	Bonilla
Baesler	Bass	Bono
Baker (CA)	Bateman	Boucher
Baker (LA)	Bereuter	Brewster
Baldacci	Bilbray	Browder

Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Maloney
Manzullo
Martini
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—124

Abercrombie
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
DeFazio
Dellums
Dicks
Dingell
Dixon
Doggett
Engel
Fattah
Fields (LA)
Filner
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Luther
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Torres
Towns
Tucker
Velazquez
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn

ANSWERED ''PRESENT''—1

Lowey

NOT VOTING—17

Boehner
Condit
Flake
Gibbons
Greenwood
Hansen
Jefferson
Largent
McDade
McKinney
Meek
Murtha
Norwood
Rangel
Rose
Roth
Yates

□ 1851

The Clerk announced the following pairs:

On this vote:

Mr. Largent for, with Mr. Flake against.

Mr. Roth for, with Mr. Jefferson against.

Messrs. JOHNSON of South Dakota, GENE GREEN of Texas, and LEVIN changed their vote from ''aye'' to ''no.''

Ms. LOFGREN and Messrs. PETERSON of Florida, THORNTON, and MOAKLEY changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LARGENT. Mr. Speaker, had I been present for the following votes on Tuesday, March 7, 1995, I would have voted as follows:

On House Resolution 105, agreeing to the resolution—''yea.''

On the Cox amendment to H.R. 1058, to prohibit claimants from bringing securities lawsuits under Racketeer Influenced and Corrupt Organizations [RICO] Act—''yea.''

AMENDMENT OFFERED BY MR. FIELDS OF TEXAS

Mr. FIELDS of Texas. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. FIELDS of Texas: Page 9, line 5, strike ''verifies'' and insert ''certifies''.

Page 11, line 21, and page 13, line 20, strike ''any settlement'' and insert ''any proposed or final settlement''.

Page 12, line 9, insert ''per share'' after ''potential damages''.

Page 14, beginning on line 18, strike ''The order shall bar'' and all that follows through line 23, and insert the following:

The order shall bar all future claims for contribution arising out of the action—

''(A) by any person against the settling defendant; and

''(B) by the settling defendant against any person older than a person whose liability has been extinguished by the settling defendant's settlement.

Page 16, line 20, insert ''section 10(b) of'' after ''under''.

Page 17, line 6, insert ''to state'' after ''or omits''.

Page 17, line 25, strike ''or sellers'' and insert '', sellers, or security holders''.

Page 18, line 2, strike ''consciously''.

Page 19, line 25, insert ''knowledge and'' after ''paragraph (1),''.

Mr. FIELDS of Texas (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 Texas?

There was no objection.

Mr. FIELDS of Texas. Mr. Chairman, this amendment contains only technical and conforming changes that have been agreed to by the majority and minority.

The amendments clarify that disclosure is required for both proposed and final settlements, and that such disclosures includes a statement of potential damages per share. They also prevent settlement discharge bar orders from prohibiting a defendant from using an indemnification agreement or suing a subordinate. The amendments clarify that the new section 10A applies only to actions under old section 10(b) and make certain other technical and conforming changes.

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

Mr. FIELDS of Texas. I yield to my friend, the gentleman from Massachusetts.

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

Indeed this amendment does include several technical changes which have been agreed upon between the majority and the minority, and we would recommend them to the full committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. FIELDS].

The amendment was agreed to.

Mr. BLILEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am about to make a motion that the committee do rise, but before doing so I would like to announce that when the Committee returns to this measure tomorrow, the first order of business will be the amendment of the gentlewoman from California [Ms. ESHOO].

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. VUCANOVICH) having assumed the chair, Mr. COMBEST, 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. 1058) to reform Federal

securities litigation, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 956, COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–69) on the resolution (H. Res. 108) providing for consideration of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW DURING THE 5-MINUTE RULE

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule. The Committee on Banking and Financial Services; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on House Oversight; the Committee on International Relations; the Committee on National Security; and the Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. DOGGETT. Mr. Speaker, reserving the right to object, we have consulted with the ranking minority member of each of those committees and have no objection to their meeting while the House is in session.

Madam Speaker, I withdraw my reservation of objection.

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

There was no objection.

□ 1900

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

WE NEED A NEW ECONOMIC NATIONALISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Madam Speaker, I rise today to call my colleagues' attention to an important finding in last week's issue of Business Week.

I am speaking of an economic reality which may be new to the business press in the United States—but has been plaguing millions of hard-working middle-class families for more than 16 years.

The simple fact is corporate profits are surging, but the working people who stand behind those profits are seeing their incomes fall.

That is why Business Week concluded in an editorial, and I quote,

> The middle class has shouldered much of the pain * * * that has made Corporate America so productive and competitive in global markets. Now is the time for the middle class to share in the fruits of higher productivity.

When you look at the facts, it is clear that we are in the midst of a powerful business boom. Business Week reports that, despite the Federal Reserve's efforts to halt our economy, corporate profits among 900 leading companies grew by an astonishing 71 percent in the fourth quarter of 1994.

Profits grew by a whopping 41 percent for all of 1994, the biggest increase since Business Week began keeping these statistics back in 1973.

But while business has never been better, for middle-income families, the economic crunch continues.

Business Week reports that American household wealth has actually fallen by about half of 1 percent—only the eighth time it has dropped in 30 years.

This is something to which attention must be paid, especially by those who talk about family values.

Look at what is happening to the families that have given up every minute of family time while parents work two, three, even four jobs. How can you build a strong family when you are working day and night just to pay the bills?

When I was growing up in the 1950's, America brought a higher standard of living to a growing number of our people.

As profits flourished, the people behind those profits saw their real wages rise.

But today, working people cannot even expect to share in the fruits of their own labor.

The statistics are as plain as day. From 1947 to 1973, American workers gave their companies an almost 90 percent increase in productivity, and in return, their real wages increased by nearly 99 percent. They got as much as they gave.

But from 1973 to 1982, workers got only half as much of an increase in real wages as they gave in new productivity. And from 1982 through last year, they got only a third as much as they gave in real productivity.

For Democrats, the single, simple, fundamental task of our party—in this Congress, in this decade, in this generation—is to fight for the standard of living of working families and the middle class. We must heed the words of Business Week, and help the middle class to share in the profits and fruits of higher productivity.

That means that we must question a boom in which Wall Street is strong, but Main Street is still weak.

It means we must challenge an economy in which the Dow Jones keeps rising through the roof, but family fortunes keep falling through the floor.

And it means that the American people have to decide which political party is willing to stand up and fight for them—and which political party is standing in their way.

Democrats believe in a substantial minimum wage increase—because you cannot support a strong economy, let alone your own family, on $8,500 a year. People ought to be paid more if they are working than if they are on welfare, and too often, we know that is not the case today.

Republicans not only oppose a minimum wage increase, House Republican Leader DICK ARMEY wants to abolish the minimum wage altogether. I ask Mr. ARMEY or those who agree with him, could you raise a family on $8,500 a year?

Democrats believe that a capital gains tax cut is not the first priority, that we need a middle-class tax cut, to build up the community of consumers who buy America's products.

Republicans not only oppose a middle-class tax cut, they want to give that tax break to the wealthiest investors, forcing deep cuts in the programs working Americans need most; school lunches for children, food stamps, Social Security, Medicare.

Democrats believes that globalization of our economy should not mean the pauperization of our middle class. It should not mean throwing our workers into roller-coaster competition with third-world workers who earn as little as a dollar a day.

And it does not have to mean that, if we change the way we do business, both home and abroad.

We need a new economic internationalism, to bring the third world into the global economy, without submerging developed nations into the third world, to lift them up, without dragging ourselves down.

We need a new economic nationalism. Not an effort to isolate ourselves, but a commitment by business, labor, and government to hard-working, middle class families here at home.

We need a commitment to the notion of ''Pay for Performance''—ensuring that productivity, quality, and creativity profit the people who are actually providing it. A powerful study by Laura Tyson and David Levine shows that if you reward workers' good results, you get even more progress. In the coming months, I will offer legislation to encourage companies to embrace such financial fairness.

Republicans, on the other hand, actually like the rampant globalization of

our economy. They do not see lower wages, lower environmental standards, and lower labor standards as a problem; they see them as the solution. We have seen the results in these past 16 years: people suffer, even as profits soar.

Business Week's findings are powerful proof of the challenge we face: raising the standard of living for working families and the middle class.

And I think it is clear that this goal could not be farther from the Republican agenda. Just read the Contract. There is not so much as a nod or wink about real jobs or opportunities.

So it is up to the Members of my party—the Democratic Party—to devise real solutions to this very real national crisis.

IMPORTANCE OF INCREASING CAPITAL FORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Madam Speaker, during my 5 minutes I would like to comment on two different areas. One is to report on the testimony before the Committee on the Budget today. Witnesses appearing before the Committee on the Budget stressed the importance of increasing capital formation in this country if we expect to increase our standard of living.

I, and we all, should be particularly concerned, because as we compare what is happening in the United States with other nations around the world, we see that the United States ranks either last or very close to the bottom in terms of the amount of savings. For every take-home dollar, our savings are very low. You compare our 5 percent savings with countries like Japan at almost 19 percent, South Korea at approximately 32 percent, we see that we have encouraged spending and consumption rather than savings that are so important to having capital available for investment.

In comparing the United States with the rest of the world, we also see that the investment in those new tools and machinery per worker is lagging in this country compared to the rest of the world, and not surprisingly, the rate of increase in our productivity is also at nearly the bottom of the list.

I bring this to my colleagues because I think we are tremendously challenged today with a problem of other countries, now that we are past the cold war, doing everything that they can do to attract capital investment. If we want to increase our standard of living in this country, we cannot just look at pretend things like increasing the minimum wage. What we have got to do is look at true improvements in our economy and the true availability of more and better jobs by encouraging businesses to buy that machinery and that equipment and those facilities that are going to increase the efficiency of those workers, increase the productivity, and ultimately increase their wages and standard of living.

THE ATTORNEY ACCOUNTABILITY ACT

I would like to briefly comment on a second area, and that relates to the passage this afternoon of H.R. 988. I was disappointed that we ended up with only attorneys being able to offer amendments in the limited time period simply because of the rules and precedents that allow the recognition of members of the committee; in this case, essentially all the committee members of the Committee on the Judiciary are attorneys.

The title of the bill that we passed this afternoon was the ''Attorney Accountability Act.'' In fact, this bill as currently written does little to make attorneys accountable. The only part of the bill that does anything to make lawyers accountable for their actions is the change in rule 11, and that change requiring a mandatory penalty for violation of the rule applies only in a small number of cases in which an attorney is actually sanctioned by a judge under rule 11 and, of course, as we heard in much of the testimony, there are very few sanctions, and even when there is a sanction, that attorney-judge has the latitude of not imposing any sanction on the attorney, but simply a sanction, a financial sanction on the client.

Madam Speaker, in conclusion, my amendment would have made an attorney liable for half of any attorney's fee award a client cannot pay. This sanction is not unduly harsh. There can be no award of fees unless: First, a settlement is offered; second, the offer is rejected; and third, the jury returns a verdict less than the offer.

In the few cases in which these conditions are met, the award is limited. First, it is capped at the amount of the offeree's expenses; second, it is limited to the actual costs incurred from the time of the offer through the end of the trial; and third, the judge has discretion to moderate or waive the penalty when it would be manifestly unjust.

These modest steps, it seems to me, should have been necessary if we truly intend to make attorneys accountable.

My amendment would have told lawyers, ''This is a court, not a lottery office. You are an officer of this court, and as an officer of this court, you have a responsibility to the court and the other litigants not to waste their time and money, and if you ignore these responsibilities, you can be held liable.''

Madam Speaker, I appreciate the opportunity to express these thoughts.

A TRIBUTE TO L.J. ''LUD'' ANDOLSEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. OBERSTAR] is recognized for 5 minutes.

Mr. OBERSTAR. Madam Speaker, earlier today it was my sad, but high personal privilege to offer a tribute to my dear friend, a great Minnesotan, and great American, the Honorable L.J. ''Lud'' Andolsek, during the Mass of Christian Burial at St. Jane de Chantal Church, Bethesda, MD. Lud served this House of Representatives for over 14 years as administrative assistant to my predecessor, the Honorable John A. Blatnik, and as chief clerk of the House Public Works Committee. It is only fitting and proper, therefore, that his contributions should be acknowledged and appreciated on the floor of this Chamber, which he loved and respected so greatly. Lud passed away last Friday, March 3.

L.J. ''LUD'' ANDOLSEK—A TRIBUTE

Regina, Kathy, Brendan, Nicholas, Kendall, Don and friends, all. We are gathered in the stark reality that death is not something that happens only in some other family, in some other place. It comes to our families, even to those whom we think indestructible . . . like Lud Andolsek.

It is natural—even necessary—to grieve that never in this life will we again see that beloved face, hear that special voice, feel that unique touch. But, we must also remember that Christ, too, wept at the tomb of Lazarus.

At the moment of death, what matters is not how long the years, but how great they were, how rich the moments, how generous the contribution to the lives of others.

Lud's were great years, as grand, as vital, as vibrant, as expansive as life itself—years lived fully, intensively, joyfully, without looking back over the shoulder, without regrets. Some second thoughts, to be sure, but regrets, never.

Meeting Lud was an unshakable, unforgettable experience. He took hold of you like a force . . . and he also took your measure.

He enjoyed putting on a gruff exterior, hanging signs behind his desk like: ''If you think work is fun, stick around and have a helluva good time''; or: ''I don't get ulcers, I give them,'' complete with ferocious art work.

Those who knew him best, though, knew there was a big marshmallow inside. I remember going home to Chisholm, visiting Grandma Oberstar, My grandmother, who, like Lud's parents, had emmigrated from Slovenia, talking about Lud, remembering him as a boyhood friend of my father and saying, ''He always had such rosy cheeks.'' I thought about telling Grandma of the thick cigar, the clouds of smoke and, at times, the ashen complexion from incredibly long hours of work and decided that I shouldn't undermine her beautiful, almost cherubic image of ''the Commish.''

Lud's life was the stuff that makes up the ''American Dream.'' Born to a family like so many others in Minnesota's Iron Range country—poor, but who didn't consider themselves poor—certainly no poverty of spirit, and rising to high public office.

He worked the hard youth of an iron ore miner's family. He was a journalist; goalie and player-coach of his college hockey team—a rarity in those days; National Youth Administration Director for Minnesota; distinguished military service; a brief career with the Veterans Administration; a long stint, through economically tough years with the late Congressman John A. Blatnik and the House Public Works Committee; and then, after decades of serving others, recognition in his own right, for his gifts and

talents: Appointment by President John F. Kennedy to the U.S. Civil Service Commission as Vice Chairman—and reappointments and service under five presidents: Kennedy, Johnson, Nixon, Ford and Carter. Then, retirement.

Not content with—and too restless for retirement, Lud went out and organized the retirees, as President of the National Association of Retired Federal Employees, adding 100,000 to their numbers and forging NARFE into a political force to be reckoned with. Then, retirement again—but always restless, probing, inquisitive, determined, setting his iron will to overcoming obstacles.

He was proud of his Slovenian heritage—loved the music, the food, the language, the people.

He loved, revered and reveled in public service—for him, the highest attainment of the human community.

In the end—as in the beginning—with Lud, what mattered most was loyalty: to friends, especially his lifelong friend, John Blatnik; to principle: to veterans preference, to the idea that government should serve the least among us, that it should do good for people.

For Lud, the highest, most enduring loyalty was to family, to Regina, whom he loved steadfastly and with devotion; to his daughter, Kathy; her husband, Don; to his grandchildren Brendan, Nicholas and Kendall; his sister, Frances, and her family. He loved . . . fiercely, protectively, and—at the last—tenderly.

Lud touched our lives indelibly. Caught up with him in life, we are bound to him in death. He has met his test and left us a rich legacy. Our test is to live our lives so that what he meant to us can never pass away.

□ 1915

REMEMBERING WORLD WAR II

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Madam Speaker, I wish I had an hour because my subject certainly is worthy of it.

Madam Speaker, 50 years ago today the House of Representatives came to a screeching halt, and so did the United States Senate. They stood in the aisles here and cheered because the United States had crossed the Rhine on the Ludendorf railroad bridge at Remagen. And in just these few minutes—I will expand my remarks later—but in just these few minutes I think again of Ronald Reagan's goodbye to his country 9 days before George Bush was sworn in as President.

In the close of President Reagan's goodbye after 8 wonderful years, he said, ''We must teach our young people about the history of our country, what those 30 seconds over Tokyo meant.'' He mentioned D-day. He mentioned Vietnamese boat people, Vietnamese rescue at sea, with a refugee yelling up to an American sailor, ''Hello, freedom man.'' He mentioned all the sacrifices that had gone before us. He told the children of America, ''If your parents are not teaching you at the kitchen table the history of your country, hit them on it.'' I think that would be a very American thing to do.

Listen to this moment in history that President Eisenhower said was absolutely stunning.

Time magazine said it was a moment for all history.

After the war, General Eisenhower was quoted:

> Broad success in war is usually foreseen by days or weeks, with the result that when it actually arrives, higher commanders and staffs have discounted it and are immersed in plans for the future. This, however, was completely unforeseen.
>
> We were across the Rhine, 600 people, by midnight. We were across the Rhine on a permanent bridge, the traditional defensive barrier to the heart of Germany, the Rhine was pierced.
>
> Finally, defeat of the enemy, which we had long calculated would be accomplished in late spring, the summer campaign of '45 was now on our minds just around the corner.

General Eisenhower's chief of staff, his alter ego, General Walter Bedell Smith, termed the Remagan Bridge worth its weight in gold. And a few days later it collapsed, killing 14 brave engineers.

Let me give the names of our great heroes. The first ones across should certainly have gotten the Medal of Honor. When the young Brigadier General Hoge said, ''Get across that bridge,'' a young sergeant and a young lieutenant did not pause or say, ''But, sir, every sniper on the east side of that river is going to have my heart or my forehead in his gunsights.'' They just obeyed.

The first man across was a sergeant, the backbone of the military, Sergeant Alex Drabik of Holland, a suburb of Toledo, Ohio. He was a squad leader in the 3d platoon.

Madam Speaker, I yield to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. I say to the gentleman that Drabik was a very distinguished resident of my district for many years until his death about a year ago. We were very proud of his service. He was the first U.S. soldier across the Rhine.

Mr. DORNAN. I wish he was here. If I were running this place, I would have him address a joint session of Congress. That is what this man did to save tens of thousands of Germans who did not vote for Hitler who were being wiped out. All the people in the concentration camps that lived because the war ended 3 months earlier and had stopped them from starving to death and all of the untold GI's and the Navy and Army Air Corps and Marines and everybody that died.

By the way, today we were only day 17 of 36 days on Iowa Jima. The Navy shelling stopped today. The Marines were still pressing on to lose almost 6,000 people and 800 others killed in action.

Here is Drabik. He was with the 27th Armored Infantry.

The second man across was an officer, 2d lieutenant, and get this German-American name, Karl Timmermann, of West Point, not New York with the academy, but Nebraska, company commander as a 2d lieutenant, company CO, 27th Infantry Battalion, first officer over the bridge.

Sergeant Joe DeLisio, of Bronx, NY, platoon leader of the 3d platoon, Company A. He cleaned out a machine gun nest that was set on the bridge.

First Lieutenant Hugh Mott, Nashville, TN, platoon leader in Company B. I do not have time to go through them all: Doorland, Reynolds, Soumas, Windsor, Goodson, Grimball; Michael Chinchar, of Saddle River Township, NJ; Joe Petrencsik, of Cleveland; Anthony Samele, of Bronx, NY. I will put the story of this day the bridge over Remagan and what the final German commander said who was trying to blow up the bridge when he came back to see it months later. Every one of those men were the bravest and should have gotten the Medal of Honor. They all did get the Distinguished Service Cross.

(The document referred to is as follows:)

A DICTIONARY OF BATTLES

(By David Eggenberger)

Rhineland (World War II), 1945. Before the last of the German attackers had been driven out of the Ardennes bulge, the Allies had resumed their offensive against the Siegfried Line. Progress was so slow, however, that the large-scale effort became necessary to effect a breakthrough to the Rhine Valley.

On February 8 the Canadian First Army (Henry Crerar) launched Operation Veritable, a major attack southeast from Nijmegen, Holland, between the Meuse and the Rhine. The latter was reached on February 14. A converging thrust by the U.S. Ninth Army (William Simpson), called Operation Grenade, crossed the Roer River on February 23. The two advances linked up at Geldern, Germany, on March 3. Two days later the Allies had pressed to the Rhine from opposite Düsseldorf northward, leaving only a small German bridgehead at Xanten-Wesel. The Canadians eliminated this pocket on March 10. Meanwhile, to the south, the left wing of the U.S. First Army (Courtney Hodges) attacked toward Cologne on February 23 to cover the Ninth Army's right flank. This offensive swept across the Rhine plain, while the U.S. Third Army of Gen. George Patton punched its way through the Siegfried Line north of the Mosselle River.

On the central front the rest of the First Army and the Third Army, both under the group command of Gen. Omar Bradley, launched a broad attack on March 5 toward the middle Rhine (Operation Lumberjack). By March 10 the Americans had closed to the river from Coblenz northward through Bonn and Cologne (which fell March 7), to link up with the Canadians at Wesel.

The rapid advance to the Rhine yielded a surprising and rich dividend. On March 7 the U.S. 9th Armored Division discovered the railroad bridge and Remagen still standing. (It was the only Rhine bridge not demolished by the Germans.) In a daring gamble, leading elements dashed across the Rhine and seized a bridgehead on the east bank. Gen. Dwight Eisenhower, supreme Allied commander in Europe, ordered the new breakthrough hurriedly reinforced. Despite German counterattacks and determined efforts to wreck the bridge, Hodges rushed three corps (three, five, seven) across the river by bridge, pontoon, and ferry. By March 21 the bridgehead had grown to 20 miles long and 8 miles deep. (The Remagen success caused the Allies to shift the main axis of their attack from Field Marshal Sir Bernard Montgomery's

northern group of armies to Bradley's central force.)

During the Remagen bridgehead build-up, the U.S. general Jacob Devers' Sixth Army Group launched its own advance to the Rhine (Operation Undertone). It took the form of a huge pincers movement against SS Gen. Paul Hausser's Seventh and First German armies. On March 15 the right wing of Patton's Third Army attacked south across the Moselle River into the Saar. Two days later Gen. Alexander Patch's U.S. Seventh Army began hammering through the Siegfried Line, headed northeast. By March 21 the joint U.S. offensive had crushed all German opposition west of the Rhine except for a shrinking foothold around Landau. Then on March 22 Patton's 5th Infantry Division wheeled from south to east and plunged across the Rhine at Oppenheim. Encouraged by light opposition in this area, the eight Corps bridged the river at Boppard, 40 miles to the north, on March 24. Germany's last natural defensive barrier had now been breached in three places on Bradley's front.

The Rhineland battle inflicted a major defeat on three Nazi army groups—Johannes Blaskowitz in the north, Walther Model in the center, Paul Hausser in the south. Some 60,000 Germans were killed or wounded and almost 250,000 captured. This heavy toll, plus the loss of much heavy equipment, ruined the Nazi chances of holding the Allied armies at the Rhine. Americans killed in action totaled 6,570; British and Canadian deaths were markedly fewer.

THE BRIDGE AT REMAGEN—THE AMAZING STORY OF MARCH 7, 1945—THE DAY THE RHINE RIVER WAS CROSSED

(By Ken Hechler)

THE SIGNIFICANCE OF REMAGEN BRIDGE

For almost three weeks after the capture of the Remagen Bridge, American troops fought bitterly in the woods and gullies of the Westerwald. They inched forward, expanding the bridgehead hour by hour, pushing laboriously to the east, to the north and to the south. Not until March 16, when American forces reached the Bonn-Limburg autobahn, seven miles east of the Rhine, did they have the maneuver space in which to fan out. For the infantry and tankmen who slugged it out in the bridgehead, for the military police and anti-aircraft men who were strafed at the Rhine crossings by attacking planes, and for the engineers who struggled in the face of air and artillery fire to build pontoon and treadway bridges over the river, capture of the Remagen Bridge seemed to stiffen rather than weaken enemy resistance. To many of these men, it did not seem that crossing the bridge had accomplished much.

The capture of the Ludendorff Bridge materially hastened the ending of the war. It was an electrifying development at the moment, but it was followed a few weeks later by General Patton's sneak crossing of the Rhine south of Remagen at Oppenheim, and then by Field Marshal Montgomery's grand assault across the river south of Arnhem after extensive preparations and blasts on the trumpet.

One of Karl Timmermann's fellow townsmen from West Point, Nebraska, rumbled across a Rhine pontoon bridge with gasoline and supplies, several weeks after Timmermann's exploit. He commented that the Rhine seemed little wider than the Elkhorn back home and certainly not as wide as the Missouri River. He confidently told his friends that to cross a bridge like that was small potatoes. For years afterward, he spoke up in West Point American Legion meetings, in all the local bars, and at the corner drugstore, disparaging what Timmermann had done at Remagen.

The Germans had a far different reaction. In his conference with Field Marshal Kesselring two days after the capture of the Ludendorff Bridge, Hitler told him bluntly that the really vulnerable spot on the western front was Remagen, and that it was urgent to ''restore'' the situation there. Hitler took a personal hand in hurrying all available troops to reduce the Remagen bridgehead. The 11th Panzer Division wheeled southward from the Ruhr. The Panzer Lear and 9th Panzer divisions followed, swallowing many gallons of precious, high-priority gasoline. Many other divisions and scraps of divisions joined in the frantic German fight to contain the bridgehead.

Field Marshall Model's Chief of Staff, Major General Carl Wagener, summed up the German view as follows: ''The Remagen affair caused a great stir in the German Supreme Command. Remagen should have been considered a basis for termination of the war. Remagen created a dangerous and unpleasant abscess within the last German defenses, and it provided an ideal springboard for the coming offensive east of the Rhine. The Remagen bridgehead made the other crossing of the Rhine a much easier task for the enemy. Furthermore, it tired German forces which should have been resting to withstand the next major assault.''

