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No. 28

House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
March 13, 2002.

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Bryan K. Finch, Chaplain, U.S. Coast Guard Training Center, Yorktown, Virginia, offered the following prayer:

O Lord, we commend the interest of our dearest country to the protection of Your Almighty hand, especially in this day of new challenges and threats. Guide our leaders and this Congress to move with vigilance toward the tests ahead, and let them look beyond mere mortal understanding and seek wisdom and guidance from above. For what is decided here shall not remain here, but will impact the cause of freedom and those who love liberty across this world.

Impress upon our hearts the summation of all the commands, "To love the Lord our God, and to love our neighbor as ourselves."

Pour this truth into each heart in order that we may serve You and this country as servants of justice and mercy.

O Lord, these who have the mighty task of superintending hope and peace and freedom in this land and in distant countries, I commit them into Thy holy keeping.

In God's holy name this day we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. 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.

Mr. McNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Speaker's approval of the Journal.

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

Mr. McNULTY. 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. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. McNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. McNULTY 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.

WELCOME TO CHAPLAIN BRYAN FINCH OF OLDE YORKE CHAPEL, U.S. COAST GUARD TRAINING CENTER

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his re-

marks and include extraneous material.)

Mr. COBLE. Mr. Speaker, it is my pleasure to welcome as our guest chaplain today, Chaplain Bryan Finch of the Olde Yorke Chapel, U.S. Coast Guard Training Center, Yorktown, Virginia. I would also like to thank Chaplain Finch for his thoughtful and inspiring invocation.

Chaplain Finch is joined today by his wife and Captain John Gentile, who is the Commanding Officer of the Training Center.

Mr. Speaker, I came to know the chaplain last fall when the chief petty officers in the Tidewater, the Yorktown area, invited me to be their guest speaker for their annual gala. A great time was had by all. At that time the Chaplain expressed interest in joining us up here.

Chaplain Finch is an ordained Southern Baptist pastor, a graduate of LaGrange College in LaGrange, Georgia. He earned a Master of Divinity at Southwestern Baptist Theological Seminary in Fort Worth, Texas, and also obtained a Masters of Theology in Culture and Religion at Princeton Theological Seminary in Princeton, New Jersey.

Chaplain Finch also has a distinguished military career, having served in both the Army and Navy. Upon graduation from high school, he enlisted in the U.S. Navy for 4 years. Chaplain Finch then went on to pursue his college seminary degrees and, upon completion, joined the Army where he served as Chaplain of the First Battalion, Sixth Infantry in Vilseck, Germany.

He later received an interservice transfer to the U.S. Navy and was commissioned in the Navy on January 7, 1991.

Presently, Chaplain Finch is assigned to the U.S. Coast Guard Training Center in Yorktown, Virginia, where he has served as Chaplain since June, 2000.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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Mr. Speaker, I would be remiss if I did not mention one of Chaplain Finch's most noteworthy contributions was his service on the Chaplain Emergency Response Team which was activated to assist in the aftermath of the events of September 11. Along with Chaplain Finch, there were 30-plus other Navy chaplains assigned to Coast Guard units who assisted in this effort, and at this time, I would like to submit their names for inclusion in the RECORD in recognition of their significant contribution, as well.

Mr. Speaker, again, I want to extend a cordial welcome to Chaplain Bryan Finch for being here today. His presence and blessing on this House means so much to me and the thousands of young men and women who proudly wear Coast Guard blue.

CHAPLAINS WHO SERVED WITH THE CERT AT
THE WORLD TRADE CENTER

CPT Leroy Gilbert, Chaplain of the Coast Guard, USCG HQ, Washington, DC.

CPT Thomas Murphy, USCG Academy, New London, CT.

CPT Ronald Swafford, USCG Pacific Area, Alameda, CA.

CPT Peter Larsen, U.S. Naval Reserve Chaplain.

CDR Wilbur Douglass, USCG Atlantic Area/Fifth CG District, Portsmouth, VA.

CDR Deborah Jetter, USCG RELSUP 106 (District Nine).

CDR Douglas Waite, Deputy Chaplain of the Coast Guard, Washington, DC.

CDR Derek Ross, USCG Training Center, Cape May, NJ.

CDR Lawrence Greenslit, USCG District Seven, Miami, FL.

CDR Steven Brown, USCG District Nine, Cleveland, OH.

CDR Richard Carrington, U.S. Naval Reserve Chaplain.

CDR Michael Doyle, U.S. Naval Reserve Chaplain.

LCDR Rondall Brown, USCG Air Station, Cape Code, MA.

LCDR Thomasina Yuille, USCG District One, Boston, MA.

LCDR William Brown, USCG District Eight, New Orleans, LA.

LCDR James Jensen, USCG RELSUP 106 (District Thirteen).

LCDR Gregory Todd, USCG Activities New York, Staten Island, NY.

LCDR Manuel Biadog, USCG Training Center, Petaluma, CA.

LCDR Bryan Finch, USCG Training Center, Yorktown, VA.

LCDR Phillip Lee, USCG RELSUP 106 (District Eight).

LCDR Thomas Hall, USCG GANTSEC, San Juan, PR.

LCDR Brian Haley, USCG Academy, New London, Ct.

LCDR Dennis Boyle, USCG Air Station, Cape Code, MA.

LT Keith Shuley, USCG Training Center, Petaluma, CA.

LT Thomas Walcott, USCG Group, Milwaukee, WI.

LT Steven Bartell, USCG RELSUP 106 (District One).

LT James Finely, USCG Training Center, Yorktown, VA.

LT Alan Andraeas, USCG Air Station, Borinquen, PR.

LT Peter Rosa, USCG Group, St. Petersburg, FL.

LT Douglas Vrieland, USCG Group, Charleston, SC.

RAISING AWARENESS FOR THE
ERADICATION OF HIV/AIDS AND
TUBERCULOSIS

(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, one-third of the world, including 15 million Americans, are infected with tuberculosis. My State of Florida ranks among the top four in tuberculosis cases every year. Tuberculosis is the leading killer among people infected with HIV/AIDS, and both remain public health concerns that we must continue to address.

This year, in conjunction with the Miami-Dade County Health Department, the Florida Department of Health, the South Florida American Lung Association, and the Global Health Council and many other public health organizations, I am promoting a forum entitled "When HIV and TB Collide: A World TB Day Event." This conference will explore how unique partnerships between government, faith-based groups, and community-based organizations can together help combat the deadly combination between HIV/AIDS and tuberculosis that threatens the health and well-being of our communities. I urge my colleagues to help raise awareness on these diseases both globally and locally, and to continue working until they are eradicated from our world.

BRINGING ABDUCTED AMERICAN
CHILDREN HOME

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

Mr. LAMPSON. Mr. Speaker, I continue today with my story of Ludwig Koons. Last week, we left off with Jeff Koons finding his son abandoned by his mother and left in a dangerous and pornographic environment. Mr. Koons took Ludwig from this environment and returned with him to New York City where he immediately initiated divorce and custody proceedings in the Supreme Court of New York.

His ex-wife filed an appearance through counsel, and the parties agreed on joint custody of Ludwig. The agreement prohibited either party from removing the child from New York until a final ruling on the divorce. Both parties agreed to be accompanied by a bodyguard outside the home to ensure that Ludwig remain in New York City. The Supreme Court of New York ordered ratification of the parties' agreement, ruling that the parties were prohibited from removing Ludwig from the jurisdiction until further court order.

Well, Mr. Speaker, Ilona Staller ignored that court order and on June 9, 1994 abducted Ludwig to Italy. Neither the United States Government nor the Italian Government is working to help solve this problem.

Mr. Speaker, join me in helping bring Ludwig Koons and all American children home.

CALLING FOR THE IMMEDIATE RETURN OF LIEUTENANT COMMANDER JOHN SPEICHER

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

Mr. PITTS. Mr. Speaker, we learned this week that there are credible reports that Saddam Hussein has been holding an American Navy pilot for the last 10 years. Lieutenant Commander Scott Speicher was shot down over Iraq during the Gulf War, and he has never been accounted for. Now, intelligence sources are saying Saddam Hussein captured him and has been holding him prisoner ever since.

Mr. Speaker, we know that Saddam Hussein does not follow the rules of peace or war. The world knows that he is a tyrant who murders his own people, and we know that he has repeatedly invaded his neighbors. Now it seems he may be secretly imprisoning an American officer.

To be clear, we do not know yet if this is true, but if it is, Saddam Hussein needs to return our pilot to us immediately. If he does not, the Government of Iraq will have to pay the consequences, and I do not need to point out that those consequences will be severe.

PRAYING FOR A SAFE RETURN FOR MIRANDA GADDIS AND ASHLEY POND

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

Ms. HOOLEY of Oregon. Mr. Speaker, I come before the House today to alert those who may be watching in Oregon and across the Nation to the tragic disappearance of two young teenagers from my district.

Miranda Gaddis and Ashley Pond, both 13 years of age, students at Gardiner Middle School in Oregon City and teammates on the school dance team, have been recently reported missing.

Ashley disappeared January 9, and Miranda vanished last Friday, March 8. Both were last seen by their mothers early in the morning as they left their homes at the Newell Village Creek apartments to catch the bus to school on South Beavercreek Road.

The FBI has recently stated that Ashley and Miranda's disappearances appear to be related and that foul play may be involved.

If anyone has any information regarding Ashley or Miranda's whereabouts, please contact your local FBI offices or the Oregon City Police Department.

Our thoughts and prayers are with the families of these girls and law enforcement as they continue to work tirelessly for the safe return of these girls.

FEDERAL BUDGET MUST REFLECT
NEW PRIORITIES

□ 1015

SOCIAL SECURITY AND THE
BUDGET

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

Mr. GIBBONS. Mr. Speaker, last Monday this Nation recognized the 6-month anniversary of the terrorist attacks which claimed the lives of thousands of innocent Americans. Now, as a Nation, we are in the middle of a war to root out the culprits of the September 11 attacks and to rid the world of terrorism. Our mission is not only right and necessary, but it is also massive and challenging. Like a runner, this is not a sprint, but a marathon.

Terrorist cells exist in countries around the world, and as a result, our work will not be limited to just Afghanistan. Consequently, as our budget process begins, we must provide the critical resources our military and intelligence communities need to win the war against terrorism.

This is a new world, Mr. Speaker, that we are now living in; we are living with new threats, and our Federal budget must reflect our new priorities.

COMMISSION ON BLACK MEN AND
BOYS

(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, as we move toward welfare reform, I want to report an extraordinary standing-room-only hearing by our Commission on Black Men and Boys here in the District last night. I established this 12-man commission after noting serious challenges facing black men about a year ago; just as by focusing on women and children, we made good progress.

The problems of black men are deep: 6 percent of the population, 50 percent of inmates in jail, half of all HIV cases. The devastating effect has been on the African American family.

This began with a flight of jobs, manufacturing jobs, from the African American community, replaced by an underground economy and an underground culture. We have to do something about those jobs.

The lead witness last night was Darrell Green, the legendary football star who started his own foundation to assist youth and who spoke about manhood and about his own policy work.

The commission is drawing its own action plan that the city has said it will carry out.

I am grateful to the minority staff of the Committee on Government Reform, which is working with me to translate the commission's work nationally to benefit other districts.

REPUBLICAN LEADERSHIP REFUSES TO SCHEDULE DEBATE ON FUTURE OF SOCIAL SECURITY

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

Mr. ALLEN. Mr. Speaker, I rise today to express my disappointment that the Republican leadership refuses to schedule a debate on the future of Social Security. They appear unwilling even to schedule or to bring up the plan introduced by their own majority leader.

Perhaps it is because that plan calls for benefit cuts, substantial benefit cuts for many Americans, including disabled Americans. Perhaps it is because creating private accounts will cost more than \$1 trillion in transition costs; and perhaps it is because the plan exposes beneficiaries to unnecessary risks for unlikely rewards.

I welcome the opportunity to debate the future of Social Security, but the Republican leadership so far refuses. Perhaps it is because, if they do, their plan will be rejected by the American people.

IMPORTANCE OF FAKED MISSILE
DEFENSE TESTS

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

Ms. MCKINNEY. Mr. Speaker, the GAO recently released a report outlining the ways in which the Pentagon and its contractors fudged the results of a missile defense test in 1997. The report found that missile test results were fabricated by excluding negative test data, ignoring sensor malfunctions, and by delaying the disclosure of undeniable errors. All this is now irrelevant, the Pentagon concludes, because the system used in that test has not been used in 4 years.

Well, Mr. Speaker, I disagree. The fact that these test books were cooked could not be more important. The President has asked Congress to match last year's \$8 billion-plus missile defense appropriation and has formally issued his intention for the United States to pull out of the ABM treaty. Yet the Pentagon recently canceled the supposedly important Navy missile defense system due to cost overruns of 65 percent, and more recent missile defense tests were found to have been fixed by the use of GPS location beacons.

Mr. Speaker, the CBO has estimated that a working missile defense system will cost another \$64 billion by 2015, and the United States has been working on this since World War II and it still does not work. We do not need to give the Pentagon one more dollar.

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

Mr. RODRIGUEZ. Mr. Speaker, Social Security has been a successful program that has lifted millions of the Nation's seniors out of poverty. Our seniors are facing a dilemma, one that threatens their security and trust as they reach their retirement years.

We must fight to preserve our Social Security trust fund and honor our commitment to our seniors. The President's budget does not honor this commitment to our seniors, and, in turn, fails all Americans.

Now is the time for us to focus on a long-term budget plan that will not only help recover the economy, but also help recover and make sure that our Social Security trust fund is kept intact, returning us to an era where we can protect our Social Security and protect our seniors, and even strengthen the Social Security trust fund.

We need to recommit to the idea that Social Security surplus dollars are for Social Security, and paying down our national debt is something that we all need to do.

We also are aware of the fact that the President has also appointed a committee, and we know that when one stacks a committee, that every single member on this committee was for the purpose of privatizing Social Security. They had no other motive but to do that. Every single one of them on that committee had that one intention.

Mr. Speaker, it is our responsibility to make sure we protect our seniors and future generations.

THE JOURNAL

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8, rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

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

Mr. RODRIGUEZ. 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 355, nays 45, answered "present" 1, not voting 33, as follows:

[Roll No. 54]
YEAS—355

Abercrombie	Allen	Baca
Ackerman	Andrews	Bachus
Akin	Armey	Baker

Baldacci	Galleghy	Matsui	Skelton	Taylor (NC)	Watkins (OK)	bill are waived. 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 the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments 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. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommend with or without instructions.
Baldwin	Ganske	McCarthy (MO)	Smith (MI)	Terry	Watson (CA)	
Barcia	Gekas	McCarthy (NY)	Smith (NJ)	Thomas	Watt (NC)	
Barr	Gephardt	McColum	Smith (TX)	Thornberry	Watts (OK)	
Bartlett	Gibbons	McCreery	Smith (WA)	Thune	Waxman	
Bass	Gilchrest	McGovern	Snyder	Thurman	Weiner	
Becerra	Gillmor	McHugh	Solis	Tiahrt	Weldon (FL)	
Bereuter	Gilman	McInnis	Souder	Tierney	Weldon (PA)	
Berkley	Gonzalez	McIntyre	Spratt	Toomey	Wexler	
Berman	Goode	McKeon	Stearns	Towns	Whitfield	
Berry	Goodlatte	McKinney	Stenholm	Turner	Wilson (NM)	
Biggert	Gordon	Meehan	Stump	Upton	Wilson (SC)	
Billrakis	Goss	Meek (FL)	Sununu	Velazquez	Wolf	
Bishop	Graham	Meeks (NY)	Sweeney	Vitter	Woolsey	
Blumenauer	Granger	Mica	Tanner	Walden	Wu	
Blunt	Graves	Millender-McDonald	Tauscher	Walsh	Wynn	
Boehrlert	Green (TX)	Miller, Dan	Tauzin	Wamp		
Boehner	Green (WI)	Miller, Gary				
Bonilla	Greenwood	Miller, Jeff				
Bonior	Grucci	Mink	Aderholt	Kucinich	Schaffer	
Bono	Gutierrez	Mollohan	Baird	Larsen (WA)	Schakowsky	
Boozman	Hall (OH)	Moran (VA)	Borski	Latham	Stark	
Boswell	Hall (TX)	Morella	Brady (PA)	LoBiondo	Strickland	
Boucher	Hansen	Murtha	Capuano	Matheson	Stupak	
Boyd	Harman	Myrick	Costello	McDermott	Taylor (MS)	
Brady (TX)	Hart	Nadler	Crane	McNulty	Thompson (CA)	
Brown (FL)	Hastings (FL)	Napolitano	DeFazio	Miller, George	Thompson (MS)	
Brown (OH)	Hastings (WA)	Neal	English	Moore	Tiberi	
Brown (SC)	Hayes	Nethercutt	Filner	Moran (KS)	Udall (CO)	
Bryant	Hayworth	Ney	Gutknecht	Pallone	Udall (NM)	
Burr	Herger	Northup	Hefley	Platts	Visclosky	
Callahan	Hill	Norwood	Hilliard	Peterson (MN)	Waters	
Calvert	Hilleary	Nussle	Hinchev	Ramstad	Weller	
Camp	Hobson	Obey	Hulshof	Sabo	Wicker	
Cannon	Hoeffel	Olver				
Cantor	Hoekstra	Osborne				
Capito	Holden	Ose				
Capps	Holt	Otter				
Cardin	Honda	Owens	Ballenger	Ehrlich	Oxley	
Carson (IN)	Hooley	Pascarell	Barrett	Eshoo	Quinn	
Carson (OK)	Horn	Pastor	Barton	Hinojosa	Rothman	
Castle	Hostettler	Paul	Bentsen	Hunter	Rush	
Chabot	Houghton	Payne	Blagojevich	Jackson-Lee	Shaw	
Chambliss	Hoyer	Pelosi	Burton	(TX)	Slaughter	
Clay	Hyde	Pence	Buyer	Johnson, Sam	Sullivan	
Clayton	Inslee	Peterson (PA)	Cooksey	King (NY)	Traficant	
Clement	Isakson	Petri	Coyne	LaHood	Young (AK)	
Clyburn	Israel	Phelps	Cubin	Menendez	Young (FL)	
Coble	Issa	Pickering	Davis (IL)	Oberstar		
Collins	Istook	Pitts	DeLay	Ortiz		
Combust	Jackson (IL)	Pombo				
Condit	Jefferson	Pomeroy				
Conyers	Jenkins	Portman				
Cox	John	Price (NC)				
Cramer	Johnson (CT)	Pryce (OH)				
Crenshaw	Johnson (IL)	Putnam				
Crowley	Johnson, E. B.	Radanovich				
Culberson	Jones (NC)	Rahall				
Cummings	Jones (OH)	Rangel				
Cunningham	Kanjorski	Regula				
Davis (CA)	Kaptur	Rehberg				
Davis (FL)	Keller	Reyes				
Davis, Jo Ann	Kelly	Reynolds				
Davis, Tom	Kennedy (MN)	Riley				
Deal	Kennedy (RI)	Rivers				
DeGette	Kerns	Rodriguez				
Delahunt	Kildee	Roemer				
DeLauro	Kilpatrick	Rogers (KY)				
DeMint	Kind (WI)	Rogers (MI)				
Deutsch	Kingston	Rohrabacher				
Diaz-Balart	Kirk	Ros-Lehtinen				
Dicks	Kleczka	Ross				
Dingell	Knollenberg	Roukema				
Doggett	Kolbe	Royal-Allard				
Dooley	LaFalce	Royce				
Doolittle	Lampson	Ryan (WI)				
Doyle	Langevin	Ryun (KS)				
Dreier	Lantos	Sanchez				
Duncan	Larson (CT)	Sanders				
Dunn	LaTourette	Sandlin				
Edwards	Leach	Sawyer				
Ehlers	Lee	Saxton				
Emerson	Levin	Schiff				
Engel	Lewis (CA)	Schrock				
Etheridge	Lewis (GA)	Scott				
Evans	Lewis (KY)	Sensenbrenner				
Everett	Linder	Serrano				
Farr	Lipinski	Sessions				
Fattah	Lofgren	Shadegg				
Ferguson	Lowe	Shays				
Flake	Lucas (KY)	Sherman				
Fletcher	Lucas (OK)	Sherwood				
Foley	Luther	Shimkus				
Forbes	Lynch	Shows				
Ford	Maloney (CT)	Shuster				
Fossella	Maloney (NY)	Simmons				
Frank	Manzullo	Simpson				
Frelinghuysen	Markey	Skeen				
Frost	Mascara					

NAYS—45

ANSWERED "PRESENT"—1

NOT VOTING—33

□ 1043

So the Journal was approved.

The result of the vote was announced as above recorded.

PROVIDING FOR CONSIDERATION OF H.R. 2341, CLASS ACTION FAIRNESS ACT OF 2002

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 367 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 367

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2341) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the

□ 1045

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Texas (Mr. FROST), the ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 367 is a structured rule providing for the consideration of H.R. 2341, the Class Action Fairness Act of 2002. The rule provides 1 hour of general debate, equally divided and controlled between the chairman and ranking minority member of the Committee on the Judiciary. It provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment.

