opportunity and a better environment for our kids to learn? That is what we should be debating in this House today. That is what we should be passing on. That is what parents are concerned about, and rightly so.

And, in fact, why are we not debating in this House tobacco legislation? They are doing that in the other body today. Why do we not want to prevent underage kids from being able to smoke and a tobacco industry that has targeted 12 years old? An R. J. Reynolds report in 1984 says that 12 years old are replacement smokers. They are the new revenue stream.

Three thousand of our kids take up smoking every single day; 1,000 of them will die from a tobacco-related illness. That is what this body ought to be debating, is how we prevent our children from smoking and how we prevent the tobacco industry from targeting our young people. That is what our obligation is. That is what our responsibility is.

But this House is too busy. This House is too busy to consider all of this legislation. Let me just say that these resolutions have been brought up in an instant. That is the prerogative of the majority in this body, to bring up legislation, to schedule it, to get it passed. The majority in this body has decided to bring up an investigation.

And we should investigate. Again, I said at the outset no one questions our need to investigate. But the American people are crying out for a Congress, for a House of Representatives that says do something about my living standard, do something about my ability to get my kids to school, do something about my health insurance and my retirement security, do something about preventing my kids from using tobacco and illness and potentially death. That is what our obligation is here today. We should take it seriously and be true public servants.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume, and I will try to expedite matters, because I know there are some church services that are going to be starting soon.

Before yielding time to the majority whip, I would like to say that I wish the same people who come to this floor and criticize tobacco would at the same time take this floor in outrage, in outrage, over the illegal use of marijuana and other drugs that are literally killing, killing our young children today. Think about that, folks, because that is ten times more important than tobacco.

The gentlewoman from Connecticut just spoke about campaign finance transgressions that we are bringing up, and, yes, we are bringing it up. We will be debating today campaign finance reform on this floor and for several days to come, and it will be the fairest and most comprehensive debate ever held on this floor on campaign finance reform or probably anything else. But before we start debating on campaign finance reform, we want to find out why existing campaign laws have been criminally broken.

Should we not wonder why these existing laws have been broken? That is what this debate is all about today.

Mr. Speaker, I yield what time he may consume to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, let me just say, in evaluating what we just witnessed from the gentlewoman from Connecticut, that I appreciate her passion for the issues that she thinks are important that we should bring to the floor.

□ 1200

And we will carry out our obligations. Our committees are working. They are putting out legislation. We marked up a budget just this week. We will have the budget on the floor in a couple of weeks. Our appropriations process is working. The House is doing the people's business.

But what we are seeing by what we just witnessed was an effort, a concerted effort, by Democrats of this House to change the subject. They do not want to talk about this subject. They will do anything to change the subject. They are very upset that we are bringing this to the floor and saying, what is the reason for bringing this to the floor?

I say to my good friend, and I do have the utmost respect for the ranking member of the Committee on Rules, that when he cited that President Reagan invoked executive privilege three times, he is right, but mostly for national security reasons. But what he did not invoke executive privilege for was to withhold information under claims of executive privilege from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House. That is what we are talking about here.

Another reason we want to bring this resolution to the floor, and I hope Members will vote for the rule, is that the President is hiding behind the courts, as I said earlier, and he knows very well that the courts are not going to uphold his claim of executive privilege to withhold information of personal wrongdoing. But if he engages in enough appeals process, we might get past November's election and he will think he will be home free because he will have only 2 years left of his term.

But we want the next court that hears the appeal of the President's executive privilege claim to know how the people's House feel about executive privilege, and that is the reason I am bringing my resolution.

The next court could be the Court of Appeals or the Supreme Court. But they ought to know how the people's House feels about a President that invokes executive privilege for himself, the First Lady and his staff in order to withhold information from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

I would say to my good friend, there are church services starting. We need to determine whether or not there is going to be a vote. So I will not entertain any other speakers besides myself to briefly close, if the gentleman would like to yield back his time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to make one statement.

My dear friend, the Majority Whip, said that President Reagan used executive privilege because of national defense things. Well, the three occasions I have, and maybe the gentleman from Texas (Mr. DELAY) has others, but one time he used it because of James Watts' connection with the Canadian land leases, which is not national defense. Another one was with superfund enforcement, which was not national security. And the other one was with the William Rehnquist nomination.

Maybe he did use some other national security, but these were the three I was referring to.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of the time.

Let me again just say that the rule we are debating here will bring to the floor in a few minutes the DeLay resolution, which urges the President to immediately make public any claims of executive privilege and documentation or records pertaining to them so that the American people can know.

My own resolution will follow that, which urges the President that he should use all legal means to compel all people who left the country or have taken the fifth, many of them are his associates or friends or friends of friends, to return to this country and to honestly come forth and let the American people know what is going on.