The Remagen bridgehead was vital in helping to form the southern and eastern pincers for the Allied troops that surrounded and trapped 300,000 German soldiers in the Ruhr.

As sorely needed German troops were thrown against the Remagen bridgehead, the resulting disorganization and weakening of defenses made it much easier for other American Rhine crossings to be made to the north and south of Remagen. Just as the loss of the bridge was a blow to German morale, so did it provide a strong boost to American and Allied morale. Not only did it make the end of the war seem close at hand, but it also emboldened the combat troops when they were confronted with chances to exploit opportunities. It underlined the fact that the German army's soft spots could be found through aggressive attacks, thereby spurring American forces to apply greater pressure.

After the war, General Eisenhower had this to say about the significance of the seizure of Remagen Bridge: ''Broad success in war is usually foreseen by days or weeks, with the result that when it actually arrives higher commanders and staffs have discounted it and are immersed in plans for the future. This was completely unforeseen. We were across the Rhine, on a permanent bridge; the traditional defensive barrier to the heart of Germany was pierced. The final defeat of the enemy, which we had long calculated would be accomplished in the spring and summer campaigning of 1945, was suddenly now, in our minds, just around the corner.'' General Eisenhower's Chief of Staff, Lieutenant General Walter Bedell Smith, termed the Remagen Bridge ''worth its weight in gold.''

President Franklin D. Roosevelt, with only six weeks to live, shared the elation of the field commanders over the significance of Remagen. The victorious Army Chief of Staff, General George C. Marshall, had this appraisal to make: ''The prompt seizure and exploitation of the crossing demonstrated American initiative and adaptability at its best, from the daring action of platoon leader to the Army commander who quickly directed all his moving columns. * * * The bridgehead provided a serious threat to the heart of Germany, a diversion of incalculable value. It became a springboard for the final offensive to come.''

War correspondents on the scene added their eyewitness accounts on the significance of seeing American troops on the east bank of the Rhine. The Associated Press cabled on March 8: ''The swift, sensational crossing was the biggest military triumph since the Normandy landings, and was a battle feat without parallel since Napoleon's conquering legions crossed the Rhine early in the last century.'' Hal Boyle wrote from the front that ''with the exception of the great tank battle at El Alamein, probably no tank engagement in World War II will be remembered longer than the dashing coup which first put the American army across the Rhine at Remagen.'' He added that the crossing of the Rhine by the men ''who knew there was strong likelihood the dynamite-laden bridge would blow up under them at any moment has saved the American nation 5,000 dead and 10,000 wounded.

''It was a moment for history,'' stated Tine magazine.

The nation expressed its gratitude to the heroes of Remagen in numerous ways. Both the United States Senate and the House of representatives interrupted their deliberation to cheer the news. In the House, a spirited debate took place as to which state could claim the first man to cross. Congress Brooks Hays of Arkansas declared philosophically: ''I am sure there will be glory enough for all.''

All around the country, local civic and patriotic organizations honored the men who had wrought the miracle of Remagen. The feeling toward the Remagen heroes was perhaps best expressed in an editorial in the March 10, 1945, New York Sun, which concluded with these words: ''Great shifts in history often do hang upon the developments of minutes. Americans know, and the enemy has learned, that given the least opportunity, American soldiers are quick to seize any break and exploit it to the fullest. The men who in the face of scattered fire and the great threat of the bridge blowing up under them, raced across and cut the wires have materially shortened a struggle in which every minute means lost lives. To all who utilized that ten minutes so advantageously goes the deepest gratitude this country can bestow.''

Captain Karl Friesenhahn, the little German engineer who was in charge of the engineer company at Remagen in 1945, returned to Remagen in 1954. I saw him gaze over the ruins of the bridge and he quietly asked what awards the American Army had give to Lieutenant Karl Timmermann, Sergeant Drabik, Lieutenant Mott and the other first Americans who crossed. When I told him that they had received Distinguished Service Crosses, Captain Friesenhahn replied with some feeling:

''They deserved them—and then some. They saw us trying to blow that bridge and by all odds it should have blown up while they were crossing it. In my mind they were the greatest heroes in the whole war.''

INDIVIDUAL AWARDS

DISTINGUISHED SERVICE CROSS

The Distinguished Service Cross is the highest award which is conferred only on members of the U.S. Army. It is second only to the Medal of Honor, which is also awarded to members of other branches of the service. The following officers and men of the 9th Armored Division were awarded Distinguished Service Crosses for their heroism at Remagen:

Sergeant Alex A. Drabik of Holland (Toledo), Ohio, squad leader of 3d platoon, Company A, 27th Armored Infantry Battalion. First man over the bridge.

Second Lieutenant Karl H. Timmermann of West Point, Nebraska, company commander of Company A, 27th Armored Infantry Battalion. First officer over the bridge.

Sergeant Joseph DeLisio of Bronx, New York, platoon leader of 3d platoon, Company

A, 27th Armored Infantry Battalion. Cleaned out machine gun nest on bridge.

First Lieutenant Hugh B. Mott of Nashville, Tennessee, platoon leader in Company B, 9th Armored Engineer Battalion. Led engineers who ripped out demolition wires and cleared the bridge of explosives.

Sergeant Eugene Dorland of Manhattan, Kansas, Company B, 9th Armored Engineer Battalion. One of engineers who helped clear the bridge of explosives.

Sergeant John A. Reynolds of Lincolnton, North Carolina, Company B, 9th Armored Engineer Battalion. One of engineers who helped clear the bridge of explosives.

Captain George P. Soumas of Perry, Iowa, company commander of Company A, 14th Tank Battalion, the first tank company to cross the bridge.

First Lieutenant C. Windsor Miller of Silver Spring, Md., platoon leader in Company A, 14th Tank Battalion, the first tank platoon to cross the bridge.

Sergeant William J. Goodson of Pendleton, Indiana, Company A, 14th Tank Battalion. Tank commander of the first tank which crossed Remagen Bridge.

1st Lieutenant John Grimball of Columbia, South Carolina, platoon leader in Company A, 14th Tank Battalion. Head of first tank platoon to reach the bridge.

Sergeant Michael Chinchar of Saddle River Township, New Jersey, platoon leader of 1st platoon, Company A, 27th Armored Infantry Battalion. One of first group of infantrymen across the bridge.

Sergeant Joseph S. Petrencsik of Cleveland, Ohio, assistant squad leader in 3d platoon, Company A, 27th Armored Infantry Battalion. One of first group of infantrymen across the bridge.

Sergeant Anthony Samele of Bronx, New York, squad leader in 1st platoon, Company A, 27th Armored Infantry Battalion. Third man across the bridge.

The following is a sample of the citation for the Distinguished Service Cross:

NOT WITH MY VOTE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Madam Speaker, in just a couple of weeks we are going to start debate on one of the cornerstones of the Republican Contract on America. That cornerstone, the tax cut of $200 billion over 5 years.

Never mind that the deficit is already $200 billion per year, put aside that the tax cuts add to the deficit, never mind that these tax cuts make balancing the budget harder, and never mind that not a responsible economist agrees that cutting taxes is the right way to start on reducing the deficit and balancing the budget.

But putting those things aside, let us examine the proposal. First of all, on this chart we can see who gets the tax benefits from the tax reductions being proposed. If you would look at the first 2 columns down on the left-hand side, less than 20 percent of the tax reduction is given to some 71 million American families that are almost two-thirds of all the American families.

In the upper side there you find 50 percent of the tax reductions to less than 10 percent of the families, whose income is now over $100,000 per year.

Well, if that graph is a little difficult to grasp quickly, look at the second one. Under this graph, in the same categories of income what this shows is that the Republican tax cut will provide $5,000 to the average family, who presently make more than $200,000 per year. That would be $12 billion of tax cuts each year.

Down at the other end of the scale there are 49 million families that, together, get $57 on average per family per year. That is about $1 per week per family.

Now, the Republicans claim that they are not going to make the deficit larger. So, we will be debating the $17 billion rescission bill next week. Under NEWT GINGRICH'S Contract on America, spending cuts which hurt children and elders and make it harder for youth and teenagers to get the education and skills and training so that they can get jobs, those spending cuts will be used to give tax breaks to the wealthiest of Americans.

In NEWT GINGRICH's America, Republicans are going to cut infant mortality prevention, prenatal, children's foster care, safe and drug-free schools for children and education for disadvantaged children and domestic violence prevention and shelters for homeless families. But they will do it without my vote.

In NEWT GINGRICH's America, these Republicans will cut vocational and technological education and Americorps, the National community service corps, school drop-out prevention, and college scholarships, summer jobs for teenagers who are at risk of dropping out of school, and school-to-work job training. But, again, they will do that without my vote.

In NEWT GINGRICH's America, the Republican extremists will cut rental assistance to low-income families and public housing maintenance and safety and home heating assistance for 6 million families, every one of whom, every one of whom falls in that category of people with incomes under $30,000 a year. But, again, they will do it without my vote.

In NEWT GINGRICH's America, at least $12 billion in tax cuts are going to be transferred, $12 billion of wealth, will be transferred from people down in this area who now have under $30,000 of income per year, and it will be transferred into tax cuts for the wealthiest 2 percent of Americans, giving them $5,000 a year, on average, in tax cuts.

At least $12 billion in services, in the services that I have mentioned, will be cut from these 48 million families down there at the lower end of the scale, who have under $30,000 of income per year. That is over $250, on average, per family that is going to be cut.

Madam Speaker, if people who are watching have not already guessed it, and probably many of them have, every Member of Congress, every Senator, every Member of the House falls in the upper categories on this graph, and not one Member of Congress will lose a penny of the $12 billion taken away from those 48 million families whose income is below $30,000 per year.

□ 1930

The SPEAKER pro tempore (Mrs. VUCANOVICH). Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

FORT MCCLELLAN AND ANNISTON ARMY DEPOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BROWDER] is recognized for 5 minutes.

Mr. BROWDER. Madam Speaker, a few nights ago I spoke on this floor, and I said that the Secretary of Defense's recommendation to close Fort McClellan, AL, was a mistake with significant and dangerous consequences. To be specific tonight, Madam Speaker, I would like to talk about the mistake of this recommendation that breaks faith with hundreds of thousands of civilians in Alabama who live around a dangerous chemical stockpile which is slated to be destroyed by the United States as part of an agreement with Russia.

Let me tell my colleagues something about this stockpile. This chemical stockpile stored in this same community with Fort McClellan, has poisons such as sarin and VX. A small drop of sarin on a man's skin can be fatal. VX is several times more lethal than sarin, and a small drop of the liquid evenly distributed can kill many people. Among the weapons stored at the Anniston Army Depot, each M–23 land mine contains 10½ pounds of VX. Each 155 millimeter artillery projectile can hold either 6 pounds of VX or 6½ pounds of sarin. Each of the 78,000 M55 115-millimeter rockets; that is 78,000 of those, contains either 10 pounds of VX or 10.7 pounds of sarin. That is a pretty dangerous mixture.

That is why one newspaper had this headline, Madam Speaker, that said, ''Army, An Army Study Leaking Nerve Rockets, Could Explode on Their Own.'' That is why another newspaper headline said, ''Living with Chemical Weapons. Best Hope If There's an Accident: Run for Your Life.''

The Army knew this in 1990 when it filed a permit request with the Alabama Department of Environmental Management called Resource Conservation and Recovery Act hazardous waste permit application for the Department of the Army, Anniston Army Depot chemical stockpile disposal system. This is in 1990. This is all of the contingency plans they have if there is an accident in this place.

Fort McClellan chemical response plan says,

This plan establishes a required organization, responsibilities and procedures in the event of an accident or incident at Anniston Army Depot. The purpose of this plan is to establish procedures and actions to be employed by Fort McClellan reaction teams in support of a chemical accident or incident occurring on the Anniston Army Depot and which is or will become a potential hazard to the depot and surrounding community.

Madam Speaker, several hundred thousand people are in that surrounding community of Anniston Army Depot, and Fort McClellan's resources have been committed by that permit request in case we have a problem there.

I had a meeting last year, almost a year ago, with Deputy Secretary of Defense John Deutsch. I would like to read a letter he wrote to me in August. He said:

DEAR MR. BROWDER: In our meeting on June 16, 1994, you and I discussed Department of Defense policy and intentions on several matters related to the Chemical Demilitarization Project scheduled for Anniston Army Depot. You requested that I provide assurances on these matters, and I am pleased to respond to this request. As you know, the Department is eager to conduct its business in a manner that is open and meets community concerns to the maximum extent possible. The ''safeguard'' assurances you request serve this purpose and therefore deserve the positive responses provided below.

Please rest assured that we share your concern for safe and environmentally sound destruction of chemical weapons at Anniston. Specifically . . .

Madam Speaker, under the heading of Fort McClellan Support Resources:

By separate correspondence I'm asking the Secretary of the Army to work closely with Alabama Department of Environmental Management to respond to the State requirement and to be fully responsible to their concerns.

He closed:

I assure you that the Department of Defense will continue to insure that the destruction of our chemical weapons stockpile is accomplished in full cognizance of the ongoing need to protect our people and our environment.

Then the Undersecretary of Defense that same month issued its memorandum for the Secretary of the Army. Subject: Chemical Weapons Demilitarization Facility at Anniston Army Depot:

Efforts are ongoing to ensure the successful start of chemical weapons demilitarization operations at Anniston Army Depot. In order to gain the requisite support for these operations, we must ensure the application of certain safeguards which will satisfy local concerns and enhance the safety of the demilitarization process.

Madam Speaker, this lists all the requirements, the decontamination team, the medical assistance team, says we need to be fully responsive to the Alabama Department of Environmental Management, and we must commit appropriate military resources such as the following which have been identified at the current location to support the demilitarization effort.

Madam Speaker, for 40 years the Army has dumped these dangerous chemicals on Alabama. They pledged Fort McClellan as our rescue squad. Now they want to close down the rescue squad and strike a match to that pile of dangerous chemicals. I will not allow that to happen. I will do everything I can to stop that from happening unless this dangerous mistake is reversed.

BY SLOWING GROWTH IN SPENDING FROM 7.6 TO 3 PERCENT WE CAN BALANCE THE BUDGET BY 2002

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Madam Speaker, I would like to talk for just a few minutes about the rate of increase that we have seen in Federal spending and what some of us would like to do to stop that from happening.

Last summer House Republicans held a series of meetings and decided that someone had to step up to the plate and do something about this very serious fiscal problem. Without question, Madam Speaker, one of the most important issues we face today is our soaring national debt. I think both parties agree with that. Today it has reached epidemic proportions in that we have a national debt of almost $5 trillion, $4.8 trillion to be more exact.

Think about the magnitude of it. We are not talking about millions or billions that we throw around here daily. We are talking about trillions, almost $5 trillion.

I realize that it is difficult for most people to think in terms of trillions. it is for me. But look at it this way. Five trillion is a 5 with 12 zeroes behind it.

Or look at it in terms of what $5 trillion means if we divide it equally among the American citizens. In those terms $5 trillion means $18,000 for every man, woman and child in the United States, and, unless we deal with this problem now, by the turn of the century the United States will spend more on interest on the national debt than we spend on the defense of our country.

That is why Republicans, and I might say some Members of both parties, are offering a fresh approach.

If we simply slow the growth in spending from what it has averaged over the last 10 years, 7.6 percent; that is right, 7.6 percent every year increase over the last 10 years, if we slow it to about 3 percent, we can balance the budget by the year 2002. Programs that have been growing by leaps and bounds must be reined in.

Now if we are being honest with ourselves and with the American people, we and our critics must make it clear that the Republicans are simply limiting the rate of growth in a broad variety of programs.

I say to my colleagues, Yes, if you were told otherwise, you're not being told the truth. For example, Republicans want to reduce the rate of increase in the school lunch program. This year we're spending about $4.5 billion on this program, and we're proposing a spending level of $4.7 billion for fiscal year 1996. Now if that sounds to you like an increase, you have got it right.

My colleagues, only in Washington can an increase of $200 million be considered a cut, and that is what our opponents are claiming.

Let us look next at the Child Nutrition Program. We are currently spending at a level of $3.47 billion.

The American people need to know that Republicans want to slow the rate of growth in this program by proposing a 1996 spending level of $3.68 billion, another $200 million increase. It is an increase over present levels, but it is not the astronomical rate of increase that some of our colleagues on the other side of the aisle want.

What I am saying is that we are not decimating or gutting these programs. We are slowing the rate of growth for them from an average of 7.6 percent to about 3 percent.

Let us look at one more program. Let us go to veterans benefits as a final example where in 1995 we spent about $17.73 billion. The spending level for veterans benefits under our Republican program for 1996 is $17.78 billion, another increase this time of $50 million, but a reduction in the rate of growth. By doing this we are doing something different to bring spending under control. We are doing something different because we recognize that there are limits to taxes Americans should be expected to pay, and there are limits to the debt we should create.

We need to get real. We need to be straight with the American people, particularly with those who are the beneficiaries of the worthy programs that we are talking about.

Join with us in bringing about a realistic, long range spending plan that will provide the level of benefits needed but will not bankrupt our children and our grandchildren.

REPUBLICAN PARTY, A PARTY OF CONTRADICTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. WYNN] is recognized for 5 minutes.

Mr. WYNN. Madam Speaker, now that the first 50 days are past, I think we are beginning to see the true colors of the Republican Party. Once again they are playing Robin Hood in reverse, taking from the poor to give to the rich. When I thought about some of the things that have occurred over the last couple of weeks, it appeared to me that what we have is a party of contradictions. This is a group that said, What we are is pro-life. We believe in

the sanctity of life. And I am not trying to reopen that debate, but I did find it interesting that, when they started cutting, they went after the Healthy Start Program and cut $10 million from programs that provided prenatal care.

Madam Speaker, I wonder how, on the one hand, people can say they are pro-life, but take away funds that help expectant mothers take care of newborns. They took $25 million from the Women, Infants, and Children's Program, another program designed to help expectant mothers and toddlers obtain the kind of nutrition that they need to survive. It seems to me to be a strange contradiction.

Next they said, Well, you know, we're the party that believes in work. Well, that is what the Republicans say. But the first thing they did was go after programs that move children, young people, from school to work. They cut a total of $3 billion, including 600,000 positions in summer jobs.

□ 1945

Now we can talk all we want about how we can fight crime and we can talk all we want about people need to pull themselves up by the bootstraps and get out of the wagon and help everybody else pull, but when you take money out of the Summer Jobs Program, it seems to me you are party in contradiction. Then they said, Oh, yes, sir, we support the elderly. We asked them about protecting Social Security; they said, Oh, yes, we will do it. We won't touch Social Security. We said, If you won't touch Social Security, put it in the bill. They would not do it.

I think the contradiction is clear, but we go on and find that in the area of fuel assistance for the elderly the Republicans decided they would cut out the entire program. Two million elderly are engaged in the Fuel Assistance Program. That program is eliminated.

Then, you know, they are also the party that is big on patriotism and they always want to talk about a drop of American blood, but that is also the crowd that cut 50 million from medical equipment and facilities from the veterans program, even at a time when we are expecting an increase in the veterans population.

Now I just heard one of my distinguished colleagues say, Well, you don't understand. What we are doing is, we are not cutting these programs, we are slowing the growth. I am going to tell you in a minute what they are going to do with the funds that they claim that they are saving. But before I get to that, I want to talk about the School Lunch Program. Because once again they are robbing the poor to give to the rich.

Tomorrow morning I am going to have breakfast with young students at Bladensburg Elementary and next week I am going to have lunch with some more students at Green Valley Elementary School, and the reason I am going is to see what is going on. At Green Valley, for example, 61 percent of the students are in the free or reduced lunch program. And the teachers will tell you that this may be the only meal that these young people get.

So it seems to me that if the Republicans were really serious about giving people a chance in life, they would not be taking money out of the School Lunch Program.

Now, let's get back to economics. They say, Well, we are just slowing the growth of these programs; we are actually putting in more. What you find, ladies and gentlemen, is that when the Republicans are talking about defense spending, they alway talk about funds adjusted for inflation. But when they talk about social spending, they talk about raw numbers, which means that the numbers essentially stay the same while inflation eats away at the purchasing power. So consequently, those programs that they claim they are increasing are scheduled to fail and cannot in fact keep pace with the cost of providing these services, cannot keep pace with the cost of food and other products to make these programs viable.

Now, I suppose some would say, You don't understand, Congressman, we have to make these cuts to reduce the deficits. If it were going for the deficit, that would be one thing, but they are giving it to the rich. The cuts that I described are not going for the deficit. In fact, they are going to provide tax cuts for the wealthy. Thirty percent of the tax cuts that come out of the programs that I just described will go to the richest 2 percent of Americans in this country. Thirty percent of the tax benefit to the richest 2 percent of Americans. And a full 50 percent of the tax breaks won't go to the average American citizen that the Speaker likes to talk about. The 50 percent goes to the people who make over $100,000.

So, ladies and gentlemen, it seems to me that we are in a grave state of contradiction in that instead of assisting the poor and instead of helping them move out of poverty, we are taking resources from them.

And they say, Well, we are just giving it to the States so the States can do it better at less cost and we are just cutting bureaucratic costs.

Ladies and gentlemen, you have to have bureaucracy at the State level, so they are substituting State bureaucrats for Federal bureaucrats. The cost savings are not going to be there.

The other issue is this: If the States were inclined to do these programs, if the States were inclined to have fuel assistance and breakfast programs and lunch programs, why didn't the States do it? It was not done until the Federal Government stepped in and said giving people a healthy start in life is a national priority and it doesn't matter if they live in Oklahoma or Alaska, we want to make sure that you get these benefits.

So you see, Madam Speaker, in the final analysis we have a contradiction. We are not helping the poor, we are only helping the rich at the expense of the poor.

WE WILL BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Madam Speaker, over the last 30 years the Federal Government has only balanced its budget one time: in 1969. One balanced budget in 30 years.

Madam Speaker, time and time again Congress has provided unwilling and unable to balance the budget. Time and time again, statutory scheme after statutory scheme has failed. That is why, Madam Speaker, we need the legal forces and the moral authority of a constitutional amendment. Unless we act now, the deficit is projected to be more than $200 billion each and every year through the end of the century. This year alone more than 15 cents of every dollar in the Federal budget goes to pay interest on the Federal debt of $4.8 trillion.

Madam Speaker, we are spending over $235 billion this year alone to pay the interest on the debt. This insane deficit spending must stop now. It doesn't take a rocket scientist to figure out we are headed for financial disaster unless we balance the budget now.

Now, some politicians in this body are trying to scare people by playing fast and loose with the facts. They are claiming a budget amendment would require $1 trillion in budget cuts by the year 2002. What these politicians don't tell you is that the Federal Government is currently projected to increase spending each year until then on the average of 5.4 percent per year. That is a $3 trillion increase in Federal spending over the next 7 years.

Only in Washington, Madam Speaker, can a smaller increase in spending be called a cut. The budget can be balanced by simply holding the spending increase to 3 percent, to an average of 3 percent per year. In other words, if we increase spending 3 percent per year until 2002, we will have a balanced budget. Or put another way, if we halted the incrase to 2 trillion instead of 3 trillion over the next 7 years, we will balance the budget.

It is high time the Federal Government lived within its means the way every family in my district in Minnesota must, the way every family in America must. We simply can't keep mortgaging our children's and grandchildren's futures. We can't keep promising more than we know we can deliver.

What is really mean-spirited, Madam Speaker, is to continue to promise people more than we can deliver, to promise, promise, promise to spend more than we bring in. That is why, Madam Speaker, we need the balanced budget amendment and the discipline that that provides. It is the only way to

truly achieve a smaller government, lower taxes and more money in the taxpayers' pockets. It is also the only way to avoid an economic earthquake in America.

With the unfortunate defeat of the balanced budget amendment in the other body, it is more imperative than ever that this body now exercise fiscal discipline. That is exactly what the new House majority will deliver.

And, Madam Speaker, I admit it won't be easy. The President unfortunately has abdicated its responsibility, hasn't given us anything near a balanced budget.

We know the American people are behind us. They understand what is at stake. They are smarter than many politicians give them credit. And working together, we will get the job done. Working together with the American people, we will balance the budget.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. BISHOP] is recognized for 5 minutes.

[Mr. BISHOP addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

[Mr. WELDON of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TIME TO GET SERIOUS ABOUT TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Madam Speaker, the gentleman who proceeded me talked about a looming crisis, and I am in agreement with him regarding the implications of our continuing deficit and mounting debt, but there is a more immediate economic crisis confronting this country and we are hearing little of it, little discussion of it here on the floor of the House of Representatives or in the other body or downtown at the White House.

Why might that be? Because too many people are implicated in the policies that led up to that crisis and they don't want to talk about it.

The dollar today for the third day in a row hit a postwar low. Here is what the dollar's decline looks like over the last 10 years. The dollar has fallen to just about a third of its value compared to the Japanese yen in a mere 10 years.

A few days ago, we announced that we had the largest trade deficit in the history of the United States: $160 billion. We borrow $160 billion from foreign nations so that we could buy their goods when they were not buying ours. And when Mickey Kantor, or the Special Trade Representative, was discussing this he said, You might ask if your trade policy is working, and he said, Yes, it is right on track. A $160 billion trade deficit, 3.2 million lost jobs in manufacturing to overseas competition, and it is working just fine?

That underlies to a tremendous extent this crash in the dollar. And the other part is our linkage to Mexico. The peso has reached a new low today, and despite our promise of a $50 billion bailout, Mexico is in a tailspin like you would not believe.

About a month ago an analyst, a financial analyst named Christopher Whalen sat in my office and he said, If the United States is going to put up $40 billion to bail out Mexico, they better be willing to put up $150 to bail out Mexico because it will trigger a run on the United States dollar. And that has come to pass.

The people downtown and the apologists on that side of the aisle for these trade policies and for the Mexico bailout, and the Speaker who would not lift a hand and would not allow us to bring a bill to the floor to stop the Mexico bailout, those people have nothing to say. They would say there is no linkage.