The rule makes in order only those amendments printed in the Committee on Rules report accompanying the resolution. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be debatable for 20 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment or demand for division of the question.

The rule waives all points of order against consideration of the bill and waives all points of order against such amendments.

Finally, the rule provides one motion to recommit with or without instructions.

I would like to take a moment to clarify for my colleagues that while this is a structured rule, our committee, the Committee on Rules, did make in order every amendment submitted to us on this legislation. The rule simply incorporates some time confines, equally applied to all the amendments, in order to provide some level of certainty and order during consideration of this legislation on the House floor.

Mr. Speaker, the history of the judicial process has established it as a system that, in most instances, employs fairness and balance in the rendering of justice. As one of the many tools of the judicial system, the class action lawsuit, in its ideal form, shares these characteristics. The class action suit is meant to give the many who may have the same claim against the same defendant an efficient way to have their grievances consolidated into a unified and magnified voice.

Mr. Speaker, as used by public interest organizations and truly interested groups of individuals, class action lawsuits can be effective in remedying wrongs, curbing dangerous misconduct, or encouraging better enforcement of laws. However, the reality of the class action lawsuit is far, far from the ideal. Today, this procedural device is often employed in frivolous suits designed to force businesses into quick and often unwarranted settlements while denying those truly wronged of any meaningful recourse. This abuse can stunt economic growth. It can stunt job creation. And, ironically, these frivolous suits can clog the very courts that they are being heard in, making it more difficult to bring the valid litigation that the class action tools are meant to facilitate.

Perhaps worst of all, the abuse of class actions often rewards attorneys and certain plaintiffs while leaving larger segments of the class with little real remedy. In one instance, a State court approved a class action settlement in a case brought by account holders against a bank in which the plaintiffs' attorneys received over \$8 million in fees while 700,000 class members, the plaintiffs, only received about \$10 each.

Even worse, those 700,000 class members each had up to \$100 deducted from their accounts to pay the legal fees owed by the bank under the settlement. As a result, most of the class members ended up with a net loss as a result of litigation designed to protect their interest.

In another class action filed against General Mills, an additive was added to Cheerios, a very popular cereal. The settlement directed \$2 million to the lawyers, while the class members each

received coupons for free boxes of cereal.

Now, while these examples may seem extreme, and they are extreme, they are sadly and rapidly becoming the normal. This is an aspect of our civil justice system that is in very sore need of reform. Class action filings in State courts have increased 1,000 percent over the past 10 years. That is an incredible jump.

As noted in an editorial in *The Washington Post*, way last August, "We must inject the world of class actions with more accountability to real clients and with some consequence to lawyers who file frivolous claims." This bill does just that by curbing the abuse of class actions while preserving the right of the truly injured to bring meritorious class action suits.

Specifically, this legislation would preserve the intent of article III of our constitution by allowing large, interstate class actions to be removed to Federal Court when appropriate, thereby creating greater uniformity in considering these cases and allowing greater consolidation of claims. Importantly, this would mean those cases that affect individuals across the Nation could be decided by courts that represent the Nation as a whole and not just one particular State picked by a trial lawyer.

At the same time, this legislation protects individuals in class actions through the Consumer Class Action Bill of Rights. This bill of rights requires that notices sent to class members be simple and intelligible. It also ensures that victorious plaintiffs do not suffer a net loss because of attorneys fees. It prevents geographic discrimination against certain class members, and it prohibits disproportionate awards from going to classes' representatives.

Mr. Speaker, our judicial system and the judges and attorneys that serve within it do noble and important work. I am a past attorney and a past judge, so I can say that with some assurance. But it is the job of this Congress to make sure that the procedural tools given to those in the judicial system are not misused to the point that they frustrate their very purpose. This bill creates important reforms that will reduce abuse and protect individuals.

I urge support for this legislation and for this fair and balanced rule.

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

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

Mr. Speaker, my friends on the other side of the aisle have a very peculiar sense of timing. Here we have this problem with Enron. We have thousands of Enron employees who lost their life savings investing in 401(k)s, and we have thousands, perhaps hundreds of thousands, of Enron's shareholders who lost a lot of money in Enron stock; and yet my friends on the other side of the aisle take this very moment to make it more difficult for

those thousands of Enron employees and those thousands of Enron shareholders to bring a class action lawsuit. I have a difficult time understanding their timing.

I understand their interest in this issue. It has been brought up before. But now we have this situation where executives of Enron were telling their employees what a good deal it was to invest in their company's stock at the same time that those executives were secretly selling their stock. And so we have a class of people, a class of employees, thousands of employees who have lost their life savings; and yet my friends on the other side of the aisle would say, well, this is the very moment that we are going to make it more difficult for you to seek class relief. It is a very peculiar sense of timing.

It is an interesting bill. It is important that the American people very clearly understand what this bill, H.R. 2341, the so-called Class Action Fairness Act, would do. It is not, as some claim, a small procedural change. It will not, as some have suggested, curb lawsuit abuse. In fact, there is no statistical evidence of a class action crisis. Unfortunately, some people, for their own political purposes, have made a career out of hyping anecdotal stories of unbelievable lawsuits. The truth is these rare abuses have been appropriately handled by State legislatures and State supreme courts.

So what will this bill do? In a nutshell, it will drastically tilt the justice system in favor of big corporations and their executives and against the individuals they sometimes harm. That may not be the intent of its supporters, but that will be its effect. And, Mr. Speaker, that is just plain wrong.

Mr. Speaker, it is really unbelievable to me. I am frankly astounded, as I mentioned earlier, that Republicans have made protecting big corporate wrongdoers their priority right now. After all, at this very moment Congress is still trying to figure out how Enron executives managed to devastate the life savings of thousands of its employees and shareholders. Mr. Speaker, America has just witnessed the worst corporate robbery in history, and now Republican leaders are pushing a bill to protect big corporate wrongdoers. Do they really want to make it easier for people to do the type things that executives at Enron reportedly did?

Mr. Speaker, there are plenty of additional reasons to vote against this bill. By federalizing class actions, it tramples on the authority of State courts, which is pretty peculiar coming from a Republican Party that preaches the gospel of States' rights on almost every other issue. And it will further clog Federal courts that are already overwhelmed by the large number of criminal drug cases. So it is no surprise that both Federal and State judiciaries have consistently opposed efforts to Federalize class actions.

But the real losers under this bill are ordinary Americans for whom the justice system is the only protection against big corporate wrongdoers. It is people like the thousands of Americans who lost their life savings at Enron and the 800 people who were injured and the 271 who were killed on defective Firestone tires. This bill would actually make it harder for them to hold those corporate wrongdoers accountable. This Congress should be fighting for those Americans, not protecting the corporate wrongdoers that harmed them.

Mr. Speaker, we appreciate that this rule makes in order all of the amendments that were submitted to the Committee on Rules. That does not, in fact, change the fact, Mr. Speaker, that this is a bad bill.

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

□ 1100

Ms. PRYCE of Ohio. Mr. Speaker, I must say that this bill was discussed at length in the Committee on Rules yesterday, and I am not sure, maybe my friend from Texas was not present, but I believe he was, because it is incredible to me that he is making these statements. It was pointed out at great length that the Enron case is already in Federal court. This has nothing to do with Enron. Indeed, Mr. Speaker, securities litigation is carved out entirely by this legislation. It would not cover Enron.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Virginia (Mr. GOODLATTE), the author of this legislation, to further bring some light to this subject.

Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman for yielding time. I want to compliment her and the other members of the Committee on Rules for fashioning a very fine and very fair rule to debate this important piece of litigation reform.

I was pleased to hear the gentleman from Texas acknowledge the fairness of the rule, so I encourage all of my colleagues to support the rule when it comes up for a vote. But I would like to address the other issue the gentleman raised, and, that is to somehow try to associate this with Enron.

Enron's class action lawsuit is already in Federal court. The fact of the matter is, it is in Federal court because the plaintiffs in that case chose to bring it there because it involves Federal questions and because it will be a better place to handle class action lawsuits because our Federal courts are designed to hear cases from plaintiffs and defendants from a multitude of jurisdictions.

But the Enron case could have been brought in a State court in, say, Illinois where there might be a few Enron employees. It would not be appropriate for it to be heard there, but if it were brought there under diversity of jurisdiction and there were no means to remove it to Federal court, all of the

gentleman from Texas' constituents in the State of Texas would be denied having an opportunity to have it heard in that court; whereas with this legislation, if it were brought in a State court where it was inappropriate to be brought, it could be easily removed to Federal court. This is not about Enron.

What this is really about is fairness to American consumers. Let me give you some examples.

Here is a case. This case shows what the trial lawyers received, \$2 million in attorneys' fees, and the plaintiffs that they were representing, they got a coupon. A coupon for what? A box of Cheerios.

Here is another one. In this case, the plaintiffs' attorneys received \$100,000 in attorneys' fees and the plaintiffs got three golf balls.

It gets better. In this particular case, the plaintiffs' attorneys, the trial lawyers, received \$4 million in attorneys' fees and the plaintiffs each got a check for 33 cents. In case you cannot see the amount on this check, we blew it up for you. There it is: 33 cents. That is what the plaintiffs got while their attorneys got \$4 million. There is a catch to it, though, for those desiring 33 cents because in order to get the 33 cents, they had to mail back in their acceptance of the settlement offer, which cost them 34 cents. So actually they came up a penny short in this particular class action lawsuit abuse.

It goes on. Here is a settlement of a case against an airline that gave the class members a \$25 coupon. That sounds pretty good. It is \$25. It is better than 33 cents, but it is conditioned upon their purchasing an additional airline ticket for \$250 or more. In other words, it is a coupon for a 10 percent reduction in your next airline ticket. What did the attorneys get? \$16 million.

This one is the best of all. A Bank of Boston settlement over disputed accounting practices produced \$8.5 million in attorneys' fees. Later, the plaintiffs' attorneys in the case sued their own clients, the class members, for an additional \$25 million in attorneys' fees, and the class members were required to pay \$80 each for a settlement that netted the attorneys \$8.5 million.

This is not a Republican effort for reform. There are plenty of folks on both sides of the aisle here who support this, including those who subscribe to this distinguished publication, the Washington Post, where they said that the lawyers cash in while the clients get coupons for product upgrades.

"It's a bad system, one that irrationally taxes companies in a fashion all but unrelated to the harm their products do and that provides nothing resembling justice to victims of actual corporate misconduct."

So, as a result of that which appeared on March 9, this past Saturday, the Post has endorsed this legislation. The Post went on to say, "That it is controversial at all," referring to this leg-

islation, "reflects less on the merits as a proposal than on the grip that trial lawyers have on many Democrats."

So I urge my colleagues on the other side to join the many who will join us in rejecting the idea that somehow we have to have a continuation of a simply bad Federal procedural rule that would allow these cases to be brought into Federal court when all we are trying to do is to correct a very serious problem of abuse.

How does the abuse occur? The plaintiffs' attorneys, and they are good attorneys, they choose the jurisdiction in this country that they think best suits their likelihood of success in the case. That happens in every lawsuit. But in class action lawsuits involving hundreds of thousands or millions of plaintiffs, they can choose from 4,000 different jurisdictions in the country, and a handful of jurisdictions over and over and over again get the cases brought there because those judges are known to certify these classes far more readily than anybody else. Allowing removal of the case by either the plaintiffs or the defendants to Federal court will end this abuse because you will have a more uniform, more standard application of what it takes to certify a class.

I urge my colleagues to support this rule and to support the underlying legislation.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I would just like to ask my good friend, who is on the Committee on the Judiciary, the gentleman from Virginia (Mr. GOODLATTE), who is himself an ex-trial lawyer, what is his solution to this horrible problem of trial lawyers making too much money?

I would like to yield to the gentleman from Virginia (Mr. GOODLATTE), a former trial lawyer himself.

I will repeat the question. What is the Republican solution to this horrible practice that has allowed trial lawyers, like you used to be, from reaping these incredible profits?

I yield to the gentleman from Virginia.

Mr. GOODLATTE. For better or for worse, if the gentleman would yield, I have to say that I never enjoyed such remuneration for the work that I did.

Mr. CONYERS. You did not like practicing as a trial lawyer. It was not fun.

Mr. GOODLATTE. I did not handle class action lawsuits, but I will tell you that the measure of a good lawsuit is not how much work the attorneys put into it relative to what they receive, but whether they accomplish anything for their clients. And when they get a coupon for Cheerios, they are accomplishing nothing in exchange for the large fees they receive.

Mr. CONYERS. I thank the gentleman for explaining to me what his solution is to the problem of trial lawyers making too much money.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

My colleagues on the other side want to say no, no, no, no, this is not about Enron. Explain that to the thousands of Enron employees who lost their life savings in their 401(k)s and who would like to bring a civil fraud action against executives at Enron in State court in Harris County, Houston, Texas. Explain that to them, please, if this is not about Enron.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK).

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

Mr. STARK. Mr. Speaker, I understand what is behind this. I am not a lawyer, I will never be a judge, but this is really the Republicans' attempt to prevent themselves from being sued as a party under a class action under RICO by the 42 million beneficiaries of Medicare whose plan they are plotting to destroy.

As we sit here today, the Committee on the Budget is giving the Republican budget in the office building, and they are going to tell you how they are going to give 1 year, \$8 billion, to Medicare. They have depleted the entire Medicare trust fund, and this 1 year, \$8 billion, is contingent on privatizing Medicare, taking the President's reform, which is a voucher system, and destroying Medicare, as the Republicans are on record as wanting to do time and time again, starting with Newt Gingrich.

So they have given us \$8 billion, or \$40 billion over 5 years, if we privatize the system. That is to cover a drug benefit which ought to cost \$70 billion a year by any standards. That does not allow us to correct the inequity in physicians' payments which costs \$12 billion a year. This does not take care of hospital inflation, children's hospitals, teaching hospitals, cancer centers, preventive screening.

This is an obscene hoax on the American people. It is just one more indication of protecting the corporate interests and the corporate insurance companies, for instance, who provide Medicare benefits from any class action. They will not let us have the Patients' Bill of Rights. The only way we have now to enforce that is class actions in a few cases. If we could have a Patients' Bill of Rights with the right to sue, that might not be necessary.

But one more case, protect the rich, trample on the poor, do away with Medicare and Social Security, this is the Republicans' plan; and this is one more nail in the coffin of the Medicare beneficiaries.

Ms. PRYCE of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Texas (Mr. SMITH), a member of the Committee on the Judiciary, who can get us back on course. This is a bill that is addressing lawsuit reform, not Medicare, not Enron. The gentleman from Texas can help point that out.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentlewoman from the Com-

mittee on Rules for yielding me this time.

Mr. Speaker, I strongly support H.R. 2341, the Class Action Fairness Act of 2002. The current class action system makes it too easy for attorneys to bring suit not for the benefit and well-being of class members, but for the attorneys' own monetary gain.

For instance, when attorneys sued Southwestern Bell, which is a constituent firm, alleging misrepresentation of service plans, they made \$4 million in fees while the class members received only a \$15 credit. A suit brought against Oracle sought no damages, but resulted in \$750,000 in attorneys' fees and nothing for the plaintiffs. Unfortunately, these examples are not uncommon.

Congress should not stand by while lawyers shop around the country for a judge who will render a favorable verdict. This bill will give Federal courts jurisdiction over cases that involve aggregate claims of at least \$2 million and a plaintiff and defendant from different States. It also creates a class action bill of rights that will require settlement notices to be written in plain English, prevent disproportionate attorneys' fees from being awarded, and protect consumers from actually losing money when there is a verdict in their favor.

Mr. Speaker, we must not let a few lawyers get rich at the expense of working families. I urge my colleagues to support this bill. I thank the gentleman from Virginia (Mr. GOODLATTE) for offering this bill.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Texas, the ranking member of the Committee on Rules, for yielding me this time.

This bill is opposed by every major environmental organization, every major consumer product safety organization, and I wonder why that is?

Mr. Speaker, it is no doubt trite to proclaim that the road to hell is paved with good intentions. This bill is a perfect example of that aphorism. No Member of this Chamber needs to lecture me about living in a culture of lawsuits and about how the number of lawsuits has spiraled out of control. I am all too familiar with that, being a trial lawyer and being a trial judge.

Let me tell you something, this bill will do nothing but make things worse for our courts in this land, worse for our judges, and, most important, it will make things worse for the people who need redress the most in our judicial system.

This bill does not make our litigious system better. Indeed, it makes it far worse. The bill before us would make it significantly more difficult for consumers to achieve relief from the most outrageous corporate abuses.

□ 1115

Frankly, this bill is a bailout for corporate wrongdoers, and that makes me sick.

Mr. Speaker, if passed, this bill will make it easier for a significant number of corporations, not just Enron, where no real class action has been filed yet, but Arthur Andersen, for example, might not have as much to fear. We may never have even heard about the problems with Firestone if this bill were law today. Monsanto, W.R. Grace, all these corporations had to face the public and face the music because of our Nation's easy access to the courthouse. This bill would have made it significantly easier for these corporations if this bill were law.

This bill would federalize class action lawsuits, plain and simple. You can take my word for it, or you can take Chief Justice Rehnquist's word for it, the Federal courts are already overworked and understaffed. This bill would only exacerbate this problem.

State courts are the much preferred venue for these types of actions. We have heard about problems in a couple of States. The fact is, there really is no crisis. Florida, California, Texas, and New York all are able to handle their caseload without Federal intervention. Certainly, if the four largest States in the United States are not having these problems, the other 46 can manage as well.

Let me tell you some things. I heard the gentleman from Virginia (Mr. GOODLATTE) a moment ago talk about a coupon. I cannot deny there are cases where lawyers have made fees and clients have not received all of the recompense that my brothers and sisters on the other side would have them. But what about tobacco and all of the money that all of the States have received? What about asbestos and black lung? Where would we be if this were law today? Would we have seat belts in our automobiles, air bags, infant car seats, child proof medicine bottles, disability access? All of those were class actions.

I am heartened that the Committee on Rules did make in order the Lofgren amendment and several others, including the amendment of my good friend, the gentleman from Massachusetts (Mr. FRANK).

I want to make it very clear that I recognize that we do not have all the time this morning to talk about this matter, but understand this: there was absolutely no consultation with Federal judges. And we talk all the time in this body about unfunded mandates. Well, this bill was not scored by CBO, according to my Republican colleagues; but CBO did say that there would be increased administrative costs. Let me tell you what some of those increased administrative costs will be: more court reporters, more translators, more clerks. And the impact on the Federal judiciary, it is all but outrageous for us to believe that courts will not bog down. If we impact

the civil litigation system in this country, then the linchpin of this country's economy will come undone.

It is a terrible mistake for us to proceed in this manner, and I urge my colleagues to defeat this bill.

Ms. PRYCE of Ohio. Mr. Speaker, I am very pleased to yield such time as he may consume to the distinguished gentleman from California (Mr. Cox).

Mr. COX. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I thank the preceding speaker for pointing out how urgent it is for the Democrats in control of the other body to approve the some 100 judges that President Bush has nominated that are being held hostage to politics. That is the reason that we have some backlog in some of our courts.

The fairness bill which is on the floor today is addressed to something much more discrete, and that is what is the proper role of the Federal courts and what is the proper role of the State courts.

This bill is needed to restore to the Federal courts the jurisdiction that the Framers of our Constitution gave to the Federal courts. It was the Framers that decided that when the parties to a case live in different States, multiple States, when what is at issue in the case are the laws of multiple States, that that kind of jurisdiction, diversity jurisdiction, so-called, is properly vested in the Federal courts.

What we are hearing in opposition to putting nationwide class actions in Federal Court is a sort of reverse Federalism; that somehow if multiple States are involved and parties from multiple States are involved, that a hamlet in some county in America should make law for the whole country.

The Framers gave us this jurisdiction, diversity jurisdiction, to guard against local prejudice to make sure that American citizens would not be dragged to some unfamiliar venue nowhere near where they lived and forced to appear between a rock and a hard place, as it were, unable to argue their rights that they would have back home or in a Federal jurisdiction, and knowing the outcome in advance, that they were going to be home-towned by local judges and juries. The Framers wanted to ensure that citizens would have confidence in their judicial system by eliminating this kind of local bias.

The Framers reasoned that local prejudice could result in discrimination against interstate commerce. As you recall, in article I of the Constitution interstate commerce is a Federal responsibility, not a State responsibility. Of course, prejudice against people from other States, prejudice against interstate commerce, they recognized would be highly detrimental to the country.

We are here today precisely because the Framers intended to prevent what is happening in our court system today in the form of nationwide class action

lawsuits filed in local courts. A class action is typically a big lawsuit, a large lawsuit, often with hundreds or even thousands of class members. In fact, most of the Members in this Chamber and most of the people watching what is going on on this floor are probably plaintiffs in lawsuits that they do not even know about, because it is so easy to claim, if you are a lawyer, to represent a whole class of people similarly situated to your cousin.

In these large class actions involving people from all over America, there are often at issue the laws of many different States. It is because of this that a class action involving citizens of multiple States necessarily has significant interstate commerce implications, and as a result it is the quintessential Federal case.