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 resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE CONCERNING PRESIDENT'S ASSERTIONS OF EXECUTIVE PRIVILEGE

Mr. ARMEY. Mr. Speaker, pursuant to House resolution 436, I call up the resolution (H. Res. 432) expressing the sense of the House of Representatives concerning the President's assertions of executive order, and I ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 432 is as follows:

H. RES 432

Whereas a unanimous Supreme Court held in United States v. Nixon that ''[a]bsent a claim of need to protect military, diplomatic, or sensitive national security secrets,

we find it difficult to accept the argument that even the very important interest in confidentiality of Presidential communications is significantly diminished by production of such material'' that is essential to the enforcement of criminal statutes (418 U.S. 683, 706 (1974));

Whereas during the Watergate investigation, the Supreme Court unanimously held in United States v. Nixon that the judicial need for the tapes of President Nixon ''shown by a demonstrated, specific need for evidence in a pending criminal trial'' outweighed the President's ''generalized interest in confidentiality. . .'' (418 U.S. 683, 713 (1974));

Whereas the Supreme Court further held in United States v. Nixon that ''neither the doctrine of separation of powers, nor the need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances'' (418 U.S. 683, 706 (1974));

Whereas executive privilege is qualified, not absolute, and should ''never serve as a means of shielding information regarding governmental operations that do not call ultimately for direct decisionmaking by the President'' (In re Sealed Case, 116 F.3d 550 (D.C. Cir. 1997), reissued in unredacted form, 121 F.3d 729, 752 (D.C. Cir. 1997));

Whereas on September 28, 1994, Special Counsel to the President Lloyd N. Cutler, in a memorandum to the general counsels of all executive departments and agencies, wrote, ''[i]n circumstances involving communications relating to investigations of personal wrongdoing by Government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings'';

Whereas President Clinton is the first President since President Nixon (and the second in the history of the United States) to withhold information, under claims of executive privilege, from a grand jury investigating allegations of personal wrongdoing and possible crimes in the White House;

Whereas the President's assertions of executive privilege have recently been denied by a United States district court;

Whereas in January 1998, President Clinton said that the ''American people have a right to get answers'' regarding certain matters being investigated by the Office of the Independent Counsel;

Whereas President Clinton has promised to give ''as many answers as we can, as soon as we can, at the appropriate time, consistent with our obligation to also cooperate with the investigations''; and

Whereas the people of the United States and their duly elected representatives have a right to judge for themselves the merits or demerits of the President's claim of executive privilege: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that, in the interests of full disclosure consistent with principles of openness in governmental operations, all records or documents (including legal memoranda, briefs, and motions) relating to any claims of executive privilege asserted by the President should be immediately made publicly available.

The SPEAKER pro tempore. Pursuant to House Resolution 436, the gentleman from Texas (Mr. ARMEY) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARMEY).

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to personally thank the gentleman from Texas (Mr. DELAY) for introducing this resolution. The resolution is very simple. It simply says that all documentation related to the White House claims of executive privilege should be made public.

Mr. Speaker, this is a serious debate. It is a serious discussion. And really what we are trying to sort out here needs to be focused on for just one moment.

There is, despite all of the stonewalling, despite all of the tardiness, slowness, failed memories, inability to find people, secrecy, there is ample evidence that one can read in the Nation's press, and there has been for some time ample evidence, even as it relates to millions of dollars of returned campaign contributions after the last election that were admittedly returned because they were subsequent to the elections discovered to have been illegal contributions.

So that everybody in America must deal with a very serious question. And really we have two questions, one coming mostly from this side of the aisle, one coming from the other side of the aisle. We are saying that, given that people in highly elected office and positions of public trust must be honest and honorable beyond any shadow of a doubt and the interest of the security, national and domestic, of this Nation, that it is the Congress' responsibility to find out the truth about illegal activities, violations of law by people that are, in fact, in these highest positions of trust.

The other side of the aisle, as we just heard just a moment ago, is arguing that there is some possibility that the system might have corrupted some people and, therefore, we must change the system and they are arguing that the more important and more immediate business is to get on with changing the system.

I want to make a point here, Mr. Speaker, and I want to make it as emphatically as I can. When dealing with the choice of how do we prioritize the actions by the Congress of the United States relative to, one, the question of discerning the truth about the honesty, honor and integrity of people in highly elected offices, especially with respect to the manner in which they have acquired those offices; or, two, changing the rules of protocol and law that govern the financing of campaigns, that the latter must be clearly understood to be the matter of lesser priority.

Stated another way, if this Congress is incapable of recognizing, if the press is incapable of recognizing, if the American people are incapable of recognizing, and if the White House is incapable of recognizing that all matters of doubt regarding the honesty, the integrity, the legality of people in the highest elected offices of this land is a matter of crucial and utmost concern that must be given priority over the manners in which the laws are written, that they will therefore then, having not addressed, as my colleagues equally feel, to continue violating as they violated the previous laws, then surely we are lost.