Read today's New York Times. The administration's biggest problem may be that the world is believing the rhetoric it employed to win support for its $20 billion aid package for Mexico's troubled economy. Especially Mr. Clinton's insistence that the Mexican and American economies are intertwined. Today with the Mexican Government racing to take over failing banks, stabilize a tumultuous political situation, the peso dropped to a new low. And despite the bailout, the peso is now weaker than it was when we announced the $50 billion package.

The speculation in the markets is now that the package may not be enough to do the job. $50 billion to export jobs to Mexico to run a $12 billion trade deficit with Mexico next year and it is not enough? How much is enough for these apologists, for a failed trade policy? Some people are going to have to admit that they were wrong.

NAFTA is not working the way they told us it would. It has put the United States into an international tailspin. We have linked ourselves to a collapsing Third World economy and there is no end in sight.

And what are we doing on the floor of the House of Representatives? Are we considering legislation that would address this? Are there emergency hearings going on here in the Congress to deal with the crashing dollar and our alliance with Mexico and the $50 billion trade bailout? No, in fact, ironically today and tomorrow on the floor of the House we are considering special legislation to give special privileges to poor beleaguered Wall Street stockholders who have lost their money or people who have lost their pension funds.

We are giving Wall Street a special little gift. They have done such a great job in leading us into these trade policies and forcing us into these trade policies. Not me—I didn't vote for it—but forcing others who felt they must follow the lead of Wall Street. Those people are now being given special privileges by the House of Representatives so they will be immune from stockholder lawsuits and they will be immune from forgetting to tell you something. That is their reward.

It is time to get serious about trade and turn these issues and say no to Wall Street and get America back on track.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. FRANKS] is recognized for 5 minutes.

[Mr. FRANKS of Connecticut addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

A MAJOR ECONOMIC CRISIS IS BREWING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Madam Speaker, I wish to associate myself with the remarks of the prior speaker. There is no question that the value of our Nation's currency on international markets is a measure of our Nation's economic strength and economic health. And over the past few days and weeks, our dollar has hit historic lows against currencies of all the nations that we trade with. In fact, it is at the lowest level, our dollar's value, since World War II. That is a longer time than many people in this Chamber have been alive. so it has not been at this point for decades.

The dollar's exchange value stands at a scant 92.8 yen to the dollar. I can remember when it was 240 yen to the dollar and 1.4 German marks against the dollar. In other words, the dollar is not looking so good to the rest of the world. It is losing its value. It is looking cheap.

Little that our Treasury Department or Federal Reserve have been able to do over the last few days to give the dollar a boost has worked. In fact, they put over $2 billion into buying currencies around the world over the weekend and it did not do any good. Did not do any good, had no impact on stopping the dollar's further decline.

□ 2000

Now, what does this really mean to families in our Nation? It means that our money, our people's money, cannot buy as much, not just here at home, but abroad. It means that interest rates in our country rose seven times over the last 12 months, even though most people were going, well, why are interest rates going up? There is really

no inflation. What is happening here? Banks are raking in good money off of our people, and though there is no inflation on the horizon, we see that our Nation is raising interest rates to attract money from other places because our money is not worth as much.

In fact, we are now, the United States of America, the largest debtor nation in the world, and through NAFTA, we linked ourselves to Mexico and Canada, and North America is now the largest debtor continent on the face of the planet.

And the markets know it. For 15 years our country has been importing vast amounts of merchandise, more than we exported. In fact, last year, 1994, we had the largest merchandise trade deficit in the history of our country; as Congressman DEFAZIO referenced, over $166 billion more of goods coming in here than we sent out.

In effect, what we have, we have a decapitalization of the United States of America; production that used to be done here is being done somewhere else. We are importing all this stuff and then we have to pay for it with borrowed money. Doesn't sound like a very smart policy to me.

Last year, our deficit with Japan went up even more, to over $65 billion. Our deficit with China went up to nearly $30 billion, and the former surplus that we had had before NAFTA with Mexico dried up and went into the negative numbers in October and November of last year, and with the incredible devaluation of the peso, it is estimated that this year of 1995, the United States will yield nearly $15 billion more of trade deficit in the red with Mexico.

In other words, Mexico will be sending more goods to this country than we will be sending down there. That is not how NAFTA was supposed to work. It is clear that since the middle of February, and like Mr. DEFAZIO, I have a chart that shows the value of the U.S. dollar going down. Since the mid-1980's until the most recent period here after the Mexican peso was devalued, to which we have not linked ourselves inseparably, the value of our dollar has dropped at the fastest rate in the history of our country, and like Mr. DEFAZIO, I am shocked there are no emergency hearings in the Congress. There is no word from the White House. At least the newspapers are reporting, and it has been in top headlines in USA Today, in the New York Times, in the Wall Street Journal. You think Washington fell comatose on this one.

There is a major economic crisis brewing, and money is flowing out of our Treasury to try to prop up the Mexican peso, a few billion dollars. Actually there is more money that has flowed out of the Treasury to prop up the Mexican peso than money has flowed out of the Treasury to prop up the United States' dollar in international markets, we learned this morning. What happened today? Peso went down again in terms of its own value.

Madam Speaker, I ask unanimous consent for an additional minute.

The SPEAKER pro tempore (Mrs. VUCANOVICH). The Chair is constrained not to entertain such a request during the 5-minute period. The Chair is advised that the 1-minute extension that was allowed the gentleman from Alabama earlier this evening was a parliamentary error.

Ms. KAPTUR. Oh, was an error. All right.

Madam Speaker, let me just say in closing, is not it time someone in this House rang the alarm bell to say enough is enough, and I call on Speaker GINGRICH to allow our bills to move to the floor to stop the further outflow of taxpayer dollars to Mexico.

AMERICAN POLICY ON CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. ROS-LEHTINEN] is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Madam Speaker, earlier today, we were privileged to have had the Auxiliary Bishop of the Archdiocese of Miami, Agustin Roman, deliver the opening invocation. In addition to being a model human being and a great role model for our south Florida community, Bishop Roman is one of the many victims of the Castro regime.

You see, the bishop, who is a native of Cuba, was expelled from his own country in 1961 after armed militia men entered his church and at gunpoint led Bishop Roman and 132 other priests out of the country. Since then, the bishop has made it his personal mission to diffuse God's word around the world and to bring liberty and democracy to Cuba.

Of Course, Bishop Roman was not the first nor the last victim of the tyrant who has ruled Cuba for 36 years. As we saw in this summer's rafter exodus, millions of Cubans still linger in the misery and oppression which Fidel Castro and his band of goons have imposed on the island.

Most of these Cubans have fled the island this summer and risked their lives in hopes of reaching the shores of freedom, and they remain today detained like common criminals behind the barbed wire of their Guantanamo Base refugee camps.

This policy by the Clinton administration has been a very unfortunate shift in U.S. policy toward Cuba, which previously gave the oppressed Cuban people the opportunity to begin a new and productive life in the United States, and at the onset of this policy the President promised tougher sanctions against Castro. But as today's front page story in the Washington Post reports, advisers to the President are considering proposing a plan to the President which calls for the easing of sanctions against Cuba and which promises Castro to consider further relaxation of the embargo if Castro makes what they consider to be a positive move toward democracy.

Madam Speaker, this is the height of naivete and an utter denial of the reality of the way that Castro operates. For 36 years, the United States has been waiting for concessions from Castro and we have gotten none. In the 1960's, all we got were screams of ''paredon, paredon,'' announcing the execution of yet another Cuban. In the 1970's, we got the exportation of revolution, not only to Latin America, but also to Africa, where thousands of young Cubans were sent to their deaths in the name of the revolution.

And in the 1980's, we got rectification and a special period of peace, which squeezed the Cuban people to mere subsistence.

Today, we get word of reforms, cosmetic reforms, which are just a mask of the sad reality, the utter failure of Castro and of his Communist revolution.

However, through all these decades, one element of the Cuban regime has remained intact, the absolute control of Castro over the island of Cuba and the denial of political and civil rights to the Cuban people.

Unbelievably and apparently, some within the Clinton administration still believe that Castro can reform and that it is somehow the fault of the United States that Castro has remained unwilling to change.

Just today, at an International Relations hearing, I was once again surprised by a member of the administration on the policy toward Cuba. On a hearing on the Mexico bailout plan, a state official made the incredible statement that Mexico does not ''provide assistance to the government of Cuba.''

This is a disingenuous statement, considering that Mexico is one of the leading investment countries in Cuba and that the Mexican Government actively encourages Mexican investors to invest in the island. Thus Mexico, through its policy of investment promotion in Cuba, directly encourages the subsidizing of the repression of the Cuban people. Leave it to the Clinton administration officials to once again ignore the obvious.

Furthermore, we have still not heard a word from the President on the recently introduced Cuban Liberty and Democratic Solidarity Act introduced by Senator JESSE HELMS and Congressman DAN BURTON, and this bipartisan legislation is a joint effort by Democrats and Republicans to tighten the Cuban embargo against Castro. However, as of today, the President has remained silent.

Madam Speaker, on a recent trip to Guantanamo, led by a very knowledgeable chairman of the Western Hemisphere Subcommittee, Congressman DAN BURTON, as well as with Congressmen LINCOLN DIAZ-BALART, BOB MENENDEZ, MARK SANFORD, VIC FRAZER, and JOHN MICA, we were able to once again visit with the victims of the

Castro revolution, the sons and daughters of the revolution as Castro has called them, and they are now his main adversaries.

Madam Speaker, I call on the President to understand that dialogue and concessions are not the answer. Tougher sanctions are, and that is where U.S. policy should be directed.

The stronger religion grows, the harder it may be for Castro to keep his monopoly on power.

The SPEAKER pro tempore (Mr. DUNCAN). Under a previous order of the House, the gentleman from Illinois [Mr. GUTIERREZ] is recognized for 5 minutes.

[Mr. GUTIERREZ addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

AMERICAN POLICY ON CUBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. DIAZ-BALART] is recognized for 5 minutes.

Mr. DIAZ-BALART. Mr. Speaker, back in December, my office began to get reports from within the Clinton administration that advisers, foreign policy advisers to the President, were advising him to send a gesture of friendship to Castro. After I got the third report from within the administration that foreign policy advisers to the President were pressuring the President to do that, to send a gesture of friendship to Castro, Congresswoman ROS-LEHTINEN and I sent a letter to the President, where we expressed our deep concern about those reports, and I have got that letter here and I would like to read it if I can.

''Mr. President''—this was back in December—

> We have received deeply disturbing reports from within your administration concerning efforts by Mr. Morton Halperin to achieve the implementation of a policy initiative by the White House that would benefit the Cuban communist dictatorship.
>
> These reports are made even more alarming by the fact that Mr. Halperin is the member of your National Security Council staff, whose nomination to a sensitive Department of Defense position had to be withdrawn when the Democratic-controlled Senate would not confirm him. Throughout his career, Mr. Halperin has shown faulty judgment in relation to threats emanating from Castro's Cuba. After Castro's incursions into Angola and Ethiopia, for example, Mr. Halperin inaccurately wrote that ''every action which the Soviet Union and Cuba have taken in Africa has been consistent with the principles of international law. The Cubans have come in only when invited by a government and have remained only at their request.''

''As you know, Mr. President''—we continue in the letter, in December—

> On August 5th of this year, approximately 30,000 Cubans spontaneously took to the streets in Havana demanding freedom. Despite a terrible crackdown by the regime, Cubans throughout the island are demanding democracy in ever-bolder forms of action. Sugar production and Castro's ability to purchase oil are at an all time low, the sanctions you implemented last August 20th are having a strong effect, and numerous signs point to the inevitable collapse of the communist tyranny.
>
> Any gesture along the lines being sought by Mr. Halperin at this time, such as authorizing U.S. business to engage in the unrestricted sale and financing of medicine, medical supplies, medical equipment or food to Castro; lifting your August 20th sanctions, banning charter flights and remittances; allowing financial transactions or travel for so-called academic, cultural and scientific exchange, public exhibitions or performances or activities of alleged religious organizations; loosening travel restrictions to allow unrestricted travel by U.S. citizens or allowing business or tourist travel; allowing the establishment of U.S. news bureaus in Cuba or Cuban news bureaus in the United States; or ceasing to regulate financial transactions related to the establishment of news bureaus in communist Cuba; entering into so-called negotiations with the government to settle U.S. property claims or any other friendly gesture toward Castro at this time of almost unprecedented repression would constitute a form of the complicity with the ferocious oppression of the Cuban communist dictatorship against its people.
>
> We hope that you will remain firm in the enforcement of our sanctions against the Cuban dictatorship by resisting the pressures of those who would throw in the moribund Cuban totalitarian regime.

He very courteously answers in January, stating, ''I assure you that our Cuban policy will remain focused on bringing about a peaceful transition to a democratic regime and will be guided by the Cuban Democracy Act.'' Basically, he goes on saying that we won't be pressured. Then he says, please be—''Please be assured as well that I have confidence in the advice that I am being given on Cuba. That advice has and will continue to reflect the administration policy and the principles of the Cuban Democracy Act. I look forward to working with Congress in pursuit of our common objective of a free and Democratic Cuba.''

Now, today the Washington Post on the front page has an article, Clinton may ease sanctions on Cuba. Talk about a direct leak. President Clinton's foreign policy advisers are recommending, this is not—we hear it is possible, there are reports, no, beginning of the article, front page of the Washington Post, President Clinton's foreign policy advisers are recommending he take steps towards easing relations from Cuba by revoking some economic sanctions adopted against the Nation in August, administration's officials said yesterday.

□ 2015

This is the Washington Post today. So how does one reconcile the letter from the President, where he says, I am not yielding to pressure, we are going to maintain our sanctions, please be assured that I have confidence in the advice I am getting, and this article.

We need to continue talking about this. This is very serious, very serious. This is not the time to throw a lifeline to Castro. It is the time to go the other direction and to help Cuban people to gain their freedom.

THE DAVIS–BACON ACT

The SPEAKER pro tempore (Mr. DUNCAN). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, Republicans in Congress have begun their assault on one of the most important workers' rights acts of the 20th century, the Davis-Bacon Act. This important law protects the American standard of living by ensuring that workers on federally-funded construction projects are paid at the wage rates that prevail in their communities. To repeal the Davis-Bacon Act would be a slap in the face to the American worker.

The Davis-Bacon Act was passed in 1931 and signed by a Republican President. It was the first Federal wage law to provide prevailing wage protection to nongovernment workers.

Now, Republicans in Congress are threatening to repeal this historic legislation. At a time when the number one concern of middle-class working families is a declining standard of living, repealing the Davis-Bacon Act would be devastating. The very heart of this law is protecting the American standard of living.

But you do not have to take my word for it. Just look at what has happened in States that have present repealed prevailing wage laws. Economists at the University of Utah have written a comprehensive study of the effects of repealing prevailing wage laws in nine States during the 1980's.

The University of Utah study found that the repeal of prevailing wage laws had a destructive economic impact. From their analysis of these repeal States, authors of the report project that the Federal Davis-Bacon Act would hurt the national economy in the following ways:

Federal income tax collections would fall by $1 billion per year because of the decline in construction earnings. As a result, the Federal deficit would dramatically increase.

Each construction worker would see his or her annual earnings fall by $1,477. The total national loss due to this reduction in construction earnings would be $4.6 billion each year.

A massive increase in cost overruns and use of expensive change orders. In the case of Utah, which repealed its State prevailing wage law in 1981, cost overruns on State financed roads tripled over the next decade due to the low-ball bidding practices. The lack of a prevailing wage will encourage similar overruns at the national level.

Prevailing wage laws were designed to achieve a simple goal: to prevent government from using its purchasing power to undermine the wages of workers. It is a law that works. It works for

our workers, for their families, our communities, and our economy.

American workers are already on an economic treadmill, working longer hours and earning less, struggling to buy homes, struggling to send their kids to college. The Davis-Bacon Act helps many American workers to keep pace. To repeal it now would turn up the speed on the economic treadmill and put the American dream out of reach for too many working families.

Mr. Speaker, I am pleased to be here tonight with several of my colleagues who are going to address this very, very important issue.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

[Mr. TIAHRT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DAVIS-BACON: PROTECTING THE AMERICAN STANDARD OF LIVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. FILNER] is recognized for 5 minutes.

Mr. FILNER. Mr. Speaker, I join with several of my colleagues tonight to discuss the Davis-Bacon Act, an act which for more than six decades has protected the standard of living of all Americans. We are going to hear in the debate that comes up as there are efforts to repeal this act that somehow the Davis-Bacon Act merely helps a few union workers, that it is a special interest law for only a few.

Mr. Speaker, Davis-Bacon benefits all Americans. It does help union workers who have negotiated good wage rates across America. But it helps nonunion construction workers also because prevailing wages in almost 75 percent of communities across the country are based on nonunion pay scales and because Davis-Bacon extends the same protections to nonunion workers as it does to union members.

Davis-Bacon benefits communities like my own in San Diego, because wages in our city are protected from cutthroat out-of-State lower wage labor and our economy is enriched because our working people maintain the purchasing power to keep our own small businesses thriving and our own retail operations going.

Contractors in our community are helped because they have a level playing field on which to compete and our taxpayers are benefited because they can rely on quality and the productivity, the timeliness, the reliability that more than compensates for the additional wage cost.

All our citizens, Mr. Speaker, are benefited because all the construction projects we rely on, whether they be bridges or schools or dams, nuclear waste removal sites, military installations, superhighways, all are built to the highest specifications by the most qualified, well-trained workers. That is why Davis-Bacon protects the standard of living of all Americans.

Now, we are going to hear in the debate that follows in a few days, in the months ahead, that eliminating Davis-Bacon will save the government billions of dollars, that Davis-Bacon adds to the cost of government at a time when we can ill afford that.

Mr. Speaker, the facts say otherwise. In fact, eliminating Davis-Bacon will not save the government money. Lower wages, it turns out, does not mean lower cost. And why is that? As has been shown in comparison after comparison, high-wage states complete the work of the Davis-Bacon contracts with 56 percent fewer hours worked. High-wage states, as contrasted to low-wage states, build 74.5 more miles of roadbed and 33 more miles of bridges for $557 million less, and at the same time workers received a wage package more than double that in those low-wage states.

In addition, if Davis-Bacon were repealed, construction employees would be misclassified as independent contractors and the government would be cheated out of billions of tax dollars.

As my colleague, the gentlewoman from Connecticut, [Mr. DELAURO], pointed out, nine States have already repealed their little Davis-Bacon acts because they have found out that tax collections actually fell because of lower rates. The Federal Government, it has been estimated, will lose nearly a billion dollars a year because of the decline in construction earnings. That is simply not a very smart way to address our deficit problem.

In addition, construction injuries increase by 15 percent in non-Davis-Bacon States, and that results in enormous loss-of-work days and productivity.

So, Mr. Speaker, not only does Davis-Bacon benefit all Americans; repealing it will not reduce any cost. It may, in fact, raise the cost of doing business.

My own district in San Diego has a majority of residents who are either African-American or Hispanic. They always ask, is anything I propose or anything that I favor harmful or of benefit to ethnic minorities?

Mr. Speaker, Davis-Bacon protects all working people, regardless of race of ethnicity. The intent of the act is to mandate that a fair and liveable wage be paid to every worker to stabilize local wage rates.

Mr. Speaker, we must not repeal Davis-Bacon.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

[Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REPEAL OF DAVIS-BACON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, a number of us are taking the floor tonight in an attempt to respond to some of the misinformation used to justify the repeal of the Davis-Bacon, a law that requires fairness for our workers. The Davis-Bacon Act provides a process in which the Federal Government and many local governments must pay workers in a specific area the same wage on federal contracts as any other contract. There are several arguments put forth by the Republican majority or at least some of the Republican majority, because I would like to insert into the RECORD a letter from President Reagan in 1981 showing his support for Davis-Bacon Act.

WE AGREE WITH PRESIDENT REAGAN JUST SAY ''NO'' TO REPEAL

THE WHITE HOUSE,
Washington, September 29, 1981.

Mr. ROBERT A. GEORGINE,
President, AFL–CIO,
Washington, DC.

DEAR BOB: I want to acknowledge the Building and Construction Trades Department letter of September 11 concerning efforts to repeal the Davis-Bacon Act. I have asked the Secretary of Labor to respond directly, but I want to assure you and your General Presidents that I will continue to support my campaign pledge do not seek repeal of the Act.

With best wishes.

Very sincerely,

RONALD REAGAN.

The arguments revolve around the act being racist, as barring minorities from earning prevailing wages and adding costs to Federal contracts for multiple reasons.

Let us take the issue of Davis-Bacon being racist Federal law. This argument is based on language that was passed, was discussed when this original bill was passed in 1931. I would submit to the House that many things said in 1931 and the early 1930s on this House floor could not be used today, but that still means that Davis-Bacon is not a racist law.

A Congressman Upshaw from Georgia in 1927 asked Congressman Bacon if this bill was based on preventing a large aggregation of Negro labor, and Congressman Bacon vehemently stated that any influx of labor, union or nonunion, regardless of race, being paid below prevailing wage would be detrimental to a local job market. Stating that Davis-Bacon is racially biased also assumes that minorities are not earning a prevailing wage. That argument that repealing Davis-Bacon helps minority workers goes against documented proof to the contrary.

I would also like to insert into the RECORD a resolution from the NAACP in its July 1993 convention supporting Davis-Bacon and the continuation of Davis-Bacon.

RESOLUTION PASSED BY THE NAACP AT ITS ANNUAL CONVENTION, JULY 1993

V. LABOR AND INDUSTRY

1. Davis-Bacon Act—Concurred.

Whereas, people of color have entered the construction industry in increasing numbers in the past. Today, they are threatened with the loss of many of the economic and social gains made over the last several years; and,

Whereas, the Davis-Bacon Act of 1931 protects the wages of all construction workers, including minorities and women, who are particularly vulnerable to exploitation; and,

Whereas, shocking examples of the exploitation of minorities and female workers on the construction site, even in the face of the Davis-Bacon Act, the law designed to prohibit such exploitation, are legion,

Therefore, be it resolved, that the NAACP supports the Davis-Bacon Act, takes steps to strengthen its enforcement, and supports the creation of opportunities through training and apprenticeship programs.

A 1991 wage survey by the Department of Labor, reveals that the percentage of minorities employed by Federal contractors was 20.12 percent as opposed to nonfederal projects of 20.56 percent. A difference of 0.4 percent in three categories, craftsman, operators, and laborers. Federal contractors have a higher percentage of minorities participation than nonfederal contractors. This also goes against the Senate report language which states that Davis-Bacon protects small businesses, especially minority small businesses, from being undercut in labor costs by large contracts.

Davis-Bacon makes no distinction between race, gender or other characteristic. It simply requires an employer pay a prevailing wage, a fair wage. That is it.

The next argument is that Davis-Bacon is a union wage. In the State of Texas we are a right to work State which prevents anyone from being forced to join a union. Contractors, the perfect example of small business, the engine of job creation, are the only respondents to job surveys that are sent out by the Department of Labor. Wage surveys are sent out and in a geographic area to obtain the wage and benefits paid by contractors and subcontractors. They are not sent to union halls or to union officials.

□ 2030

Mr. Speaker, I want to stress the fact that at no time does a union official send in a wage survey. It is actually the employer who sends them in. A contractor who decides on his own to be a union contractor obviously sends in that survey, but he does not represent the union.

On the form contractors use to report wage information, form WD 10, it calls for a contractor to respond. There is no area for a labor leader or any other labor representative to respond.

The process allows contractors of all sizes in a geographic area to decide what level they will pay their workers, while protecting the job market from large multistate contractors. In recent surveys on building trades, the Department of Labor showed that 38 percent of the respondents were union, 38 percent.

To say that this wage is union wages is just not correct. If that is to say that 38 percent make up the distinction on this survey by the Davis-Bacon source book, then we Democrats in the House are now in the majority, Mr. Speaker, because we could control it with 38 percent.

We should not run headlong into repealing a law that for 60 years has stood in its stead. It is based on falsehoods and wishful thinking, particularly that Davis-Bacon was based on racist assumptions, and also that it is a union wage that they are saying, with 38 percent only provided.

Studies of 10 States where 50 percent of the highway and bridge construction occurs reveals that workers paid double that of low wages built 74 miles more roadbed and 32 miles more bridges for $557 billion less. My colleague, the gentleman from California, pointed this out, and I am proud to be here tonight with my colleagues, not only from Connecticut and California, but myself being from Texas, to talk about the benefits that we have by having a prevailing wage in Davis-Bacon being on our books since 1931.

REPUBLICAN PROGRAMS REFLECT THE TRUE PARTY OF THE MIDDLE CLASS

The SPEAKER pro tempore (Mr. DUNCAN). Under a previous order of the House, the chair recognizes the gentleman from California [Mr. CUNNINGHAM] for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I have heard some of my Democratic colleagues talk about the Contract With America. They say it is detrimental, but if you look at those Members that are saying that, those are the same Members that voted against the balanced budget amendment.

If you look at the Contract With America, on the items that we have covered so far, take a look at the history of this House. Have you seen votes as fast and as many Republicans and Democrats supporting those Contract items?

Congress falls under the same laws, the balanced budget amendment, the line-item veto, unfunded mandates, 290 votes to 340 votes, Mr. Speaker; bipartisanship. Who voted against that bipartisanship? The liberal and socialist Members of the Democratic party. Even members of their own party have separated themselves from the liberal leadership.

If you take a look at those who voted against it, the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Michigan [Mr. BONIOR], the gentleman from California [Mr. FAZIO], why? Because they support big government, government doing everything for everybody. The only way they can do that is to have a big bureaucracy, and to support that big bureaucracy, they have to increase taxes and increase spending.

Mr. Speaker, the rhetoric; the gentleman from Missouri [Mr. GEPHARDT], years and years and years, I have the documentation, every single tax vote that the minority leader now claims that, It is only for the rich, and we are trying to help the poor, I have the records. That is the same rhetoric since 1970.

Each time, the Democratic package, including the Bush package, would resolve that. However, here again, he is saying the same thing.

I look at our two California Senators that hid behind the balanced budget amendment and say they were trying to protect Social Security, but yet in the Clinton tax package those same two Senators in the liberal leadership, those same Members of this body that I just mentioned, voted for the Clinton tax package, which increased the tax on Social Security. Yet, our two Senators on the other side are hiding behind that, for the balanced budget amendment.