No matter how many citizens from other States are involved, no matter how many States' laws are involved, the law as it exists today places such strict limits on the right of a party to have his or her case removed to Federal Court that it is virtually impossible for an out-of-state party to do so.

This has given rise to what is called in the lawyers parlance "forum shopping." If you were a clever lawyer, you get to pick the one place in America where you know you are going to win, whether you are right or whether you are wrong. Forum shopping has resulted in a very small handful of local courts in such places as Madison County, Illinois; Jefferson County, Texas; and Palm Beach County, Florida, making law for an entire Nation.

But this is not the only negative impact of what I have called reverse Federalism. It is now openly recognized that these local courts can and do harbor actual prejudice against out-of-state defendants. This was acknowledged by the Eleventh Circuit Court of Appeals in a recent opinion in which the court apologized to the out-of-state defendant for the current state of Federal law. They recognized that while they could not permit this action under the current circumstances, which we just described, the current Federal law which makes removal so difficult, they could not permit this action to be heard in Federal Court, it ought to be in Federal Court. So they apologized to the defendant in the case for their anomalous ruling, returning a large interstate class action lawsuit to Alabama State court.

The Eleventh Circuit recognized that it was sending these defendants back to a State court system that was going to treat them, or at least had treated people similarly situated in the past, unfairly; that has produced in their words "gigantic awards against out-of-state defendants."

The court quoted a newspaper article noting that Alabama was "a State whose courts are among the most widely feared by corporate defendants." Nonetheless, the Eleventh Circuit concluded there was nothing under current Federal law that could be done about it.

The Eleventh Circuit laid bare the harsh reality that out-of-state defendants can now face in class action lawsuits, where the thumb is put on the scale of justice in advance. You, as an individual citizen in America, as a party to one of these actions, can be dragged into a remote jurisdiction that often has little or no connection with you, or indeed with any of the parties. Appearing in local courts, facing local judges and judges unlikely to treat you fairly, you know the outcome in advance. Almost certainly you will wind up being forced to pay a large settlement just to get out of this nightmare, because you would not want to see it through trial to the unfair result.

This is precisely the kind of injustice and local prejudice the Framers intended to eliminate by explicitly granting to the Federal courts diversity jurisdiction over cases involving people, parties in multiple States, and laws of multiple States. This legislation will restore the balance between State and Federal courts and return to the Federal courts the jurisdiction over diversity indications that the Framers intended.

Now, I must say in closing that our State court system is a good system. It is a wonderful system for resolving a variety of cases. The problem is not with the entire system of State courts; but rather that some lawyers, a small number of amoral and unethical lawyers on many occasions, get to pick not just State courts in general, not just the system, but the precise place where they know they have control and where they can win.

The argument that has been made against this bill bears a heavy burden. People have stood up here and said that this would be bad for the Enron plaintiffs, even though, as we all know, the Enron plaintiffs chose a Federal forum and this bill gives anyone the right to file in a State court or remove to a Federal court.

People are saying that this tramples on the rights of State courts. I think I have dealt fairly with that argument.

I have heard it is going to protect the rich or that it is going to hurt environmental cases. The burden that you bear in making that argument is that you have to say that there is inherent prejudice against environmental issues in the Federal courts. You have to say that there is inherent prejudice according to class in the Federal courts. I do not think any of you really believes that. All that this bill does is state that if multiple States are involved, you can be in the Federal system.

This bill is an affirmation of Federalism and of the Founders' intent. It is the reason that the Washington Post so strongly supports this bill. In their editorial what they have said is that the lawyers cash in while the clients get coupons for product upgrades. That is the kind of misrepresentation that has occurred, as described by the speakers that got up before me, in this bad system that they describe, that irrationally taxes companies in a fashion

all but unrelated to the harm their products do, and that provides nothing resembling justice to victims of actual corporate misconduct.

The Federal system is a good system for resolving cases. It is the ideal system and the one that the Framers intended for resolving complex cases involving citizens and parties of multiple States and the laws of multiple States.

I strongly urge my colleagues to approve not only this rule, but the legislation when it next comes to a vote, and I predict it will pass with a big bipartisan majority.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS), the ranking member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, the gentleman from California (Mr. COX) is one of the best lawyers in the House. I do not know if he was a trial lawyer or not. But I just wanted to point out to him a couple of cases.

This discussion is not new in the Federal judiciary. We have been trying to figure out when you get to State Court and when you get to Federal Court for quite a while. So I want to refer the gentleman, the gentleman has probably seen this case before, *Strawbridge v. Curtis*, that was decided way back in 1806, dealing with how one has to have complete diversity to bring a State law case into a Federal law case. Indeed, they brought it up to date in another case of which I hope the gentleman is aware, *Schneider v. Harris*, in 1969, where the court held that the court should only consider the citizenship of named plaintiffs for diversity purposes.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank the gentleman for yielding me time.

Our friends on the other side know that this issue is not about attorneys. It takes away rights of consumers, it gives corporate wrongdoers additional protections that they are not currently entitled to, and it strips the States of the States' own laws and procedures.

I think it is important to note that neither the Federal judiciary nor the State judiciary has requested any of these changes.

□ 1130

No judge in America has written in and asked for these questions. No organization has asked for these changes, no organization of judges at the State or Federal level. This is not a problem. This is an effort by our friends on the other side of the aisle to create a solution to an imagined problem, and it is a poor solution at that.

Also, this legislation strips powers from our State courts.

I would like to say, what happened to States' rights? What happened to the issue of local control? What happened to what we hear time and time again about local people know best what to

do in local communities? This strips the authority of the State court to apply the State court's own procedural rules and the State court's own procedural laws.

This is a very, very serious 10th amendment question. It is unconstitutional. It is an effort by our friends on the other side of the aisle to federalize State actions, and it is just wrong.

Our Federal courts are already overloaded. Right now, there are 68 judicial vacancies in the judiciary, 416 civil cases pending, on average, as of 2001. The criminal trials, of course, get preference; and every commentator has said, this will move practically every single class action in America into the Federal court. Our friends on the other side of the aisle want to federalize every action.

Now, let me tell my colleagues something about this ridiculous argument about forum shopping and trying to get preference. Let me give an example. In my hometown of Marshall, Texas, if one wants to file a class action in State court, it is filed in the State district court. If one would like to file it in the Federal court, you move one block down the street and you file it in the Federal court in Marshall, Texas.

Trying to act like there is some big Federal procedure and big Federal law that covers everything is absolutely not true. Remember, no matter what Federal court one files this in, the Federal court is applying State law. The Federal court is applying State law. I take offense to objections to State courts and State law and State judges.

Let me read something that one of our friends in Congress said not long ago about judges. He said, "I simply say, the State judge went to the same law school, studied the same law, and passed the same bar exam that the Federal judge did. The only difference is, the Federal judge was better politically connected and became a Federal judge. But I would suggest when the judge raises his hand, State court or Federal court, they swear to defend the U.S. Constitution; and it is wrong, it is unfair to assume ipso facto that a State judge is going to be less sensitive to the law, less scholarly in his or her decision, than a Federal judge."

The gentleman from Illinois (Mr. HYDE) made those statements.

It is important that we make sure that consumers have access to the courts. It is important that they choose, and it is important that we stick up for the United States Constitution for once, and we do not move everything into the Federal system.

Let me mention one other thing. Oftentimes suits effect changes that are good. There has been a lot of talk about coupons here. Sometimes those coupons are good. Sometimes they change products. There are products on the market today that have increased warnings as a result of suits that have been brought by consumers all across America, where they have been harmed by corporate America, but they cannot afford to have their own suits.

Do the words in litigation, Ford Pinto, fire-safe pajamas, asbestos, do those raise an issue? Those are not class actions, but those are lawsuits that have caused change, and class actions do the same.

I urge my colleagues to vote against this legislation.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to this bill because of its substance, which I oppose, but also because of the very fact that it is being brought up at a time when we should be bringing up a bill that the Democrats are asking to be discharged to provide unemployment benefits and health benefits to those people affected by the September 11 attacks.

We lost no time in bailing out the airline industries after the tragedy of September 11, and that was something we probably should have done. At the same time, in tandem with that, we should have had legislation on this floor in order to help those workers who were left unemployed after that tragedy, but we did not. Here we are 6 months later.

Last week we passed legislation, which was the very least we could do, to extend unemployment benefits for workers. But many, many people cannot avail themselves of that benefit, and the bill did nothing last week to address the issue of loss of health benefits by America's workers.

So, instead, I am asking our colleagues today to defeat the previous question; and then that will allow Democrats to bring a comprehensive unemployment insurance bill to the floor, including health care for unemployed workers. Instead of passing anticonsumer class action legislation, we should be bringing legislation to the floor to help unemployed workers.

It is not a question of Democrats and Republicans deciding on how to help unemployed workers; it is a question of whether we are going to fully help unemployed workers. The Democrats say yes, the Republicans say no. The Republicans say we want to use our time on the floor to pass legislation, and in this time of Enron, I mean it is so brazen.

I am surprised that I am surprised, quite frankly, because usually I am not surprised at anything in politics. But it is surprising that with all of the headlines on Enron and Arthur Andersen and the rest, that instead of helping workers put out of work, we are making it harder for consumers to file class action suits.

Mr. Speaker, I urge my colleagues to vote to defeat the previous question.

Ms. PRYCE of Ohio. Mr. Speaker, I would just like to remind the gentlewoman from California that this House has passed health benefits twice. We have passed unemployment benefits,

and it was signed into law actually last weekend; I was at the signing ceremony. This has been done.

I do not know where she is coming from. This House has acted responsibly and we will continue to do that.

Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

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

Mr. PENCE. Mr. Speaker, I thank the gentlewoman for yielding me this time and for her masterful handling of this rule and the underlying debate.

I do rise as a member of the Committee on the Judiciary in strong support of the rule and of the underlying legislation, the Class Action Fairness Act of 2002.

I believe as a new Member of this institution that whatever laws that we pass, they ought to ever and always be judged by how they impact not the most prosperous or the most affluent in our country, but by how they impact the least of these; how the laws in this place impact the average, working, struggling American family. And in that, I agree with the sentiment expressed by the gentlewoman from California that this institution should be focused on the least of these and on struggling Americans.

I just simply would offer that, today, the least of these ought not to include doctors, lawyers, and corporate executives, but rather it ought to include aggrieved families and hurting Americans like the employees of Enron or other litigants and plaintiffs in class action lawsuits who have been made the subject of a system that the Washington Post called bad and called corrupt in a recent March 9 editorial.

Mr. Speaker, the father of the gentleman from Oklahoma (Mr. WATTS) says the definition of a contingency fee is, if you lose, your lawyer does not get paid, but if you win, you do not get paid. And regrettably, as we learned in recent examples debated on this House Floor, \$2.5 million in a class action lawsuit goes to the attorneys and the litigants get a coupon for a box of Cheerios. Another example: \$4 million in legal fees and 33-cent checks distributed to hurting families, not even covering the postage for turning in their application to be members of the class.

The benefits of the legislation on the floor today are truly targeted to benefiting working and aggrieved Americans. Requiring that all class notices and settlement notices be in plain English is one of the requirements of this bill, and ensuring that attorneys' fees in class actions are based on a reasonable percentage and provide protection against loss by class members.

I rise today as a strong conservative Member of this institution, and I must say to my colleagues that it is a rare day that I ever thought that I would be quoting the Washington Post on the

floor of this chamber, but I will do so today. The Washington Post wrote in supporting the work of the Committee on the Judiciary, that is on the floor today, that under the current system, "At settlement time, the lawyers cash in while the clients get coupons for product upgrades. It is a bad system."

They went on to write, "This corrupt system is made possible to some degree because of how difficult it is to yank cases from State court and move them into the Federal system where judges tend to examine them more skeptically." They point out the positives in the provisions of this bill.

Mr. Speaker, I urge all of my colleagues to support the rule, to support the Class Action Fairness Act, and say "yes" to hurting American families and litigants taking their stand in our best courts against the most powerful.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise to respond to the question: "I do not know where she is coming from; we have passed health benefits for these workers over and over again."

Where I am coming from is a meeting with James Dodrill, an unemployed worker whose health benefits expired last week at a time when his wife has been diagnosed with serious illness, James and his family, he and his wife and their three children.

James's benefits ran out last week. Under the current law, James would have to spend over \$7,000 a year to pay for his COBRA benefits. The legislation in our discharge petition would help pay for 75 percent of that and fund the States to pick up the other 25 percent, so that unemployed workers can continue their health benefits with real health care benefits and would expand the number of people who fall into that category and include some workers who were never eligible for COBRA to be included in Medicaid.

It is a good discharge. I urge my colleagues to sign it. That is where I was coming from.

Ms. PRYCE of Ohio. Mr. Speaker, would the gentlewoman yield to answer the question of whether she voted for extending those health benefits?

Mr. FROST. Mr. Speaker, I believe the gentlewoman's time has expired.

Ms. PRYCE of Ohio. Mr. Speaker, I was just curious as to whether the gentlewoman was in favor of her constituents and voted as such when she had the opportunity.

Ms. PELOSI. Mr. Speaker, I would be pleased to answer on the gentlewoman's time.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding me this time.

I am really becoming more confused as I listen to this debate. When I first

arrived in Congress some 5 years ago, I recollect very passionate rhetoric coming from the other side about States' rights and a new era in federalism. So it is really ironic that this particular week we are considering two bills that would send us off in an entirely different direction.

This bill, the so-called, and let me suggest it is truly mislabeled, Class Action Fairness Act, would remove thousands of class action suits from State courts to Federal courts; and a consequence of that would be that ordinary citizens and hurting American families and consumers would be severely disadvantaged against large corporations. And that is why every consumer group in America is opposed to this bill. Every legitimate major consumer group is opposed to the bill.

Now, the other bill that is scheduled for tomorrow, the so-called "Two Strikes and You're Out Child Protection Act," continues that relentless federalization of crime that has been roundly criticized by such conservative icons as former Attorney General Ed Meese and the Chief Justice of the United States Supreme Court, Mr. Rehnquist.

I remember the Contract for America and, boy, suddenly it seems, oh, so long ago, the Contract For America. Well, according to the Judicial Conference, the class action bill would overwhelm Federal courts that are already staggering under their current caseload. Of course, for the innocent victims of corporate misconduct, this would mean years of delay before they would get their day in court.

How many times have we heard on the floor of this House, "Justice delayed is justice denied"?

□ 1145

Well, one might suppose that this proposal was written by people who favor a larger role for the Federal Government, but that is not the case. The authors are the same individuals, and let me quote the Washington Post, that referred to the proponents as "self-proclaimed champions of State power."

One could also speculate that this proposal was generated by people who advocate a larger role for the Federal judiciary; but again, that is not the case. Some of the sponsors of this bill regularly come to the well and rail against judicial activism by "unelected Federal judges."

Now, a while back, these same Members were on the floor attempting to pass a bill, and I am sure some of the Members here remember it, called the Judicial Reform Act, which would have prohibited Federal judges from ordering a State or local government to obey Federal environmental protection, civil rights, or other laws if doing so would cost the States any money. Oh, if hypocrisy were a virtue.

What that bill attempted to do was to strip the Federal courts of jurisdiction over violations of Federal law that were indisputably within their power

and their sphere of authority. What this bill ironically attempts to do is to transfer to those same Federal courts jurisdiction over violations of State and local laws that have never been within the scope of the Federal courts and their jurisdiction.

This is truly Alice in Wonderland: Up is down, and down is up. So much for federalism. So much for local control.

Maybe it is too cynical to suggest that the reason for this about-face has more to do with the financial interests of powerful American corporations than concern for the appropriate division of authority between Federal and State courts. Maybe that is too cynical. Because it certainly has nothing to do with hurting American families, nothing whatsoever.

In any event, Mr. Speaker, we come here today not to praise federalism but to bury it. So its demise has been slow and agonizing, and I guess this bill gives it the proper burial it does not deserve.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 30 seconds to my good friend, the gentleman from Virginia (Mr. GOODLATTE), the author of this legislation.

Mr. GOODLATTE. Mr. Speaker, the gentleman from Massachusetts has turned federalism and States' rights on their heads. This bill is about protecting the rights of States. It is absolutely wrong in a nationwide class action lawsuit for one party to be able to pick one State court judge in one State and have them come in and have them decide the law of the other 49 States; plus, this bill gives complete discretion to the trial judge to remand to the State courts those cases that the judge feels are truly State court matters, and State court matters that are exclusively in one jurisdiction cannot be removed. This is not about States' rights unless Members look at it from our standpoint.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Now I am really confused, Mr. Speaker, maybe the gentleman from Texas can explain to me why the National Council of State Legislatures have registered their opposition to this bill. Maybe they have given up on the 10th amendment, also.

Mr. FROST. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, again, as I mentioned earlier, I find this all somewhat puzzling. My friends on the other side rail against these State judges. They think these State judges are out of control.

In my State of Texas, we elect our State judges. In our largest county, Harris County, they are all Republicans. In our second largest county, Dallas County, they are all Republicans. In Tarrant County, where Fort Worth is located, they are all Republicans. Every member of our State supreme court, who is also elected, is a Republican.

I do not understand what the Members on the other side have to fear from

State judges, these out-of-control State judges. I guess they are distrustful of some members of their own party.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, we have heard a lot about the Cheerios cases. Let us look at the facts. Basically, the consumers had to throw away a box of Cheerios. They got back their Cheerios and were made whole.

That is not what that litigation was about; it was about tainted food. The pesticide applicator is now serving a 5-year prison sentence for, among other felonies, intentionally altering food under the Federal Food, Drug, and Cosmetic Act; knowing misuse of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act, and other matters.

The litigation is really between insurance companies and big fees by insurance company lawyers. The policyholders of the insurance company, its general liability insurance company, denied a claim. They both asserted that the loss was not covered; but if it was covered, it was covered by the other insurance company.

As a result, the pleadings have been placed in the court's vault. The name of the parties, the insurance companies and the parties, have been removed from the pleadings, and even from the docket.

More amazing, both parties in that litigation were given pseudo names. The name of that suit has been re-named ABC v. DEF. That is not litigation among class members; that is not fees by class attorneys. That is litigation between insurance companies and big fees by insurance defense attorneys.

If Members want to have true limits, limit that. Limit the fees charged by the insurance defense attorneys. Limit litigation among corporations. Do not take away rights from consumers in America. Do not give additional protections to corporate wrongdoers.

The problem is right there in the Cheerios case, but they did not identify the right problem.

Mr. FROST. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if the previous question is defeated, I will offer an amendment to the rule. My amendment will provide that immediately after the House passes the class action bill, it will take up the Putting Americans First Act, which will provide meaningful health care relief for unemployed workers.

My amendment provides that the bill will be considered under an open amendment process so that all Members will be able to fully debate and offer amendments to this critical bill.

Mr. Speaker, this week marked the 6th-month anniversary of the tragic events of September 11. Our economy was already in decline before the event, and became even more troubled fol-

lowing that date. Millions of Americans have lost their jobs, and many more are expected to join the ranks of the unemployed in the future.

Job loss is not only the loss of a paycheck. It usually means the loss of health insurance, as well. These people need relief immediately, and they will get it from this bill. It is time for the House to do its work and pass legislation to help these people.

Let me make clear that a "no" vote on the previous question will not stop consideration of the class action bill. A "no" vote will allow the House to get on with this much-needed legislation to provide health care assistance for those Americans who have lost their jobs and their health insurance.

However, a "yes" vote on the previous question will prevent the House from taking up this worker-relief bill.

Mr. Speaker, I urge a "no" vote on the previous question, and I ask unanimous consent that the text of the amendment be printed in the RECORD immediately before the vote on the previous question.

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

There was no objection.

The amendment referred to is as follows:

At the end of the resolution add the following new sections:

SEC. . Notwithstanding any other provision in this resolution, immediately after disposition of the bill H.R. 2341, the Speaker shall declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3341) to provide a short-term enhanced safety net for Americans losing their jobs and to provide our Nation's economy with a necessary boost. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. 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 Ways and Means. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. 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 with or without instructions.

SEC. . If the Committee of the Whole rises and reports that it has come to no resolution on the bill H.R. 2341 or H.R. 3341, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of that bill.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself the balance of my time.

I have to say that I agree with some of the points made today.

I agree with my friend, the gentleman from Texas (Mr. FROST), that we should be providing health care for unemployed workers. That is why most people on this side of the aisle voted to do that at least twice over the last few weeks.

I also agree that there is a huge vacancy rate on our Federal bench. I urge my friends to urge their friends in the other body to get their work done and act on these nominees.

I agree that there was greed at Enron. This makes our point, Mr. Speaker. Together, three top company executives are accused of bilking shareholders of \$198 million.

Yet, for all the alleged greed, the wrongdoing of these three executives is far outweighed by what the lawyers stand to reap. According to news reports, Arthur Andersen made a preemptive settlement offer to Enron shareholders in the amount of \$750 million. At the standard 32 percent contingency fee, this would work out to a \$225 million share of that sum going to the lawyers. That truly is bilking the shareholders.