There are serious questions related to the movement of money in campaigns, and no doubt we will address those in due time. But there can be no question of money that can be allowed to take precedence over questions of honesty, integrity, fidelity, duty and honor in those people that we would trust with dominion over the lives of our children's future.

Mr. Speaker, I yield the remainder of the time to the gentleman from Texas (Mr. DELAY); and I ask unanimous consent that he be able to yield time as he sees fit.

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

There was no objection.

The SPEAKER pro tempore. Does the gentleman from Michigan (Mr. CONYERS) claim the 30 minutes in opposition?

Mr. CONYERS. Yes, Mr. Speaker, I do.

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

Mr. CONYERS. Mr. Speaker, this is a bit of an amazing short-sightedness on the part of Republican leadership in advancing the incredibly partisan resolutions like the one being sponsored by the gentleman from Texas (Mr. DELAY) which, if actually passed, might do lasting damage to the institution of the presidency.

This resolution, if I read it correctly, seeks to have the President divulge all records and documents relating to any assertion of executive privilege to where? The Congress? To the press? To the public?

The administration has already joined with news organizations in seeking to make public both the legal papers filed by his lawyers and the judge's decisions concerning executive privilege. Questions about sealing such proceedings and preventing public access is, my colleagues, a question for the courts. It is one that our judicial system decides by hearings and carefully balancing the competing interests.

Never in the history of the Congress has the Congress said we ought to take that over and ask you, Mr. President, to just cooperate with us.

This is a meaningless resolution. The administration cannot do anything about this. These questions are court questions, questions already residing in the judiciary for determination. And if the gentleman from Texas (Mr. DELAY) were concerned about this issue, instead of attempting to politicize it, this resolution would be directed to the courts, not to ourselves or to the President of the United States.

But in reading it, it goes further and demands that all documents concerning the invocations of executive privilege now be made public. Why, this goes beyond Kenneth Starr and the independent counsel.

Just who do we think we are? If the demands are to be taken seriously, that would include confidential recommendations from the President's closest advisors. There is no question that these kinds of recommendations deserve confidential treatment.

The supporters of this resolution, like my friend the chairman, the gentleman from Indiana (Mr. BURTON), have a hard time recognizing what should and what should not be released to the public.

□ 1215

Any President of either party is entitled to confidential advice concerning the invocation of executive privilege. Elementary. The Reagan administration invoked executive privilege quite frequently. The Bush administration withheld documents and witnesses from congressional committees on numerous occasions based on concerns about executive privilege.

Republicans have never sought to pierce the confidentiality of the advice given to those Presidents, and I am afraid that they only seek to do so now because of their partisan intent to discredit the President of the United States.

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

Mr. DELAY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this is very serious business. As I said weeks ago, and I wish my voice was clearer so that the American people would hear from me in a very clear way, I think this is very serious business. This is not partisan politics.

The gentleman says, Mr. Speaker, that we are attempting to inflict lasting damage to the institution of the Presidency. We think this President has already inflicted that damage on the office of the Presidency by claiming executive privilege to cover up information of a personal wrongdoing or possible crimes in the White House, by stonewalling the American people when, on the one hand, months ago, the President said, ''I will tell the American people the truth in a very expeditious manner, in a timely manner'', and yet has hid behind lawyers and courts and attack dogs.

I think this is very serious. I rise today because I believe the American people have a right to know the truth. That is what this is all about. The American people have a right to know the truth.

Mr. Speaker, the list is very long and far from distinguished: Whitewater; the Travel Office Affair; the collection of classified FBI files; foreign campaign contributions to the DNC, the Democratic National Committee; Webster Hubbell; the appointment of numerous Independent Counsels to investigate Cabinet members; the transfer of sensitive missile technology to the Communist Chinese.

Do the American people know the full truth about what happened in even one of these scandals after 4½ years? The answer, as we all too well know, is a resounding no.

The lengths to which this administration has gone to hide from the light of day are breathtaking. Sadly, congressional Democrats have lent the administration a helping hand every misguided step of the way. They have made sure that every hearing, every investigation is met with a coordinated campaign of misinformation and stonewalling.

The gentleman from Indiana (Mr. BURTON), chairman; the gentleman from Iowa (Mr. LEACH), chairman; the gentleman from Pennsylvania (Mr. CLINGER), chairman; Chairman Senator THOMPSON, Chairman Senator D'AMATO, Special Counsel Starr, FBI Director Freeh, each has been the victim of relentless personal attacks and slander from this administration, the administration's hit men and Democrats from Congress.