Mr. Speaker, I look at what we have done in the past, and the rhetoric. I look at a Clinton tax package in which there was a promise of a middle-class tax break, a promise not only in the campaign, but before the actual budget came forward, and what happened?

Remember the great Btu tax and the Clinton tax package? There was not going to be any middle-class tax in that. I heard liberal Democrat after liberal Democrat come up and say, There is no tax increase in the Btu tax, there is no tax increase for the middle-class in this tax package. America did not buy it, and you passed a bill that was so bad that after 45 minutes of closing the clock and twisting arms, you passed it by 1 vote, when then Speaker Foley shut down the clock, twisted arms until you could pass that bill.

The rhetoric? $600 billion in new taxes and fees, a defense cut of $177 billion, and sure, you can apply some of that to the deficit, but in that you increase the tax on Social Security, you cut the veterans' COLA, so who is really playing the rhetoric?

The bottomline, Mr. Speaker, is that the middle-class marginal tax rate went up under the Clinton budget. Every Member that is speaking here against the Contract not only voted against the balanced budget amendment, but voted for that Clinton tax, which increased the marginal tax rate of the middle-class from $17,000 and above, yet they say they are the party of the middle-class?

A balanced budget, Greenspan has said, will bring interest rates down by 2 percent. That will provide capital. Take a look at the items that we wanted to do: capital gains reduction, that is only for the rich? Malarkey. America sees through that, and they support a capital gains reduction.

Where we want to limit the amount of growth, growth is projected by over

50 percent in spending by the year 2002. We want to limit growth to 30 percent. Yet, the tax and spend liberals said, We are cutting these programs, we are limiting the growth.

We are not cutting any programs, Mr. Speaker. I take a look at the minority leader, I take a look at the socialist leadership in the Democratic Party, and I am glad they are in the leadership, because even in their own party, from the Black Caucus, from the liberal leadership, those Members have separated themselves from that kind of rhetoric that we can no longer afford, give me more society that will not accept responsibility for their own actions.

URGING MEMBERS TO SUPPORT MAINTAINING THE DAVIS-BACON ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

Mr. BECERRA. Mr. Speaker, I would like to first begin by thanking several of my Democratic colleagues who came here tonight to speak in support of the Davis-Bacon Act, which now is in jeopardy of being repealed by the new Republican majority.

Mr. Speaker, I want to thank them, because this is an issue which goes directly to my family situation and to my heart. My father is someone who had the chance to benefit from the Davis-Bacon Act. My father is a retired construction worker, a road construction worker. Many of the roads that people use in California, from Highway 5 and other highways that were constructed in the big days of the sixties and seventies, those roads were constructed in part by men like my father.

My father never earned a lucrative wage, but he did earn a decent wage. This is, in my opinion, an Act, the Davis-Bacon Act, which made it possible for my family to have some security and some decency in its living standards. I know when I speak on behalf of those who support the Davis-Bacon Act that I speak not just for them, but also for my father.

Mr. Speaker, to repeat what some of the Members have said before, the Davis-Bacon Act is an act that passed in 1931. It was an act that passed through the sponsorship of Republican legislators and was signed by a Republican President.

The law merely mandates that taxpayer dollars go to contractors who offer the greatest quality craftsmanship, the highest productivity, the quickest turnaround, and the best management. The primary purpose of the law is to assure that by requiring the payment of locally prevailing wages, that Federal spending practices do not undercut the wages of hard-working people, and that they do not put local contractors and their employees in an unfair competitive situation.

Individual and industry contractors benefit, because in discouraging competition that would be based on the payment of substandard wages, the act promotes a greater availability of skilled construction workers. The act, by enduring more stable and predictable wages, facilitates the recruitment, the training, and the retention of skilled construction workers.

Mr. Speaker, let us talk about who loses if the Davis-Bacon Act is repealed. More than a half a million construction workers would suffer reduced earnings and a lower standard of living if the act were to be repealed. Individual construction firms and the construction industry as a whole may also lose if conscientious contractors are forced to compete with the fly-by-night and low-balling contractors who pay depressed wages and offer workers no benefits.

Taxpayers would lose if the act is repealed. Given the way labor markets operate, savings to be achieved through lower wages would be offset by the lower productivity of less skilled and less experienced workers. Their work product, roads, bridges, building, then become the public's responsibility. If the work product is of low quality, then that is a consequence that taxpayers will be forced to live with.

Mr. Speaker, repeal of the Davis-Bacon Act is not a money saver. Contrary to what the Republican majority is saying these days, repeal of Davis-Bacon would not automatically save the Government money, because well educated, well-trained, and fairly paid workers are more productive than their poorly-trained low paid counterparts. They often bring in projects at less cost than those using low-wage workers.

Repeal of Davis-Bacon also threatens worker safety. When productive, skilled, properly-trained labor is hired at a Davis-Bacon wage, safety and health are also hired. The use of untrained, poorly-skilled workers results in a higher occurrence of injuries and fatalities on the Nation's job sites.

Repeal may also threaten public safety, as poorly trained workers are more likely to make dangerous mistakes.

Mr. Speaker, what would happen if Davis-Bacon were repealed? Each construction worker would see his or her annual income fall by about $1,477. That may not seem like a lot to some people, Mr. Speaker, but think of it this way. $1,477 pays for about half a year's worth of groceries for an average American family.

For my family when I was growing up, and my father and my mother were working hard, that was a tremendous amount of money. It would have affected the way we lived and the standard of living that we were able to have, which was very meager. It would have affected it greatly.

Members of Congress have supported the Davis-Bacon Act in the past on a bipartisan basis. I hope, Mr. Speaker, that we have that same bipartisan support for this particular act, because quite honestly, it helps American because it helps America's workers and American's contractors.

I would hope at this time, Mr. Speaker, that we would see the value in maintaining the act and move forward from there.

Ms. ESHOO. Mr. Speaker, it puzzles me why the Republicans are determined to repeal the Davis-Bacon Act. After all, this law has its origins in State initiatives, was written by two Republicans, and has been declared successful by a leading Republican economist. If this isn't a winning combination as the majority defines it, then what is?

Despite current GOP claims to the contrary, the Davis-Bacon Act is based on years of State experience with prevailing-wage standards prior to its passage by Congress. Back in 1891, Kansas adopted the country's first prevailing-wage statute, and at least six other States had passed similar legislation before the first prevailing-wage law was introduced in Washington.

By the late 1920's, Republicans in Congress were extremely concerned about increasing incidents of cutthroat Federal bidding by fly-by-night contractors using low-wage labor. With shoddy construction threatening massive Federal building programs, Representative Robert Bacon—a New York Republican—introduced the forerunner of the Davis-Bacon law.

With the help of Senator James Davis—a Republican from Pennsylvania and former Labor Secretary under three Republican Presidents—the Davis-Bacon Act was eventually passed and signed into law by President Hoover in 1931.

Since that time, the Davis-Bacon Act has proven to be a remarkable success for local communities, minorities, and American taxpayers.

Local communities have benefited because their wages have been protected against low-balling, out-of-State contractors, while their economies have been enriched by residents maintaining enough purchasing power to keep locally owned businesses thriving.

Minorities have benefited from the Davis-Bacon Act's protection of wage gains made over the years, and become heavily employed in the construction industry because of the decent wages it pays.

In addition, the percentage of minorities employed by Federal contractors is higher than the percentage of minorities employed by non-Federal contractors, which reflects the positive impact Davis-Bacon has had for minority workers.

Finally, Davis-Bacon has benefited American taxpayers. Dr. John Dunlop—Secretary of Labor under President Ford—has concluded that any additional costs incurred by paying prevailing wages have been offset by better quality, productivity, timeliness, and reliability on Federal projects. It's vital for our bridges, schools, dams, nuclear waste removal projects, military installations, and superhighways to continue to be built to the highest specifications by the most qualified, well-trained workers available—and the Davis-Bacon Act ensures that will happen.

Mr. Speaker, for over 60 years, Davis-Bacon has been an unqualified success. It must be preserved.

Mr. ENGEL. Mr. Speaker, the opponents of the Davis-Bacon Act have mounted an attack

to repeal a law that helps American workers. This is nothing more than an effort to pull the rug out from under working people. As the son of a dedicated ironworker, I resent this shameful union bashing and the implication that the workers of this country are not entitled to a decent wage for their labor.

Davis-Bacon is a law that actually strengthens our economy and helps America. Contractors and American workers both benefit from its provisions. I ask you to consider these facts:

Repealing Davis-Bacon will result in lower wages for half a million Americans. Construction workers is the United States who currently receive prevailing wages could lose $1,400 annually if Davis-Bacon is repealed. The average annual earnings of a construction worker is $28,000. Isn't this the type of middle-class American that we should protect rather than punish?

The prevailing wage law actually generates benefits to local communities 2.4 times the amount spent on a construction project because workers spend their money locally and pay local taxes. Repealing Davis-Bacon could result in the widespread importation of nonlocal, low-wage workers, causing an adverse affect on local economies.

According to a study conducted by the University of Utah, repeal of the Davis-Bacon Act will reduce Federal tax collections by $1 billion per year because of the decline in construction earnings, while simultaneously causing a massive increase in cost overruns. In States that have repealed their little Davis-Bacon laws, construction costs have risen because of substandard work that must be redone when less skilled workers are used on the projects.

Davis-Bacon does not require contractors to pay union wages. 70 percent of the prevailing wage schedules are not union wage rates, yet still allow a fair wage to be paid in the local area to middle class workers.

The Workers Protection Subcommittee of the House Economic and Educational opportunities Committee hurried the markup of the repeal of the Act without adequately considering its ramifications. The Subcommittee did not even allow the Secretary of Labor to testify.

It's time to bring some reason to this issue. At a time when the middle class is feeling the crunch in our economy, the repeal of Davis-Bacon would adversely affect the workers that are a productive and important segment of our society. I strongly urge you to fight any attempts to repeal this Act. By doing so, you will be working to keep our construction industry competitive and viable.

Mr. RAHALL. Mr. Speaker, I rise in support of the continuation of the prevailing wage laws embodied in the Davis-Bacon Act, and against repeal of this vital act.

As you know, Mr. Speaker, on March 2, 1995, the Subcommittee on Worker Protections, so-called, voted to repeal the Davis-Bacon Act. They did so without a single member of the minority membership being present, an action that is, in and of itself, unprecedented in recent memory. The Democrats, refusing to be a party to the demise of the Davis-Bacon Act at the hands of their colleague in the other party, walked out in protest.

The Davis Bacon Act has been in effect since 1931, and 32 States have their own Davis-Bacon Acts, with 9 States having repealed previous State statutes. Perhaps before taking any further action to repeal Davis-Bacon, all Members should take a look at what has happened in the nine repeal States.

A recent, February 1995, study conducted by the University of Utah, one of the nine States having repealed their State Davis-Bacon Act, showed that:

First, it resulted in driving down construction earnings and the loss to the State's coffers of substantial income tax and sales tax revenues.

Second, as a result of the repeal of the State statute in Utah, the size of total cost overruns on State road construction tripled, and there has been a major shift to a less-skilled labor force, lowering labor productivity along with wages, and increasing injuries and fatalities in the workplace.

Third, looking at all States, the study found that repeal cost construction workers in the nine States at least $1,477 per year in earnings.

Fourth, the nine State repeals have reduced construction training in those States by 40 percent.

Fifth, minority representation in construction training has fallen even faster than have the training programs in repeal States.

Sixth, occupational injuries in construction rose by 15 percent where State prevailing wage laws were repealed.

Based on the above six findings, the study concluded that Federal income tax collections would fall by at least $1 billion per year in real terms for every year for the foreseeable future—if the Federal Davis-Bacon Act were repealed.

The University of Utah's study concluded further that: At the Federal level, construction cost savings would have to be very high indeed to generate any budget benefit from a repeal of the Davis-Bacon Act because of the Federal income tax structure. For example, using a conservative estimate of 3 percent construction cost savings with a 20 percent marginal tax rate (based on the 1991 level of Federal construction spending), the Federal Government would lose $838 million per year by repealing the Davis-Bacon Act.

For those who falsely claim that a repeal of the Davis-Bacon Act would reduce the deficit, they are wrong—the above-cited study showed that a repeal will raise the Federal budget deficit, because the purpose and effect of a repeal is to lower the cost of wages on federally funded construction projects—which in turn lower wages and earnings. Proponents of the claim that repeal would lower the deficit are wrong also because the study found that the lower cost of wages cannot be isolated to federally financed public works—because in fact such wages would decline across the entire construction labor market causing the Government to lose more in income tax revenues than it would gain in construction cost savings.

Mr. Speaker, the repeal of the Davis-Bacon Act is not about reducing the deficit, or saving construction costs in federally assisted projects. It isn't about lowering wages so that more people can be employed.

It is about union busting.

The Act does not—I repeat does not—require that collectively bargained (union) wages be paid unless such wages also happen to be the prevailing wage in the locality where the work takes place. Davis-Bacon isn't about unions—although unions have made Davis-Bacon work by stabilizing the construction industry, keeping fly-by-night operations from operating; keeping health and safety standards in effect, and assuring that all workers, including apprentices, are well-trained and able to contribute to cost-effective productivity at the work site.

Davis-Bacon assures that federally assisted construction projects are completed by well-trained, decently-paid workers, not store-front operations who use poor workmanship and shoddy materials—meaning higher maintenance costs and costly rehabilitation and repairs down the line. It means fewer cost overruns that drive up the total cost of construction.

For many years Congress has made efforts to protect the working men and women in construction and other industries by assuring that they are paid the local prevailing wage, and particularly for projects that are paid for out of Federal funds. Now that there has been a shift in the majority parties in Washington, the repeal effort is in full force and is being pursued with vigor by opponents of the Act.

I believe that a repeal of the Davis-Bacon Act, would be a betrayal to all who are affected by the construction industry, and that is every American. Most importantly, it would be a betrayal to the workers who rely on good wages for a decent livelihood.

I am diametrically opposed to the repeal of the Davis-Bacon Act, and I call upon the House of Representatives to continue the broad, bipartisan support that the Act has enjoyed to date by rejecting legislation to repeal Davis-Bacon.

GENERAL LEAVE

Mr. BECERRA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the topic of this special order, the Davis-Bacon Act.

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

There was no objection.

REPUBLICAN PROPOSAL ON THE SCHOOL LUNCH PROGRAM WILL SPEND LESS MONEY ON BUREAUCRATS AND MORE MONEY ON CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I do not serve on the Economic and Educational Opportunities Committee, but the Republicans on that committee voted a few days ago to increase spending on the School Lunch Program from $6.7 to $7.8 billion over the next 5 years.

I repeat: the Republicans voted to increase spending on school lunches.

Yet headlines all over this country said, ''Republicans vote to end School Lunch Program.''

Now, millions of Americans have a totally false impression that Republicans have killed the School Lunch Program.

Actually what was done was to try to end it as a Federal program and turn it into a State program.

This was done so that more money could be spent on food for kids and less on bureaucrats in Washington.

Most Governors have said they could take 80 percent of the money and probably operate almost any Federal program more efficiently and effectively.

However, in this instance, the Committee did not say take the School Lunch Program over with just 80 percent of the money—it said take 100 percent of the money with a built-in raise of 4.5 percent each year.

This is almost 50 percent more than what inflation has been since the Reagan years.

Yet some liberals saw a chance to use a political sledgehammer here, and beat us over the head with it, and with help from a supportive national media, they are creating a totally false impression.

I have always supported the School Lunch Program, and I can assure you there is not one member here, Democrat or Republican, who wants to take food away from any hungry children.

I do not serve on the Committee that is trying to change this program, but I do know that what the Committee is trying to do is make things better for children, not worse.

The School Lunch Program has gotten tremendous bi-partisan support in the past because it has worked relatively well. But anything can be made better.

And if there is a way to spend more on children and less on bureaucrats, then we should try it.

Too many federal programs today benefit primarily the bureaucrats who work for the program and really do very little for the intended beneficiaries.

This is true even in programs designed to help children. Every program up here has some beautiful motherhood and apple pie title, but you have to look below the surface, and below the headlines, to find the true story.

If we want to help bureaucrats, we will continue, and even increase, all our current federal programs, and even create new ones.

If we really want to help children, though, we will downsize government and decrease its cost, and give parents the freedom to spend more of their own money on their own children.

Apparently, though, with many liberals, if the choice is between giving money to bureaucrats or leaving more with parents and children, they will side with the bureaucrats every time.

There were two other main objections to the changes the Committee made in the School Lunch Program.

One was to the lack of national standards on nutrition, and one was to the fact that the Governors were given leeway as to 20 percent of the money as long as it was spent on other child welfare programs.

These were included because almost everyone today realizes that one-size-fits-all dictation from Washington is not working and has been harmful to even our best programs.

I am convinced that the wonderful people that we have running our school lunch program in East Tennessee do not need bureaucrats in Washington telling them what they can and cannot serve.

As to the 20 percent flexibility for Governors, this was done because some States need to spend more percentagewise on school lunches than others. But if this is a great concern, I certainly would support changes making sure all this money is spent for its intended purpose, which is school lunches.

I suppose the big point to be made here is that Republicans love children just as much as Democrats do.

Despite what some pious, holier-than-thou liberals would have people believe, no one has a monopoly on virtue—no one has cornered the market on compassion.

All of us are trying to do as much as possible for children. No one has voted to kill the School Lunch Program.

Many people around the country no longer think of the Federal Government as God. They know that some programs can be better run from the State level, or even by local governments.

And above all, they want less of their money being spent on bureaucrats and paperwork, and more being spent on children.

□ 2045

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

[Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOGLIETTA] is recognized for 5 minutes.

[Mr. FOGLIETTA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

[Mrs. MINK addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ESHOO] is recognized for 5 minutes.

[Ms. ESHOO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WARD] is recognized for 5 minutes.

[Mr. WARD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SAVE PUBLIC BROADCASTING

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentlewoman from Maryland [Mrs. MORELLA] is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I rise today to express my support for continued Federal funding for public broadcasting.

PBS and NPR provide commercial-free entertainment and information that is always good for you, whatever your age.

PBS and NPR provide commercial-free entertainment and information that always brings the best of all our American cultures, the brilliance of our science and technology, the clash of our political opinions, and the natural beauty of our world, wherever we live.

PBS and NPR provide so much for so little: they cost only $1.09 per person. Americans overwhelmingly approve a Federal funding for public television and radio, with 87 percent in favor of continued support. Although the Federal allocation is small—currently $285.6 million—in the overall CPB budget, it is vital seed money that makes everything else possible.

To deny funding to PBS and NPR would be to truly damage the quality of our lives and our children's lives. Free market forces would not sustain the effort required to create and keep a show like ''Sesame Street,'' which is watched by over 6 million preschoolers on an average of three times per week. Commercial stations refused to air ''Sesame Street'' when it was first developed. Can you imagine any network today airing the program for 2 hours straight without commercial interruption?

An article in last week's Washington Post, reminded me just how important PBS is to quality programming for our children; for shows like ''Sesame Street,'' ''Mr. Roger's Neighborhood,'' and ''Ghostwriter'' that make their lives richer not poorer. The Post story told this sad tale: ABC will cancel ''Cro,'' a Children's Television Network production on its Saturday morning schedule in favor of something entitled—I am not making this up—''Dumb and Dumber.''

This choice bit of children's entertainment is a television version of a full-length cartoon movie of the same name, which consists of ''toilet jokes and exposed bottoms,'' said the Post but offers vast opportunities for those

big profit, toy spinoffs. ''Cro,'' a show that treats science and technology through the eyes of an 11-year-old stone age child, it was decided, had no future at Toys 'R Us so it had to go.

Do we really for a minute believe that commercial and cable stations will do the right thing by our children and young people? My friends, our children's choices will go from dumb to dumber, from violent to more violent, if PBS goes!

Much has been said and written about public broadcasting and elitism. What nonsense! What condescension! Eighty percent of all Americans—your neighbors and mine—watch public television at least once a month and have access to literally the world of entertainment and the arts without leaving their family room couch.

Comparisons have been made—and rightly so—between saving public television and radio and the campaign for public libraries, which was led by Andew Carnegie early in this century. His mission, to make sure every American had access to free books regardless of income level or place of residence, mirrors the contemporary mission of public television and radio to bring exposure to the world's greatest art, music, literature, and wonders to everyone. With your television and radio tuned to your PBS or NPR station you can sit in the front row at the Metropolitan Opera, watch the Bolshoi Ballet, or sit in your arm chair and travel the globe. It opens the world to all.

We are blessed in the Washington area with access to several public broadcasting stations: WETA, MPT, WHMM, and WAMU. The market in which these stations operate is large and its supporters and fans generous at fundraising time. But this is not the case across the country. The loss of Federal funding to radio outlets in rural areas, for example, would be devastating—in many cases radio stations would have to drop NPR programming and that means losing ''Morning Edition,'' ''All Things Considered,'' and ''Talk of the Nation.''

In many areas of the country, whole school systems rely on public broadcasting to supplement their curriculums. The president of Maryland Public Television has pointed out that ''as we enter the information age, every community in America needs its public television station as an on-ramp to the information superhighway and to fight for the public interest so that educational usage doesn't get pushed onto the shoulder by commercial interests.''

Mr. Speaker, to cut off federal support for public broadcasting is to do irreparable damage to a system that provides all Americans, regardless of age, race, ethnicity, party affiliation, or geographic location with riches that once belonged only to a very small elite. Public broadcasting is for all of us.

COMMEMORATING THE 30TH ANNIVERSARY OF THE VOTING RIGHTS CAMPAIGN OF 1965

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. LEWIS] is recognized for 60 minutes as the designee of the minority leader.

Mr. LEWIS of Georgia. Mr. Speaker, I rise tonight at this hour during this special order to commemorate the 30th anniversary of the voting rights campaign of 1965. Thirty years ago this day, March 7, 1965, was a turning point in the struggle for the right to vote in the American South.

In commemorating the voting rights campaign of 1965, we honor the great sacrifices many people made to secure voting rights for all Americans.

Now, Mr. Speaker, you must keep in mind that during another period in our history, during the 1960's, there were certain political subdivisions in the 11 Southern States of the old South, from Virginia to Texas, where 50 to 80 percent of the population was black, and there was not a single black registered voter. The practice used by whites to keep blacks out of their political process ranged from economic retaliation to outright murder. In many instances brutal acts of violence were directed against those who tried to register to vote. Those few who were allowed to register were harassed, intimidated, and even beaten when they tried to exercise their precious right to vote.

One State, the State of Mississippi, had a black voting-age population of more than 450,000, and only 16,000 blacks were registered to vote. In one county in Alabama, Lowndes County, between Selma and Montgomery, AL, the county was more than 80 percent black, and there was not a single registered black voter.

In the little town of Selma, the county seat of Dallas County, AL, majority of black population, only 2.1 percent of blacks of voting age were registered to vote.

The drive for the right to vote came to a head in Selma in the heart of the Black Belt after a series of nonviolent protests and after people had been shot, beaten, and killed. A small band of citizens on March 7, in an effort to dramatize to the Nation and to the world the need for voting rights legislation, decided to march from Selma to Montgomery.

Young black children, some elderly black men and women, left the Brown Chapel A.M.E. Church on Sunday afternoon, March 7, 1965, walking to twos, It was a silent, nonviolent, and peaceful protest, walking through the streets of Selma.

Crossing the Alabama River, crossing the Edmund Pettus Bridge, when they reached the apex of the bridge, they saw a sea of blue, Alabama State troopers.

The Governor of the State, at that time Gov. George Wallace, had issued a statement the day before saying the march would not be allowed. The sheriff of Dallas County, a man by the name of Jim Clark, on the Saturday night before the march on Sunday had requested that all white men over the age of 21 to come down to the Dallas County Courthouse to be deputized to become part of his posse to stop the march.

Sheriff Clark was a very big man who wore a gun on one side, a nightstick on the other side, and he carried an electric cattle prodder in his hand. He did not use it on cows. He used it on peaceful, nonviolent protesters.

As we continued to walk on that Sunday afternoon, we came within the hearing distance of the State troopers and a man identified himself and said:

> I am Maj. John Cloud of the Alabama State Troopers. I give you 3 minutes to disperse and go back to your church. This is an unlawful march, and it will not be allowed to continue.

In less than 1½ minutes, Maj. John Cloud said, ''Troopers advance,'' and you saw these men putting on their gas masks. They came toward us, beating us with nightsticks, bullwhips, tramping us with horses, and using tear gas.

That Sunday, March 7, 1965, became known as Bloody Sunday. There was a sense of righteous indignation all across the country. People could not understand what they saw on television. They could not understand the picture they saw in the paper the next day coming from Selma.

Lyndon Johnson, 8 days later, came before this hall and spoke to a joint session of the Congress on March 15, 1965, to urge Congress to pass a strong voting rights law.

□ 2100

In that speech President Johnson started off the night by saying:

> I speak tonight for the dignity of man and the destiny of democracy.

He went on to say:

> I urge every member of both parties, Americans of all religions and of all colors, from every section of this country, to join me in that cause.

President Johnson continued by saying:

> At times, at times history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom.

He went on to say:

> So it was at Lexington and Concord. So it was a century ago at Appomattox. So it was last week in Selma, Alabama.

And the President went on to say:

> There long-suffering men and women peacefully protested the denial of their rights as Americans. Many were brutally assaulted. One good man, a man of G-d, was killed.

A few days between March 7, 1965, and March 15, 1965, a young white minister by the name of James Reed, who came down from Boston to participate, was beaten by the Klan and later died.

In that speech here in this hall Lyndon Johnson said that night over and over again, ''We shall overcome.''

In a matter of a few months, Mr. Speaker, the Congress passed the Voting Rights Act, and it was signed into law on August 6, 1965. Because of the March from Selma to Montgomery, because of the leadership of Lyndon Johnson and the action of the Congress on August 6, 1965, we have witnessed what I like to call a nonviolent revolution in American politics, especially in the South. Today in Selma more than 75 percent of blacks of voting age are not registered to vote, and you have a biracial city council. In a State like Mississippi today there are more than 300,000 registered black voters, and the State of Mississippi has the highest number of elected black officials. In 1965, on March 7, 1965, there were less than 50 black elected officials in 11 Southern States. Today there are more than 7,000.