Mr. Speaker, I just want to thank my colleague, the gentleman from Virginia (Mr. GOODLATTE), for all his hard work and dedication to reforming our civil justice system to work for the parties and not for the lawyers.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

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.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 198, not voting 15, as follows:

[Roll No. 55]

YEAS—221

Aderholt	Cannon	English
Akin	Cantor	Everett
Army	Capito	Ferguson
Bachus	Castle	Flake
Baker	Chabot	Fletcher
Ballenger	Chambliss	Foley
Barr	Coble	Forbes
Bartlett	Collins	Fossella
Bass	Combest	Frelinghuysen
Bereuter	Cooksey	Galleghy
Biggert	Cox	Ganske
Bilirakis	Crane	Gekas
Blunt	Crenshaw	Gibbons
Boehert	Culberson	Gilchrest
Boehner	Cunningham	Gillmor
Bonilla	Davis, Jo Ann	Gilman
Bono	Davis, Tom	Goode
Boozman	Deal	Goodlatte
Boucher	DeLay	Goss
Boyd	DeMint	Granger
Brady (TX)	Diaz-Balart	Graves
Brown (SC)	Doolittle	Green (WI)
Bryant	Dreier	Greenwood
Burr	Duncan	Grucci
Buyer	Dunn	Gutknecht
Callahan	Ehlers	Hall (OH)
Calvert	Ehrlich	Hall (TX)
Camp	Emerson	Hansen

Hart	Mica	Shadegg
Hastings (WA)	Miller, Dan	Shaw
Hayes	Miller, Gary	Shays
Hayworth	Miller, Jeff	Sherwood
Hefley	Moran (KS)	Shimkus
Hergert	Moran (VA)	Shuster
Hilleary	Morella	Simmons
Hobson	Myrick	Simpson
Hoekstra	Nethercutt	Skeen
Horn	Ney	Smith (MI)
Hostettler	Northup	Smith (NJ)
Houghton	Nussle	Smith (TX)
Hulshof	Osborne	Souder
Hunter	Ose	Stearns
Hyde	Otter	Stenholm
Isakson	Oxley	Stump
Issa	Paul	Sullivan
Istook	Pence	Sununu
Jenkins	Peterson (PA)	Sweeney
Johnson (CT)	Petri	Tancredo
Johnson (IL)	Pickering	Tauzin
Johnson, Sam	Pitts	Taylor (NC)
Jones (NC)	Platts	Terry
Keller	Pombo	Thomas
Kelly	Portman	Thornberry
Kennedy (MN)	Pryce (OH)	Thune
Kerns	Putnam	Tiahrt
King (NY)	Quinn	Tiberi
Kingston	Ramstad	Toomey
Kirk	Regula	Upton
Knollenberg	Rehberg	Vitter
Kolbe	Reynolds	Walden
LaHood	Riley	Walsh
Latham	Rogers (KY)	Wamp
LaTourette	Rogers (MI)	Watkins (OK)
Leach	Rohrabacher	Watts (OK)
Lewis (CA)	Ros-Lehtinen	Weldon (FL)
Lewis (KY)	Roukema	Weldon (PA)
Linder	Royce	Weller
LoBiondo	Ryan (WI)	Whitfield
Lucas (OK)	Ryun (KS)	Wicker
Manzullo	Saxton	Wilson (NM)
McCrery	Schaffer	Wilson (SC)
McHugh	Schrock	Wolf
McInnis	Sensenbrenner	Young (AK)
McKeon	Sessions	

NAYS—198

Abercrombie	Etheridge	Lofgren
Ackerman	Evans	Lowey
Allen	Farr	Lucas (KY)
Andrews	Fattah	Luther
Baca	Filner	Lynch
Baird	Ford	Maloney (CT)
Baldacci	Frank	Maloney (NY)
Baldwin	Frost	Markey
Barcia	Gephardt	Mascara
Becerra	Gonzalez	Matheson
Berkley	Gordon	Matsui
Berman	Green (TX)	McCarthy (MO)
Berry	Gutierrez	McCarthy (NY)
Bishop	Harman	McCollum
Blumenauer	Hastings (FL)	McDermott
Bonior	Hill	McGovern
Borski	Hilliard	McIntyre
Boswell	Hinches	McKinney
Brady (PA)	Hoeffel	McNulty
Brown (FL)	Holden	Meehan
Brown (OH)	Holt	Meek (FL)
Capps	Honda	Meeks (NY)
Capuano	Hooley	Menendez
Cardin	Hoyer	Millender
Carson (IN)	Inslee	McDonald
Carson (OK)	Israel	Miller, George
Clay	Jackson (IL)	Mink
Clayton	Jackson-Lee	Mollohan
Clement	(TX)	Moore
Clyburn	Jefferson	Murtha
Condit	John	Nadler
Conyers	Johnson, E.B.	Napolitano
Costello	Jones (OH)	Neal
Coyne	Kanjorski	Oberstar
Cramer	Kaptur	Obey
Crowley	Kennedy (RI)	Olver
Cummings	Kildee	Owens
Davis (CA)	Kilpatrick	Pallone
Davis (FL)	Kind (WI)	Pascarell
DeFazio	Kleczka	Pastor
DeGette	Kucinich	Payne
DeLahunt	LaFalce	Pelosi
DeLauro	Lampson	Peterson (MN)
Deutsch	Langevin	Phelps
Dicks	Lantos	Pomeroy
Dingell	Larsen (WA)	Price (NC)
Doggett	Larsen (CT)	Rahall
Dooley	Lee	Rangel
Doyle	Levin	Reyes
Edwards	Lewis (GA)	Rivers
Engel	Lipinski	Rodriguez

Roemer	Skelton	Towns
Ross	Slaughter	Turner
Rothman	Smith (WA)	Udall (CO)
Roybal-Allard	Snyder	Udall (NM)
Rush	Solis	Velazquez
Sabo	Spratt	Visclosky
Sanchez	Stark	Waters
Sanders	Strickland	Watson (CA)
Sandlin	Stupak	Watt (NC)
Sawyer	Tanner	Waxman
Schakowsky	Tauscher	Weiner
Schiff	Taylor (MS)	Wexler
Scott	Thompson (CA)	Woolsey
Serrano	Thompson (MS)	Wu
Sherman	Thurman	Wynn
Shows	Tierney	

NOT VOTING—15

Barrett	Cubin	Norwood
Barton	Davis (IL)	Ortiz
Bentsen	Eshoo	Radanovich
Blagojevich	Graham	Trafficant
Burton	Hinojosa	Young (FL)

□ 1219

Ms. SLAUGHTER, and Messrs. FORD, PASCRELL, NEAL of Massachusetts, RUSH, and Mr. DAVIS of Florida changed their vote from "yea" to "nay."

So the previous question was ordered. The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Ms. Wanda Evans, one of his secretaries.

CONTINUATION OF NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-197)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency is to continue in effect beyond March 15, 2002, to the *Federal Register* for publication. The most recent notice continuing this emergency was published in the *Federal Register* on March 14, 2001 (66 Fed. Reg. 15013).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international

terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.
THE WHITE HOUSE, March 13, 2002.

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 107-188)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995.

GEORGE W. BUSH.
THE WHITE HOUSE, March 13, 2002.

CLASS ACTION FAIRNESS ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 367 and rule XVIII, 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. 2341.

□ 1220

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. 2341) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement

notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes, with Mr. LINDER 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 Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

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

Mr. Chairman, I rise in strong support of H.R. 2341, the Class Action Fairness Act of 2002. Last August, The Washington Post Editorial Board wrote that "no portion of the American civil justice system is more of a mess than the world of class actions. None is in more desperate need of policymakers' attention."

Mr. Chairman, the Post almost got it right, except that the world of class action litigation is not a mess, it is a joke. The examples speak for themselves:

An airline price-fixing settlement produced \$16 million in attorneys' fees that only provided a \$25 credit for class members, if they purchased an additional airline ticket for more than \$250.

The Bank of Boston accounting settlement, which resulted in \$8.5 million in attorneys' fees but actually cost class members around \$80 apiece. And if that was not bad enough, the plaintiffs' attorneys in this settlement actually sued the class members for an additional \$25 million.

In Mississippi, an asbestos settlement rewarded class members from Mississippi as much as 18 times more than class members from other States. In another case, a class action settlement against Cheerios over food additives produced \$2 million in attorneys' fees and class members only received coupons for more Cheerios.

While these settlements are a disgrace to the American legal system, H.R. 2341 takes important steps to restore its dignity. First, it would implement necessary safeguards against these and other unwieldy settlements that give lawyers millions of dollars in fees and individual class members a small fraction of any settlement or award. Secondly, it would expand Federal diversity jurisdiction over interstate class actions to help curb the serious abuses that continue to take an enormous toll on our society.

A quick examination of the class action world reveals that the scales of justice are unable to balance the interests of class action lawyers and their clients. Currently, attorneys lump thousands and sometimes millions of speculative claims into one class action and then race to any available

State courthouse in the hopes of a rubber stamp settlement. Too often these settlements result in millions of dollars of attorneys' fees and a mere pittance or coupons for class members in exchange for an agreement not to sue in the future.

While these class actions serve no public policy or benefit to class members, they are an enormous windfall for their attorneys. In addition, because most State and Federal procedural rules require the class members affirmatively opt out of the lawsuit, there are many instances where people are dragged into class actions and do not know how to get out. The only available advice is supposedly contained in extremely complicated class action notices. Mr. Chairman, this system does not protect the interests of class members.

While case after case demonstrates how greedy attorneys use abusive class action settlements to game the system at the expense of their clients, this bill provides long-needed protections to prevent this from happening in the future. A consumer class action bill of rights would prohibit the payment of bounties to class representatives, bar the approval of unreasonable net-loss settlements, and establish a plain-English requirement for settlement notices which clarify class members' rights. Additionally, H.R. 2341 would require greater scrutiny of coupon settlements and settlements involving out-of-state class members.

With the filing of State court class actions having increased a thousand percent over the last 10 years, the current system has transformed certain State courts into the epicenter for class action abuse. It is widely known that there are a handful of State courts notorious for processing even the most speculative of class actions. These courts end up rendering judgments that make national law and bind people from all 50 States. This is exactly what diversity jurisdiction in our Federal courts was intended to prevent.

The bill would rectify this situation by updating antiquated Federal jurisdictional rules and providing our Federal courts with jurisdiction over large interstate class actions. Currently, the Federal Rules provide Federal court jurisdiction for disputes dealing with Federal laws and disputes based upon complete diversity. That means that all plaintiffs and defendants are residents of different States and that every plaintiff's claim is valued at \$75,000 or more. As a result, Federal courts have jurisdiction over lawsuits between people from two different States for just over \$75,000 but do not have jurisdiction for national class actions worth billions of dollars. Instead, these massive lawsuits are being processed in various county courts throughout the country.

The bill establishes a new minimal diversity standard for class actions, requiring that any plaintiff and any defendant are residents of different

States and that the aggregate of all claims is at least \$2 million. While the bill does not require that all interstate class actions be filed in Federal court, those that do satisfy this minimal diversity requirement may be removed to Federal court. However, the bill also excludes class actions dealing with one State, that are against a State, or consist of less than 100 class members, and all securities and corporate governance litigation.

Mr. Chairman, the Federal court is where these cases belong. The Federal courts are equipped and practiced in handling complex, interstate cases, unlike many of the county courts that have been the source of rampant class action abuse. In addition, Federal courts are trained to balance various State laws in similar complex legislation. This Congress has already endorsed this notion when it designated a single Federal district court to resolve all litigation relating to the September 11 attacks and possible future litigation under the terrorism reinsurance legislation.

Finally, Mr. Chairman, it is important to note that the cost of class action abuses are not limited to the parties of these settlements. They are shared by the American consumer. Because potential liability of a class action is so enormous and unpredictable under the current system, most defendants are willing to settle regardless of the merit. The cost is then passed off to the consumer in the form of higher prices for goods and services. This burdens the American economy and creates unneeded threats against America's ingenuity.

Also, Mr. Chairman, these lawsuits pose a threat to the security of America's retirement plans. While class action liability can be enormous, news of these lawsuits on Wall Street can drive down a particular stock by as much as 8 to 10 points in a day. For someone depending upon a steady return on their invested retirement plan, this drop should be extremely alarming.

□ 1230

The bottom line is that H.R. 2341 is a common-sense approach to promote national litigation efficiency and fairness to all potential plaintiffs. I urge my colleagues to support this legislation.

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

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER), although he is not opposed to the action but supports this bill, and we on this side do not.

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

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Cases that are truly national in scope are being filed as State class actions before certain judges who employ an almost "anything goes" approach that

renders virtually any controversy subject to certification as a class action. In such an environment, defendants and even plaintiff class members are routinely denied their range of normal rights as there is a rush to certify classes and then a rush to settle the cases.

Plaintiffs suffer a range of horrors. In order to prevent removal of the case to Federal court, the amount sued for is sometimes kept artificially below the \$75,000 Federal jurisdictional amount even if individual plaintiffs would be entitled to recover more.

In another effort to avoid removal to Federal court, the class action complaint will sometimes not assert Federal causes of action that could legitimately be raised, denying plaintiffs an opportunity for these Federal claims to be heard.

Sometimes in the settlement of these cases, the plaintiffs get coupons while their lawyers receive millions. And in at least one case, the plaintiff class members at the end of the settlement had a debit of \$91 posted to their mortgage escrow account while their lawyers received \$8.5 million for their services. The plaintiffs had a net loss because of the suit. They were worse off after the class action than before it was filed.

Our legislation addresses these problems by permitting cases that are truly national in scope to be removed to the Federal courts even if the diversity of citizenship requirements of current law are not strictly met. Instead, we look to the center of gravity of the case.

The target of these cases is usually a large out-of-State corporation. The plaintiffs are usually consumers who reside in many States. These cases are national in character and our bill would permit removal to Federal court even if a local defendant has been sued for the purpose of destroying complete diversity of citizenship.

Our reform is truly modest. The procedural remedy it contains narrowly addresses a broad procedural abuse. I am pleased this afternoon to urge its passage by the House.

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

My friend from Virginia has suggested, I thought I heard him say that this is a consumer-friendly piece of legislation. In the interest of all the Members knowing about the objections to this bill, I bring to them communications from the Consumer Federation of America, which urges that we oppose the measure, indicating that this bill will create numerous barriers to participating in class actions by permitting defendants to remove most State class action suits to Federal court and will clog the already-crowded Federal court system.

In addition, we have a letter from Public Citizen sent to myself and the gentleman from Wisconsin (Mr. SENBRENNER) which writes to comment about the importance of class actions and how these so-called "procedural

changes" will do great damage to groups of consumers who, in trying to bring action against corporate defendants, would be forced either to bring individual suits or to remove themselves to a Federal docket for reasons that are not quite clear to most of us that are not happy about the bill. Some of these notions are not in the public interest.

I hope that, first of all, everybody voting on this bill will not think that this is a consumer-supported bill. It is opposed by consumer organizations and would clearly be damaging to consumers trying to get into the court.

PUBLIC CITIZEN,

Washington, DC, March 5, 2002.

Hon. JAMES SENBRENNER,

Hon. JOHN CONYERS, Jr.,

Committee on the Judiciary, House of Representatives, Washington, DC.

Re H.R. 2341, Class Action Fairness Act.

DEAR CHAIRMAN SENBRENNER AND RANKING MEMBER CONYERS: We are writing to comment on H.R. 2341 relating to class actions. This bill would give the federal courts jurisdiction over most class action lawsuits, and add a "Consumer Bill of Rights" for members of a class.

Public Citizen has a long history of working to make class actions fairer and more beneficial to plaintiffs. We have participated in nearly forty cases to advocate for more equitable settlement terms for consumers, oppose excessive attorneys fees, and ensure that the class action vehicle is not weakened. For the reasons stated in our testimony on an earlier version of this bill, which is attached, we strongly oppose this bill. We ask that you include these comments and our earlier testimony in the hearing record.

THE IMPORTANCE OF CLASS ACTIONS

Proponents of this bill have expressed concerns that businesses are being unfairly targeted by class action litigation. We recognize that most businesses are working hard to provide good products to American consumers. But the fact is that many of the business enterprises that are being sued are really no different from the old-fashioned flim-flam men, taking the corporate guise for the legitimacy it bestows, and also for its insulation from liability.

This is illustrated best by the tremendous problem of predatory lending. There are lenders who pay bribes and kickbacks to mortgage brokers, to induce them to sell out their clients and sign them up for higher rather than lower interest rate loans. There are mortgage companies accepting kickbacks from overpriced title insurance companies. There is also nickel-and-dime chiseling, turning \$85 recording fees into \$100 recording fees, \$325 appraisal fees into \$500 appraisal fees, and the like. There are \$10,000 credit life insurance policies being packed on to loans, which have little if any value to the consumer. The defendants in most class actions are not acting like legitimate businesses, but are simply fast-buck artists and con men.

In other cases, the businesses are legitimate and are trying to provide valuable services, but corner-cutting or overreaching has prevailed. These problems may be caused by ambitious individual managers, a bean-counter mentality, a chainsaw-CEO, groupthink, or just plain greed. As the Enron scandal has demonstrated, in some cases you find that the moral compass has failed.

In many of these cases, it is only the class action lawsuit that can protect the victim. In some instances, the amount of money stolen is too small on a per-person basis to support an individual lawsuit; in others, there

are vulnerable, unsophisticated consumers, who are unable to recognize that they have been fleeced. The class action device permits aggregation of cases and a more efficient disposition of claims.

FEDERALISM AND CLASS ACTIONS

When Congress perceives a problem in an area that is traditionally handled by state and local government, it has five legislative options. You can provide (1) grants or (2) technical assistance to state and local governments to help them solve the problem; (3) you can exercise concurrent jurisdiction; (4) you can mandate state and local compliance with your standards; or (5) you can pre-empt state law with federal law.

Obviously, as you move down this list, you are usurping local control to increasingly greater degrees. So it seems odd that here, broad federal preemption has been the first impulse, rather than the last resort, of those who suggest that class action changes are needed.

We believe that this issue calls for the least onerous federal intervention, for a number of reasons.

First, proponents of the legislation have argued that some rural counties in a few states have become magnets for class actions and invite abuse. If that is the case, the appropriate response is at the state level, not in Washington. Responding to due process and forum shopping concerns expressed by corporate defendants, the Alabama Supreme Court acted to abolish the practice of *ex parte* certifications of class actions. We are confident that any local problems will be resolved by state governments.

Second, the basic premise behind the bill, that federal judges are "better equipped" to monitor cases (to quote Senator Grassley) and "likely to give closer scrutiny" to settlements (in the words of Senator Kohl) is untrue.

With regard to the "better equipped" proposition, it is argued that federal judges have more "complex litigation experience" than state judges. In fact, less than 1 percent of the federal courts' caseload is class actions. Moreover, of the 2,393 class actions filed in the entire federal system in 2000, only 321 involved state law claims. The vast majority of the cases involved uniquely federal law questions, such as securities, civil rights, or anti-trust. Only 105 of the cases involved consumer fraud-type claims, which are the mainstay of state court class actions. That's about one consumer fraud claim per federal district, not per judge. If a federal judge has experience with this sort of class action, it is probably because he or she was a state court judge before elevation to the federal bench.

The authors of this bill acknowledge that certain state court judges have expertise in particular areas—the bill makes an exception for corporate governance cases to be heard in Delaware. We believe that expertise among state judges is not limited to Delaware chancery judges. The state court bench in Arizona is perhaps the most innovative in the nation, and has been at the forefront of reforms that have spread to other states and to the federal system. In responding to horror stories from a few rural counties, this bill could take cases away from well-qualified state judges in places like Phoenix or Chicago.

As to the claim that federal judges would do a better job scrutinizing class action settlements, we believe that is, unfortunately, not true. A number of attorneys have alleged that a federal judge in Chicago recently approved an unfair "reverse auction" settlement, whereby defendants settled with plaintiffs' firm that accepted the least benefits for the class members. This case involved competing state and federal class actions

over "refund anticipation loans." The attorneys intervening to stop the settlement allege that the plaintiffs' attorneys accepted a mere \$25 million in return for releasing a nationwide class' claims worth a billion dollars. We have no way of knowing the actual value of the claims, but the incident leaves one important question unanswered: If it is true that federal judges are more likely to give close scrutiny to settlements, why did the defendants choose to settle a federal court case rather than one of six identical state court cases? If the premises underlying this bill are correct, shouldn't they have settled one of the state court cases instead? The fact that the federal judge here had law clerks did not deter this settlement.

Moreover, we note also that the RAND Institute's report was very clear in finding no empirical evidence to support the argument that federal judges are better able to manage class actions than state judges. Public Citizen's own experience shows that federal judges can err just as often in approving abusive settlements.

PROCEDURAL CHANGES

H.R. 2341 also contains several "Consumer Bill of Rights" provisions. Some of these ideas have merit and some plainly do not. However, we believe Congress should refrain from making adjustments to Rule 23 and leave such changes to the federal judiciary's Advisory Committee on Civil Rules. The Rules Advisory Committee consists of judges, academics, and practicing lawyers who are among the nation's top experts on civil procedure. Pursuant to the Rules Enabling Act, the Advisory Committee is empowered to review the current rules, study problems, and propose amendments. The Advisory Committee solicits and carefully considers input from the bar and from interest groups in formulating changes.