Why? Because the one thing the Democrats fear the most is that the American people will find out the truth. They will go to any length to stop that from happening. The only strategy left to them is to draw these investigations out as long as possible so that they will never have to answer these questions or any questions. The only people President Clinton and the Democrats have to blame for these investigations are themselves.

The Democrats have chosen a new tool, executive privilege. Mr. Speaker, executive privilege is an essential constitutional safeguard in my mind. It is vital to the protection of our national security. Almost every President since George Washington has made use of executive privilege in one way or another.

But this administration is the first since President Nixon and only the second in the history of our country, only the second presidency in the history of our country to withhold information under claims of executive privilege from a Grand Jury investigating allegations of personal wrongdoing and possible crimes in the White House.

President Clinton is obliged to claim executive privilege if he is doing so to protect national security. But President Clinton has repeatedly claimed executive privilege to shield himself, the First Lady, and some of his aides from testifying in a criminal investigation.

Nearly 25 years ago, in the United States versus Nixon, the Supreme Court wrote about President Nixon's use of executive privilege under similar circumstances. I quote:

> To read the constitutional powers of the President as providing an absolute privilege against subpoena essential to enforcement of criminal statutes on no more than a generalized claim of the public interests and confidentiality of nonmilitary and nondiplomatic discussions would upset the constitutional balance of a workable government.

The Supreme Court. The Supreme Court could not have been more clear. Executive privilege may be used only to protect national security, not to shield information in a criminal proceeding.

Less than 4 years ago, the President's own special counsel, Lloyd Cutler, had this to say, and I quote:

> In circumstances involving communications relating to investigations of personal wrongdoing by government officials, it is our practice not to assert executive privilege, either in judicial proceedings or in congressional investigations and hearings.

That is President Clinton's own Special Counsel that wrote that.

The New York Times, a surprising new member of the right-wing partisan conspiracy, had this to say about the President's use of executive privilege:

> To invoke that privilege in a broad and self-serving way, as the Clinton White House has done to shield itself from Kenneth Starr's inquiry, is to abuse it.
>
> But this White House is not easily embarrassed. It has tried to invoke the hallowed attorney/client privilege even when attorneys are servants of the public, not the President's private lawyers.
>
> All this legal inventiveness carries the implicit assertion that Mr. Clinton is somehow above the law and thus raises the kind of constitutional questions that ought to be exposed to public debate.

The New York Times.

Mr. Speaker, that is all we are asking here today, that the President be honest with the American people about his use of executive privilege. Like the American people, I want to believe President Clinton. But what are reasonable people to believe when the President will not even level with them?

We are not asking that the President tell us the substance of private conversations with his lawyers, although that would be nice. No, we are simply asking the President to be honest with the American people, with the people of the United States. Just be honest. Just be honest.

Mr. Speaker, I urge my friends and colleagues on the other side of the aisle to support this resolution and send a message to the Appeals Court. I urge you to go to the President and tell him, tell the American people what you are doing. It is so simple. If you have nothing to hide, come clean.

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

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, I do not question the sincerity of the motives of the gentleman who just spoke and the reasons behind his drafting and offering of this resolution.

If I could have the gentleman's attention, I would appreciate it.

I just wanted to engage the gentleman in a discussion of what seems to me to be a troubling set of implications from the way the ''Resolved'' clause in the gentleman's resolution has been prepared.

I do not want to misread it; and if I am, I would like to be corrected. If I am not, I think we have a very serious problem on our hands. The ''Resolved'' clause speaks to ''all records or documents relating to any claims of executive privilege'' and that they should be immediately made public.

I do not know the full scope of documents and materials that would be covered by this language. It seems to me entirely possible that they would extend to matters that had legitimate national security or classification constraints imposed upon them.

I understand the gentleman's concern that we do not want that to be used as a way of manipulating information, but let us stipulate for the moment that we could be embracing with this language some real national security information that is at least tangentially implicated in these assertions of executive privilege.

I hope it is not the gentleman's intention to suggest that that, willy-nilly, should be made public, but that is what that language implies.

Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. It is a very good question, and I appreciate the gentleman asking it.

First, let me answer it by saying this is a sense of Congress. This is not a binding law. This is expressing how the House feels about what the President has done in the executive privilege. That is number one.

Number two is, of course, we are not saying, reveal all documents, especially those documents that may undermine the national security of this country. There is precedent that would allow the President to claim executive privilege based upon national security. But we all know what the intent is here. We are not stopping the President from revealing the truth to the American people.

Mr. SKAGGS. Mr. Speaker, reclaiming my time, I appreciate the gentleman's answer. Whether this is sense of Congress or law, it seems to me we should be careful in its drafting and in its consequences.