So, Mr. Speaker, we have come a distance. We made a lot of progress. But I think what happened 30 years ago as we meet here tonight tends to dramatize the distance we must still travel before we create a truly interracial democracy in America.

So, Mr. Speaker, at this time I am going to yield to some of my colleagues that are willing to participate in this special order in memory, not just in memory, but in commemoration, I guess, in celebration, of what happened in that little town of Selma, what happened in other parts of Alabama, but also in Mississippi, and Tennessee, and Louisiana, North and South Carolina, and Texas, all across our country really, to make democracy real.

Now, Mr. Speaker, I yield to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS].

I say to the gentleman first that it is with great honor that I stand next to him today with the opportunity to participate in this special order that he has organized because he is one whose footsteps I hope I have a chance to follow in the future, as well as someone who has distinguished himself in the past as one of those who marched way back when, in the 1960's, and made it possible for some of us to be here today. I consider myself someone who is the fruits of much of the work of people like the gentleman from Georgia [Mr. LEWIS], and I think it is only a tribute to the folks like him that we have a chance to come before here, and speak and say how things really are. So to the gentleman from Georgia and those like him who have fought and continue to fight, Mr. Speaker, I say, ''Thank you for giving me the opportunity to stand here today and speak on behalf of voting rights for all Americans.''

Clearly the Voting Rights Act was a landmark piece of legislation for our country and for our history. The Voting Rights Act made it possible for people for the first time to truly participate in America's democracy, and of course now that we see the 30th year of the Voting Rights Act, it is only fitting that we have a chance to discuss its many successes, especially in light of the fact that there are so many obstacles and so many deterrents to its successful implementation that are being placed before us these days.

I think it is clear that there have been benefits to the African-American community throughout this Nation. It is unquestionable that it opened doors for many people who for years have been closed out of the process. But let me focus a little bit of my time on two emerging communities that, too, have benefited from the Voting Rights Act and who have struggled as well to try to make sure that America truly is a place for all.

Let me focus a few minutes, if I may, on the Asian-Pacific Americans in this country and the Latinos of this country who, as the gentleman from Georgia [Mr. LEWIS] mentioned, are part of America and make up that fabric which makes America so great.

The Asian-Pacific American community is really coming of age. It is a community in California which represents about 10 percent of the State's population. That is a dramatic increase over the last decade or two decades, yet the Asian-Pacific population is woefully underrepresented in office and in other signficant places of importance. The participation rates are very low right now for Asian-Pacific Americans when it comes to voting, and the biggest barrier, of course, is language. Right now what we find is that without some assistance and an opportunity to learn the language, it becomes very difficult for people to fully participate and understand the process, but fortunately the Voting Rights Act has made it possible for a number of Asian-Pacific Americans to become fully participant members of democracy. Just in California alone in the last few elections 25,000 additional voters, citizens, Asian-Pacific Americans, have gone to the polls, voted and become participants because the Voting Rights Act made it possible for them to participate through bilingual ballots. Now that is an example of how the Voting Rights Act has helped the Asian-Pacific American community.

In the Latino community, Mr. Speaker, it is much the same. I should note that the Latino community has a long history, especially in the Southwest, where there were settlements in this country long before the Pilgrims made it to the shores of the east coast. But Latinos have also suffered from poll taxes, white primaries and intimidation. Throughout the history of the Southwest it was very difficult for Latinos to participate in the process because literacy tests or language barriers were imposed, but the Voting Rights Act has made it possible for real progress to be achieved. I think it is clear to say that the doubling of Latino elected officials over the last 10 to 15 years, the increase in voter participation by Latinos, oh, say from 1975 from about 1.5 million to over 3 million are marked increases that deserve recognition especially for the Voting Rights Act.

I can go on and on and talk about how things are improving not just in the southwest, but in New York City where there has been a 17-percent increase in the number of Latinos who are registered to vote. But what we find from this is once they begin to participate in the process, they become full Americans, and I think that is what we hope to achieve through the Voting Rights Act, is full Americans, and I want to say to people like the gentleman from Georgia [Mr. LEWIS] to those who will participate in this special order, that it gives me great pride to say that back in the 1960's, when the march and the struggle came to a head and we had a chance to really televise it, that there was a chance to tell the American people that people have struggled, struggled not just for decades, but for centuries, to provide true, true rights, true representation to all people, not just a particular minority, not just to those that have been disenfranchised, but to all people, and I think, when you look at all the different communities that we have in this country that make up the fabric of America, you can truly say that the Voting Rights Act has worked. We should make it work more. We should preserve it. In fact we should strengthen it.

I would just like to say that it is time for us to stand together and do what was done 30 years ago, say that the Voting Rights Act must not only continue, but we must strengthen it. So I thank the gentleman from Georgia [Mr. LEWIS] for the opportunity to be here today.

Mr. LEWIS of Georgia. I thank the gentleman from California, my friend and colleague, for participating in this special order.

Mr. Speaker, I now yield to the gentlewoman from Texas [Ms. JACKSON-LEE], and I want to thank her for being here and participating.

Ms. JACKSON-LEE. Mr. Speaker, it is with both celebration and trepidation that I rise this evening in recognition of the 30th anniversary of the March From Selma to Montgomery and passage of the Voting Rights Act.

I celebrate with my colleagues the inspiring courage that fortified the unarmed band of non-violent probably people like our neighbors, who were tear-gassed, charged and brutally beaten by State police on horseback as they tried to peacefully cross the Edmund Pettus bridge in Selma, Alabama, 30 years ago today I also salute them—for these courageous souls changed the course of history of this nation—and when the 35,000 strong reached Montgomery after the March 7 march, they were black and white together.

I celebrate the courage of the distinguished gentleman from Georgia, [Mr. LEWIS], who was on that bridge on

March 7, and suffered great injury in the name of freedom along with the gentlelady from Georgia, Ms. [MCKINNEY], has been instrumental in providing my colleagues and I the opportunity to address the chamber this evening.

And I celebrate the Voting Rights Act of 1965 that has ensured the freedom for all Americans to cast their ballots in peace and safety.

A freedom some may take for granted these days, but a freedom for which so many—black and white—were forced to fight and too often die.

My trepidation, Mr. Speaker, comes in the knowledge that there are those around this Nation today who seem to have forgotten America's long and tortured history of racial injustice. There are those, Mr. Speaker, who would turn back the clock to a time of fear and polarization. Those who are again willing to stroke the fires of racial division in their pursuit of short term gain.

As history's demagogues have always chosen their scapegoats, American demagogues today seek to make different classes and races of people their scapegoats.

Encouraged by November's election analysis, today's demagogues want to promote anger and divisiveness amongst America's many races—particularly those most associated with the civil rights movement—African-Americans.

If they can convince white Americans that they should fear these diverse Americans instead of spending more constructive time solving the problems of binding work instead of welfare, of insuring the maintenance of school lunches and breakfasts instead of ketchup as a meal, and insuring a higher minimum wage for our citizens then today's demagogues will succeed in their efforts to divide and conquer America.

Today's demagogues here in Congress and across the country on talk-radio have fought tooth and nail the motor-voter laws that make it easier for all Americans to register to vote when they renew their driver's licenses or vehicle registrations.

They have been gerrymandering Congressional Districts for their advantage for more than 200 years.

But now that Congress has been fairly and legally diversified through the Voter Rights Act, the demagogues want to challenge the Voting Rights Act in court.

And just as police and fire departments, construction sites, corporate offices and graduate school classrooms are beginning to show the kind of racial, cultural and gender diversity that is America, the demagogues want to abolish any and all Government programs that they call ''affirmative action.''

Mr. Speaker, my trepidation comes when I hear the demagogues make blanket condemnations of all affirmative action programs—as though it was affirmative action and not a changing global economy that is to blame for America's anxiety over job security.

Let me be clear, Mr. Speaker, I welcome positive debate on affirmative action programs and we can work together to improve any utilization of these programs.

But let us make no mistake about it, affirmative action is not and never was some crazy scheme foisted on America by bleeding heart zealots. It was and remains the direct consequence of sustained and oppressive racism, and to those who argue that that kind of racism is a thing of the past, let me share with you some of my recent mail.

Mr. Jack Clark of Morgan, Georgia, offers his insight into American race relations. Mr. Clark claims it was the white male who made our country great and that, quote, ''Niggers Will Destroy America.''

Mr. Speaker, another anonymous correspondent, also from Georgia, offers this Nazi-like solution to racial tensions, quote, ''Save America, Nigger Genocide.''

Mr. Speaker, I did not consider lightly whether or not to share this mail with my House colleagues and the rest of America, and it is with mixed feelings that I did so.

As an American first, I am ashamed that such thinking still goes on in any quarter.

As an African-American who has worked all her life to improve racial harmony in my hometown of Houston and across the country, I was stunned to receive such cruel insults by people who haven't the slightest idea who I am or what I stand for.

Mr. Speaker, I know the vast majority of white Americans would be as insulted as I am by these disgusting thoughts.

And I know they are not the ones discriminating against African-Americans in matters of education, employment, housing or finance.

But, as we commemorate the Selma to Montgomery march for freedom, and the Voter's Rights Act, this good-hearted majority must be reminded that tremendous evil still lurks in the hearts of a dangerous minority.

And if we are not careful, we run the risk of returning to our dark past.

Let me conclude, Mr. Speaker, with a heartfelt plea to all Americans—white, black, brown and yellow.

We must celebrate our diversity, we must maintain our courage, and we must stay strong so we can resist the demagogues' message of fear and hatred.

Despite skin color and cultural heritage, we are all brothers and sisters, and brothers and sisters must care for each other and see to it that justice is done.

Let us remain vigilant and never forget that united we stand, and divided we shall surely fall.

□ 2114

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentlewoman from Texas for participating in this special order and say to her that I am very grateful for her involvement and for her leadership. I think the mail that you got from my State tends to dramatize to the Nation and to all of us that the scars and stains of racism are still deeply embedded in the American society. So we must still act. We must still speak. And thank you.

Ms. JACKSON-LEE. I am grateful for those words and let me say to you that our challenge is before us. You have paved the way and we join you in making this country a better place for all of us.

Mr. LEWIS of Georgia. Thank you. Mr. Speaker, I now would like to recognize the gentleman, my friend and colleague, the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I rise today to stand with this brave man, Representative JOHN LEWIS, to commemorate the anniversary of the Selma to Montgomery march, one of the milestones in civil rights history. Thirty years ago today hundreds of brave African-American men and women, Representative JOHN LEWIS among them, risked their lives to ensure the voting rights of all people, regardless of their race.

During the 1960s, the State of Alabama was notorious for its practices of segregation. Like many States in the South, Alabama did not even acknowledge the equal rights of black men and women. In 1965, the Reverend Dr. Martin Luther King, Jr., and other began trying to escalate his Selma voting registration campaign. But whites in Alabama, including then Governor George Wallace, were just as adamant in their protests against the voter registration campaign.

On March 7, 1965, more than 600 marchers gathered in front of Brown's Chapel AME Church in Selma to prepare for the 50-mile march from Selma to Montgomery. This march was intended to dramatize the demands for voting rights. Led by the Reverend Hosea Williams, a King lieutenant and my distinguished colleague, Congressman JOHN LEWIS, who at that time was the national chairman of the Student Nonviolent Coordinating Committee, the marchers headed for the Edmond Pettus Bridge in Selma. Unfortunately, they were not prepared for what was in store for them. A solid wall of State troopers, a smoke bomb and an ensuing attack and chase by the troopers and sheriff's posse. The marchers were violently driven back as ambulances shuttled the injured to the hospital and treated others on site for cuts, bruises, and tear gas aftereffects.

The infamous bloody Sunday became a monument to history. Many of these marchers, including Representative LEWIS, were college students who heeded the call of civil rights leaders for all blacks to become active in the movement. Students in my own congressional district heeded the call 5 years prior to the Selma march in 1960. Four

African-American students, black students from North Carolina A&T State University in Greensboro, NC, including one of my constituents, Franklin McCain, made history for the civil rights movement and the State of North Carolina.

On February 1, 1960, these African-American students staged a sit-in at the Woolworth's department store counter in Greensboro. This was by no means the first sit-in in North Carolina but this particular one opened the doors for a student movement that began creeping up throughout the South.

On the evening following the four students' sit-in, 50 students met and created the Students Executive Committee for Justice. The following day, the four A&T students were joined by more than 300 African-American students from A&T and Bennett College, also in my congressional district. They organized a massive sit-in at various lunch counters across the city of Greensboro. Four days later, 1,600 students decided to halt the demonstrations at the request of city leaders who promised talks and negotiations.

However, no compromise became evident to any of the students, so the sit-ins resumed on April 1. On April 21, 45 demonstrators were arrested for their protest. Yet, subsequent sit-ins and boycotts forced the city of Greensboro to reopen lunch counters on a desegregated basis by July 1960.

The students' acts made a tremendous difference in both of these historical civil rights milestones: the sit-ins and the march in Selma. Their involvement and commitment not only helped make strides in voting rights but in the entire arena of desegregating America.

Mr. Speaker, I had hoped that this would be the end of my presentation in this special order, but when I went back to my office today I was reminded of the significance of the Selma march again. When I went back to my office from the floor today, in March 1995, I had a memo from the NAACP Legal Defense Fund. They reminded me once again that we have not yet quite arrived.

It said on April 19 the Supreme Court will hear arguments in two crucial voting rights cases from Louisiana and Georgia. These cases ask the Supreme Court to consider whether race or ethnicity can constitutionally be considered in constructing electoral districts.

The attack is not limited to oddly shaped or bizarre congressional districts, said the memo. It is not the districts' shapes but their racial composition as majority black and majority Hispanic that is being challenged as unconstitutional.

''The legal principles,'' the memo went on to say, ''established in these cases will have wide-reaching impact.'' Plessy versus Ferguson ensconced the nationwide principle of separate but equal in a case that presented the claim of one person seeking to ride in a white-only railroad car. Brown versus Board of Education directly involved only four school districts, but the decision revolutionized the law of racial equality.

And the memo went on to say the lower court in the Louisiana case ruled that any race consciousness in districting is always subject to strict scrutiny. Yet, the creation of majority-minority electoral districts almost never occurs by chance. Because race is such a dominant force in American politics, it would be impossible to provide fair representation to racial and ethnic minorities without taking race into account.

Since minorities have been elected almost exclusively from majority-minority districts, the U.S. Congress and State and local legislative bodies are at risk of once again becoming virtually all white.

So, today, once again, we are reminded of why these brave people made that march in Selma. And, unfortunately, once again we are reminded that the march and the fight and the struggle for equality in the voting rights area and in every segment of our society still has not been completed.

□ 2130

Mr. WATT of North Carolina. We must fight. We must continue to march together. I commend my colleague, Representative LEWIS for putting together this special order, and I express my thanks to him for inviting me to participate, but more importantly, I express my sincere thanks to him for the bravery that he demonstrated 20 years ago today when he faced the marshals and the tear gas and the fear that must have existed on that bridge in Selma, AL. Thank you for allowing me to participate, Representative LEWIS.

Mr. LEWIS of Georgia. Mr. Speaker, let me thank my friend and colleague from North Carolina for those kind words and for participating in this special order tonight. We are very grateful for your participation. Thank you.

Mr. Speaker, I would like to recognize the head of the Congressional Black Caucus, the chairman of the Congressional Black Caucus, the Honorable Mr. PAYNE from the State of New Jersey.

Mr. PAYNE of New Jersey. Mr. Speaker, let me thank the gentleman from Georgia, the Honorable Representative LEWIS, who over 30 years ago led the Nation in the march on bloody Sunday. It was in fact the same date as tonight when he led the march over the Edmund Pettus Bridge, when Sheriff Jim Clark and his posse, with the Alabama State troopers, stood there and treated people as brutally as any act in this Nation.

As chairman of the Congressional Black Caucus, I take great pride in drawing attention to a very important piece of legislation that resulted from that action. After years of judicial and administrative wars, which were highlighted with the passage of the Voting Rights Act of 1965, this country just recently began to get women and minority officials elected in significant numbers.

The Voting Rights Act of 1965 and its extension in 1970 and 1975 had a profound effect on the black political participation in the South. The percentage of voting age blacks registered in the South in March, 1965 was only 35.5 percent, compared with 73.4 percent of the white population. The percentage of blacks registered was especially low in States targeted by the special provisions of this act, and it was in the area of the South that the act had the most direct and important impact.

By the end of 1965, Federal examiners, working in 32 counties in the covered States, had listed the names of 79,000 African-Americans to be added to the voting registration rolls. By the end of 1967, more than half a million new black voters were listed in the States covered by the Voting Rights Act. Since 1970, changes in black registration rates have been more erratic, but have generally moved upward. Moreover, the substantial increase in the number of black registered voters has been accompanied by a significant rise in the number of black elected officials.

So I share this history with you to emphasize how important this bill really is to African-Americans and to our communities. More importantly, I believe these statistics are even more remarkable when one considers that as late as 1940, 95 percent of adult blacks residing in the States in the South were deterred from voting. Many people had been beaten, lynched and harassed so that African-Americans could have the right to vote. The barriers at the time were numerous to them. They included all-white primaries, poll taxes, literacy taxes and economic intimidation. Within a generation, these barriers were largely dismantled; however, some still exist. By far the biggest increase in black registration occurred in the late 1060s in the southern States covered by the Voting Rights Act.

And let me say that it is interesting to note that it was not only in the South where we have had problems, but when we look at Black History Month, which just passed, we found that following the Civil War, it was the passage of the Reconstruction Act of 1867 that gave blacks the right to vote.

Blacks were elected to Congress. Hiram Revels of Mississippi became the first black to serve in Congress, when he took his seat in the U.S. Senate on February 25, 1870. Joseph Rainey of South Carolina became the first black Member of the House of Representatives when he took his oath of office on December 12, 1870. In fact, in the first Presidential election open to African-American voters, the blacks gave the deciding vote. Ulysses S. Grant defeated Horatio Seymour by a margin of 300,000 votes. It was estimated that

Grant received 450,000 votes from newly freed slaves.

Unfortunately, in my home State of New Jersey, African-Americans were shut out of the political system for a very long time. In fact, in 1807 the State legislature restricted voting rights to only white males, eliminating privileges that our State's 1776 Constitution had existed for both African-Americans and women. Despite immediate opposition to the 1807 restrictions, the State's 1844 Constitution continued to limit the franchise to white men.

In an effort to gain a right to vote, the first statewide black convention was convened at Trenton's Zion AME Church in 1849. The convention petitioned the legislature to put aside prejudice and allow all citizens to vote. Their effort was unsuccessful. The reality is that New Jersey in the 1800s was sometimes compared to the South. New Jersey was a slave holding State and it was reluctant to change. References to New Jersey as the land of slavery are found in historical letters of pre-Civil War era. New Jersey was the last northern State to approve laws abolishing slavery. It was in 1804 when a bill was passed establishing a gradual system of the practice of ending slavery, but the bill actually allowed slavery to continue until after the Emancipation Proclamation to the end of the Civil War.

So as I conclude, it is important that we do know about history, that we do know that New Jersey questioned President Abraham Lincoln's authority to free the slaves. It was also the only northern State that failed to ratify the 13th, 14th, and 15th amendments to the Constitution.

And so as we look around, we have seen a great deal of improvement. As we look around, we see that the importance of this bill is important. As we look around, we see that we have seen a great deal of progress in the course of history as African-Americans. We have seen many move into elective offices. Today there are over 8,000 elected African-Americans as compared to 280 in 1965, and so as I conclude, I once again want to congratulate the gentleman from Georgia for this very important event tonight and I thought that it was important, as we celebrate Black History Month, that we hear a bit about the history of African-Americans throughout this country and thank you, Mr. LEWIS, for this opportunity.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my colleague and my friend, the gentleman from New Jersey, for participating in this special order, for his remarks, and for taking the time out to remember the people that participated in the march from Selma to Montgomery. I think it is fitting and appropriate tonight that we pause and commemorate, to take stock of the distance we have come as a Nation and as a people. I think as a Nation and as a people, we are on our way down that long road to creating a truly interracial democracy in America, a creative and beloved community, the open society, and this is what America is all about, creating a society where all of our people are able to participate and share in the fruits and dream of this great country of ours.

So tonight, as we commemorate, as we celebrate, as we pause, as I stated before, we have a distance to go, but we are on our way and there will be no turning back.

I would like to, Mr. Speaker, yield to a colleague and a friend, the gentleman from Louisiana [Mr. FIELDS], who, if not for the Voting Rights Act of 1965 and the march from Selma to Montgomery, Mr. FIELDS, like many of us, would not be here tonight.

Mr. FIELDS of Louisiana. I thank the gentleman for yielding. Let me just say to the gentleman that I too appreciate his efforts and I think on this very floor I have expressed my appreciation and my gratitude to the gentleman for all the commitments he has made to civil rights and voting rights in this country, and while the gentleman was walking across the bridge in 1965 I was only 2 years old, a little bit better than 2 years old, and I just want to thank the gentleman for, irrespective of the dogs and irrespective of the tear gas and irrespective of the police officers and the fire hoses, the gentleman still found the gall and the courage to march for what was right, and I just want to thank the gentleman. I think even today the gentleman would probably realize that the Voting Rights Act is still under attack.

The gentleman from North Carolina, MEL WATT, mentioned about the case in Louisiana, but in his own State there is a challenge in terms of the redistricting of his congressional district and the district that he represents. In the State of Georgia, in the gentleman's own State, there is a challenge in redrawing the congressional districts in the State of Georgia and in the State of Texas, and on the 19th the Supreme Court will hear both the Georgia and Louisiana cases. I want to thank the gentleman; irrespective of the outcome of that case, he certainly has made his mark on this institution, and I rightfully am here largely because of people like you who have opened up the doors for people like me, and I thank you for that.

Mr. LEWIS of Georgia. I thank my friend and colleague for those kind words.

Mr. FIELDS of Louisiana. Mr. Speaker, at this time I would like to talk a little bit about some of the rescissions and some of the things that have taken place here in Washington, DC, just to change the subject just a minute, and I am going to yield back to the gentleman because I think the gentleman has just received another invited guest.

Mr. LEWIS of Georgia. Well, Mr. Speaker, if I may, let me yield to my colleague from the great State of Georgia, the gentleman from the second Congressional District of Georgia, Mr. BISHOP.

Mr. BISHOP. I thank my colleague, Mr. Speaker.

Mr. Speaker, 8 days following the event known to history as Bloody Sunday, President Lyndon Johnson came to this Chamber to formally call on Congress to enact the Voting Rights Act.

In his remarks, the President predicted that Selma would prove to be a turning point in the country's history comparable to Lexington and Concord.

As we now know, he was right. The Voting Rights Act had been under discussion for some time. But it was Bloody Sunday that gave it the momentum to finally get through the House of Representatives and Senate and become law.

Its impact was nothing less than revolutionary. The new law authorized the Attorney General to send Federal examiners to supersede local registrars wherever discrimination occurred. This provided a means for dealing with disenfranchisement cases quickly and effectively without going through the prolonged and cumbersome process of litigation. Prior to enactment, millions of Americans were routinely denied the right to vote. After enactment, the opportunity to register and vote was immediately opened to all Americans for the first time in the country's history.

Although a majority of Selma's residents were black, only 3 percent had been permitted to register in 1965. Many techniques were employed to keep people disenfranchised. If an ''i'' was not dotted or a ''t'' crossed, a registration form was thrown out. If the registration form was filled out perfectly, a verbal literacy test was administered with questions so obscure the registrars themselves could not have answered them. And even if the questions were answered correctly, the registrars could tell applicants they failed anyway. There was, after all, no appeal.

When organized voter registration efforts got underway in Selma as early as 1962, firings, arrests, and beatings became recurring realities of life. On one occasion, 32 teachers were fired, en mass, just for trying to register. There were instances when blacks tried to register in large numbers and were kept waiting in lines from morning to night without ever having a chance to register with police standing guard throughout the day to prevent anyone from giving them food or water.

These forms of government oppression intensified when Dr. King made Selma the center of the civil rights movement early in 1965. Within a few months, hundreds of people involved in the voter registration campaign—white and black—were severely injured and three lost their lives. Much of the violence—particularly the brutal trampling and beatings of men, women and

children on Bloody Sunday—was carried out in plain view of television audiences from coast to coast.

Millions of Americans of both races were outraged. In fact, thousands of people ignored the dangers and poured into Alabama from all over the country in the weeks following Bloody Sunday to join the continuing demonstrations.

People were outraged over the injustice. On one side, people saw courage. On the other, they saw an extreme abuse of power. They saw one side simply seeking the right to vote. And the other advocating the denial of rights. They saw the non-violence of one side and the unrestrained and often unlawful violence of the other. And they could not miss the fact that one side was steeped in faith and spirituality and the other side in raw hatred. These stark contrasts certainly influenced the tide of public opinion.

But I believe many Americans were influenced by something more personal. I believe people throughout the country began to understand that if the most fundamental right of citizenship could be denied to one group of people it could surely be denied to anyone. It might be African-Americans today, tomorrow it might be people who belong to the wrong political party, or the wrong religion, or nationality.

The denial of voting rights to black Americans was, in fact, threatening to undermine the very foundation on which our republic stands. In my view, it was a struggle that involved more than the rights of one group of citizens. In a very real sense, it was a struggle for the very soul of our country.

Selma galvanized America behind the Voting Rights Act. And the Voting Rights Act changed America. When our esteemed colleague, JOHN LEWIS, received a key to the city where he was clubbed 30 years ago, it was dramatically symbolic of this change.

To be sure, the country still has its share of problems. Poverty and hunger and intolerance still exist. Too much crime and drug abuse and violence plague our communities. We still have disparities in opportunities. But just as the Selma demonstrators walked across the Edmund Pettus Bridge 2 weeks after Bloody Sunday during those memorable days in 1965, and continued their march freely and triumphantly to Montgomery, so has America crossed a bridge into a new ERA of expanded freedom and opportunity for all.