Class actions have been the subject of their attention in recent months, and they are currently considering extensive changes to Rule 23. We respect the expertise that the Congress and its Judiciary Committees have on civil procedure matters. Nonetheless, we feel that these contentious issues are best resolved outside the heated political process.

FINDING A SOLUTION

Sound congressional policymaking must take account of the advantages and disadvantages of our federal system. Achieving good federalism means understanding the competing values of local control and national uniformity, and striking the appropriate balance between these values in individual policy areas.

Unfortunately, the dispersion of authority among 50 states can sometimes create perverse incentives. The reverse-auction phenomenon in overlapping class actions is an example of this. Narrowly tailored federal legislation could fix this problem without upsetting the delicate state/national balance by bringing most state class actions into federal court. But that in no way resembles the legislation that the sponsors of H.R. 2341 have proposed.

Another avenue to explore is RAND's suggestion that one way to improve judicial scrutiny would be to allow judges to seek assistance from neutral experts and auditors to assess the value of settlements. Congress could use its spending power to assist judges, both state and federal, by increasing the resources available to them to manage class actions. A grant program through which individual courts could secure funding for neutral experts and special masters would exemplify cooperative, rather than coercive federalism. Such a program could be administered by the Justice Department, the National Center for State Courts, or the Administrative Office of the U.S. Courts.

As an organization that vigorously opposes abusive class action settlements, we can only conclude from H.R. 2341 that the business community wants this legislation not to end such practices, but because they perceive an advantage to defending class actions in federal court. We urge you not to move forward with this bill.

Sincerely,

JOAN CLAYBROOK,
President, Public Citizen.

FRANK CLEMENTE,
Director, Public Citizen's Congress Watch.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE) who is the author of the bill.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time and for his leadership in bringing this legislation forward.

I was pleased to introduce this legislation along with the gentleman from Virginia (Mr. BOUCHER). This much-needed bipartisan legislation corrects a serious flaw in our Federal jurisdiction statutes. At present, those statutes forbid our Federal courts from hearing most interstate class actions, the lawsuits that involve more money and touch more Americans than virtually any other litigation pending in our legal system.

Class actions of national importance should be heard in Federal court by a Federal judge, not by a State or county court judge in one region of the country. Why? Because the plaintiffs' attorneys choose from a very select number of courts around the country where the judges are known to be very favorable to class action lawsuits.

Let me cite an example of a class action horror story. After being named in 23 class action lawsuits, Blockbuster agreed to provide class members with only \$1-off coupons, buy-one-get-one-free coupons and free Blockbuster Favorites video rentals. Attorneys are reported to receive around \$9.2 million in attorneys' fees.

Cheerios, the gentleman from Wisconsin mentioned this recently, without any allegation of any harm to any of the plaintiffs in the case related to the ingredients of a box of Cheerios, the case was settled. For what? The opportunity for the customers to go out and get another box of Cheerios while their attorneys got \$2 million.

This is one of my favorites. In this case against Chase Manhattan Bank, the trial lawyers took \$4 million in attorneys' fees and the plaintiffs in the case got, you can read it here, 33 cents. If you cannot read it, we will blow it up for you, 33 cents, while the plaintiffs' attorneys got \$4 million in attorneys' fees. What does that amount to?

There is a catch actually for getting your 33 cents. Because it took a 34-cent postage stamp to mail in the acceptance of the settlement. So actually you came up a penny short. But the trial lawyers did not. 4 million bucks.

The Washington Post has it exactly right: "Having invented a client, the lawyers also get to choose a court. Under the current absurd rules, national class actions can be filed in just about any court in the country. The lawyers cash in while the clients get coupons for product upgrades. It is a bad system, one that irrationally taxes companies in a fashion all but unrelated to the harm their products do and that provides nothing resembling justice to victims of actual corporate misconduct."

The Rocky Mountain News put it even more to the point:

"Your lawyers have one more surprise for you after they bring these suits. You aren't eligible for the full settlement unless you also agree to spend some of your own money on those stores' products." That is exactly what happened in the Blockbuster case. That is exactly what happened in the airline case where the plaintiffs got a \$25 coupon against a more-than-\$250 airline ticket.

In other words, you must reward the company that supposedly swindled you in order for it to be punished. It makes absolutely no sense except to the trial lawyer taking a very large attorney's fee.

The Washington Post sums it all up with this statement:

"That it is controversial at all reflects less on its merit," referring to this legislation, "as a proposal than on the grip that the trial lawyers have on many Democrats."

I am pleased that many Democrats are going to vote for this legislation. I would invite the rest of them to come over and join us to make sure that we resolve this inequity where trial lawyers receive millions of dollars and American families receive pennies. That is what this legislation is all about. It is designed to make sure that the most complex litigation in the country is brought in the court where it belongs.

Vote for this legislation.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3½ minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

I would offer to say to my good friend and colleague from Virginia, if we wanted to address the question of attorneys' fees, then why do we not legislate an attorney's fee bill on the floor of the House? That is not what this legislation is all about. We might have some common agreement that there needs to be some equity in how we assess a formula in those instances.

This is clearly a knock against corporate responsibility. Coming from Houston, Texas, I can assure you, ex-Enron employees, existing Enron em-

ployees, those who are trying to reconstruct Enron know one thing: Corporate responsibility is a key element to moving this country forward and re-investing, if you will, reestablishing our faith in the corporate structure here in America. We do not have that now.

What is so insulting by this legislation is that this legislation will move a class action lawsuit from the State courts on the basis of partial diversity. That means that we could have 400 Texans in the local State court, familiarity, the ability to access the court, and one person from Chicago, Illinois, and we have to go into the Federal court.

Everyone knows that the Federal courts are far more burdensome with their rules, far more complex and far more difficult for those plaintiffs who have less resources to be able to access justice. And so I am a little shocked and surprised when this Congress has had any number of hearings on corporate irresponsibility, and now we bring to the floor of the House, on a fast track, legislation that will not help.

When we who oppose this bill simply asked for information, data, to show us that we are log-jamming the courts, no one could provide that. I can assure you our overburdened Federal courts with empty seats all across the country, drug cases beyond their ability to handle, cannot handle any more legislation.

This does not make any sense. That means those plaintiffs who are in desperate need of accessing the justice system will be standing on a bus line waiting and waiting and waiting and waiting to get into Federal courts.

I would simply argue that we understand what these courts and class actions are supposed to do. We also realize that my colleagues on the other side of the aisle have been large and strong proponents that the State should be given the opportunity to decide for their own citizens what is best for them, keep the Federal Government out of their business as much as possible.

But H.R. 2341 goes against Republican philosophy and broadens Federal jurisdiction over State class action lawsuits. In fact, it is clear that in light of events such as asbestos, the Love Canal and tobacco disasters, and now Enron, this bill benefits not consumers but large corporate interests.

I would ask my colleagues and I would ask this House, let us pause for a moment and understand the message that we are sending to America. America now wants corporate responsibility, and we are not doing that.

Class actions were initially created in State courts, based on equity and common law. They permit one or more parties to file a complaint on behalf of themselves and all other people who are similarly situated suffering from the same problem. Love Canal was basically neighbors who lived in New

York. If you had some far-reaching opportunity for some person by chance to either have moved to another State and then you put it in Federal court, you are, therefore, denying equity, if you will, and the use of common law.

This is a bad legislative initiative. I would ask my colleagues to defeat this, but I would ask them to likewise consider our amendments that we will offer.

Mr. Chairman, Chairman SENSENBRENNER and Ranking Member CONYERS. I oppose this legislation, H.R. 2341, for several policy reasons.

My colleagues on the other side of the aisle have always held that States should be given the opportunity to decide for their own citizens what is best for them—keep the Federal government out of their business such as as possible. But H.R. 2341 goes against Republican philosophy and broadens Federal jurisdiction over state class action lawsuits. In fact, it is clear that in light of events such as asbestos, the Love Canal, and tobacco disasters, and now, Enron, this bill benefits, not consumers, but large corporate interests.

Class actions were initially created in state courts based on equity and common law. They permit one or more parties to file a complaint on behalf of themselves and all other people who are "similarly situated" (suffering from the same problem). A class action is often used when a large number of people have comparable claims. They are an efficient means of seeking justice for a large group of people.

Class actions to help bring justice for many people—the innocent victims. Historically, class actions were brought against huge corporate giants who impact a large percentage of the population.

Take asbestos. They used it on ceilings of gyms and classrooms where our children played and learned. It is of no fault of our children that they unknowingly contracted cancer. Someone should be held accountable for causing irreparable damage, and death, to these innocent victims.

The paradoxical similarity in all of these class actions is that the corporate giant was unaware that their actions could cause cancer. Evidence during litigation showed that the tobacco giants were aware that nicotine was addictive and caused cancer.

It is no different with Enron. The loyal employees of Enron that were terminated lost their life savings, their retirement, their child's college tuition, their second honeymoon, their first home. Top executives were aware allegedly of their spiraling financial situation and yet misrepresented themselves, or had their accounting firm do so, to their stockholders—their employees.

The allegedly barred these employees from selling their shares, while at the same time, allowing only top executives to sell any shares they wanted to. Enron gave out tens of thousands of retention bonuses, while also terminating the "rank and file".

I know this because these victims are my constituents and I have heard their stories and accounts. If these accounts are true, these people have been robbed of savings that they were entitled to.

A favorable vote on H.R. 2341 would take away the means by which innocent victims of corporate giants can find justice.

As a threshold matter, I believe that before even considering legislation, Congress should insist on receiving objective and comprehensive data justifying such a dramatic intrusion into state court prerogatives. This legislation potentially damages federal and state court systems. Expanding federal class action jurisdiction to include most state class actions, as H.R. 2341 does, will certainly result in a significantly increase in the already overtaxed workload of our federal courts. For example, it is no surprise that the 68 judicial vacancies that existed as of February 2, 2002 contributed to the average federal district court judge docket backlog of 416 pending civil cases. It is because of these and other workload problems that Chief Justice Rehnquist took the important step of criticizing Congress for taking actions which have exacerbated the courts' workload problem.

H.R. 2341 also has the ability to significantly impact state courts. This is because in cases where the federal court chooses not to certify the state class action, the bill prohibits the states from using class actions to resolve the underlying state causes of action.

It is important to recall the context in which this legislation arises—a class action has been filed in state court involving numerous state law claims, each of which if filed separately would not be subject to federal jurisdiction (either because the parties are not considered to be diverse or the amount in controversy for each claim does not exceed \$75,000).

H.R. 2341 also has the potential to raise serious constitutional issues. For one, it unilaterally strips the state courts of their ability to use the class action procedural device to resolve state law disputes. The courts have previously indicated that efforts by Congress to dictate such state court procedures implicate important Tenth Amendment federalism issues and should be avoided. The Supreme court has already made clear that state courts are constitutionally required to provide due process and other fairness protections to the parties in class action cases.

It is also important to note that as fears of local court prejudice have subsided and concerns about diverting federal courts from their core responsibilities increased, the policy trend in recent years has been towards limiting federal diversity jurisdiction.

Thirdly, as the legislation is currently written, it assumes a defendant will be automatically subject to prejudice in any state where the corporation is not formally incorporated (typically Delaware) or maintains its principal place of business. In so doing, it can be said the bill ignores the fact that many large businesses have a substantial commercial presence in more than one state through factories, business facilities or employees.

H.R. 2341 adversely impacts the ability of consumers and other victims to acquire compensation in cases concerning extensive damages. The bill possess the potential to force state class actions into federal courts resulting in expensive litigation and allowing defendants to potentially compel plaintiffs to travel distances to participate in court proceedings.

Essentially, the extensive pleading requirements of the federal court will virtually make it impossible for individuals to bring a class actions case. For example, under the bill, individuals are required to plead with particularity the nature of the injuries suffered by class members in their initial complaints. The plaintiff

must even prove the defendant's "state of mind," such as fraud or deception, to be included in the initial complaint.

To meet this criteria is virtually impossible in most instances that the plaintiff is able to provide this information prior to discovery. If the pleading requirements are not met, the judge is required to dismiss the plaintiff's complaint.

Additionally, consumers under H.R. 2341 can be expected to have a far more complicated and time consuming problem in trying to certify class actions in the federal court system. Fourteen states, representing some 29% of the nation's population, have adopted different criteria for class action rules than Rule 23 of the federal rules of civil procedure.

Consumers may also be disadvantaged by the vague terms used in the legislation, such as "substantial majority" of plaintiffs, "primary defendants," and claims "primarily" governed by a state's laws, as they are entirely new and undefined phrases with no precedent in the United States Code or the case law.

Mr. Chairman, this bill is plagued with problems that cheat consumers of their rights under law and under the Constitution. I oppose it, and I urge my colleagues to joining me.

□ 1245

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

Unfortunately, my colleague, the gentlewoman from Texas (Ms. JACKSON-LEE), has missed the boat on a lot of the points. First of all, I wonder how her Texas constituents would feel if the Enron class action lawsuit was filed in the Mississippi court that acted like the hometown umpire in one class action suit and gave residents of Mississippi who are members of the class 18 times more recompense than residents of other States? I think she would be the first one to come into this Congress and say that that is an outrage and that we ought to provide the protection of the Federal court for people who live outside of Mississippi. This bill does that.

Secondly, the plaintiffs in the Enron class action lawsuit chose Federal Court to file their class action lawsuits. What is the beef?

Thirdly, because Enron has filed for bankruptcy, all claims against Enron are heard in the Federal Bankruptcy Court under the constitutional provision that the Congress adopts a bankruptcy law.

Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, a lot of disinformation is being spread about this bill. We heard a bit of it just a minute ago when the opponents talked about Federal caseload and how that would be increased too much. Well, let us look at the numbers, and we find a different story.

According to the administrative office of the U.S. Courts and the 1998 Court Statistics Project, last year only 2,393 class actions were filed in Federal district courts. Since 1997, there has

been an 8 percent decrease in the number of cases pending in Federal district courts nationwide.

Meanwhile, civil filings in State trial courts have increased 28 percent since 1984. In most jurisdictions, each new State court judge is assigned an average of between 1,000 and 2,000 new cases every year. In contrast, Federal court judges are assigned an average of fewer than 500 cases every year.

I would submit that the opponents of this bill and those who argue about Federal caseloads ought to get busy and help those approve Federal judges who are waiting. There are over 100 waiting at the moment. That represents about 10 percent of the caseloads that could be handled in Federal Court.

So on one side, the caseload is too heavy; on the other side, we are not approving, we are holding up, Federal judges who could help with that caseload.

What this has become, as has been mentioned before, is a racket involving invent a client, choose a court, browbeat a company into compliance and settlement, and then watch the money roll in. We need to stop this.

Mr. Chairman, I would urge my colleagues to support the bill.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, let me say to my distinguished colleague from Wisconsin that the question that he raises does not give credence to the fact that the plaintiffs chose where they wanted to file their cases. This legislation bars individuals from making the choice as to whether or not they are in State court, because if there is partial diversity, they are forced to go into Federal courts, which undermines those individuals' access to justice.

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

Mr. Chairman, for the benefit of my distinguished chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), who referred to the infamous airline cases where the plaintiffs were given airline coupons, and he illustrates this as really something that is not good, that we should not do it, that occurred in a Federal Court. That was a Federal district court case that the gentleman I think is trying to use as an argument against keeping the law the same way that it is.

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

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. The gentleman from Michigan knows that there are several features of the bill. One involves jurisdiction on where cases can be filed and removal of cases filed in State court. But there are other provisions that require increased judicial scrutiny of coupon settlements. That would call into play when

you get a coupon to buy more of the product or service that is sold by the corporation that did it to you.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the distinguished gentleman from North Carolina (Mr. WATT).

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

Mr. Chairman, it is always great to come to the floor and engage in a debate with members of the Committee on the Judiciary, because all of them were good lawyers before they came to Congress, so you know that they will try to build their case in the way that they would litigate a case if they were in court, and they will sometimes fudge the facts and obfuscate and do whatever is necessary to prove a point. We have had a lot of that happening already.

The gentleman from Virginia (Mr. GOODLATTE), of course, knows that one of the purposes for class action suits is that sometimes the amount that an individual member of the class would gain from that suit is so small that he or she cannot afford to litigate it without the benefit of putting that claim with other claims of other people who are similarly situated, so the gentleman has done a great job of making it appear that the lawyers in the cases got disproportionate amounts of money to the members of the class.

What the gentleman did not tell you in each of these cases was the total amount that was going to the class members in each one of those cases, whether they were litigated in State court or Federal court, and that is the primary reason that you have class actions.

I want to point out a couple of things. I want to acknowledge that there are abuses in the class action system, and anybody who gets up here and tells you that there are not abuses in the class action system probably does not know anything about litigating cases. The real question, though, is will this bill eliminate those abuses, or will this bill make it possible for other abuses to take place that are worse than the abuses that are taking place now? I would submit that this bill will not eliminate abuses, and that the bill will, in fact, add to the number of abuses in the system.

The one abuse that I think is first and foremost I talked about in 1999 when we first had this bill on the floor. This is not the first time this bill has been here. This is the way I described it back then.

I practiced law for a number of years before I ever got to Congress, and I raised this basic fairness argument. If a plaintiff is injured, he goes and hires a lawyer. That lawyer cultivates, researches, puts together the case, decides where the appropriate place to litigate that case is, spends months and months preparing for the case; and then, 2 days before he is getting ready to go in and start the real processing of

the case, somebody from the outside, a member of the class, comes and hijacks that case and moves it to a Federal court.

There is something to me that is basically unfair about that. That is what this bill will allow to happen, one of those abuses that I am talking about.

The second point I want to make is that the proponents of this bill are the same people who in 1994, 1995, I guess, when they came riding into Congress and took the majority, came in talking about that they supported the notion of removing things from the Federal level and returning them to the local level. Decentralized government, they said they believed in. The whole system of federalism was in jeopardy, they said, and we needed to return power to the States.

So, now, why are we on the floor today with a group of people saying to me, well, this is inefficient and this is too time consuming?

Well, democracy is inefficient and time consuming. Federalism is inefficient and time consuming. But we have decided in our Constitution that some things should be done at the State level and some things should be done at the Federal level, and just because we find it convenient to bring something into Federal court should not be the rationale on which we do that.

I think the same people who are out there giving lip service to States' rights should not be in here talking about let us take the whole field of tort law and federalize it and put it in the Federal courts.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, one of the most intriguing documents, legal documents, that has arisen in the American continent was the Constitution of the Confederacy, which was basically based on the whole notion of States' rights. It allowed States through their legislative bodies to nullify decisions made by the Federal courts and their effect within their boundaries, and even to remove Federal officials like Federal judges and postmasters and the like.

Listening to the gentleman from North Carolina, I think he would have done quite well in their Congress.

Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the chairman for yielding me time and bringing this bill to the floor, because I was the original sponsor of this bill; and I am very appreciative of our colleagues, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Virginia (Mr. GOODLATTE), who have gotten this out of committee to the floor, because it is a good bill; and it should be passed, and it should be passed in a bipartisan fashion.

The class action device is an important part of our legal system that allows wrongdoers to be held accountable for harm they have inflicted upon a

large number of people. Unfortunately, there are too many lawyers who have abused this tool for their own monetary profit.

Our current system allows cases of national importance to be heard in local courts and allows abuses to take place unchecked because of something called diversity jurisdiction. The Framers of the Constitution created diversity jurisdiction to allow large multi-state lawsuits to be heard in Federal court. However, when they drafted statutes in the 1790s to implement it, no one foresaw class action lawsuits. No one ever could have guessed that large multi-state suits would have been heard in local courts and it was certainly not their intention to create such a situation so vulnerable to abuse.

H.R. 2341, this bill, simply corrects this problem and rationalizes the system by updating the law. Class actions of national importance, affecting people all over the country, should be heard in Federal court by a Federal judge, not by a State or county court judge in one region of the country. No one can rationally say that a large national class action belongs in local courts.

The Washington Post, not the Washington Times, the Washington Post said it best in this weekend's editorial. It said: "Nowhere is the need for civil justice reform greater than in the high stakes arena of class actions where irrational rules have allowed trial lawyers to enrich themselves . . . without benefit to the lawyers' supposed clients."

Clearly there is a serious crisis in our court system. Some counties have seen an increase of over 1,000 percent, because once a local court shows a willingness to ignore its own State's rules and constitutional due process, that court and judge becomes a magnet for many national class actions.

Cases heard in State courts have skyrocketed, where Federal cases have only gone up by about 8 percent. So that addresses the argument that there is not enough time or docket space in Federal courts. Federal court is where these cases belong, because the trial lawyers can have these cases heard in a hand-picked court the way it works now.

There is gaming of the diversity rules to keep these cases in State court just by finding one retail outlet or point of sale and one customer in one State. That does not make sense. With over 9,000 State and county courts and 50 States to choose from, there is inevitably at least one court that will certify a class, even in the most egregious class action suits.