I am afraid that the gentleman, in his sweeping desire to get at everything, has made no provision for what needs to be dealt with here in the eventuality that real national security information is covered by this language.

Mr. DELAY. Mr. Speaker, would the gentleman yield?

Mr. SKAGGS. Members have imposed a rule that prohibits amendments. We might be able to address this were it not for that constraint.

Mr. Speaker, I am glad to yield again.

Mr. DELAY. Mr. Speaker, the courts would not allow us to impose upon the President, even if this was a statute, impose upon the President the revealing of documents that would undermine national security. The gentleman is trying to change the subject. The subject is that, if the President wanted to reveal the truth to the American people, he could do so, and we want to send a message to the courts that are taking his appeal.

I am not trying to change the subject at all. I believe that when we are dealing with something as nuanced and delicate and as important as this interrelationship between the executive branch and the legitimate investigative responsibilities of the legislative branch, we ought to proceed with due care.

This seems to me to be, in its expansiveness, a little bit glib in the way it deals with a very, very important matter, and I think that the Members should take that seriously and not just dispense with it, because we know, of course, what this is really about.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, the previous speaker is a very close friend of mine. He is going to be retiring. He is a former Marine. So, naturally, I have great respect for him.

But he has a real disadvantage standing up here today because he is a lawyer. Sometimes lawyers get tied up in nitpicking things, and they do not look at it from a sincere point of view; not that he is not sincere, because he is, but sometimes because of their education in law, he is sort of misled.

I am glad to say I am not a lawyer. Having said that, I want the gentleman to look at it the way Joe Six-pack, the way my American constituents look at it from the Hudson Valley.

□ 1230

I think I do not want to know about all this nitpicking stuff. They wanted to know this. Read page 3 of the bill. It says, ''Whereas, in January 1998, President Clinton said,'' and this is a quote now of the President, ''the American people have a right to get answers'' regarding matters being investigated. That is the end of his quote.

Mr. Speaker, instead of openly answering the questions to Members of Congress, but more than that, to members of the press, who are out there trying to get the information for the public, he simply says time and time again, there is no evidence of that. He does not deny it, he says there is no evidence of that.

Well, we do not have to worry about that part of the resolve clause, about whether there are documents there dealing with national security. The gentleman knows, nobody stands up here more for national security than I do. I am blocking an encryption bill that would expose our ability to track terrorism, communists and people that would bring down this government. So do not come over here and say we have a question about national security. There is no evidence of that. We want the President to come forward and give the answers. I salute the gentleman.

Mr. SKAGGS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Colorado.

Mr. SKAGGS. Mr. Speaker, I am not questioning the gentleman's sincerity about taking national security issues seriously. Far be it from that. Contrary to what the gentleman is suggesting, I think we should adhere to and aspire to a particularly high standard of precision in the work of this body and not just say hey, ''Joe six-pack knows what we are talking about, don't not sweat the small stuff.'' I think we are here to pick some nits and make sure we are doing careful work.

Mr. SOLOMON. Mr. Speaker, reclaiming my time, I thank the gentleman, and I would say the American people want the answers. Mr. President, come forth and give them to them. He is capable of doing that. He can do that.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I would like to begin by telling the distinguished chairman of the Committee on Rules that I am very glad he is not a lawyer too, so we are in total agreement on that; but not being a lawyer, he may have some handicap in reading the decisions of the United States Supreme Court. Some of them you do not have to be a lawyer to understand.

The Supreme Court has said in the Nixon case, and I underline the ''Nixon'' case, how executive privilege should be asserted. It would be important for the proponents of this resolution to have studied that case. The proponent is proudly, I presume, not a lawyer as well.

It said in that decision that the courts, not the Congress, determine the question of whether an executive privilege can be asserted. So the gentleman from Texas either does not appreciate the decision that exists as current guidance on the subject, or perhaps it has not been brought to his attention that we cannot tell the court how it should handle itself.

I guess we can advise the President that he should release all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, and it should be made publicly available. Well, this is already in the courts.

There is not one word, with all respect to the patriotism of the gentlemen on that side of the aisle, about documents dealing with national security matters being excluded. Not a word.

I think what the gentleman from Colorado was pointing out was that if you really mean this, and, as the gentleman from Texas has said twice, this is a serious matter, you had better change this to make everyone understand that, of course, defense matters, secret matters, secrecy of documents, are not included. We should just understand that.

Well, I do not think we can just understand that, I would say to the gentlemen from the other side, whether you are lawyers or not lawyers, or whatever it is you might be. This is a flawed resolution, assuming you want to do what you said. You want to give the President some free advice. ''Give us everything you have got on executive privilege,'' which is already in the courts.

I do not think that the system is ready to work that way. Never in the history of the Congress have we ever had such a resolution put forward with reference to the President of the United States.