Throughout the country's history, one of our strengths has been our capacity for self-correction—the capacity to confront our problems, to deal with them, and eventually to emerge with a renewed and strengthened commitment to the ideals of equality of justice and opportunity on which America was founded. Lexington and Concord were early examples. Selma is a more recent one.

I am proud to be an American. I am proud of my native State of Alabama and my adopted State of Georgia where I have lived and worked for most of my adult life. With all my heart, I believe in the values our country and our States have advanced for more than two centuries—values which so many Americans have defended with their lives.

We commemorate the events that took place in Selma three decades ago for a reason. It is a part of our history that reaffirms these values that we treasure more than life itself. It is reaffirmation of the march toward justice and equality of opportunity that our country has been engaged in for more than 200 years.

□ 2145

But more than that, it forces us to focus on the threats of immediate and imminent danger that America now faces from the attacks on affirmative action, to remedy the effects of hundreds of years of discrimination, intimidation, violence and race, to the renewed attacks in the courts on the Voting Rights Act that was paid for with blood, with sweat and with tears on the Edmund Pettus Bridge.

Mr. Speaker, I come here tonight to commemorate the brave people who stood before the tremendous odds, the violence, and faced the harsh punishment of merely seeking to ask for their rights. I salute my colleague, the gentleman from Georgia, Mr. JOHN LEWIS, and the hundreds and hundreds of others who paid the price that we might have our voting rights.

America, this is 1995, 30 years later. Let us not turn back the clock. Let us not go back to where we were in 1965. Thank God we can remember the bloody Sunday in Selma in 1965.

Mr. LEWIS of Georgia. Mr. Speaker, let me thank my friend and colleague from the State of Georgia for those kind words and for his brilliant statement. He is a native of the State of Alabama. We both left the State of Alabama and moved to Georgia and now we both represent the State of Georgia in the Congress.

Mr. Speaker, I think tonight we have tried to say why we marched from Selma to Montgomery 30 years ago and why we come tonight to commemorate, to celebrate the great progress we have made as a Nation and as a people down that road toward a truly interracial democracy.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished Representative from Georgia, CYNTHIA MCKINNEY, for sponsoring this special order to commemorate two significant events in history, the 30th anniversary of the Voting Rights Act of 1965, and the historic march from Selma to Montgomery in 1965 which fueled its enactment. I am pleased to join my colleagues in reflecting upon these important events.

The march on Selma was a journey that forever transformed America's racial politics. Out of the violence and turmoil came the passage of our Nation's strongest voting rights legislation. On Sunday, March 7, 1965, about 500 marchers assembled at a church in Selma, Alabama, to begin a 50-mile march to the state capital of Montgomery.

For many years the leader of the civil rights movement, Dr. Martin Luther King, Jr., and others had fought to put African-American citizens on the voter rolls. The need was urgent, since the ballot box represented the key to equality, political empowerment and economic opportunity. Dr. King recognized the fact that he could not succeed without a Federal voting rights law. It was determined that Selma, Alabama, the ''cradle of the Confederacy,'' would be the focal point for a drive to bring about such a statute.

Mr. Speaker, when marchers gathered in Selma, Alabama on March 7, 1965, they thought the journey to Montgomery would take only four days. Instead, before they could even leave the city of Selma, America was left with the painful images of a brutal confrontation at the Edmund Pettus Bridge that exposed state troopers swinging clubs, firing tear gas, and using their horses to run down marchers. Our Nation watched as African-Americans were beaten and trampled.

The day after ''bloody Sunday,'' Dr. King issued a national call for protestors to join the effort in Selma. The call was answered by thousands of black and white Americans from all parts of the Nation and all segments of society, including baptist ministers, jewish rabbis and civil rights activists. This time the marchers made it to Montgomery. In August, just five months later, President Johnson signed into law the Voting Rights Act of 1965, providing the Nation with the strongest voting rights legislation in nearly a century.

As we gather today to mark the anniversary of the Selma to Montgomery march, we recognize the leadership of our good friend and colleague, JOHN LEWIS. He was only 25 years old when he and other protestors were brutally beaten in Selma. His determination and perseverance placed him in the forefront of the struggle for civil rights in America. We are proud that today he represents Georgia's Fifth Congressional District in the Congress.

Mr. Speaker, the Voting Rights Act is considered to be one of the most effective civil rights laws which this Nation has adopted. When President Lyndon B. Johnson signed into law the Voting Rights Act of 1965, he started America on a new course of equality for those who had lacked political representation. In 1957, 1960 and 1964, Congress enacted civil rights laws to eliminate racial discrimination in the electoral process. However, the initiatives proved to be ineffective largely because they provided for enforcing voting rights in the courts on a case-by-case basis, which proved to be a time-consuming and ineffective approach.

The Voting Rights Act was originally designed to implement the fifteenth amendment to the Constitution which guaranteed the right to vote free of discrimination based on color or race. It was later amended to extend protection to the Nation's non-English speaking minority populations. Thus, the act has been instrumental in bringing our Nation nearer to realizing the goal of full equality in the electoral process.

In their book, ''Controversies in Minority Voting: The Voting Rights Act in Perspective,'' the authors, Edward G. Carmaines and Robert Huckfeldt, write that the Voting Rights Act:

''has altered the racial composition of the electorate, the party coalitions and the officeholders. It has transformed the appeals of politicians, the lines of political debate and the bases of political cleavage. Most important, it has transformed the strategies and agenda of American politics.'' Nowhere is the law's impact more evident than in Congress itself. In 1965, there were six black Members of Congress and four Hispanic Members. Today, there are 41 members of the Congressional Black Caucus and 18 Hispanic Members serving in this legislative body.

Mr. Speaker, those of us who have fought to secure voting rights and equal representation join today to commemorate the historic anniversary of the march on Selma and the passage of the Voting Rights Act. We also gather to reaffirm our commitment to the principles upon which this Nation was founded—liberty and justice for all. Many battles have been waged to secure these rights. Yet, we cannot and shall not rest until they apply to each and every citizen in this great democracy.

Mr. CONYERS. Mr. Speaker, 30 years ago, Selma, AL captured the attention of people around the world. At a time when there were 6 African-American Members of Congress and thousands of disenfranchised people in this country, 500 peaceful marchers were brutally attacked at the Edmund Pettus Bridge by State troopers for dramatizing the need for voting rights legislation.

All Americans, black, white, and every color, benefited from the conviction of these bold marchers. Dr. Martin Luther King once suggested in a Detroit speech that if you haven't found a cause worth dying for, you haven't found anything to live for. These brave members of the civil rights movement, found their cause in a simple act of conscience. For this they suffered the brutality of Bloody Sunday and experienced the joy of seeing the Voting Rights Act become law on August 6, 1965.

The struggle for voting rights was not over, far from it. The Reagan Justice Department in cases involving Mississippi, Louisiana, North Carolina, and Virginia supported the annexation of areas designed to dilute black voting strength. In 1985 they initiated a series of criminal prosecutions against civil rights workers in the five black majority counties in Alabama. Eight of the very people who led the march from Selma to Montgomery were indicted for voter fraud.

Thrity years later, our hard won victories are still under attack. States are refusing to implement the motor-voter law, the drawing of majority minority districts is under fire and affirmative action is in jeopardy. Frederick Douglass, a crusader in the fight against slavery who died 100 years ago, said something once that still applies today, ''where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress rob, and degrade them, neither persons nor property will be safe.''

We must never forget the legacy of struggle, survival and perseverance left to us by our African-American forebears. It is forged on a vision of freedom, equality, and opportunity that we must preserve for our children. Our memory of these individuals should only serve to fuel our fires as we attempt to preserve the rights of all Americans to participate in the political process. We must be as courageous as the marchers were on that Sunday morning in 1965 and meet the challenge head on.

Mr. WATTS of Oklahoma. Mr. Speaker, we take it so blithely nowadays. Every 2 years—sometimes more often—we go to our local library, school, dry cleaners and pull a lever, darken a circle or punch a hole—all to cast our vote for the representatives of our choice. Whether it's the school board, county assessor, or the highest office in this land—voting has become commonplace, even sometimes considered a burden by some.

But in 1965 in Selma, AL, it was not commonplace—it was not a burden. In fact, voting was worth marching for, demonstrating for and even dying for by those whose choices were restricted by oppression.

It is those heroes who marched from Selma to Montgomery—we all remember the famous names like King and all of the other not so famous names who had a burning desire to make sure all people—red or yellow, black or white, had the right to vote freely.

On this 30th anniversary of the march from Selma to Montgomery, it is fitting that we reflect on yet another recent voting success.

In South Africa last year, black Africans had the opportunity to vote for the first time. The stories are poignant. One account is told about a couple of black housekeepers who rose early that morning, put on their best going-to-meeting clothes, rode in with their white employers and stood together, for hours, waiting to cast their votes for the first time.

It was not a burden; it was not an inconvenience; it was a privilege—an event—a time to wear your Sunday's finest because the vote took on a sacredness. That vote in Johannesburg, Capetown, and Soweto was exercised for the first time after blood shed, unrest, and revolution. That revolution ended in the election of Nelson Mandela and for the first time true freedom rings in South Africa.

That story is repeated over and over again I the Stans of the former Soviet Union, the countries of South America and even in the far east where the concept of one man, one woman, one vote is becoming the archetype.

Let us not ever be so brazen, so commonplace that we forget the struggle, the heartbreak, the price paid for the voting rights act. On this the thirtieth anniversary, let us be vigilant for any continued injustices or breaches of that inalienable right and let the words of Dr. Martin Luther King ring true: An injustice anywhere is a threat to justice everywhere.

Ms. BROWN of Florida. Mr. Speaker, I rise tonight to commemorate the 30th anniversary of the Voting Rights Act. In 1962, only 5.3 percent of the voting-age black population was registered to vote in Mississippi. There were only 500 black elected officials in the entire country.

The year I was elected to Congress was historic—especially for Florida. For the first time in over 120 years, an African-American represents my district in Congress. Representatives CARRIE MEEK and ALCEE HASTINGS also represent Florida in Congress. The Congressional Black Caucus has grown to 40 members, the largest ever. Sixteen new African-American Members, most from the South, were seated in the House of Representatives and one African-American Senator, CAROL MOSELEY-BRAUN, was seated, expanding the number of Congressional Black Caucus members to 40. There are now 57 women, 19 Hispanics, 8 Asians, and 1 American-Indian. This is the highest number of minorities to ever serve in the history of the U.S. Congress. Despite these gains, less than 2 percent of the elected officials in this country are black. We still need the Voting Rights Act, we still have a long way to go.

Let me tell you a little bit about Florida's first Member of Congress. Josiah Wells, from Gainesville, FL, was first elected to the House of Representatives in 1879 but his election was challenged and he lost his seat after only 2 months in office. However, by that time, he had already been reelected to a new term. Believe it or not, his next victorious election was challenged after ballots were burned in a courthouse fire. And thus ended the congressional career of Florida's first black Representative.

Once Reconstruction began, 21 black Congressmen were elected from the South between 1870 to 1901. However, after 1901, when Jim Crow tightened his grip, no black person was elected to Congress from the South for over 70 years. As we celebrate the 30th anniversary of the Voting Rights Act, it is more timely than ever, to study what happened to black representation during Reconstruction. This period may seem like ancient history, but what happened then seems to be happening all over again.

Although history was made with the 103d Congress, reaction to that history was the election of 1994—the revolution of the conservative right. Angry white men were not happy with the history we made in 1992. They have launched a contract on America and in just the first 50 days they have:

Threatened school lunch programs; threatened Meals on Wheels for seniors; cut Pell grants; eliminated the Cops on the Beat Program that have provided more than $11 million for over 150 cops to the Third Congressional District; and threatened to eliminate affirmative action programs, including the 8(a) Small Business Program.

For the first 100 years of America's history, African-Americans did not have the right to vote; they were enslaved. Eventually, the Constitution was amended to make African-Americans free. After the Civil War, some African-Americans were able to exercise their rights to vote but this lasted for just a brief time. After the Reconstruction period, things actually got worse and Jim Crow ruled the South. The civil rights movement exploded because African-Americans were fed up with living in America without real democracy. Dr. Martin Luther King, Jr., whose birthday we recently celebrated, and many others sacrificed their lives to have the Voting Rights Act passed into law. The Voting Rights Act was enacted in 1965 but it has taken almost 30 years to implement in the South. The reason districts were redrawn was because of a long history of violations of the Voting Rights Act—we cannot lose sight of this. The Voting Rights Act was enacted because people that should have been represented were not represented. Too many have died for us to allow a few frightened individuals to steal back these long-overdue rights to representation. What matters most is not what the district looks like, but who is in them—those who have been left out.

New attacks, just like the attacks on Josiah Walls, are from the good old boys from the bad old days who are trying to roll back the clock and send minorities to the back of the political bus. Congress now looks more like

America than at any time in the past. However, even though there are more women and African-Americans in Congress than ever before, neither group is fully represented proportionately to their numbers in the general population. Blacks and women are still underrepresented even though we have begun to make progress. The voters of America should be outraged that a few people are trying to take away the representation blacks, Hispanics, women, and other minorities have been struggling for over 127 years to achieve.

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks on the subject of my special order tonight.

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

There was no objection.

WHICH WAY AMERICA? ONE DOLLAR AND NINE CENTS A PERSON FOR PUBLIC TV OR ZERO DOLLARS AND A WASTELAND?

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. HORN] is recognized for 60 minutes as the designee of the majority leader.

Mr. HORN. Mr. Speaker, whenever a measure that affects a broad spectrum of America comes before the House, our offices are inundated with calls, letters, and telegrams. The proposed budget cuts to the Corporation for Public Broadcasting [CPB], National Public Radio [NPR], and the Public Broadcasting System [PBS] have sparked just such an outpouring. While we are all familiar with the various letter-writing campaigns that produce mail bags full of mass-produced—usually computerized here in Washington—letters and cards, this has not been my experience with those who write to tell of their support for funding public television and public radio. What I have received is letter after letter—personally conceived and written—each telling how the proposed budget cuts would affect them. As we all know, these are the ones that touch our heart and our conscience.

What these letters demonstrate is that public broadcasting opens the world to its listeners and viewers in a way that commercial radio and television have never been able to do. The letters show that funding for the Corporation for Public Broadcasting is not an arts issue, nor one of entertainment or communications. It is far broader. The letters I have received tell me that funding for public television and radio is a seniors issue—an education issue—a children's issue—a community issue.

Most important, these letters are the voices of public broadcasting's viewers and listeners. They are the voices of America.

As for seniors, let's start with Mrs. Alta Valiton, 81 years of age, a resident of Long Beach, who observes that she:

> Has been watching TV from its beginning. In some ways it has deteriorated, giving much time to sitcom after sitcom and shows appealing to the uneducated, but there is always public television to bring a breath of fresh air and mental exercise and aesthetic pleasure. What would our lives be without the Nature Series, the National Geographic features, and the great music—the Met, the concerts by the great trio of men singers, the Christmas Day program from the [Los Angeles] Music Center, and the scientific programs. Need I go on?

She closes.

Or Mr. Harold Weir, a 68-year-old from Downey, who wrote:

> I am retired and living on a very limited income. I cannot afford cable TV. PBS is virtually the only TV channel I watch, other than for local news.

Mrs. Bernice Van Steenberg, another Long Beach senior, says:

> PBS is my favorite station and I am not an elite, wealthy person. I'm a senior citizen on a limited income who doesn't have cable TV and who relies on the good programs PBS presents. I'd be lost without PBS.

These voices are also experienced parents who know the value that public broadcasting has brought to their children over the years. Mr. and Mrs. Raymond Collins of Long Beach recalled:

> Because of ''Sesame Street,'' the ''Electric Company,'' ''Mr. Rogers,'' and many other programs of the early to late 1970's, our son Philip—who is now 22—was able to read and count quite well before he began grade school. It was the only period since first having a television set in our home that we were able to watch daytime TV—we'd watch with Philip—without becoming bored, agitated, and having to turn the set off. I wonder how we would survive without public television.

And, an alumni viewer of such shows as ''Sesame Street' and ''Mr. Roger's Neighborhood''—Dr. Gregory K. Hong of Bellflower—noted:

> * * * those are the programs that I watched to learn English when our family immigrated to America twenty some years ago.

These voices are typical of the millions of people who enjoy and benefit from public broadcasting. With national public radio, for instance, almost 16 million people listen over the course of a week—that is 1 in every 10 adults in America. This audience has almost doubled in the last 10 years to include people from all walks of life. Many radio listeners work in a professional or managerial occupation; one out of every four works in a clerical, technical, or sales position.

Some say that shows elitism. What nonsense. More than half of public radio listeners are not college graduates, and 48 percent live in households with combined annual incomes below $40,000 per year. My letters confirm this. Grandparent R.M. Dunbar of Long Beach wrote me to say that:

> I'm not one of the elite that someone said all public television watchers are—I'm just a person who became full to the brim with soap operas and lousy sitcoms.

Long Beach residents Jim and Pat Bliss agree:

> We have heard public broadcasting's fans described as an elite. Not so; if we were an elite group, we would buy cassettes to entertain us en route to work, hire someone else to do those mindless chores, and pay the heavy subscription rates required for cable TV.

Public television viewers and public radio listeners are not just listening to entertainment; they are receiving programming that is enhancing the quality of their lives and that of their communities. Mrs. Shirley Freedland of Long Beach summed up this aspect rather dramatically: ''Without PBS our brains will shrivel up and die.'' Across the country, public broadcasting is serving Americans. In Huntington Beach, CA, Channel 50, KOCE–TV offers teacher training workshops and television specials in both English and Spanish designed to promote parenting skills such as helping with homework and drug abuse prevention.

Mr. Speaker, a decade ago, I recall offering the first TV course of ''Congress: We the People'' over Channel 50. The public-spirited channel has a long record of bringing first rate educational programming to Southern Los Angeles and Orange Counties. The community colleges of Orange County have been pioneers in developing educational programming.

After the devastating Northridge earthquake last year, KCET–TV in Los Angeles—the region's premier public TV station—taped programs that reassured children and helped them to deal with the chaos around them. In Gainsville, FL, WUFT–FM radio provides a 24-hour reading service for the blind. In Evansville, IN, WNIN installed public access terminals in low-income housing areas so users could access local public libraries, and newspapers, and use Internet e-mail. Town halls and State legislature sessions are broadcast over public radio and television stations in Alaska, Illinois, and Florida. Prairie Public Radio in North Dakota is planning a native American language program to promote the continued use and study of native American languages. It is patterned after a similar public broadcasting program in Hawaii which has regularly scheduled Hawaiian language shows.

□ 2200

Karen Johnson, a disabled Long Beach resident, is at home all day. She subscribes to three southern California public radio stations: KLON–FM88, KUSC, and KCRW. She can hear ''MacNeil-Lehrer'' and a local show ''Which Way L.A.?'' which is carried by KCRW, a radio station based at Santa Monica College. Hosted by Warren Olney, this program has had a major impact as it daily brings together people across age, race, and ethnic lines to talk about the key problems facing America's second largest city and one of the major metropolitan regions in the world. Karen sums it up well: ''Daytime broadcasting (commercial) is a wasteland. And commercial news' broadcasts lack any analytic depth.''

In rural America, public broadcasting plays a special role in linking listeners to their communities and the world at large—particularly in areas where the local newspaper is published just once a week and where the economic base cannot support locally generated commercial broadcasting. Without National Public Radio, for instance, households in western North Dakota would be without radio news. Throughout Alaska's Prince William Sound, listeners—who frequently do not have telephone or television—would lose their messaging service, their only way to communicate to the outside world. At a reservation in rural Wisconsin, they would lose the service that records and broadcasts tribal meetings, the Head Start Program, and health and environment conferences. In the Chico area—80 miles north of Sacramento in northern California, there are no large cities—listeners would no longer be able to earn college credits by taking courses through the radio. Without public broadcasting in remote Pine Hill, NM, the area's farmers and ranchers would simply no longer have a radio station to connect them with the outside world. it would be very, very tough—if not impossible—for these communities to replace the services provided to them by public broadcasting.

The services provided by public broadcasting come cheap—a Federal investment of just $1.09 in Federal funds per year for each American; let us repeat that, $1.09 for each American. That's 80 cents for public television and 29 cents for public radio. And this money is a good investment. In public broadcasting, every dollar in Federal funding leverages $5 in other funding.

Where do these Federal funds go? Twenty-five percent of the Federal funds received by the Corporation for Public Broadcasting are designated for public radio. Almost all of that money—93 percent—goes directly to local public radio stations. At these local stations, the Federal funds equal about 16 percent of the average public radio station's operating budget.

This 16 percent may seem to be a rather small amount over which to be fighting—but let me relate an interesting fact told to me by Judy Jankowski, general manager of KLON–FM 88—a public radio station that I brought to California State University, Long Beach, when I was president. According to Judy, this relatively modest amount of funding is what banks and other financial institutions use as a basis for loans to public stations. In other words, without Federal funding, public broadcasting stations would be severely hampered in their ability to borrow funds.

Some argue that public broadcasting provides a free, publicly subsidized platform for the promotion of Barney and ''Seasme Street''-type products. As the parent of two former ''Sesame Street'' watchers, I can attest to the fond memories related to the characters on that show. Friends with young children tell me that it is no different with Barney, the purple dinosaur. And the popularity of these two programs over the years has created a great market for products which are related to the shows.

When ''Sesame Street' went on the air in 1969, the financial arrangements between the show's products—the nonprofit Children's Television Workshop—and PBS were not commercial. They continue that way today. In 1973, the matter of income-sharing was discussed, and PBS agreed to allow the Children's Television Workshop to retain all of its income because the workshop agreed that all income from merchandising would be reinvested in ''Sesame Street'' and other of its productions and educational activities. This has allowed the workship to produce four additional major children's series: ''The Electric Company,'' ''Square One TV,'' ''3–2–1 Contact'' and ''Ghostwriter.'' Last year, the workshop received approximately $27 million from its merchandising. From this amount, $7 million paid the expenses associated with managing the workship's merchandising business, $13.5 million was reinvested into the production of ''Sesame Street.'' And, the remainder went to other workship educational activities.

In the 1980's, PBS and CPB had an income-sharing policy for all public television programs that brought them a share of revenues. However, until the ''Barney and Friends'' show, this was not a significant source of revenue for either PBS or CPB. With the advent of Barney's merchandising success, PBS and CPB took steps to obtain a share of the revenues. However, because the Barney show was developed and is produced by a for-profit organization—the Lyons Groups—the negotiations and agreements are much more complicated than those with the nonprofit Children's Television Workshop.

In 1991, the Public Broadcasting System made a commitment to increasing its children's programming. Because of the long development process involved in producing a children's TV series—between 12 and 36 months—PBS sought to acquire children's TV shows which were already being produced. At that time, Barney had appeared on Connecticut Public Television [CPTV] and briefly on Disney. So, in 1991, PBS, CPB, CPTV, and the Lyons Group entered into an agreement to bring the show to public broadcasting. Under the terms of the agreement, PBS and CPB each committed $1,125,000. Connecticut Public Television agreed to commit almost $700,000—mainly in-kind services entailed in establishing the liaison between Lyons and the public television stations airing Barney. Lyons and Connecticut Public Television had already worked out an income sharing arrangement which called for CPTV to receive 30 percent of the share of foreign broadcast and audio and video sales royalties. However, payments to CPTV would not commence until after Lyons Group had recouped its initial $2 million investment, as well as costs it incurred in making sales in the home video and foreign markets.

When PBS and CPB became involved, it was agreed that half of CPTV's income share would be split between PBS and CPB. Payments to PBS and CPB would not begin until after CPTV had recouped its initial $700,000 investment. PBS tried to secure a share of the ancillary income with the Lyons Group, but Lyons refused, citing the $2 million it had invested in producing ''Barney and Friends.''

CPTV continues to share in the Barney program sales and shares this money with PBS. To date, public television has received approximately $600,000 from the Lyons Group. PBS, CPTV, and Lyons have reached an agreement on future book and audiotape sales. PBS estimates that future revenues—based on the latest contract with Lyons—will be at least $2.4 million next year.

The Corporation for Public Broadcasting is very aware of the growing limitations on the availability of Federal funds. Its staff members are working hard to increase other sources of funding so that it can better support the stations for which it is responsible. But PBS is not a media investment company. Its mission is to maximize service to the public and to provide high-quality programs based on sound educational principles to benefit America's children. If the mission of public television were strictly to maximize commercial return, the program selection criteria would be quite different. Selection criteria would be based not on program nor educational value, but rather on retail market potential. Put simply, public broadcasting would cease to be the national treasure that it is today.

There have been many myths floating around about public broadcasting. Misstatements and incorrect perceptions have clouded up the real picture. I have already discussed the so-called elitist listener issue, as well as the program merchandising revenues situation. But there are others that need to be cleared up. Let me review some of them.

First myth: ''Telecommunications companies could step into the funding role now played by the Federal government.''

Reality: The Corporation for Public Broadcasting is not a network. There are no assets for a private company to acquire. Under statute, CPB is not allowed to own stations or sources of programming. It is a funding mechanism to shield the station from direct Government control. National Public Radio [NPR] and the Public Broadcasting Service [PBS], which do have assets, are private companies and are not for sale. The local stations are individually licensed by the FCC for noncommercial service. Noncommercial licenses are available only to not-for-

profit entities which provide noncommercial educational services, such as KLON–FM 88. Its entity that is a nonprofit one is the California State University Long Beach Foundation.

If the critics are referring to possible private donors, it is too bad that American commercial television and commercial radio have not stepped up to the plate and assured that public TV and public radio survive. The more public-spirited cableowners stepped up to the plate and funded C–SPAN—the Cable Satellite Public Affairs Network. If a Donald McGannon still headed Westinghouse—Group W—and Dr. Frank Stanton still headed the Columbia Broadcasting System, maybe that would happen. It should. But it hasn't.

Second myth: ''PBS and NPR programs already feature advertising—known by the code word 'underwriting.'''

Reality: Sec 399(b)(2) of the Communications Act of 1934, which guides the policy in American television and radio, public and private, states that ''No public broadcast station may make its facilities available to any person for the broadcasting of any advertisement.'' Public broadcasters are allowed, under the statute, to make statements on the air for corporate sponsors in exchange for remuneration, as long as the statement is in no way a promotion of the sponsors' products or services. The comment at the beginning or the end of a sponsored program—''Brought to you by the HPC Company''—is all the touting a corporate sponsor gets.