Actually, it occurs in courts where judges are invariably elected; and, frankly, they are elected with a substantial amount of trial lawyers' financial and political support. That is one of the biggest problems we are facing. These abusive suits brought in hand-

picked courts do not compensate victims; they do not encourage more responsible corporate behavior. And they are paid for by consumers with higher costs of goods and services.

□ 1300

Simply put, our current system which governs class actions too often works for no one except the lawyers. Most plaintiffs only get coupons to assist them in buying more of the product which caused the injury in the first place, and that is if they are lucky.

When the Bank of Boston was sued in a southern state for their delay in posting mortgage escrow accounts, the attorneys were awarded \$8 million, while all their clients got was \$9; and then their clients got a bill for \$91 for the lawyers' fees, and many of the clients were not even notified that they were plaintiffs in the case. Unbelievable.

This abuse has to be stopped and this is the best vehicle for stopping it. That is why I urge that it be passed, and it ought to be passed in a bipartisan fashion. This is moderate, needed reform. It should not be a partisan issue.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Texas (Mr. GONZALEZ), himself a judge, a former judge, and a former lawyer as well.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman from the great State of Michigan for yielding me this time.

Having been a State district court judge, I think I can appreciate some of the facts and some of the arguments that are being advanced today. The importance of it is that hopefully I will be able to distinguish fact from fiction.

I do want to address some comments made earlier about the rising numbers of civil actions, class actions, and otherwise in the State courts. That is historical, that is tradition. The truth is that the Federal courts on the civil side handle a mere fraction of the litigation that is going on out there in the civil courts throughout the United States. They do not handle as many cases as the traffic court in San Antonio handles throughout the whole United States, all the Federal system. We have to look at those numbers as to what they are really doing out there.

They are overburdened. They have to give precedence and priority to criminal cases. Do we see a Federal court that is designated civil in nature and only handles a civil docket? But we see that at the State level, day in and day out, because they are specialized, recognizing the efficiency that it lends to a civil court system.

Judicial appointments. Of course we should fill all vacancies in a most deliberate and efficient manner, but not with just any judge.

We complain of abuses. How we stop the abuses is to make sure that we have qualified and fair individuals to fill those judicial roles.

I will tell my colleagues, as an opponent, this is what I will give the pro-

ponents. I will give them everything they are asking for. I will give the proponents everything that they ask for in this bill, save and except for one thing, and that is moving it to the Federal system. I will not have a taker. I will not have a taker, because what this is all about is not giving individual litigants choice. What this is all about is getting it into the Federal court system.

This is not a class action bill, this is a class inaction bill. It is designed, its true motive is to stall, is to obstruct and to delay all class actions, regardless of merit, regardless of merit.

Do we have abuses? Of course we do. But the alternative, the alternative that they seek here today in this House is not a step forward, it is not a positive improvement. It sets us back.

Are our State courts more efficient than Federal courts? I am here to say yes. What I hear from my Federal judges is, Charlie, please do not federalize everything out there. You are doing it on the criminal side, and you want to do it on the civil side. You cannot do it.

The certification process in most State courts, the majority of the State courts, and I know that my colleagues cite the aberrations and the abuses; but where do I find them citing those cases in the State court where we have State district court judges that are responsible, mature, and deliberative in classifying? I myself had the great privilege of having class action lawsuits filed in my district court, and I know how we handled them in Texas.

What happened to States' rights? What I say is, let us work together. Let us come up with something where maybe it can be adopted on a State level addressing the abuses that we all agree exist in today's system. But what my colleagues propose is basically doing away with the class action lawsuit. That is the end result of the proposed legislation.

My colleagues are assuming, and wrongly, that the quantity and quality of the Federal judiciary is superior to the State courts; and if my colleagues want to go out there and talk in a confidential manner with all of the trial attorneys, they will tell us what is going on out there in the system.

All I will say is, this is ill-advised, it is ill-proposed, and it is not a workable alternative.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time.

I would say to the gentleman from Texas that he has mischaracterized this legislation. This legislation creates the kind of choice that he is talking about, because right now if a plaintiff or a defendant wants to have these cases heard in Federal court, they cannot be heard in Federal court simply because of a Federal rule, even though these are the most complex cases in the country.

As to the case load, more than 12 percent of our Federal judges are awaiting appointment in the other body right now. Help us get our colleagues in the Senate to appoint President Bush's nominees, and we will easily have the ability to handle these cases in the jurisdiction that was actually created in our Constitution in article 3 for the very purpose of handling diversity cases, disputes among folks from many different States.

It is wrong to allow the current system to persist where the plaintiffs' attorney can choose from more than 4,000 jurisdictions in the country, and whatever judge they know is the most favored judge gets the case; and then nobody has the option to have it heard in a fair and neutral court. That is what this legislation is all about.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute before yielding to the gentleman from Washington.

Mr. Chairman, sometimes we have to look to see where the interest is in these bills. Are the consumer organizations supporting this legislation? Answer: No.

Is the Firestone Corporation supporting this legislation? Answer: Yes.

Is Monsanto supporting this legislation? Answer: Yes.

Is W.R. Grace Corporation supporting this legislation? Answer: Yes.

Are the tobacco companies supporting this legislation, all of them? Answer: Yes.

Are the asbestos people, Johns Manville formerly, supporting this legislation? Answer: Yes.

Are the mining companies, the results of the black lung class action cases, supporting this legislation? Answer: Yes.

Are the Pintos, the airbag cases? Answer: Yes.

All the corporations are supporting this. But I am being told by my friends on the other side that this is a consumer-friendly bill.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, it takes real chutzpah to bring this bill at this time. It takes real chutzpah, after we have thousands of Enron employees having lost their life savings, to bring a bill to diminish the rights of Americans to be compensated for their losses. It takes chutzpah to bring a bill to the floor of the House at this time to the benefit of the Ken Lays and the Mr. Skillings of the world.

Now, think about the timing of this. Think about the timing of this.

The very first bill that comes to the floor of the House after Enron takes the life savings away from Americans is to make it easier for people to do that and harder for people to get compensation when it happens to them.

Now, before we go home for spring break, when we go home and talk to

our constituents and they ask us, Joe, Mr. Congressman, What did you do about the Enron situation, I do not think the first thing we should say is, We made it hard for Americans to get compensation for their losses.

In fact, that is what this is about, because when we strip away the verbiage and the philosophical language that we have all sincerely engaged in here today, this is about one thing. Some people who have been burned because they got caught with their hands in the cookie jar in class action litigation want to make it harder for Americans to bring class action litigation. That is what this is about because they know a simple thing. The Federal courts do not have room for any more class action litigation. They will go to the end of the line. This simply will result in making it more difficult for people to have their cases get a day in court.

If my colleagues do not believe me, listen to Chief Justice Rehnquist who said, and this is in 1998: "I also criticize Congress and the President for their propensity to enact more and more legislation which brings more and more cases into the Federal court system. This criticism received virtually no public attention. If Congress enacts and the President signs new laws allowing more cases to be brought into the Federal courts, just filling the vacancies will not be enough. We will need additional judgeships."

The fact of the matter is, as the proponents of the bill and those who advocate this bill know very well, there is a pipeline that is this big in our Federal court system. Now we want to take cases out of State courts and try to jam it through a pipeline with that pipeline getting no bigger, they will not go. They will not go. That is why this bill has sought the support of those like Jack-in-the-Box Corporation who served E. coli with their hamburgers, the result of which was a young girl and many hundreds in the State of Washington ending up with kidney damage. They used the State courts class action for compensation.

Now, I do not think I should go home and tell them that we are reducing our ability to have a fair day in court in our State courts. For that reason, we should reject this.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

I deeply regret my friend from Washington has not read the bill. This bill has nothing to do with Enron, and it specifically states that claims like the Enron claim are not covered by the differing jurisdictional provisions of this. The Enron claim involves tax law, Federal tax law where the jurisdiction is in the Federal courts. It involves securities law, Federal securities law where the jurisdiction is in the Federal courts.

On page 14 of the amendment in the nature of a substitute, this bill's jurisdictional aspect is exempt from the internal affairs or governance of a corporation that arises under or by virtue

of the laws of a State in which such corporation or business enterprise is incorporated or organized. So everything that the gentleman from Washington has said relating to Enron is simply not true under the terms of the bill.

Now, finally, that would be the case if Enron were not in bankruptcy. Because they are in bankruptcy, all claims are presented to the Federal bankruptcy court.

Mr. Chairman, I would say to the gentleman from Washington, please read the bill.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Chairman, our friends on the other side have had some pretty charts, but they have had some very misleading stories.

Let us talk about the effects of class actions and how it helps normal Americans. A class action in Texas forced Turn of the Century Adventure, Inc., and Travelbridge International, Inc, to stop defrauding consumers. If we want to talk about coupons, let us talk about the coupons that they gave folks, giving thousands of dollars in coupons in return for false discount promises. It took a class action suit to cure that.

My friend from Washington brought up the suit against Foodmaker, Inc. Three children died and 500 people were injured as a result of eating E. coli. It took a class action suit to take care of that.

Are we are going to complain about attorneys' fees all day? Is that what we are going to talk about in class action?

Why do we not complain about Beech-Nut? Do we know what those folks did? They sold sugar water labeled as pure apple juice for infants. They gave it to parents and parents all across America fed it to their children as nutrition. It took a class action to make that corporation back down and say, We are going to sell you apple juice if we charge you for apple juice.

□ 1315

Native Americans in San Juan County, Utah, 52 percent of the residents there were Native Americans. None served on juries from 1932 to 1960. It took a class action to make people stand up for the Constitution of the United States and get them access to the courts.

How about promoting accountability? A group of homeless students and their parents brought a class action suit against the Chicago Board of Education and the Illinois State Board of Education because the defendants turned away homeless children from the Chicago public school system because they could not show proof of permanent residency. Twelve thousand homeless students in Chicago were denied schooling. It took a class action to cure that, and we are going to complain about pennies?

It took a class action when UDC Homes filed for bankruptcy in 1995 and

15,000 shareholders were left holding worthless stock certificates. They had been artificially inflating profits. Does that sound familiar? Does that sound like Enron? I can tell the Members this, when they say it walks like a duck and quacks like a duck, it is a duck. When they say it is not about Enron, it is not about Enron, it is not about Enron, it is about Enron.

They want to put all of America, everyone watching us today and everyone on this floor, in the same position that they have put Enron. They want to tie our hands, not give us access to the court, not let us go to State court, not use the State law, not use the State procedure. They say everyone in America has to be in the position that the Enron pensioners and employees and stockholders are in. That is what they want to do.

Support States' rights, use State law, use State procedure. Let us remember that, and protect consumers against wrongdoing corporations.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, this bill does not take away a cause of action that any member of a class has. All of the class action suits that the gentleman from Texas has talked about could still be filed and litigated, but litigated fairly.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this debate is difficult to understand for me because on the one hand people are talking about putting multistate claims with plaintiffs all over the country into the form that the Founding Fathers described in article III of the Constitution, a Federal form; and on the other hand, people are saying that class actions help normal Americans, class actions are good, and class actions can bring about good results. Those two things are hardly incompatible.

What we are talking about is making sure that class actions, which involve the whole country and not just local issues, are resolved in the jurisdiction that the Framers had in mind, Federal jurisdiction in a Federal court.

We do not have a problem in this Congress, I do not believe, in appreciating the work that our State courts do. Indeed, one prolific source of the people who serve on the Federal bench is the State courts themselves.

The problem is not with State courts; the problem is with lawyers trying to manipulate the system who pick not the State court system but a particular place, a particular forum, where they shop for where they know, because of their connections with that particular forum, that they can put their thumb on the scale of justice and they can skew the result so the facts and the evidence and the law do not matter.

The leading treatise on Federal civil procedure has declared that the current rules for deciding when admittedly nationwide class actions are

heard in Federal court make no sense: "The traditional principles in this area have evolved haphazardly and with little reasoning. They serve no apparent policy."

An 11th circuit case recently had the judge apologizing to litigants because they could not have a Federal forum because the rules as presently written for diversity are so easily defeated by lawyers trying to manipulate the system.

Judge John Nangel, who was for many years the Chair of the Federal Judicial Panel on Multidistrict Litigation, said this: "Plaintiffs' attorneys are increasingly filing nationwide class actions in various State courts, carefully crafting language . . . to avoid . . . the Federal courts. Existing Federal precedent . . . [permits] this practice . . . although most of these cases . . . will be disposed of through 'coupon' or paper settlements," that is, through extortion, at settlements at which the lawyers are paid to go away and the plaintiffs in the case, in most cases who have never even met the lawyers, get sent pennies on the dollar.

In an opinion by Judge Anthony Scirica, the chairman of the Federal Judicial Conference's Standing Committee on Rules and Procedure, the U.S. Court of Appeals for the Third Circuit observed that "national (interstate) class actions are the paradigm for Federal diversity jurisdiction. . . ." That is what the Federal courts are telling us; that is what the Federal judiciary is telling us.

Former Solicitor General Walter Dellinger, someone who most Democrats, I would think, would be happy to learn from, testified before the Committee on the Judiciary: "If Congress were to start over and write a new Federal diversity statute, interstate class actions would be the first kind of cases" that we would put within that diversity jurisdiction.

This is good for litigants, good for defendants, good for plaintiffs, good for fairness, good for America, and good for the American consumers, which is why The Washington Post has supported it: "That it is controversial reflects less on its merit as a proposal than on the grip that trial lawyers have on many Democrats." I do not believe that would be true, and I think many Democrats will support this legislation.

Mr. CONYERS. Mr. Chairman, I am pleased to yield the balance of my time to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I thank the gentleman for yielding time to me.

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

Ms. WATERS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I know Enron is not a nice word to bring up on the floor with our conservative friends. I raise the name Enron reluctantly, because it is offensive to some of our colleagues.

But several of the employees in the Enron case, if they were suing Mr. Lay, affectionately known as "Kenny boy" in some parts of the government, for breach of an employment contract, they would be brought, under this bill, into Federal court. We need that, do we not? I do not think so, and I thank the gentlewoman for yielding to me.

Ms. WATERS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I beg to differ with the gentleman from Wisconsin (Chairman SENSENBRENNER). This has everything to do with Enron.

As a matter of fact, I think the American public must know and understand the difference between this side of the aisle and that side of the aisle. We are about the business of protecting consumers, and we are about the business of allowing the average person to have their day in court.

This bill would make it more difficult. It would put obstacles in the way. It would send class action lawsuits to the Federal court, which are overjammed. We do not have enough judges there. We have the big drug cases there. These cases would be backlogged, and they know it. They are creating obstacles to people getting their fair day in court.

Members heard some of the cases referred to, where class action lawsuits are the only way people can get any justice. Let me remind Members of just a few of them.

As a matter of fact, the average person would not be able to go into court and get any justice against Enron. It would only be through class action lawsuits.

Remember Firestone? They knowingly sold defective tires, where tread separation caused more than 800 injuries and 271 deaths. They failed to recall and replace defective tires in a timely manner.

What about Monsanto? They hid 40 years' worth of dumping of toxic PCBs, mercury, lead, and mustard gas in Anniston, Alabama. They continued dumping toxic chemicals even after dangers were known.

It goes on and on and on. Without class action lawsuits brought in State courts, we would never be able to get at this kind of injustice.

People on the other side said do not charge them with wanting to protect big corporations when they have done something bad, but they speak for themselves. They speak for themselves with this bill. What they are saying is, Poor consumers, working class people, we know you cannot afford to hire a lawyer. We know the only way you can get some justice is through class action, but we are going to make it tougher for you. We are going to make it more difficult for you. We are going to send you to the Federal courts, because you will never get there.

As a matter of fact, people may go in the State courts under this bill and find out in the middle of the trial that it is going to be sent to the Federal court, another big obstruction.

Well, it is very difficult for my friends on the other side of the aisle to claim to be for working people, for consumers, with this kind of action. This really tells who they really are and who they care about.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I thank the chairman for his great work, and I thank the gentleman from Virginia (Mr. GOODLATTE) for a great bill. I think it finally brings justice back to the American people. We are hearing a lot about judges, lawyers, technicalities, which is exactly why I think we have the problem of litigation in America as it stands now.

As simply as I can put it, something we all experience when Americans get to the end of the roll of toilet paper, they find aggravation. When our friends, the trial lawyers, get to the end of the roll of toilet paper, they find a pot of gold.

What am I talking about, Mr. Chairman? There is a class action suit in California that is suing because there is a roll of premium toilet paper that only has 340 sheets as opposed to the regular that has 400. That is not justice. Justice is fairness. Justice is logic. Justice is a case heard by a jury of one's peers.

Do not let what happens in California cost my constituents in Michigan more money for everyday living expenses. Because what happens here, Mr. Chairman, is that Cheerios go up and milk goes up and toilet paper goes up.

Enron will get its day in court, and the people who are abused by Enron will get their day in court. Let us stand united about this. Let us stand for that fairness and that justice. Let us stand for a court system that will represent all Americans, when it comes to asking me and my family and my neighbor's family and the working families of Michigan to pay more for the goods they need to survive.

The people who make out in this, Mr. Chairman, are the trial lawyers. Let us stand up for justice. Let us stand up for families. Let us pass this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, there has been an awful lot of hyperbole that is floating around this Chamber from those who are opposed to this legislation.

First of all, the legislation does not diminish any cause of action that anybody may have, either as an individual or member of a class. So if they have a cause of action and the right to sue now, if this bill becomes law, they will still have that cause of action and that right to sue. So what is the beef?

What this bill does do is it provides fairness. I think the biggest example of how unfair the State court system can be involves the Mississippi case that has been referred to several times previously, where the hometown judge in Mississippi approved a class action settlement that gave Mississippi residents

as much as 18 times more than residents of other States. That is what the Federal court diversity citizenship jurisdiction that was put into the Constitution was designed to prevent.

This bill changes the way diversity is defined so that the abuses that the Framers were concerned about in 1787 can be prevented in class action lawsuits that they never thought would ever arise in this country. So that is what we are dealing with here.

What we are dealing with here also is a better way of having the courts review the fairness of noncash settlements. We have heard an awful lot about the coupons, where people end up having to buy the same product of the company that injured them, or the same service of the company that injured them.

It seems to me that if somebody injured me enough to go to court and file a lawsuit and try it, if I won my lawsuit, I ought not to be forced to go back to the same company that caused the problem to begin with. This bill provides for increased scrutiny to protect consumers against that.

Mr. Chairman, I think that the hyperbole we are hearing from the people who are opposed to this bill really is designed to try to get the attention of this body and the American public away from what is in the bill.

□ 1330

All I would ask while we continue debating this bill and the amendments is for the opponents to read the bill, because most of the complaints that they have are really not present in this legislation.

Ms. SCHAKOWSKY. Mr. Chairman, I rise in strong opposition to H.R. 2341, the "Class Action Fairness Act." The Republican sponsors of this legislation falsely claim that it will rein in "frivolous lawsuits." This bill is not about lawyers and lawyers' fees; it is about whether consumers will have legal rights when corporate wrongdoing, dangerous practices or faulty products injure them. This bill would take away legal rights that consumers need. Class action lawsuits are one of the few protections consumers have against corporate fraud and abuse.

In fact, anyone who wants to lower the cost of health care for consumers should oppose this bill. Class action suits are an important tool for health care consumers who have been forced to pay exorbitant prices for prescription drugs and medical bills. For example, in Iowa, Blue Cross/Blue Shield negotiated "secret discounts" with hospitals and providers but charged the full amount to consumers, pocketing the difference. Many policyholders ended up paying 10 to 20 percent more than they should have.

In response, three state court class action lawsuits were filed against Blue Cross/Blue Shield. Eventually Blue Cross/Blue Shield agreed to pay \$14.6 million to settle the claims. The tens of thousands of consumers affected by the lawsuit received reimbursements for all claims over \$50. Since the settlement agreement, Blue Cross has changed its billing practices to lower the cost for consumers. The money lost was not enough for

any one policyholder to bring suit on his or her own. But through a class action lawsuit, all policyholders were able to be protected against this practice.

This case would have never seen the light of day if the bill before us today were the law of land. This legislation will take money out of people's pockets and will make consumers even more vulnerable to abuses by HMOs. For the sake of everyone who relies on health care insurance please join me in opposing this ill-conceived piece of legislation.

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of H.R. 2431, the Class Action Fairness Act of 2002.

I do so because this bill represents common sense reforms that will make our civil justice system simpler and fairer while curtailing the abusive and frivolous lawsuits that cost us so much.

Lawsuit abuse is a serious problem. I should know—back when I was running my insurance company, lawsuit abuse was one of the principal reasons that insurance premiums kept rising each year. And that rise has not stopped.

And we do not just pay for lawsuit abuse through higher insurance premiums. We pay for it through higher health care costs, higher prices for consumer items, higher taxes, and fewer jobs. In fact, according to a study by the Public Policy Institute in New York, people in my home state of Michigan pay a hidden lawsuit tax of \$574 per year. I know many families who could put that money to good use, but cannot.

Not all lawsuits are abusive, but I believe there are reforms that can be made that will protect the rights of businesses and consumers alike. Today's bill strikes that balance.