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

Mr. DELAY. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the distinguished Chairman of the Republican Conference.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, the American people have entrusted the President of the United States with many exclusive privileges not available to the average person. Because of the travel demands that he bears as the leader of the free world, he has got the privilege of traveling across the world on Air Force One; because of his need for constant security as the leader of our government, he has the privilege of round-the-clock protection from the Secret Service, even after he leaves office; and because of the need for national security, he is entrusted with a special privilege, probably more sacred than any of these, and that is executive privilege.

Let us be perfectly clear, Mr. Speaker. The President has the right to claim executive privilege in matters of national security. But no one has the privilege of being above the law; not Members of this House, not Members of the other body, not even the Chief Executive of the United States of America. But it seems that this important privilege is being used to block the people's right to know on a much broader range of issues.

Mr. Speaker, I think there is a pattern developing in the Executive Branch. While reassuring the public that they are anxious to get to the truth, certain officials have consistently stood in the way of legitimate legal inquiries into activities of our government at the White House.

Just yesterday, in fact, a White House spokesman bluntly claimed that the administration has fully cooperated with Congressional questions about these very troubling technology transfers to China. It was a reassuring thing to hear, but it just was not true.

Congressional leaders from the Committee on National Security and from the Committee on International Relations have written the Secretary of Defense, the Secretary of State and the Director of the U.S. Arms Control Agency, and the chairman of the Committee on Intelligence wrote to the Secretary of Defense as well. Our Committee on Science, both Democrats and Republicans, have raised the issue of China with NASA. Even a letter sent to the President by the Speaker and the Majority Leader of the Senate has fallen on defense ears. To date, all of these requests have been met with either silence or reassurance. But all requests for information have been denied.

Mr. Speaker, it is time for the stonewall tactics to end and the cooperating to begin. Whether it is stalling on basic requests for information or invoking executive privilege, the result is the same; the American people are denied the right to know what is going on inside their White House. In the end, Mr. Speaker, this is what this fight is about, the American people's right to know what happens in their government.

This government does not belong to politicians in Washington D.C. This government belongs to the American people, and they have a right to know what happens in Washington, D.C. They have a right to know what is going on in their White House.

I think the stonewalling should end, and the cooperating and the truth needs to be discovered.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to bring to the attention of the gentleman from Texas, who has brought forth this resolution, a little bit of history about executive privilege and how it has operated.

In 1992, the White House refused to permit White House Counsel C. Boydon Gray and C. Nicholas Rostow of the National Security Council to testify before the House Committee on Banking and Financial Services concerning the allegations that the Bush Administration had attempted to conceal from Congress the extent of its assistance to Iraq prior to the Gulf War. That was an assertion of executive privilege.

In 1991, President Bush ordered Defense Secretary Cheney not to comply with a subpoena for a document related to a subcommittee's investigation of cost overruns in a Navy aircraft program. It came to the Committee on Government Operations.

During the administration of President Bush, in response to requests from the Committee on Government Operations, Vice President Quayle's Council on Competitiveness cited executive privilege in refusing to make public its contacts with companies affected by proposed regulations that it was charged with reviewing.

President Bush invoked executive privilege in refusing to respond to a subpoena issued by the House Committee on the Judiciary seeking an opinion written by the Department of Justice Office of Legal Counsel authorizing the FBI to snatch fugitives on foreign soil.

Again during the Bush Administration, Attorney General Thornburgh cited exclusive executive privilege in withholding hundreds of documents from the Committee on the Judiciary concerning the Justice Department's controversial purchase of a $180 million computer system.

In 1986, the Bush Administration even supported former President Nixon's claim of executive privilege which he asserted to prevent the National Archives from releasing the Nixon White House papers.

Again, President Reagan invoked executive privilege with respect to the controversies concerning Mr. James Watt and certain Canadian land leases, Anne Burford and the EPA Superfund enforcement in 1982, and Department of Justice memos concerning the nomination of Chief Justice William Rehnquist in 1986. So those were three other instances in 1981, 1982 and 1986 where there have been presidential assertions of executive privilege.

Now, there is a process in which we can go into court, but never before in my memory and my research have we ever put a special resolution on the floor asking the President to go far beyond specific material, but asking him that in the interest of full disclosure, consistent with the principles of openness in government, all records or documents, including legal memoranda, briefs and motions relating to any claims of executive privilege asserted by the President, should be immediately made publicly available.

That was never done in the numerous examples of the assertion of executive privilege under Republicans.

But, more than that, would you really want the President to do what you are asking for in the resolved clause? Would you really want all of these materials released to the public? I do not really think you mean what you are saying here. I think maybe you would like to get to some more arguments on executive privilege, which, by the way, are being handled in the court. But would you want this much information?