Third myth: ''75 cents out of every dollar spent in public broadcasting goes to overhead.''

Reality: This misstatement appears to come from a report called ''Quality Time'' which was issued by the Twentieth Century Fund task force on public television. The report stated, ''Of the $1.2 billion spent in the public television system in 1992, approximately 75 percent of the funds were used to cover the cost of station operations.'' The term ''station operations'' meant every activity a station undertakes besides national programming—such things as administration, community service programs, delivery of services, and the cost of producing or acquiring local programming, indeed, a lot of what a station does. Community service and local programming are a vital part of public broadcasting's role in the community—a responsibility many commercial stations ignore.

Fourth myth: ''With so many television channels available—CNN, Discovery, the Learning Channel, the History Channel, Arts & Entertainment—there are plenty of substitutes for public broadcasting.''

Cable channels are available without government subsidy because they have two revenue streams—advertising and subscription fees averaging $40 per month. For the 40 percent of the American people who do not have cable programming, these programs are not viable alternatives. Public broadcast services reach 99 percent of American households—for free.

In addition, there are no channels of this type for radio. There are virtually no other radio sources with the kind of in-depth news, public affairs, information, and cultural programming that public radio provides.

Fifth myth: ''Direct Broadcast Satellite is now available everywhere in the 48 contiguous states with over 150 channels of digital video and audio programming.''

Reality: This type of audio programming service is not yet widely available to the American public, nor will it be for several years—unless one has somewhere between $600 and $3000 for the equipment. It will be the late nineties before the hardware and infrastructure are in place to deliver the service. And, this will not be a free service.

Sixth myth: ''If the 5.2 million PBS members were to contribute only $55 more a year, it would equal the Federal share for CPB. It is clear that those donors are the very people who can afford to contribute an additional $55 a year.''

Reality: Not so. Not all public radio listeners can afford an additional $55 per year. In fact, 41 percent of the 15 million people who listen to public radio earn less than $30,000 annually, and 48 percent live in households with combined incomes of under $40,000 per year.

Seventh myth: ''Current public broadcasting formulas favor large urban, elite stations. They get most of the Federal funds.''

Reality: Again, not so. In fiscal year 1994, more than $5.7 million in additional support funding was given to unserved areas and underserved audiences. From 1991 to 1993, CPB expansion grants to markets with fewer than 25,000 people, to stations that provide the only full-power broadcast service to their communities, and to stations in unserved markets helped 3.5 million people receive public radio signals for the first time.

Eighth myth: ''Public broadcasting is the mouthpiece of the liberal elite.''

Reality: In response to Congressional concern in 1993, a joint, bipartisan project by two established research firms—Lauer, Lalley & Associates and Public Opinion Strategies—conducted a national survey to assess public perceptions of balance, objectivity, and bias in programming aired by public broadcasting. They found that roughly equal percentages agree that public televisions is too slanted toward liberal positions—28 percent—and too slanted toward conservative positions—28 percent.

The reality check to these myths shows us that America is getting quite a bargain for the modest support we in Congress give to public broadcasting. They do a lot with a little. We must do all we can to help further their efforts. While we all know that cuts must be made across the board in virtually all federally funded activities, let us make sure that any cuts we make take into consideration the value of the activity to the American people.

So, when we vote on any cuts to the Corporation for Public Broadcasting, let us keep in mind Americans such as Mrs. Ida May Bell of Long Beach who wrote, ''I watch KCET–TV every day. I live on a small pension and can't afford cable, but with KCET available, I am able to enjoy excellent TV.''

Let us recall the comments of educators such as Barbara Mowers of Long Beach who wrote about using public television as a classroom learning tool to expand the horizons of her students.

Or the remarks of Lakewood resident Donald Versaw who told me that he ''doesn't think the country should make grants to individuals for inane 'art'—but, by and large, Public TV and Radio is something this country needs.''

We must remember the words of CPB supporters such as Long Beach resident Glenn Skalland who wrote ''Having recently suffered a back injury, I have viewed more TV than I'm proud to admit. I can attest to the desolation on commercial television. Sex and violence sell. Public TV needn't sell anything; consequently, their programming needn't appeal to our baser instincts. Shows are informative and, on the whole, family-oriented. Please don't throw the baby out with the bath water. Keep public television free and on the air.''

And, the words of Allen Robinson of Long Beach will be hard to forget: ''I've heard it charged that PBS is only watched by the cultural elite. Well, I don't have an elite bone in my whole body, but I do have half a brain which is twice as much that's required to watch the drivel served up by the commercial stations. This must be a nation of idiots judging from what 'sells.' Good taste, decency, and integrity can't compete with sensationalism, pornography, distortion, and push-your-button politically correct slices of touchy-feely liberal humbug or a race-baiting right-wing blowhard egomaniac. No wonder the kids are so screwed up. A democracy depends on a literate informed citizen. PBS is going its share.''

Most of us in the House want to see a greater emphasis on personal responsibility. Some of the proposals we are considering in the Contract With America correctly focus on that. Welfare reform is an example. President and Congress claim to be of one mind on creating a framework of law which will encourage personal responsibility. In brief, most of us believe values are important. Most Americans who sent us here believe the same as we do.

Hamid R. Rahai, a resident of my district, put his finger on what all of us need to ask ourselves: He speaks ''as a parent and an educator'' and admits that he is ''quite puzzled that at a time when Congress and its leadership

champion teaching of values and personal responsibilities, they plan to do away with educational tools needed to educate the public and specially young people.'' He sees public TV as ''an excellent educational tool. It offers a fresh alternative to the mundane (at best), useless or sometimes outright destructive programming offered by commercial and cable networks that are being offered as an alternative. It is free and accessible to all, particularly to the underprivileged who need it most, and could not afford the cost of cable networks.''

Mr. Rahai is absolutely correct.

We all know that for the last several decades most Americans receive their political information to decide presidential and statewide races from commercial television—the occasional debates, the ceaseless number of paid—by the candidates—misleading and shallow advertisements, the horse-race focus of the national commentaries. ''Who's up?'' and ''Who's down?'' The endless chatter leads many voters to ask: ''Who cares?'' Public radio and public television provide an island of sanity by sponsoring debates and in-depth interviews of candidates at all levels of our system.

As Pat and Jim Bliss of Long Beach wrote, ''there is probably no dearer institution to the hearts of almost everyone who values education and the arts than public radio and television.''

Mr. Speaker, we must, in some way, preserve this great national treasure. Margaret M. Langhans of Long Beach saw an analogy between our national parks and public television and radio: ''To lessen access to public airwaves is akin to lessening access to our national parks. We hold both in trust for the benefit of the Republic.''

I could not have said it better, Margaret.

□ 2215

THE SCHOOL NUTRITION PROGRAMS

The SPEAKER pro tempore (Mr. DUNCAN). Under the Speaker's announced policy of January 4, 1995, the gentleman from Louisiana [Mr. FIELDS] is recognized for 60 minutes.

Mr. FIELDS of Louisiana. Mr. Speaker, I want to advise the Speaker that at some point in the discussion I will be yielding to my colleague, the gentleman from South Carolina [Mr. CLYBURN], to enter into a colloquy.

Mr. Speaker, on Monday of this week I had the opportunity to meet with young students at Kenilworth Middle School in Baton Rouge, LA. I had an opportunity to meet with them for breakfast and talk with them about the school lunch program and the breakfast program. At that breakfast meeting, Mr. Speaker, I had an opportunity to see young students with real dreary eyes, and they were not Democrats, they were not Republicans. They were simply hungry. They wanted the opportunity to have breakfast and go to class and start the class day. At lunch they had an opportunity, after staying in school for 4 hours, or so, to go to lunch.

But one student had asked a very significant question. He walked up to me after a briefing that we did at the school, and he asked the question, he said, ''Congressman FIELDS, what is a rescission?'' And I explained to him that a rescission was something that you rescind, something that you take away, something that you grant and then at a later time you take it away, and I guess I want to start tonight explaining what actually took place and what is taking place here in Congress and what took place in the subcommittee and the full committee as relates to the rescissions that are taking place in education.

Last year we had an opportunity to review the budget and review the priorities of this country, and we granted different budget items, and now we find ourselves in this Congress rescinding many of the dollars that we were able to allocate last year. Many local school boards, many local governments, and many people in many departments across the country find themselves in a very awkward position preparing for their fiscal year, relying on the confidence of Washington, the Congress, as a result of them approving a budget in 1994, and now we find ourselves here rescinding the very dollars that we committed to them.

Now, I rise tonight because I represent, Mr. Speaker, a very, very poor district. Last year I represented the poorest congressional district in the entire country, but because of redistricting, now I represent the second poorest congressional district in the country.

It really amazes me, because according to the Center on Budget and Policy Priority, 53 percent of all of the rescissions fall on the backs of poor people, low-income people in America, and I want to talk a little bit about how these rescissions will affect my own State, the State of Louisiana.

Nationally, $5 billion will be cut from the school lunch program. How would that affect Louisiana? one hundred sixty four million dollars in the school lunch program, the nutrition program, will be taken away from the State of Louisiana.

Now, many of my colleagues on the other side of the aisle argue that, ''We did not cut funding for school lunch and school nutrition programs. We, in fact, increase funding.'' Increase is in the eye of the beholder.

Let us talk a little bit about the increase versus the decrease. I submit to you today, Mr. Speaker, there was an actual decrease, because last year we committed a 5.2-percent increase for 1995. This year we rescind that, and we only give a 4-percent increase. So according to my mathematical knowledge, that is a 1.2-percent decrease in the school lunch program. The difference in the annual increase will result in the loss of $1.3 billion nationally and $78 million to Louisiana. That is how much money the State of Louisiana will lose as a result of this rescission package.

Now, Louisiana has a very strong reputation in the area of school lunches. I am proud to stand on the floor of the House tonight and state that Louisiana is right at the very top as it relates to its nutrition program, and they should be commended for that.

Now, there is also the need to be some clarity as it relates to what type of lunch programs we are talking about, because many people when you say school lunch, many people think it is free lunch. There are actually three tiers of the school lunch, many people think it is free lunch. There are actually three tiers of the school nutrition program. First, there is the free-lunch students who can take advantage of the free-lunch programs. Students can take advantage of the reduced-price lunch program, or they can take advantage of just paying the regular cost.

And the way this program is set up under the current law, if a family income is 130 percent of the poverty level or less, they receive free lunch; 185 percent of the poverty level or less, they receive reduced lunches; and those families that are more than 185 percent of the poverty level, they receive a simple, regular lunch.

If you look at the statistics, you find most schools cannot even maintain their school lunch program based on the revenues from free lunch or reduced lunch and, therefore, those individuals who come to school every day and are able to have the wherewithal to pay the full price for lunch or breakfast actually help sustain the lunch program. Under this proposal, many of those individuals will be basically knocked away.

The other problem is 57 percent of all students actually participate in the school lunch program. In Louisiana 76 percent of the people, of the students, who attend public school, attend school in Louisiana, participate in the school lunch program. That is 622,000 students in Louisiana that take advantage of the school lunch program.

Why do we have such a disproportionate number in Louisiana versus the national average? The national average is 57 percent, Louisiana 76 percent. Well, because Louisiana is a poor State. That is one of the problems I have with this school lunch program, the revised version, the rescission package that passed the committee. What is going to happen is it is not going to award States that have a very, very high poverty rate. It only awards States based on their participation in the lunch program, based on the number of students who participate in the school lunch program.

In my State, I am going to be judged by other States that are very, very wealthy States. They do not have the

poverty rate that we have in Louisiana. As a result, we are going to get a disproportionate amount of money appropriated to our State simply because this formula that this committee adopted did not give any deference whatsoever to those States that have a high, high poverty level.

Let us talk a little bit about how this block grant will actually work and how it will affect local government. But most local governments, they like the idea of block grants, because they feel they have the opportunity to manage their own affairs. That sounds great, Mr. Speaker.

□ 2230

That sounds great, Mr. Speaker, but the problem with that, first of all, it gives local governments the opportunity to cut 20 percent or to use 20 percent of the 100-percent funding in that block grant for something else. They do not have to use it for school nutrition, so we are going to be sending money to local governments with a blindfold, money that is appropriated for the purpose of feeding children, who cannot afford to buy meals, children who can only pay a reduced price for their meals, and students who, in fact, can pay the full price, 20 percent of these dollars can be allocated for other programs. So that is a 20-percent cut in and of itself, so we are not actually allocating a hundred percent block grant. We are only allocating an 80-percent block grant.

We also give a 2-percent—give local governments the opportunity to use 2 percent for administrative costs, so that is, in fact, 22 percent that would not go on the tables of cafeterias all across the State of Louisiana and cafeterias all across American, and I think that is a crying shame, to add insult to injury. The whole though and the whole idea of giving local governments the opportunity to manage their own affairs—from people, for many of my colleagues on the other side of the aisle, they say the reason we want to do that is because we want to cut out the bureaucracy, we want to cut out the Federal Waste. But what we actually do is we create more bureaucracy. I would be the last to say or state on this floor that Federal Government is not a bureaucracy, but what we are doing is we are dismantling the Federal bureaucracy, and we are creating 50 separate State bureaucracies under this program that passed the house.

The other problem that I have with it, and the biggest problem that I have with this proposal, is that it gives no consideration what so ever to what we feed children. We put the blindfold on, and we send millions upon millions of dollars to the States, and we do not them that they have to feed children a balanced meal.

Now, my God, if the Federal government does not have an interest in the well-being of individual students in this country, then what do we have an interest in? Why should we not make it a requirements of every State who receives one of these block grants, participate and live up to a certain nutrition standard?

I, along with other members of my—of other colleagues of mine will be introducing legislation, introducing amendments trying to amend this legislation so we can take out the 20 percent. We are going to be making serious attempts on this floor to try and take out the percentage that gives local governments the opportunity to just use money however they see fit. We are going to try to put nutritional standards within this block grant proposal because we feel that it will be a step in the wrong direction to just give States an opportunity to take—to use money and not give them any guidelines in terms of nutrition.

States, some States, may adopt policies. I think the fast-food market will just take over the school system at school lunch programs. We are going to be serving our kids french fries, and who is to say one State would not choose to choose to serve kids peanut butter and jelly? No standards whatsoever.

Mr. God, do we not have an interest in what children eat? But according to this proposal we do not. But do we have an interest in what we feed prisoners? Yes, we do.

It is a crying shame in this country that this very Congress, we appropriate $10 billion to build more prisons, and another 20 billion for more prisons and other programs for prisoners, and every prisoner that walks into a jail cell receives three balanced meals a day, and they regulate it, and if they do not receive one, they can complain, and then the Federal courts in this country will come to their rescue, and the Justice Department will come to their rescue, but we are going to have child who walk into school houses all across this Nation, trying to learn, get a decent education, and then when that stomach growls, walk to the cafeteria. There is no guarantee any one of them will receive a balanced meal. But if you are a prisoner, you can receive a balanced meal. So I think it is wrong that we choose to try to fix something that is not broke.

I want to also Mr. Speaker, about infant mortality, another rescission, $25 million from Food and nutrition services, WIC. Only $3.5 billion remain. Fifty to a hundred expectant parents, expectant mother, women pregnant, just cut off the rolls.

In my State I take a moment of personal privilege because in my State we lead the Nation in infant mortality. We have more babies that die after they are born in Louisiana than from anything else.

So I just think this Federal Government should have an interest in children once they are born, and the only way you can have an interest in children once they are born is by taking an interest in the mother while she is pregnant. That is the way we reduce infant mortality rates in this Nation.

According to GAO, WIC saves $3.50 for every dollar we spend, so this is, in fact, a cost savings. We are now going to spend less money by cutting this nutrition program by $25 million. We are going to spend more money. Healthy Start and other very, very important programs for expectant mothers cut. One hundred million dollars remain, $10 million cut, not to mention elementary and secondary education infrastructure.

I mean every time I walk into a school house in my own State and many States across this country, many times the ceilings leak, the air condition does not work, heating system does not work, kids in buildings that were built in the 1950's, lead paint, asbestos, and here we have the audacity to take $100 million for infrastructure for public schools and in the same breath appropriate $10 billion to build more jails.

And we tell our kids that in the future—education is the future. Teach the children well, and let them lead the way. I believe the children are our future, and we take $100 million in building schools and building schools' infrastructure so they can be safe, and we spend $10 billion more in building jails.

So, if you are a prisoner in this country, you get three square meals a day, and you walk into a prison where the air condition works during the summertime, the heat works during the wintertime, and the ceilings do not leak. But if you are a kid, wants to get an education in this country, your food program is in jeopardy. No standards for national nutrition. Your ceilings will continue to leak, air condition will continue to not work, and you may freeze during the wintertime, but we care about your education, and we care about our children.

You know, 86 percent of the people who are in jail in this country are high school dropouts for crying out loud. There are some serious correlations between education and incarceration. If we reduce the drop-out rate, then we can reduce the prison rate, and it just appears that we put more time and emphasis on putting people in jail than we do in educating a young child. Twenty-eight to $30,000 a year to incarcerate a prisoner, but, if you are a child, we only spend about $4,000 a year to educate you. We have kids who walk in public school every day that do not have a book for a subject, and I think there is something wrong with that, and we continue to cut money from education.

Public broadcasting, another rescission, $141 million cut over 2 years. Promise that we have made to kids all across America, it is cut, and I commend the Speaker who decided to give $2,000 a year to public broadcasting. But with all due respect, Mr. Speaker, $2,000 compared to $141 million does not even come close. How can one cut $141 million out of a program and then

write a check for 2,000 and expect people to be happy and kids to jump for joy?

We know about the violence that we have on our networks. I mean last year we debated that issue in committee. We had all the major networks to come to this Congress, and thank God for our Attorney General Janet Reno who tried to make these individuals more responsive in their programming, and yet we still take away this very viable, clean, wholesome opportunity for children to learn.

Twenty-eight million dollars we take out of the drop-out program. How much money remains? Zero. Why take issue with that? Because in my State we lead the Nation in high school drop-out. So I cannot be happy tonight. When we were saying $28 million from a drop-out program, you would think, based on this budget, we have no drop-out problem. Everything in education is perfect. So now, kids, the message is it is okay to drop out of school because we are not going to give any money to try to keep you from dropping out.

Literacy program; you would think we led the Nation, lead the world, in literacy. We all know that is not the case as much as I would like to stand in this House tonight and say, ''America leads the world, all of our citizens are literate, we don't have a drop-out problem, we don't have an educational problem.'' If you look at this budget, you would think that is the case, $54 million from literacy programs. Here again a direct impact on the State I represent, direct impact on the district that I represent. I have a literacy problem in the district I represent, and in the State we rank high in the Nation.

You know, I was looking at this budget with staff the other day. I said, ''Maybe Louisiana is not a member of this Union anymore, or maybe the Committee on the Budget and the Committee on Economic Opportunity know nothing about Louisiana's statistics.''

Eleven point two million dollars for Trio program, a program that is designed to help young people who are disadvantaged, who had a tough start, who may have one parent at home versus two. Maybe the parent died, one of the parents died. You know, I also take personal privilege on that program, Mr. Speaker, because I am a product of that program, as I am the lunch program. You know all parents, all kids, do not have two parents because one parent walked out. Some kids have one parent because one parent died, like it was in my case, and this government thought enough of me to give me a Trio program to help me to give teachers an incentive to help me believe in myself.

Do we still have that problem today? We know that the number of kids who are coming from single parent households went up, did not go down. Who does this budget represent?

Drug-free schools and communities, safe schools and drug-free schools. Now it does not take a rocket scientist to know that in this country we have a serious problem with drugs, and guns, and violence within our schools. Does this budget represent that? Absolutely not. How much money do we appropriate for safe and drug-free schools? Well, we committed $481 million. We committed to Louisiana $10 million. They have already planned to spend that money because there is a serious problem there. How much did we put in this budget? Zero. We cut $481 million, the entire safe and drug-free schools budget, out of this rescission package.

Now I do not know about in other States, but in Louisiana we have a drug problem in schools and a violence problem in schools. We have kids who bring guns to school. Problem needs to be addressed. And I do not come from the school of thought that you just throw money at problems, but you should have a structure there to assist teachers, and parents and school administrators to deal with these very, very serious problems.

□ 2245

Mr. FIELDS of Louisiana. Goals 2000 last year we appropriated $371 million. This year we took away $142 million. Louisiana, my State, will lose $8,200,000, money that is needed to develop our educational system. School improvement programs last year we appropriated $320 million. This year we took away $60 million.

How would it affect my own State? Seven million dollars the State will receive, $1.3 million will be rescinded from the State. Education for the disadvantaged, we appropriated in this Congress $6.7 billion. We took away $105 million. Louisiana will lose $2.9 million as a result of this recisioin package.

What about education for the homeless, children, and youth? We are supposed to be family friendly. We appropriated last Congress $28 million. How much did we appropriate this year? Zero. We took it all back. These are no monies for 1996. These are monies that we committed for 1995. We just zeroed the budget.

How would it affect my State? Seven hundred ninety-five thousand dollars in my State, gone. Do we have a children and youth problem and homeless problem in our State? Yes.

Tech prep, I have received more faxes from people across my district about this program. Vocational and adult education program, Federal funding, we funded for 1995 $108 million. In this recision package we took each and every dollar away from that program, $108 million rescinded. In my State $2.2 million, gone.

Every student can't go to college. Every student—some students just don't want to go to college. But should we say we should have nothing between high school graduation and college? If you graduate from high school, and you don't go to college, then no programs? I don't think so. The only thing we got between school and college are jails. We rescind all of the money for tech prep and educational programs that helped kids.

State student initiative program, took away all that money. My State will lose $901,000.

And let me start closing by talking a little bit about summer jobs and yield to the gentleman from South Carolina.

I really have real difficulty with the summer jobs program—I have real difficulty with the elimination of the summer jobs program. One point two million children will lose the opportunity to become employed and educated over this summer. Many students use this as an opportunity to buy school clothes, opportunity to buy school supplies.

And here again I take a moment of personal privilege. I guess I reflect my district because I benefitted from many of these programs. And it would be hypocritical for me to not stand on this floor and defend some of these programs because maybe some people here think that these programs are just pork-barrel programs and they don't really affect real people.

I couldn't wait for the summer—not to play, not because we didn't have school. I wanted—I was waiting for the summer because I was ready to go to work. I wanted to be on somebody's payroll. I wanted to help my mother buy my school clothes. I wanted to be able to buy books and supplies.

Can you imagine not a student will be able to benefit from the summer jobs program this summer? And we want to decrease crime? So not only are we going to take mothers off welfare rolls, we want to take students off payrolls.

How do we in good conscience in this Congress just wipe out a jobs program for young people overnight? You have to have very little conscience or just no idea how these programs affect people.

In Louisiana, for example, 19 million eliminated. How many summer jobs? Thirteen thousand students in Louisiana will not go to work this summer. What are they going to do? Well, we are building $10 billion more in jails, putting $10 billion more in jails. It is almost the attitude we are not going to give you a job, we are not going to improve your schools, and we may not even give you lunch, but we are going to give you a jail.

I can't go back to my district or to my State and tell 13,000 young people that they don't deserve a summer job this summer. They are not committing crimes. They are not on drugs. All they want to do is work. They want to work. They want to wake up every morning, go to work, and then come home at the end of the day.

And lastly, many say we do this to balance the budget. We ought to cut some of these programs. I would be the last to state that we should not cut the budget. But I have strong debate and strong, strong opposition to this rescission package because where are the

cuts? It cuts innocent people, children, young people, poor people, people who can put up the least amount of defense.

And if we really want to balance the budget, then why not rescind the $14.4 billion that we are going to send outside of this country? How can we tell kids in Texas and South Carolina and Louisiana—I certainly can't go back to my direct and tell kids in Baton Rouge and Appaloosa that they can't have a summer job but we are going to give Russia $1.2 billion. I cannot tell them that. I can't tell a child in one of the high schools that you may not have a balanced meal but we are about to send $1.2 billion in foreign aid to other countries.

How can you tell them they are not going to have a summer job when you send economic aid to the tune of $2.3 billion outside of this country?

How can you even tell them we cannot spend money on people in America when we just signed a $20 billion note for Mexico?

Yes, I want a balanced budget, but if we are going to balance the budget, let's be real. If we are really balancing the budget, then let's not give Mexico a $20 billion loan and let's not give these other countries $14 billion.

And I thank the gentleman from South Carolina for being patient, and at this time I want to yield to the gentleman from South Carolina.

Mr. CLYBURN. Thank you. I appreciate that.

Mr. Speaker, since the beginning of the 104th Congress I have become increasingly alarmed at the rapid speed and harmful nature of much of the legislation that we are passing on this floor. But as the gentleman from Louisiana has just indicated, none has caused me more concern thus far than the proposal that would actually take the food out of the mouths of our Nation's youth.

I am referring of course to the legislative proposals that are before us that would threaten the very survival of such programs as supplemental nutrition program for women, infants, and children, better known as WIC, and the school lunch program.

Now, the gentleman has gone through most of these and so I will not be redundant and mention them, but there are a couple of other things in addition to the feeding programs that I am particularly concerned about.

For instance, if you look at this rescission package, one of the things you will see in there will be rescissions that will take away 52,000 slots for dislocated workers. Now, I am particularly concerned about that because just outside of my district, within my State, and, of course, having a tremendous impact on my district, happens to be that area down in Charleston where we just closed five Naval installations and we have now begun to hand out pink slips to the people who have worked 20, 30 years in those installations, and we, in closing those installations, led people there to believe that we would be there for them to help assist them as they seek other employment, as they, in fact, become dislocated workers.

But here we are now, after all that has been done, we are now saying to the people down there that we are going to pass legislation to rescind at least 52,000 of those slots.

Now, I don't know how many of those will fall on people who live in my congressional district. Though the naval base is not in my district, many of the people who work there live in my district. All of them are in South Carolina. And I feel as much responsibility for them as I do the people who are in my district.