When the federal government acts, it too often does so to detriment of our economy. The Class Action Fairness Act is an excellent chance for us to remove some of the drag on our economy by curtailing costly, abusive lawsuits.

I urge all my colleagues to support this legislation and return the legal system to the individuals who it is supposed to benefit—the average American.

Mr. UDALL of New Mexico. Mr. Chairman, I rise today in opposition to final passage of H.R. 2341, laughingly called the Class Action Fairness Act. I say "laughingly" because there is nothing fair about this bill, unless your idea of fair means changing the tort system to benefit corporate polluters, monopolistic enterprises, and irresponsible groups at the expense of everyday Americans. If enacted, this bill will change the rules to make it easier than ever for corporations to move important class action lawsuits from state courts—the courts that are most in touch with and responsible to our constituents—to federal courts. While this change may not sound like a very big change at first, the impact will actually be enormous.

Every corporate defender in this country knows that federal courts are the most desirable venue in which to try class action cases because federal court rules disadvantage plaintiffs and ordinary citizens. As they attempt to defend their wealthy clients, corporate lawyers try every trick in the book to have important cases moved from local courts to federal courts, and this bill will only make their job easier! I cannot imagine why we would want to make the enormous challenges faced by the plaintiffs in class actions cases even hard-

er, but the leadership of this body had made it a priority!

At a time when our armed forces are defending this country across the ocean, when millions of Americans are out of work, and when we face serious threats to Social Security and Medicare, it is amazing to me that this body would decide to address the issue of class action "fairness" instead of addressing the most serious issues facing this country. I urge my colleagues to join me in opposing this bill and ask that this body move forward in addressing real problems.

Mrs. CAPITO. Mr. Chairman, today I rise in support of H.R. 2341, the Class Action Fairness Act of 2002. This legislation will streamline our judicial system, making it more consistent, fair and efficient.

First, H.R. 2341 will cut down on and discourage so-called forum shopping, where trial attorneys file lawsuits based on which state's law is most favorable to their claim. This practice results in a small handful of state courts, whose laws are most favorable to plaintiffs, exerting their jurisdiction over other states and creating precedent for entire national industries across the Nation.

Second, there's the issues of fairness. We all have heard stories of lawsuit abuse. There are the so-called "coupon settlements," where class action members receive coupons from a sued business while the attorneys reel in millions. You get a coupon, and they get a fortune! In fact, many businesses are coerced into settling meritless claims, believing their defense is too costly to litigate.

This system cannot be allowed to go on. There are too many small business out there, surviving on thin margins as it is. And there are too many class action members, people who have been wronged, who deserve compensation, but watch their attorneys take the lion's share of the award.

Finally, Congress needs to pass real class action reform because it will make our federal courts more efficient. Class action lawsuit filings have increased by 1,000 percent over the past decade. Businesses and consumers need protection from these runaway lawsuits and frivolous cases that clutter the courts. This backlog of excessive suits hurts the economy by closing down businesses and costing people their jobs.

Remember, it is the consumer who has to ultimately pay for these transferred liability costs to businesses. It comes out of the pockets of hard working men and women when someone decides that they want to take the local business for a ride.

Mr. Chairman, let's restore the true intent of the Constitution and allow federal courts to hear large interstate class action lawsuits. It is the right thing to do so that we can protect class action members and businesses from unscrupulous trial lawyers. We owe it to our citizens, our country and our economy.

Mr. ISSA. Mr. Chairman, I rise in support of H.R. 2341, "The Class Action Fairness Act of 2002." I thank Congressman BOB GOODLATTE, author of this bill, House Judiciary Committee Chairman JAMES SENSENBRENNER and the Judiciary Committee staff for their leadership on this bill.

Class action lawsuits serve a very important role, but the legal system is being compromised because attorneys have been the benefactors of class action lawsuit settlements, not the plaintiffs. These lawsuits should

be weighed on their own merits. The decision to file in a certain state or region should not be based on the possibility of the courts having favorable attitudes toward certifying class action suits against out-of-state corporations. Many times, attorneys find a topic or angle for a class action lawsuit and then begin to seek plaintiffs, sometimes in a different region than where the problem occurred. When they register a large number of plaintiffs, the lawyers file a class action suit in a favorable state forum and modify the case so that it will be exempt from federal jurisdiction. These attorneys then are not beholden to any one individual, allowing them to broker a settlement that provides minimal benefits to the class members, but may reward the attorneys handsomely. Additionally, lawyers in other states can bring forward an identical "copy cat" lawsuit, forcing companies to defend the same case in another court, with potentially different results. Ultimately, the cost is passed on to consumers in the form of higher prices for their products.

H.R. 2341 brings fairness to the class action arena by providing a federal forum for out-of-state defendants and out-of-state plaintiff class members. Instead of having plaintiffs in multiple states bring forward the same lawsuit. This bill will only allow one lawsuit and it must be handled at the federal level. It emphasizes efficiency by ensuring only one bite at the apple. The current system has judges from one state deciding the fate of plaintiffs from other states, and binding them to whatever decision the judge brings down or the lawyers reach in a settlement. This legislation will provide the plaintiff an opportunity for settlements that benefit them.

H.R. 2341 protects the rights of the plaintiffs or class members with inclusion of a Consumer Class Action Bill of Rights. It will begin to address reform on an issue and at a time where numbers of class action suits have skyrocketed.

I thank you for the opportunity to speak on this bill and I urge all my colleagues to vote in favor of this legislation.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Class Action Fairness Act of 2002".

(b) **REFERENCE.**—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

(c) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.

Sec. 2. Findings and purposes.

Sec. 3. Consumer class action bill of rights and improved procedures for interstate class actions.

Sec. 4. Federal district court jurisdiction of interstate class actions.

Sec. 5. Removal of interstate class actions to Federal district court.

Sec. 6. Appeals of class action certification orders.

Sec. 7. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds as follows:

(1) Class action lawsuits are an important and valuable part of our legal system when they permit the fair and efficient resolution of legitimate claims of numerous parties by allowing the claims to be aggregated into a single action against a defendant that has allegedly caused harm.

(2) Over the past decade, there have been abuses of the class action device that have harmed class members with legitimate claims and defendants that have acted responsibly, and that have thereby undermined public respect for our judicial system.

(3) Class members have been harmed by a number of actions taken by plaintiffs' lawyers, which provide little or no benefit to class members as a whole, including—

(A) plaintiffs' lawyers receiving large fees, while class members are left with coupons or other awards of little or no value;

(B) unjustified rewards being made to certain plaintiffs at the expense of other class members; and

(C) the publication of confusing notices that prevent class members from being able to fully understand and effectively exercise their rights.

(4) Through the use of artful pleading, plaintiffs are able to avoid litigating class actions in Federal court, forcing businesses and other organizations to defend interstate class action lawsuits in county and State courts where—

(A) the lawyers, rather than the claimants, are likely to receive the maximum benefit;

(B) less scrutiny may be given to the merits of the case; and

(C) defendants are effectively forced into settlements, in order to avoid the possibility of huge judgments that could destabilize their companies.

(5) These abuses undermine our Federal system and the intent of the framers of the Constitution in creating diversity jurisdiction, in that county and State courts are—

(A) handling interstate class actions that affect parties from many States;

(B) sometimes acting in ways that demonstrate bias against out-of-State defendants; and

(C) making judgments that impose their view of the law on other States and bind the rights of the residents of those States.

(6) Abusive interstate class actions have harmed society as a whole by forcing innocent parties to settle cases rather than risk a huge judgment by a local jury, thereby costing consumers billions of dollars in increased costs to pay for forced settlements and excessive judgments.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to assure fair and prompt recoveries for class members with legitimate claims;

(2) to protect responsible companies and other institutions against interstate class actions in State courts;

(3) to restore the intent of the framers of the Constitution by providing for Federal court consideration of interstate class actions; and

(4) to benefit society by encouraging innovation and lowering consumer prices.

SEC. 3. CONSUMER CLASS ACTION BILL OF RIGHTS AND IMPROVED PROCEDURES FOR INTERSTATE CLASS ACTIONS.

(a) **IN GENERAL.**—Part V is amended by inserting after chapter 113 the following:

"CHAPTER 114—CLASS ACTIONS

"Sec.

"1711. Judicial scrutiny of coupon and other noncash settlements.

"1712. Protection against loss by class members.

"1713. Protection against discrimination based on geographic location.

"1714. Prohibition on the payment of bounties.

"1715. Clearer and simpler settlement information.

"1716. Definitions.

"§ 1711. Judicial scrutiny of coupon and other noncash settlements

"The court may approve a proposed settlement under which the class members would receive noncash benefits or would otherwise be required to expend funds in order to obtain part or all of the proposed benefits only after a hearing to determine whether, and making a written finding that, the settlement is fair, reasonable, and adequate for class members.

"§ 1712. Protection against loss by class members

"The court may approve a proposed settlement under which any class member is obligated to pay sums to class counsel that would result in a net loss to the class member only if the court makes a written finding that nonmonetary benefits to the class member outweigh the monetary loss.

"§ 1713. Protection against discrimination based on geographic location

"The court may not approve a proposed settlement that provides for the payment of greater sums to some class members than to others solely on the basis that the class members to whom the greater sums are to be paid are located in closer geographic proximity to the court.

"§ 1714. Prohibition on the payment of bounties

"(a) **IN GENERAL.**—The court may not approve a proposed settlement that provides for the payment of a greater share of the award to a class representative serving on behalf of a class, on the basis of the formula for distribution to all other class members, than that awarded to the other class members.

"(b) **RULE OF CONSTRUCTION.**—The limitation in subsection (a) shall not be construed to prohibit any payment approved by the court for reasonable time or costs that a person was required to expend in fulfilling his or her obligations as a class representative.

"§ 1715. Clearer and simpler settlement information

"(a) **PLAIN ENGLISH REQUIREMENTS.**—Any court with jurisdiction over a plaintiff class action shall require that any written notice concerning a proposed settlement of the class action provided to the class through the mail or publication in printed media contain—

"(1) at the beginning of such notice, a statement in 18-point Times New Roman type or other functionally similar type, stating "LEGAL NOTICE: YOU ARE A PLAINTIFF IN A CLASS ACTION LAWSUIT AND YOUR LEGAL RIGHTS ARE AFFECTED BY THE SETTLEMENT DESCRIBED IN THIS NOTICE."; and

"(2) a short summary written in plain, easily understood language, describing—

"(A) the subject matter of the class action;

"(B) the members of the class;

"(C) the legal consequences of being a member of the class;

"(D) if the notice is informing class members of a proposed settlement agreement—

"(i) the benefits that will accrue to the class due to the settlement;

"(ii) the rights that class members will lose or waive through the settlement;

"(iii) obligations that will be imposed on the defendants by the settlement;

"(iv) the dollar amount of any attorney's fee class counsel will be seeking, or if not possible, a good faith estimate of the dollar amount of

any attorney's fee class counsel will be seeking; and

"(v) an explanation of how any attorney's fee will be calculated and funded; and

"(E) any other material matter.

"(b) **TABULAR FORMAT.**—Any court with jurisdiction over a plaintiff class action shall require that the information described in subsection (a)—

"(1) be placed in a conspicuous and prominent location on the notice;

"(2) contain clear and concise headings for each item of information; and

"(3) provide a clear and concise form for stating each item of information required to be disclosed under each heading.

"(c) **TELEVISION OR RADIO NOTICE.**—Any notice provided through television or radio (including transmissions by cable or satellite) to inform the class members in a class action of the right of each member to be excluded from the class action or a proposed settlement of the class action, if such right exists, shall, in plain, easily understood language—

"(1) describe the persons who may potentially become class members in the class action; and

"(2) explain that the failure of a class member to exercise his or her right to be excluded from a class action will result in the person's inclusion in the class action or settlement.

"§ 1716. Definitions

"In this chapter—

"(1) **CLASS ACTION.**—The term 'class action' means any civil action filed in a district court of the United States pursuant to rule 23 of the Federal Rules of Civil Procedure or any civil action that is removed to a district court of the United States that was originally filed pursuant to a State statute or rule of judicial procedure authorizing an action to be brought by one or more representatives on behalf of a class.

"(2) **CLASS COUNSEL.**—The term 'class counsel' means the persons who serve as the attorneys for the class members in a proposed or certified class action.

"(3) **CLASS MEMBERS.**—The term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(4) **PLAINTIFF CLASS ACTION.**—The term 'plaintiff class action' means a class action in which class members are plaintiffs.

"(5) **PROPOSED SETTLEMENT.**—The term 'proposed settlement' means an agreement that resolves claims in a class action, that is subject to court approval and that, if approved, would be binding on the class members."

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part V is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions 1711".
SEC. 4. FEDERAL DISTRICT COURT JURISDICTION OF INTERSTATE CLASS ACTIONS.

(a) **APPLICATION OF FEDERAL DIVERSITY JURISDICTION.**—Section 1332 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d)(1) In this subsection—

"(A) the term 'class' means all of the class members in a class action;

"(B) the term 'class action' means any civil action filed pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by one or more representative persons on behalf of a class;

"(C) the term 'class certification order' means an order issued by a court approving the treatment of a civil action as a class action; and

"(D) the term 'class members' means the persons who fall within the definition of the proposed or certified class in a class action.

"(2) The district courts shall have original jurisdiction of any civil action in which the matter

in controversy exceeds the sum or value of \$2,000,000, exclusive of interest and costs, and is a class action in which—

"(A) any member of a class of plaintiffs is a citizen of a State different from any defendant;

"(B) any member of a class of plaintiffs is a foreign state or a citizen or subject of a foreign state and any defendant is a citizen of a State; or

"(C) any member of a class of plaintiffs is a citizen of a State and any defendant is a foreign state or a citizen or subject of a foreign state.

"(3) Paragraph (2) shall not apply to any civil action in which—

"(A)(i) the substantial majority of the members of the proposed plaintiff class and the primary defendants are citizens of the State in which the action was originally filed; and

"(ii) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed;

"(B) the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief; or

"(C) the number of proposed plaintiff class members is less than 100.

"(4) In any class action, the claims of the individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of \$2,000,000, exclusive of interest and costs.

"(5) This subsection shall apply to any class action before or after the entry of a class certification order by the court with respect to that action.

"(6)(A) A district court shall dismiss any civil action that is subject to the jurisdiction of the court solely under this subsection if the court determines the action may not proceed as a class action based on a failure to satisfy the requirements of rule 23 of the Federal Rules of Civil Procedure.

"(B) Nothing in subparagraph (A) shall prohibit plaintiffs from filing an amended class action in Federal court or filing an action in State court, except that any such action filed in State court may be removed to the appropriate district court if it is an action of which the district courts of the United States have original jurisdiction.

"(C) In any action that is dismissed under this paragraph and is filed by any of the original named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed under this paragraph that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed action was pending.

"(7) Paragraph (2) shall not apply to any class action brought by shareholders that solely involves a claim that relates to—

"(A) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(B) the internal affairs or governance of a corporation or other form of business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(C) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).

"(8) For purposes of this subsection and section 1453 of this title, an unincorporated association shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized.

"(9) For purposes of this section and section 1453 of this title, a civil action that is not other-

wise a class action as defined in paragraph (1)(B) of this subsection shall nevertheless be deemed a class action if—

"(A) the named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeks a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general; or

"(B) monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact.

In any such case, the persons who allegedly were injured shall be treated as members of a proposed plaintiff class and the monetary relief that is sought shall be treated as the claims of individual class members. The provisions of paragraphs (3) and (6) of this subsection and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (A). The provisions of paragraph (6) of this subsection, and subsections (b)(2) and (d) of section 1453 shall not apply to civil actions described under subparagraph (B)."

(b) **CONFORMING AMENDMENTS.**—

(1) Section 1335(a)(1) is amended by inserting "(a) or (d)" after "1332".

(2) Section 1603(b)(3) is amended by striking "(d)" and inserting "(e)".

SEC. 5. REMOVAL OF INTERSTATE CLASS ACTIONS TO FEDERAL DISTRICT COURT.

(a) **IN GENERAL.**—Chapter 89 is amended by adding after section 1452 the following:

"§ 1453. Removal of class actions

"(a) **DEFINITIONS.**—In this section, the terms 'class', 'class action', 'class certification order', and 'class member' have the meanings given these terms in section 1332(d)(1).

"(b) **IN GENERAL.**—A class action may be removed to a district court of the United States in accordance with this chapter, without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member without the consent of all members of such class.

"(c) **WHEN REMOVABLE.**—This section shall apply to any class action before or after the entry of a class certification order in the action, except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered.

"(d) **PROCEDURE FOR REMOVAL.**—The provisions of section 1446 relating to a defendant removing a case shall apply to a plaintiff removing a case under this section, except that in the application of subsection (b) of such section the requirement relating to the 30-day filing period shall be met if a plaintiff class member files notice of removal within 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action.

"(e) **REVIEW OF ORDERS REMANDING CLASS ACTIONS TO STATE COURTS.**—The provisions of section 1447 shall apply to any removal of a case under this section, except that, notwithstanding the provisions of section 1447(d), an order remanding a class action to the State court from which it was removed shall be reviewable by appeal or otherwise.

"(f) **EXCEPTION.**—This section shall not apply to any class action brought by shareholders that solely involves—

"(1) a claim concerning a covered security as defined under section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934;

"(2) a claim that relates to the internal affairs or governance of a corporation or other form of

business enterprise and arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

“(3) a claim that relates to the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder).”.

(b) REMOVAL LIMITATION.—Section 1446(b) is amended in the second sentence by inserting “(a)” after “section 1332”.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

“1453. Removal of class actions.”.

SEC. 6. APPEALS OF CLASS ACTION CERTIFICATION ORDERS.

(a) IN GENERAL.—Section 1292(a) is amended by inserting after paragraph (3) the following:

“(4) Orders of the district courts of the United States granting or denying class certification under rule 23 of the Federal Rules of Civil Procedure, if notice of appeal is filed within 10 days after entry of the order.”.

(b) DISCOVERY STAY.—All discovery and other proceedings shall be stayed during the pendency of any appeal taken pursuant to the amendment made by subsection (a), unless the court finds upon the motion of any party that specific discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to any civil action commenced on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. No amendment to that amendment is in order except those printed in House Report 107-375. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chair has been informed that Amendment No. 1 will not be offered.

It is now in order to consider Amendment No. 2 printed in House Report 107-375.

AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. NADLER:

Page 9, insert the following after line 20 and redesignate the succeeding section accordingly:

“§ 1716. Sunshine in court records

“No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—

“(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and

“(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial inter-

est in maintaining the confidentiality of such information.

Page 6, in the matter preceding line 1, strike the item relating to section 1716 and insert the following:

“1716. Sunshine in court records.
“1717. Definitions.”.

MODIFICATION TO AMENDMENT NO. 2 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I ask unanimous consent to modify the amendment and further request that such modification be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 10, insert the following after line 4 and redesignate the succeeding section accordingly:

“§ 1716. Sunshine in court records

“No order, opinion, or record of the court in the adjudication of a class action, including a record obtained through discovery, whether or not formally filed with the court, may be sealed or subjected to a protective order unless the court makes a finding of fact—

“(1) that the sealing or protective order is narrowly tailored, consistent with the protection of public health and safety, and is in the public interest; and

“(2) if the action by the court would prevent the disclosure of information, that disclosing the information is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of such information.

Page 6, in the matter preceding line 7, strike the item relating to section 1716 and insert the following:

“1716. Sunshine in court records.
“1717. Definitions.”.

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentleman from New York (Mr. Nadler) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. NADLER).

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

I am pleased to offer this amendment along with the gentleman from Massachusetts (Mr. DELAHUNT) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

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

Mr. NADLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I think this is a very constructive amendment, and we are pleased to support it.

Mr. NADLER. Mr. Chairman, in that case, let me never take yes for an answer. I appreciate the comments of the gentleman, and I urge everyone to vote for it and I suppose, aside from saying that this deals with the question of shielding records in settlements.

Mr. Chairman, I am pleased to offer this amendment with the gentleman from Massachusetts, Mr. DELAHUNT and gentlewoman from Texas, Ms. JOHNSON.

Mr. Chairman, this amendment is designed to prevent the sealing of information regarding

settlements of class action lawsuits—information that would protect the health and safety of others.

I have been concerned for a number of years about agreements to seal the information about settlements of lawsuits that affect public health and safety.

More often than not, a class action suit is filed because a number of people have been harmed by the actions of a large corporation. They come together to seek to recover damages by providing that a company behaved in a way that resulted in foreseeable harm to public health and safety. Often, the company settles the lawsuit, pays the people it harmed who sued, and then tells them to be quiet. But the company may never change its dangerous practices. They simply regard the lawsuits as the cost of doing business, and ignore the underlying problem. Since the companies force the plaintiffs never to discuss the problems with anyone else, more people end up getting hurt by the companies. This is reprehensible.

The Firestone Tire situation is a case in point. One of the main reasons why there was not timely public disclosure of the dangers of Firestone tires is because Firestone insisted on a series of gag orders when settling product liability lawsuits.