This goes far beyond anything that would ever be brought up in a court. It goes far beyond anything necessary for us to understand why the assertion of executive privilege is being made, and it is a matter being debated and resolved in the courts as we stand here in the well.

□ 1245

So I would just say in mustering the most benefit I can to explain the reason for House Resolution 432 is that perhaps the author went beyond what it is he really wanted to know and forgot that everything means everything, that all means all, that any means any, no exceptions, none.

I do not think anybody really would want that to happen. Therefore, it is my position that this resolution is fatally flawed.

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

Mr. DELAY. Mr. Speaker, I reserve the right to close, and I have no other

speakers, and I am working with the gentleman from Colorado on an amendment, so if the gentleman has no more speakers, I will close.

Mr. CONYERS. Mr. Speaker, I do have more speakers, so if the gentleman does not mind, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DELAHUNT), a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, I thank my friend and colleague, the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

I think it is important to note, because we have heard the refrain today about the President setting himself above the law. Well, there is nowhere that I have heard or read or observed where this President is suggesting that he is above the law.

Mr. Speaker, to me and to I think most Americans, it is clear that the President feels he has a constitutional obligation to assert executive privilege where he feels it is necessary to secure the independence of the executive branch.

Now, some may or may not like that particular assertion, but it has been and will be tested, by the third branch of government, our courts, our judiciary. I believe that the American people have great confidence in our constitutional democracy, whether they be lawyers or whether they be Joe Six-pack, because ultimately, the Constitution of the United States is a document above viable democracy. It is about the separation of powers, and it is a document that has worked well for this Nation since its birth back in the late 1700s.

So the President is working within the confines of the Constitution, that great American document, that document that so many have fought for and died for and served in this Nation's military, including the Marine Corps. This is all about the United States Constitution and about constitutional democracy and about respect for each branch of government.

Mr. CONYERS. Mr. Speaker, I have no other speakers, and I reserve the balance of my time.

Mr. DELAY. Mr. Speaker, I have no other speakers, and I reserve the right to close.

REQUEST TO AMEND HOUSE RESOLUTION 432 OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I ask unanimous consent to add at the end of the resolving clause an amendment prepared by the gentleman from Colorado that states, ''Such public disclosure shall not extend to legitimate national security information.''

The SPEAKER pro tempore (Mr. LATOURETTE). The Clerk will report the amendment.

The Clerk read as follows:

Add at the end of the resolved clause: ''Such public disclosure shall not extend to legitimate national security information.''

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

Mr. CONYERS. Mr. Speaker, reserving the right to object, I have not seen this amendment and I have no inclination to support it without having seen it, and so I object.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Michigan wish to use additional time before the gentleman closes?

Mr. CONYERS. Mr. Speaker, I yield back the balance of my time.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

This is amazing, it is just amazing. The display of objections to the people's right to know the truth and the President's right to claim executive privilege that has been interpreted by the courts and not revealed any documents. But so be it.

The real intent of my resolution is to try to get the President of the United States to reveal information that has been withheld for all of these 4½ years in some cases, and information that the President is claiming executive privilege for.

The gentleman cited all of these claims by other Presidents. Not one of those cites that the gentleman listed has anything to do with claims of executive privilege involving allegations and information given to a grand jury on information of personal wrongdoing and possible crimes in the White House, not one of them. This President is only the second President after Nixon in the entire history of the country that has made those kinds of claims, and yet the gentleman still supports the President.

The gentleman says that the House of Representatives has no responsibility or authority to tell the courts what to do. Well, the gentleman and I have a very strong difference of opinion as to what the House of Representatives and the Congress of the United States is, its standing in the country, and particularly, its standing relative to the judiciary branch. We are not a subbranch of the judiciary.

Now, for years, almost 40 years, the majority of this House has allowed the judiciary to rule law across this country and this body has not asserted itself. But now, under a new majority, we think we hold an equal standing with the judiciary that the Constitution gives us every opportunity to send messages to the judiciary and indeed, this week, this House overwhelmingly voted to limit the jurisdiction of the judiciary when it came to early release of convicts for the reason of prison overcrowding.

Now, the gentleman must believe that we are subservient to the judiciary, but I do not, and this resolution is the sense of Congress that says such, and we are sending a message to the appeals courts that are hearing the case of this President of the United States bringing executive privilege.

Congress, under the Constitution, has about as much right and duty to address the issues of constitutional import as any other branch. Congress considers issues every day that implicate the Constitution. The courts are the final decisionmakers, as we learned in Marbury v. Madison. However, the court considers the views of coordinate branches, equal branches of government.

This resolution merely says that the President's reasons for asserting executive privilege should be made public. If the President wanted to talk, he should not hide behind the courts. That is the truth of what is going on here.