But we are United States Congresspeople. And there are many other sections in our country where dislocated workers are going to find their futures dimmed tremendously because of these rescissions. And so now we are going to see 52,000 fewer slots.

I do not believe that that is a fair way to go about trying to find monies to balance the budget or to cut back on the so-called deficit. The interesting thing in all of this is that I began to analyze what it is that we plan to do with this money. I don't see that it is going in that direction at all.

In fact, I have just read with some degree of interest what we are planning to do with the new food stamp proposals. We are now saying that we want to cut billions of dollars out of the food stamp program, not to correct and do away with fraud. We are now saying we want to balance the—or eliminate funds for the food stamp program so that we can have enough money to fund a tax cut for people who make more than $200,000 a year. That seems to be somehow the mind-set of many of the people in this body. And I think that that is a tremendous demonstration of the lack of compassion that I think all public servants ought to have for those people among us who are less fortunate.

But let's look at a couple of other things as well. The Department of Labor has made a four-year commitment to funding 17 communities where we have these youth fair chance programs. According to the rescission package, approximately 2,000 at-risk youth per site will not be served if we go forward with these rescissions.

But then we move from the youth, the most vulnerable among us, and go over and look at the next most vulnerable among us, the elderly, and we look at this rescission package and then we see 3,300 fewer elderly workers will be provided employment opportunities in this program year.

Now, it is kind of interesting as we go through this rescission package, we look at educational programs, educational programs for the youth. We look at the Labor Department, their programs for people who are considered to be disadvantaged and people who are the elderly.

Now, why is it necessary for us to only look in these directions in order to find funds to cut back on the level of expenditures?

There are billions of dollars to be found in other areas. And many of them, if we were to bring them to this floor, I would not only vote for, but I would be a strong advocate helping to work the floor on behalf of their passage.

□ 2300

Mr. CLYBURN. But to focus on those who are the weakest, those who do not have high powered lobbyists to argue their causes, to me is a bit much for us to be doing, and so I want to congratulate the gentleman from Louisiana [Mr. FIELDS] for bringing us here this evening to talk about this rescission package because in the next day or two, we are going to begin to focus. Now, I have had a lot of visitors in my office in the last few days. I would be there at 7:30, I will be having breakfast with people from the technical education people in my community, vocation educational people are all here, wanting us to really be sensible about some of these cuts.

But I want to mention one last area because I think it is so important, and that is the area of literacy. The interesting thing, there are three significant literacy programs that these rescissions will just terminate; not cut back so that we will serve fewer people. They are terminated altogether. The workplace literacy partnerships, terminated. The literacy program for homeless adults, terminated. The literacy program for prisoners, terminated. Here we are building more prisons, and what we seem to be focused on is a warehousing of prisoners. It would seem to me that we ought to be looking at ways to rehabilitate people, and the best way I know to rehabilitate many of the people who find their ways into our prison systems is to teach them to read and write. We know that significant numbers of people who find themselves incarcerated need basic literacy training, and here we are terminating that program.

So what we are going to do, we will take a person off the street, the person who does not know how to read or write, incarcerate that person for a number of years, or what have you, under these new no-parole programs we have got, and let them just sit there for five years or whatever number of years and then when the time is up, turn them back out on the street, not allow them an opportunity to learn to read or write, and many other programs that we have already begun to take away in other areas as well.

And so I plead with the Members of this body, I plead with the influential people in the various communities across this country, to use their influence with the Members of this body, to ask them to begin to look seriously at the consequences of the actions that we take. What it is that we can expect

to get in return for the actions that we take here. Do we really expect to build a better America, to build better people, better communities by these kinds of actions? I don't think so. I do think that we ought to feed our children. I do think that we ought to take care of those people who find themselves in the twilight years of their lives, and I do think that we ought to do what is necessary to strengthen those who are the weakest links in our society and I believe that we as a Nation will be better off because of it.

Mr. FIELDS of Louisiana. Will the gentleman yield?

Mr. CLYBURN. Yes, I will be pleased to yield.

Mr. FIELDS of Louisiana. I thank the gentleman for yielding. There has been a lot of talk about contract and we often talk about our own contract, our contract being the United States Constitution. Within our contract, the preamble of our contract, which is the preamble to the Constitution it states in no uncertain terms that we must promote the general welfare of our citizens in our country. And it appears that this rescission package certainly violates that contract, when you take money away from kids in school, you take money away from summer jobs and you put more kids on the street, but let me just add a couple of other things.

Did the gentleman know that under the job training program, youth training program that provides direct training to help economically disadvantaged youth in my State, $7 million will be eliminated from this program, cancelling about 2,500 young people's jobs this summer? Did the gentleman further know that I have the poorest area in the whole country in my State, in Lake Providence, and we have been fighting very hard and profusely to get a job corps center and under the 1995 budget. There were four new job corps centers in the budget and the state—certainly Louisiana was an area that would fall right in line with obtaining—appreciating one of those benefits. The benefits of one of those programs, simply because it is so economically depressed, particularly is teenagers. We have more teenagers who are impoverished and who are dropping out of school than probably any other state.

A total of 100,000 participants would be entirely canceled as a result of this job corps reduction in this rescission package, and we are going to have to cancel about 1,600 positions that we anticipated that we had the opportunity to get this program. Did the gentleman further know that we talk about getting people off of welfare and adults need to go out and learn a skill and go to work, but under this rescission package how can people get out of welfare and learn a skill had we cut funding for adult training?

I mean, employment training for adults and disadvantaged and dislocated workers, as you stated, is eliminated. My State will lose $700,000. And a thousand participants will be effected. That is going to take place as soon as this rescission package passes this body and the other body and perhaps signed by the man on Pennsylvania Avenue.

We didn't state the impact that it may have on housing. Let's talk a little bit about those people who live in public housing, for crying out loud, in this country. I think people in public housing need to know that 63,000 families will lose housing assistance as a result of this rescission package; 12,000 homeless families, homeless. These are people who don't have homes. They are going to lose any kind of housing assistance that they may be entitled to under this rescission package. To add insult to injury, 2,000 disabled individuals. I just think that is just a—it is almost a slap in the face, and I just want to close with the damage that it does to veterans.

I mean, I don't know if the gentleman has served in the military, but I know people in my district who have served in the military and I tell you, nothing makes me prouder than to see a man in uniform who serves this country. I mean, we sit and talk in this hall, in this Congress, and we enjoy the freedoms of this country and we enjoy the protection of this country, and we engage in debate and it is the kind of debate where you are at one mike and I am at another, but these are people who put their lives on the line and go and fight for our freedom so we can be free and have this kind of exchange in a Democratic society.

But what do we do for them? Well, they are going to suffer $206 million in cuts, $50 million from equipment, $156 million in construction projects, and approximately 171 hospitals and clinics will be affected by the loss of this funding. I mean, if we can't protect our children, can't protect our elderly, can't protect our veterans, and particularly the poor, I mean, even the Bible says the poor shall always be with us.

Mr. CLYBURN. If the gentleman would yield, I want to thank you very much for mentioning the veterans cuts, because on tomorrow evening, hopefully at an earlier hour than we are here at the moment, our colleague from Florida, Ms. CORRINE BROWN, has organized a special order in which we are going to go through all of these rescissions as it relates to veterans, the two of us that serve on the Veterans Affairs Committee, and we are very concerned about what these rescission also mean to the veterans of our country.

□ 2310

I had a significant number of DAV members in my office today, Disabled American Veterans, talking about the impact that these rescissions will have on them and you are talking about a contract. This is breaking a contract. These people, we had a contract with them. They went off to defend the Nation. They are now back, many of them disabled, and we are now seeing that we are going to break faith with them, if these rescissions go through, as well as proposed cuts for future years. So tommorrow evening, we are going to spend an hour going through those rescissions, section by section, and inform the American people, especially those who served in the military, of the exact impact that this is going to have on them.

So I thank the gentleman very much for bringing that up. That is why I did not get into that this evening, because I plan to participate tommorrow evening with the gentlewoman from Florida, Ms. CORRINE BROWN.

Mr. FIELDS of Louisiana. I thank the gentleman for spending this time with me on this special order. I thank the gentleman for making the comments that he made about all the programs that are in this rescission package.

Let me just close by simply saying, in basic contracts, when I was in law school, Professor DeBassenet, who was my contract professor, taught me, we often, I guess about almost half a semester we talked about what is a contract. I learned that a contract was a manifestation to enter into a bargain so made as to justify the other one's consent to that bargain will conclude that bargain.

We entered into a contract with the American people. We entered into that contract in 1994 in this hall, in this Congress. We told the American people that we were going to fund this program and that program, meaningful programs so that we could promote the general welfare of this country. We come right herein 1995 and we rescind or violate that contract. We call it a rescission, but it is not really a rescission. It is a violation of the contract. We entered into a contract with the American people. Now we are rescinding from what we agreed to do. We are talking something away. Like that little kid at Kenilworth who said, what is a rescission? It is when you rescind something, when you take it away. We entered into a contract, and now we are talking it away.

I want to thank the gentleman, and I want to thank the Speaker for giving us the opportunity to talk about these very important issues. I certainly hope that my colleagues, once this debate reaches this floor, really will just put away their partisanship, throw away their Democratic buttons, throw away their Republican buttons, but do not though throw away their conscience.

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 30 minutes.

[Mr. UNDERWOOD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CONDIT (at the request of Mr. GEPHARDT), for today, on account of personal business.

Ms. MCKINNEY (at the request of Mr. GEPHARDT), for today, on account of official business

Mr. ORTON (at the request of Mr. GEPHARDT), for today before 1:30 p.m., on account of family medical business.

Mr. MCDADE (at the request of Mr. ARMEY), for today, on account of illness.

Mr. ROGERS (at the request of Mr. ARMEY) for today until 1 p.m., on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WARD) to revise and extend their remarks and include extraneous material:)

Mr. GEPHARDT, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Mr. OLVER, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. BISHOP, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. GUTIERREZ, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FOGLIETTA, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. ESHOO, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Michigan) to revise and extend their remarks and include extraneous material:)

Mr. SAXTON, for 5 minutes, today.

Mr. RAMSTAD, for 5 minutes, today.

Mr. WELDON of Florida, for 5 minutes, today and March 8, 9, and 10.

Ms. ROS-LEHTINEN, for 5 minutes, today.

Mr. DIAZ-BALART, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CUNNINGHAM, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WARD) and to include extraneous matter:)

Mr. TORRES.

Mr. STARK.

Mr. CARDIN.

Mr. VISCLOSKY.

Mr. KENNEDY of Massachusetts.

Mr. SKELTON.

Mr. TOWNS in 10 instances.

Mr. TRAFICANT.

Mr. HASTINGS of Florida in two instances.

Mr. REED.

Mr. BERMAN.

Mr. COLEMAN.

Mr. KENNEDY of Rhode Island.

Mr. OWENS.

Mr. GUTIERREZ.

Mr. HALL of Texas in two instances.

(The following Members (at the request of Mr. SMITH of Michigan) and to include extraneous matter:)

Mr. CUNNINGHAM.

Mr. TAYLOR of North Carolina.

Mr. BAKER of California.

Mr. LAZIO of New York.

Mr. HASTINGS of Washington.

Mr. BURTON of Indiana in two instances.

Mr. WELDON of Pennsylvania in three instances.

Mr. LARGENT.

ADJOURNMENT

Mr. FIELDS of Louisiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 13 minutes p.m.) the House adjourned until Wednesday, March 8, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

484. A letter from the Under Secretary of Defense, transmitting a report of five related violations of the Anti-Deficiency Act, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

485. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

486. A letter from the Secretary of Defense, transmitting the Department's annual report to the President and the Congress, February 1995, pursuant to 10 U.S.C. 113(c) and (e); to the Committee on National Security.

487. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

488. A letter from the Inspector General, Agency for International Development, transmitting an audit of USAID's compliance with the lobbying restriction requirements in 31 U.S.C. 1352, pursuant to Public Law 101–121, section 319(a)(1) (103 Stat. 753; to the Committee on Government Reform and Oversight.

489. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

490. A letter from the Chairman, National Credit Union Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

491. A letter from the Chairman, Administrative Conference of the United States, transmitting a draft of proposed legislation to amend the Administrative Conference Act; to the Committee on the Judiciary.

492. A letter from the Administrator, Federal Aviation Administration, transmitting the FAA report of progress on developing and certifying the Traffic Alert and Collision Avoidance System [TCAS] for the period October through December 1994, pursuant to Public Law 100–223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Transportation and Infrastructure and Science.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 108. Resolution providing for consideration of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104–69). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ENGLISH of Pennsylvania:

H.R. 1142. A bill to amend the Internal Revenue Code of 1986 to repeal the alternative minimum tax; to the Committee on Ways and Means.

By Mr. FOX:

H.R. 1143. A bill to amend title 18, United States Code, with respect to witness retaliation; to the Committee on the Judiciary.

H.R. 1144. A bill to amend title 18, United States Code, with respect to witness tampering; to the Committee on the Judiciary.

By Mr. FOX (for himself, Mr. HYDE, Mr. CONYERS, Mr. MCCOLLUM, and Mr. SCHUMER):

H.R. 1145. A bill to amend title 18, United States Code, with respect to jury tampering; to the Committee on the Judiciary.

By Mr. HASTINGS of Washington (for himself, Mr. FOX, Mr. SHADEGG, Mrs. CHENOWETH, Mr. DOOLITTE, Mr. INGLIS of South Carolina, Mr. METCALF, Mr. SCARBOROUGH, and Mr. NEUMANN):

H.R. 1146. A bill to reduce the Federal welfare bureaucracy and empower States to design and implement efficient welfare programs that promote personal responsibility,

work, and stable families by replacing certain Federal welfare programs with a program of annual block grants to States, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Commerce, Agriculture, Resources, Economic and Educational Opportunities, Banking and Financial Services, the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself, Ms. PELOSI, Mr. SMITH of New Jersey, and Mr. SOLOMON):

H.R. 1147. A bill to encourage liberalization inside the People's Republic of China and Tibet; to the Committee on International Relations.

By Mr. LAZIO of New York (for himself, Ms. MOLINARI, Mr. FORBES, Mr. TRAFICANT, Mr. KING, Mr. FOX, Mr. PACKARD, Mr. SAXTON, Mr. ACKERMAN, Mrs. MALONEY, Mr. WATT of North Carolina, Ms. LOFGREN, Mr. LIPINSKI, Mr. HILLIARD, Mr. SERRANO, Mr. MCCRERY, and Mr. ENGLISH of Pennsylvania):

H.R. 1148. A bill to amend the Internal Revenue Code of 1986 to permit penalty-free withdrawals by unemployed individuals from certain retirement plans; to the Committee on Ways and Means.

By Mr. LAZIO of New York (for himself, Ms. MOLINARI, Mr. FORBES, Mr. TRAFICANT, Mr. KING, Mr. FOX, Mr. PACKARD, Mr. SAXTON, Mr. ACKERMAN, Mrs. MALONEY, Ms. LOFGREN, Mr. LIPINSKI, Mr. SERRANO, Mr. ENGLISH of Pennsylvania, and Mr. MCCRERY):

H.R. 1149. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain on the sale of a principal residence if the taxpayer is unemployed; to the Committee on Ways and Means.

By Mr. TRAFICANT:

H.R. 1150. A bill to require professional boxers to wear headgear during all professional fights in the United States; to the Committee on Economic and Educational Opportunities.

H.R. 1151. A bill to authorize appropriations for fiscal years 1996 and 1997 for the Coast Guard, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. VISCLOSKY:

H.R. 1152. A bill to amend the Federal Water Pollution Control Act to establish a national clean water trust fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in that fund to carry out projects to restore and recover waters of the United States from damages resulting from violations of that act, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WELDON of Pennsylvania (for himself, Mr. MCHUGH, Mr. ZIMMER, Mr. WOLF, and Mr. BEILENSON):

H.R. 1153. A bill to improve the collection, analysis, and dissemination of information that will promote the recycling of municipal solid waste; to the Committee on Commerce.

By Mr. WELDON of Pennsylvania (for himself, Mr. PALLONE, Mr. MANTON, Mr. STUDDS, Mr. UNDERWOOD, Mr. BEILENSON, and Mr. FIELDS of Texas):

H.R. 1154. A bill entitled the ''Ocean Radioactive Dumping Ban Act of 1994''; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SHAW:

H.R. 1155. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the vessel *Fifty One;* to the Committee on Transportation and Infrastructure.

H.R. 1156. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Big Dad;* to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. MCCOLLUM.

H.R. 70: Mr. LARGENT.

H.R. 103: Mr. BORSKI, Mr. GORDON, Mr. GOSS, Mr. WELDON of Florida, and Mr. FIELDS of Texas.

H.R. 109: Mr. FILNER, Mr. PARKER, and Mr. WOLF.

H.R. 303: Mr. MCCOLLUM.

H.R. 328: Mr. WELDON of Pennsylvania.

H.R. 357: Ms. LOWEY, Mr. SMITH of New Jersey, Mr. KLINK, Mrs. MALONEY, Mr. RANGEL, Ms. RIVERS, Mr. STARK, Mr. FALEOMAVAEGA, Mr. ROEMER, Mr. HINCHEY, and Mr. REED.

H.R. 359: Mr. LAZIO of New York, Mr. ABERCROMBIE, Mr. MCDADE, and Mr. SPENCE.

H.R. 467: Mr. METCALF, Mr. MCNULTY, Mr. MONTGOMERY, Mr. FROST, and Mr. KING.

H.R. 468: Mr. PETRI.

H.R. 482: Mr. ZIMMER.

H.R. 499: Mr. SCARBOROUGH, Mr. STUPAK, Mr. ROYCE, and Mr. MARTINEZ.

H.R. 500: Mr. CHRYSLER, Mrs. CUBIN, and Mr. TAUZIN.

H.R. 593: Mr. GUTKNECHT.

H.R. 605: Mr. PARKER.

H.R. 609: Ms. LOFGREN, Ms. PELOSI, and Mr. TORKILDSEN.

H.R. 612: Mr. GEJDENSON.

H.R. 682: Mr. LIGHTFOOT.

H.R. 747: Mrs. JOHNSON of Connecticut and Mrs. KENNELLY.

H.R. 789: Mr. UPTON, Mr. LAHOOD, and Mr. EMERSON.

H.R. 832: Mr. PACKARD, Mr. WOLF, Mr. BAKER of Louisiana, Mr. ARMEY, Mr. KNOLLENBERG, Mr. KINGSTON, Mr. CHRYSLER, Mr. GUTKNECHT, and Mr. CANADY.

H.R. 863: Mr. JACOBS.

H.R. 866: Mr. MORAN, Mr. LIPINSKI, Mr. CLYBURN, and Mr. BRYANT of Texas.

H.R. 888: Mr. FILNER, Mr. OWENS, Mr. MINETA, Ms. KAPTUR, Mr. BROWN of California, and Mrs. MINK of Hawaii.

H.R. 896: Mr. DEUTSCH, Mr. BARRETT of Wisconsin, Mr. HINCHEY, and Mr. ROMERO-BARCELO.

H.R. 949: Mr. HUTCHINSON and Mr. STEARNS.

H.R. 983: Ms. VELAZQUEZ, Mr. JACOBS, Mr. KLECZKA, Mr. FRANK of Massachusetts, Ms. LOFGREN, Mr. TORRICELLI, and Mr. MARKEY.

H.R. 991: Mr. JOHNSTON of Florida, Mr. PALLONE, Ms. VELAZQUEZ, and Mr. CONYERS.

H.R. 1066: Mr. WOLF, Mr. HASTERT, Mr. KING, and Mr. WICKER.

H.R. 1076: Mr. MCHUGH, Mr. FORBES, Mr. LIPINSKI, Mr. CREMEANS, Mr. SAXTON, Mr. PARKER, and Mr. GUNDERSON.

H.R. 1077: Mr. ALLARD, Mr. RADANOVICH, Mr. WATTS of Oklahoma, Mr. HERGER, Mr. STUMP, and Mr. EMERSON.

H.R. 1115: Ms. RIVERS and Mr. HOYER.

H.J. Res. 70: Mr. FILNER, Ms. ROYBAL-ALLARD, Mr. MARTINEZ, Mr. EVANS, Mr. WYNN, Mr. JEFFERSON, Mr. WARD, Mr. FRANK of Massachusetts, and Mr. UNDERWOOD.

H. Res. 95: Mr. POSHARD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 481: Mr. CALLAHAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1058

OFFERED BY: MR. MEEHAN

AMENDMENT NO. 14: Page 21, beginning on line 13 strike paragraph (4) through page 22, line 23 and insert the following:

''(4) REASONABLE EXPECTATION OF INTEGRITY OF MARKET PRICE.—A plaintiff who buys or sells a security for which it is unreasonable to rely on market price to reflect all current information may not establish reliance pursuant to paragraph (2). The Commission shall, by rule, define for purposes of this paragraph markets or types of securities that are not sufficiently active and liquid to justify such reliance. The Commission shall consider the following factors in determining whether it was reasonable for a party to expect the market price of the security to reflect substantially all publicly available information regarding the issuer of the security—

''(A) whether the issuer and its securities are regularly reviewed by two or more analysts;

''(B) the weekly trading volume of any class of securities of the issuer of the security;

''(C) the existence of public reports by securities analysts concerning any class of securities of the issuer of the security;

''(D) the eligibility of the issuer of the security, under the rules and regulations of the Commission, to incorporate by reference its reports made pursuant to section 13 of this title in a registration statement filed under the Securities Act of 1933 in connection with the sale of equity securities; and

''(E) a history of immediate movement of the price of any class of securities of the issuer of the security caused by the public dissemination of information regarding unexpected corporate events or financial releases.

H.J. RES. 2,

OFFERED BY: MR. CRANE

AMENDMENT NO. 2: Strike all after the resolving clause and insert the following:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''SECTION 1. No person may be elected to the House of Representatives more than three times, and no person who has been a Member of the House of Representatives for one year of a term to which some other person was elected may be elected to the House

of Representatives more than two additional times.

''SECTION 2. No person may be elected or appointed to the Senate of the United States more than one time, and no person who has been a Senator for three years of a term to which some other person was elected or appointed may be elected to the Senate of the United States.

''SECTION 3. Only elections occurring after ratification of this article shall be considered for purposes of sections 1 and 2.''.

H.J. RES 2

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 3: Section 4., strike ''No election'' and insert ''Election''.

H.J. RES 2

OFFERED BY: MR. INGLIS OF SOUTH CAROLINA

AMENDMENT NO. 4: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

''ARTICLE —

''SECTION 1. No person who has been elected for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives three times shall be eligible for election to the House of Representatives.

''SECTION 2. No person who has served as a Senator for more than three years of a term to which some other person was elected shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than two times.

''SECTION 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.''.

H.J. RES. 2

OFFERED BY: MR. MCCOLLUM

AMENDMENT NO. 5: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

''ARTICLE —

''SECTION 1. No person who has been elected for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives six times shall be eligible for election to the House of Representatives.

''SECTION 2. No person who has served as a Senator for more than three years shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than five times.

''SECTION 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.''.

H.J. RES. 2

OFFERED BY: MR. MCCOLLUM

AMENDMENT NO. 6: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

''ARTICLE —

''SECTION 1. No person who has been elected for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives six times shall be eligible for election to the House of Representatives.

''SECTION 2. No person who has served as a Senator for more than three years shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than five times.

''SECTION 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

''SECTION 4. Nothing in the Constitution or law of any State shall diminish or enhance, directly or indirectly, the limits set by this article.''.

H.J. RES. 2

OFFERED BY: MR. MCCOLLUM

AMENDMENT NO. 7: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

''ARTICLE —

''SECTION 1. The term of office of a Representative in Congress shall be four years and shall coincide with the term of the President of the United States.

''SECTION 2. No person who has been elected for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives three times shall be eligible for election to the House of Representatives.

''SECTION 3. No person who has served as a Senator for more than three years shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than two years shall subsequently be eligible for election to the House of Representatives more than two times.

''SECTION 4. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

''SECTION 5. No Member of one House of Congress may, except in the final year of that Member's current term, qualify under applicable State law as a candidate for the other House of Congress, unless that Member has resigned from the House in which that Member currently serves.

''SECTION 6. This article shall apply with respect to terms of office of Representatives and Senators beginning after the first day of the year immediately following the first presidential election after ratification of this article.''.

H.J. RES. 2

OFFERED BY: MR. PETERSON OF FLORIDA

AMENDMENT NO. 8: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three fourths of the several States within 7 years from the date of its submission by the Congress:

''ARTICLE —

''SECTION 1. The House of Representatives shall be composed of Members chosen every 4th year by the people of the several States. The terms of Representatives shall begin at noon on the 3rd day of January of the years that occur 2 years after the years in which the term of the President begins.

''SECTION 2. A person may not be a Senator if the person has been a Senator for more than 12 years during the lifetime of the person. A person may not be a Representative if the person has been a Representative for more than 12 years during the lifetime of the person. Any term as a Senator or Representative for which a person is elected or appointed to fill a vacancy in the representation of any State in the Congress may not be counted for purposes of computing the 12-year limits in this section.

''SECTION 3. Sections 1 and 2 shall apply only to Representatives who are elected on or after the date occurring 1 year after the 1st day that this article is valid as part of the Constitution and on which the electors of the President and the Vice President are chosen.

''SECTION 4. Section 2 shall apply only to Senators who are elected or appointed on or after the date occurring 1 year after the 1st day that this article is valid as part of the Constitution and on which the electors of the President and the Vice President are chosen.''.

H.J. RES. 2

OFFERED BY: MR. PETERSON OF FLORIDA

AMENDMENT NO. 9: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three fourths of the several States within 7 years from the date of its submission by the Congress:

''ARTICLE —

''SECTION 1. A person may not be a Senator if the person has been a Senator for more than 12 years during the lifetime of the person. A person may not be a Representative if the person has been a Representative for more than 12 years during the lifetime of the person. Any term as a Senator or Representative for which a person is elected or appointed to fill a vacancy in the representation of any State in the Congress may not be counted for purposes of computing the 12-year limits in this section.

''SECTION 2. This article shall apply with respect to terms of Senator and Representative beginning more than one year after the date of the ratification of this article.''.