The D.C. Circuit Court of Appeals and the Supreme Court should know that this House believes that court proceedings regarding executive privilege should be open to the public, and we are going to take a vote in a moment to express ourselves to those courts.

But the bottom line here, Mr. Speaker, is we should not participate in strategies of stonewalling or keeping the American people away from the truth. The bottom line of what we are trying to do here is the fact that the American people have the right to know the truth and we are calling on the President of the United States to tell the American people the truth, and I urge adoption of my resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stand in opposition to the adoption of House Resolution 432.

First, I would like to express my dismay at the way the Republican leadership brought this resolution to the floor. When the agenda was set for this week, the Rules Committee minority leaders were only given approximately five minutes notice to prepare for consideration of this proposed resolution. Furthermore, the Judiciary Committee, which also has probable jurisdiction on this matter, was not even given the opportunity to review its text. If House majority leadership wants to maintain any semblance of impartiality, I suggest that they resist the temptation to take political ''potholes'' at every opportunity.

Fellow colleagues, this resolution does nothing more than embroil Congress in a dispute that is more properly before an Article III Court.

I believe that almost every member of Congress agrees that an executive privilege exists. In its purest manifestation, it protects us from the divulgence of information which threatens our national security. The scope of this privilege is still somewhat of an unknown quantity. The Bush Administration invoked the privilege on several occasions, many of which did not involve national security.

Colleagues, we are not the Supreme Court. It is not our task to divine the meaning of the Constitution. A rejection of this resolution is a clear signal to the American people that this Congress still recognizes the concept of separation of powers.

I also object to this resolution because it does nothing but make a recommendation that the President, that he waive his executive privilege. This is a right to be asserted by the President, under advisement of his lawyer only. In a legislative body, how can we fail to recognize the impropriety of stepping on the toes of the attorney-client relationship. Remember all of us under the law are innocent until proven otherwise.

I ask my colleagues to oppose this resolution, in order to send a clear message to the American people that we understand and respect the role of the legislature in our democratic system.

Mr. DELAY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The resolution is considered read for amendment.

Pursuant to House Resolution 436, the previous question is ordered.

The question is on the resolution.

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

Mr. DELAY. 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 259, nays 157, answered ''present'' 6, not voting 11, as follows:

[Roll No. 176]

YEAS—259

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

NAYS—157

Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E.B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stokes
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

ANSWERED ''PRESENT''—6

Barrett (WI)
Berman
Johnson (WI)
Kind (WI)
Obey
Rivers

NOT VOTING—11

Bateman
Crapo
Farr
Gonzalez
Gutierrez
Harman
Kaptur
McDermott
Meeks (NY)
Schumer
Torres

□ 1318

Mr. CUMMINGS, and Mr. DAVIS of Florida changed their vote from ''yea'' to ''nay.''

Messrs. PASCRELL, ABERCROMBIE, and STRICKLAND changed their 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.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman, one of his secretaries.

CALLING UPON PRESIDENT TO URGE FULL COOPERATION WITH CONGRESSIONAL INVESTIGATIONS

Mr. ARMEY. Mr. Speaker, pursuant to House Resolution 436, I call up the resolution (H. Res. 433) calling upon the President of the United States to urge full cooperation by his former political appointees and friends and their associates with congressional investigations, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 433 is as follows:

Whereas approximately 90 witnesses in the campaign finance investigation have either asserted a fifth amendment privilege or fled the country to avoid testifying in congressional investigations;

Whereas prominent among those who have asserted the fifth amendment privilege or fled the country to avoid testifying are former political appointees and friends of the President of the United States, such as former Associate Attorney General Webster Hubbell; former Department of Commerce political appointee John Huang; former Presidential trade commission appointee Charlie Trie; former senior Presidential aide Mark Middleton; longtime Presidential friends James and Mochtar Riady, as well as family, friends, and associates of some of these individuals;

Whereas when the Director of the Federal Bureau of Investigation Louis Freeh testified before the House Government Reform and Oversight Committee on December 9, 1997, he had the following exchange with the Chairman of the Committee:

Mr. Burton: Mr. Freeh, over 65 (at that time) people have invoked the Fifth Amendment or fled the country in the course of the committee's investigation. Have you ever experienced so many unavailable witnesses in any matter in which you have prosecuted or in which you have been involved?

Mr. Freeh: Actually, I have.

Mr. Burton: You have. Give me a run-down on that real quickly.

Mr. Freeh: I spent about 16 years doing organized crime cases in New York City, and many people were frequently unavailable.

Whereas never in the recent history of congressional investigations has Congress been faced with so many witnesses who have asserted fifth amendment privileges or fled the country to avoid testifying in a congressional investigation; and

Whereas the unavailability of witnesses has severely limited the public's right to know about campaign finance violations which occurred over the past several years and related matters: Now, therefore, be it