An article in the September 25, 2000, edition of the Legal Times points out that:

One of the principal roadblocks to timely public disclosure of the danger of Firestone tires has been a series of gag orders the company insisted on as a condition of settling product liability lawsuits in the early 1990s.

Simply put, Firestone made a calculated determination that they would compensate victims so long as the plaintiffs agreed not to share their stories with other victims or the public. Congress was given the opportunity to address this very problem in 1995 when an amendment was offered that would prevent such gag orders if the public safety need outweighed the privacy interests of the litigants. Unfortunately, the amendment was defeated, with opponents arguing that the information was proprietary information that does not belong in the public domain.

The reality is that the release of such information in the Firestone case 7 or 8 years ago potentially could have saved scores of human lives. We can't blame the people who settled their case for recovering damages and agreeing to the gag orders as a condition of getting the money. But as a result, the public is kept in the dark, and many more people are injured. This should not happen again.

It is important for the people to be aware of the health and safety hazards that may exist so that other people can make informed choices about their lives, and, I might add, so that public agencies, perhaps, can crack down on such dangers. To often critical information is sealed from the public and other people may be harmed as a result.

Let me add that this amendment is very reasonably drafted. The amendment is written in such a way that the judge must make a finding of fact where a gag order is requested. If the judge finds that the privacy interest is broader than the public interest, then the judge must issue the gag order. If the judge finds that the public interest in the health and safety outweighs the primary interests asserted, the judge may not issue the gag order. The judge also has to make sure the gag order is drafted as tightly as possible. This will prevent the unnecessary disclosure of confidential information, but will not allow the sealing of information that may harm the public.

When it comes to health and safety, public access to class action lawsuit materials is absolutely essential. I urge my colleagues to support the Nadler/Delahunt/Johnson Amendment.

Mr. KUCINICH. Mr. Chairman, today Congress is considering a bill to make it easier for corporations to avoid compensating victims for injuries corporations and their products cause. But current law is already heavily skewed toward their interests, and the public health suffers as a result.

Case in point is the gag order on victims who receive a settlement. Under current law, victims receiving compensation under a settlement of a class action suit can be required not to disclose the dangers, evidence and admissions made by the corporate criminal as a condition of settlement. As a result, dangerous products remain on the market and able to do harm to an unknowing public.

In a society dedicated to safety and security, there is no place for these gag orders. Safety and security cannot be realized with secrecy agreements. The Nadler/Delahunt/Johnson amendment is narrowly drafted to clear the way for disclosure of information unearthed in settled class action cases that would benefit the public health.

It is a fact that enforcing the Nation's product liability laws rests in part on citizen-suits brought as class actions. But prevention is worth a pound of cure. If we repeal the gag rule on evidence of dangerous products, we will make society a safer, more secure place for the Nation's citizens. Vote "yes" on Nadler.

Mr. DELAHUNT. Mr. Chairman, I urge a "yes" vote on this amendment.

It is simple and straightforward. And it's been well-presented and fully explained by previous speakers. It outlaws a practice that has cost the lives of hundreds, if not thousands, of Americans—the sealing of court records in class action settlements where the health and safety of the public are at risk.

And if you have any doubts about the consequences of this practice, just ask the families of those who lost loved ones who were driving Ford Explorers outfitted with Firestone tires. At last count, 271 people had died.

The company knew about the problem. But insisted on secrecy as a condition of settlement. And just kept on selling those tires to an unsuspecting public who were unaware of the danger.

In committee, the lead sponsor of the bill stated that publicizing the details of settlement agreements would deter people from entering into them. Let's be clear. There is absolutely no evidence to support that claim.

And he further suggested that the amendment would eliminate an effective negotiating tool for plaintiffs. His concern for plaintiffs and hard-working American families is noble. But I can't quite believe that the U.S. Chamber of Commerce and the National Association of Manufacturers, who support this bill, share that same concern. I believe that would be a real stretch, Mr. Chairman.

But even if it were true, I submit that the price of secrecy is too high if it costs a single human life.

Consumers are entitled to know when there are dangerous and defective products on the market. They are entitled to the information that will protect them and their families from the unconscionable conduct that we witnessed in the Firestone case.

Well, let's exercise our collective conscience and do the right thing. Let's remember those families, who were the victims of corporate secrecy and greed. It's time to let the sunshine in, before more innocent people are hurt.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I urge members of this body who care about the health and safety of the public to support the Amendment I offer today with my colleagues Mr. DELAHUNT and Mr. NADLER.

This amendment will require a judge to look at the facts and determine whether the plaintiff's interest in privacy outweigh the public's need and right to know. Often plaintiffs who find themselves in difficult circumstances will agree to seal documents in order to obtain a settlement. These plaintiffs and their attorneys are looking out for their own interests. This is understandable. When faced with the prospect of not obtaining a settlement or going along with the defendant's demands to seal the documents and forever keep them secret, few people will jeopardize their own recovery. And that is why the interests of justice demand that a judge review these agreements. The parties involved in the suit are consumed with pursuing their own interests. Only a judge is required to keep the public interests in mind and to look down the road and determine what effect secrecy will have on future litigants. Florida, Texas and Washington all have rules prohibiting secrecy in cases involving defective products. And several states, including California and Illinois, through their court rules require that a judge review any secrecy deal. Mr. Speaker, the public needs this protection and this body should not refuse to provide ordinary people with the means to pursue justice in the courts of this land.

Let me just outline a few instances in which these secret agreements have endangered the public health and safety:

My colleagues have discussed the Firestone Tire case in which plaintiffs in over 50 cases all over the country were required to agree to secret settlements before the problems with these tires finally came to light. We have all heard of the injuries that resulted from people unwittingly continuing to drive on these defective tires.

In 1999 alone, about 300 asbestos lawsuits were settled for \$200 million in Cook County Illinois. That deal kept secret not only the dangers uncovered but also the exact number of plaintiffs, their injuries and the amount received by each.

In 2000, BP Amoco reached an out of court deal with one former employee and the estates of four others, settling lawsuits that claimed the five developed brain tumors as a result of working at Amoco's Naperville research center. The company insisted that the amount it paid be kept secret. But two of the settlements were revealed when a Judge insisted that wrongful death benefits be made public.

Mr. Chairman, we must follow the lead of Texas and several other states. We must assure that the secrecy which has become so fashionable lately not overtake our judicial system and deny justice to ordinary people who have been harmed by the negligence of others or defectively made products. I urge my colleagues to support this amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment, as

modified, offered by the gentleman from New York (Mr. NADLER).

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

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

The SPEAKER pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

It is now in order to consider Amendment No. 3 printed in House Report 107-375.

AMENDMENT NO. 3 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the gentleman from Michigan (Mr. CONYERS) a designee of the gentlewoman from California (Ms. WATERS)?

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from Wisconsin will state it.

Mr. SENSENBRENNER. Mr. Chairman, I believe that the rule that was adopted, House Resolution 367, requires that amendments may be offered only by the Member designated in the report and not by a designee. Am I correct?

The CHAIRMAN pro tempore. That is not correct. A designee may offer the amendment.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to offer an amendment and present it on behalf of the gentlewoman from California (Ms. WATERS).

The CHAIRMAN pro tempore. That unanimous consent request is not in order in the Committee of the Whole.

Mr. CONYERS. Mr. Chairman, may I ask unanimous consent that we move to the next amendment and reserve the opportunity to bring it up later?

The CHAIRMAN pro tempore. That request is also not in order in the Committee of the Whole.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, under the rule, which amendment may be offered now?

The CHAIRMAN pro tempore. Right now, Amendment No. 3 by the gentlewoman from California (Ms. WATERS) is in order.

POINT OF ORDER

Mr. CONYERS. Mr. Chairman, a point of order. Can the gentlewoman from California (Ms. WATERS) offer her amendment at a later time?

The CHAIRMAN pro tempore. Only by unanimous consent granted by the House. That unanimous consent request is not in order in the Committee in the Whole. Under the rule, amendments only may be offered printed in the report.

Mr. SENSENBRENNER. Mr. Chairman, I call for regular order.

The CHAIRMAN pro tempore. Is the gentleman from Michigan (Mr. CONYERS) a designee of the gentlewoman from California (Ms. WATERS)?

Mr. CONYERS. Mr. Chairman, I am.

The CHAIRMAN pro tempore. If the gentleman from Michigan (Mr. CONYERS) is a designee of the gentlewoman from California (Ms. WATERS), the gentleman from Michigan is recognized to offer Amendment No. 3.

Mr. CONYERS. Mr. Chairman, I offer Amendment No. 3.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. CONYERS: Page 9, insert the following after line 20 and redesignate the succeeding section accordingly:

“§1716. Withholding or destruction of material

“If the court in a class action issues a discovery order and a party to which the order is directed withholds or destroys material subject to the order or makes a misrepresentation with respect to the existence of such material, such action by that party shall be deemed an admission of any fact with respect to which the order was issued.

Page 6, in the matter preceding line 1, strike the item relating to section 1716 and insert the following:

“1716. Withholding or destruction of material.

“1717. Definitions.”.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from Wisconsin will state his inquiry.

Mr. SENSENBRENNER. Mr. Chairman, I have the text of House Resolution 367 before me, and the relevant part says each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report and shall be divided and controlled by the proponent and opponent. The words “or a designee” is not in the rule. It is not in the text of the summary provisions of the resolution in House Report 107-375, but is in a head note.

The CHAIRMAN pro tempore. House Resolution 367 says “a Member designated in the report” and House Report 107-375 designate “the gentlewoman from California (Ms. WATERS), or designee.” Under those circumstances, the gentleman from Michigan (Mr. CONYERS) is recognized as a designee.

Does the gentleman from Michigan (Mr. CONYERS) wish to withdraw his offering of the amendment as the designee of the gentlewoman from California?

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

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

There was no objection.

AMENDMENT NO. 3 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer Amendment No. 3.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. WATERS:

Page 9, insert the following after line 20 and redesignate the succeeding section accordingly:

“§1716. Withholding or destruction of material

“If the court in a class action issues a discovery order and a party to which the order is directed withholds or destroys material subject to the order or makes a misrepresentation with respect to the existence of such material, such action by that party shall be deemed an admission of any fact with respect to which the order was issued.

Page 6, in the matter preceding line 1, strike the item relating to section 1716 and insert the following:

“1716. Withholding or destruction of material.

“1717. Definitions.”.

MODIFICATION TO AMENDMENT NO. 3 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I ask unanimous consent to modify the amendment and further request that such modification be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The text of Amendment No. 3, as modified, is as follows:

Page 10, insert the following after line 4 and redesignate the succeeding section accordingly:

“§1716. Withholding or destruction of material

“If the court in a class action issues a discovery order and a party to which the order is directed withholds or destroys material subject to the order or makes a misrepresentation with respect to the existence of such material, such action by that party shall be deemed an admission of any fact with respect to which the order was issued.

Page 6, in the matter preceding line 7, strike the item relating to section 1716 and insert the following:

“1716. Withholding or destruction of material.

“1717. Definitions.”.

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATERS).

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

My amendment seeks to prevent a disgraceful action taken by some defendants. Specifically, it addresses the problems of withheld or shredded documents. We have recently heard allegations that Enron and Arthur Andersen have engaged in document shredding. Those documents were being sought by lawyers for the company’s former employees, by Members of Congress and by government investigators.

In any lawsuit involving shredded documents, the information those documents contain may be lost forever. So while a court may sanction a party

that shreds documents, other parties will never be able to use the documents to prove their case.

Under my amendment, any party that withholds or destroys material related to a court discovery order would be deemed to have admitted to any fact relating to the discovery order. Before that can happen, it would have to be proven that the party did, in fact, destroy or withhold those documents or that the party made a misrepresentation as to their existence; but once that has been proven, the party that engaged in illegal activity would have essentially admitted to the facts relating to the discovery order. That party would no longer have the option of arguing that it did not do the facts alleged under that order.

Keep in mind that this amendment would not impact on the facts of the case. It only addresses the facts directly related to the discovery order that was violated.

All this amendment does is to ask that parties comply with court orders. It says if they have broken the law by destroying or withholding evidence, then they cannot deny the allegations under the discovery request; we are going to rule that they are guilty with regard to the information destroyed or withheld.

This amendment provides a common-sense approach to a very serious problem. We should provide a strong disincentive to companies that think destroying documents is a way to save their case.

Mr. Chairman, I know that there are a lot of people who are tired of hearing about Enron, but Enron is not going to go away. The collapse of Enron represents the largest corporate failure in American history. At its height, Enron’s total market capitalization was over \$90 billion while today it trades at less than 25 cents a share. Enron’s collapse resulted in tens of billions of losses for individual investors and pension funds.

Mr. Chairman, I am absolutely surprised that even with all of us knowing and understanding what took place at Enron, and each day we continue to learn more, I am surprised that we still have efforts anywhere to try and protect our corporations that not only are involved in wrongdoing, such as Enron, but Enron has gone beyond wrongdoing. It has tried to cover its tracks by shredding documents, and they did not just shred, get caught and stop. After it was discovered that they were shredding documents, they shredded more documents. It is absolutely unbelievable what we are learning about Enron.

We not only wish to protect our consumers against the Enrons and the Global Crossings of the world and others that we are going to find out about, we want to create statutes that will help to shine the light on these corporations in every conceivable way. It goes beyond the need for transparency.

We still have those who would argue, and just a moment ago I was in our

Committee on Financial Services where I had someone from American Enterprise arguing that we should not interfere, we should not try and create too many laws, we should allow the marketplace to work their will, correct itself.

I am sorry, we cannot watch people be harmed. We cannot watch investors harmed. We cannot watch pensioners harmed and say, Well, Enron is going to go down and that is the price they will pay.

How many times do we have to watch consumers hurt? How many times do we have to unveil the manipulations of the greedy corporations of America that will take advantage of anybody that it has the opportunity to take advantage of?

This business of shredding documents should have us all outraged, but we do not hear a chorus of voices coming from those who are trying to protect Enron and the other corporations of America who are manipulating their consumers. What we hear is, Let us make a few new rules, not too many, let us do something to let the American public know we hear them, but let us not do too much.

□ 1345

Well, I want to make sure that we pass laws in this Congress that will not only deal with the tricks of Enron and the way that they created all of these phony and funny companies, but I also want to deal with the accounting firms. I want to make sure they are never able again to receive consulting fees from the same company that it is supposed to be auditing; never able again to turn a blind eye to the practices of the corporation.

We cannot do all of that in this legislation. This is about something else. But we have an opportunity here to do something about the shredding of documents. The shredding of documents shows intent, intent to hide something, intent to make sure there is not a certain kind of discovery. It is really criminal on its face. The shredding of documents by a major corporation in the middle of a scandal, where they have declared this huge bankruptcy, cannot be left untouched.

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

Ms. WATERS. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would ask the gentlewoman, is it not true that in the Enron case that the shredding was flagrant and outrageous in the sense that even after they were discovered shredding, they continued to shred?

Ms. WATERS. Reclaiming my time, Mr. Chairman, that is absolutely correct; and that is what is so outrageous about it all. They started shredding early, they continued shredding, and even after it was discovered, they shredded some more.

So what they have done is to flaunt their criminal activity in all of our

faces; and literally, in the way they are acting, they are daring us to do something about it.

Mr. CONYERS. If the gentlewoman will continue to yield, I would ask her if her amendment, then, would hold them accountable and reinforce any existing remedies against shredding, sanctions of the court, criminal prosecution, and emphasizes this, in the face of the arrogance that has been displayed in this case, and perhaps other cases that have not even come to light?

Ms. WATERS. Mr. Chairman, the gentleman is absolutely correct. Everybody knows about the shredding that took place in Enron. We have all the employees who said, yes, we did it; they told us to do it. And so what we have here is such an admission and knowledge by so many people that with my amendment here they would not be able to get out from under the fact that they absolutely committed the shredding of the documents.

Mr. CONYERS. Well, Mr. Chairman, I want to thank the gentlewoman on behalf of many of us on the committee for a very timely, appropriate, and very sensible provision in the light of what has come to become common knowledge to everyone in the country now.

Ms. WATERS. Reclaiming my time once again, Mr. Chairman, the gentleman is certainly welcome, and let me just say this to him. I believe that as we legislate in this Congress, we must take every opportunity to close every loophole, shut every door, shut down every opportunity for any corporation in America to ever do again what Enron and what appears Global Crossing is doing and has done.

I hate to repeat it because I know people do not want to keep hearing it, but I know the stories of Enron employees who had paid into their 401(k)s. They only had \$400,000 for their retirement to last them for the rest of their lives. It is gone. It is gone. There is nothing that anybody can say about us being too involved, overlegislating, attempting to micromanage. There is nothing that anybody can say that should keep us from using every opportunity.

The CHAIRMAN pro tempore (Mr. SWEENEY). The time of the gentlewoman has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to this amendment because it confuses discovery orders with factual evidence and appears to give the court discretion to admit unproven facts into evidence. This not only undermines the bill but it undermines the very notion of a fair trial that our judicial system is based upon.

There are rules for a fair trial: the right to confront your accuser, a right to a jury in some instances, and a rule that allows both sides to discover information. But there is no precedent in

the American legal system for a court to have the authority to simply decide facts without proof. The amendment of the gentlewoman from California (Ms. WATERS) proposes to do that.

The gentlewoman's amendment strikes at the heart of so many constitutional protections intended to protect the rights of all Americans when they are brought before the court, and it sticks the thumb on the scale of justice against those rights that have been protected both by court rules and statutes, as well as the Constitution of the United States.

For that reason, and for that reason alone, it ought to be rejected. But I would like to talk about two things. The other side keeps on talking about Enron, and we will confront that directly. Enron is broke. No matter what comes out of the bankruptcy court, the people that have lost money in their 401(k)s and had employment contracts ripped up and all of that are not going to get very much money out of it. I think that is a given. And that is a shame, and it is something that we are going to have to get into in another forum. But the law is quite clear that the destruction of subpoenaed documents is a criminal obstruction of justice, and this bill does not change that criminal statute. This bill does not deal with the criminal law in any respect whatsoever.

If people did do that destroying of documents, as we have read that they did, they should be indicted and prosecuted. And if the jury finds them guilty, they should go to jail and they should go to jail for a long time. But I think they deserve a fair trial just like everybody else who is accused of a crime. Because they happen to be associated with Enron or Arthur Andersen really should not make any difference. Because if we erode the right of a fair trial to those defendants, we have set a precedent that is going to bite the people of this country and this Congress for years and years to come. The way to keep the lid on Pandora's box is to reject the amendment of the gentlewoman from California.

Now, the second thing I would like to bring up is let us run the wheel back about 3½ or 4 years. There were certain e-mails in the Clinton White House that were destroyed after having been subpoenaed by the Committee on Government Reform. Now, under the amendment of the gentlewoman from California, whatever the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform, thought he was looking for would have been admitted as evidence and as fact and could not be impeached, even though the destroyed e-mails might have had nothing to do with what he put in his subpoena. That is the type of Pandora's box that this misdrafted amendment is opening up.

And I think my friends on the other side of the aisle, including the gentlewoman from California and the gentleman from Michigan, who were most

eloquent in their defense of the former President, regardless of what the facts were, would have really talked about how unfair a Waters provision would have been relating to those destroyed e-mails. So I think that if it would have been bad as it applied to former President Clinton, it is bad if it applies to Enron or anybody else. We should not open up the Pandora's box.

Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in opposition to this amendment. It is frivolous. Its premise is that courts cannot or do not have the power to sanction wrongdoing by parties in discovery or that the system itself does not prosecute crimes when they occur in our court system.

But, Mr. Chairman, the Democrats have talked today about Enron. They have talked about prescription drug benefits, they have talked about apple juice, tires and the environment. Our friend from Texas even raised my constituents in San Juan County, Utah. Yes, each of these cases presents terrible tragedies committed by one party against a group of others. But this debate is not about whether the plaintiffs in each of these cases is entitled to sue or even entitled to seek class action status. I have heard no one in this Chamber calling for doing away with class action lawsuits. This debate is about where the cases are heard, Federal or State court, and that is it.

When our friends on the other side of the aisle talk about Enron, prescription drugs, truck tires, the environment, or my constituents in San Juan County, what they are doing is to change the subject. Make no mistake, they do not want to talk about multi-million dollar awards for trial lawyers while Americans get coupons in the mail.

It is not often I agree with The Washington Post editorial page, but today I do. The current system is obscene. Trial lawyers take advantage, the little guys get taken to the cleaners, and consumers ultimately pay the price in the form of higher prices.

This legislation deserves everyone's support. I encourage a vote against this amendment and for H.R. 2341.

Mr. SENSENBRENNER. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Wisconsin has 3½ minutes.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time.

There are two major problems with this amendment, which I strongly oppose and which is not well thought out. First, it betrays a serious misunderstanding about how discovery works in civil litigation.

The amendment says if documents subject to a discovery order are destroyed or withheld such action shall be deemed an admission of any fact with respect to which the order was issued. The problem is that discovery orders normally are not issued with respect to facts. The orders normally say that certain categories of documents should be retained or produced.

For example, the order may say produce all letters sent between person A and person B; or the order may say preserve all documents regarding subject X. Thus, the punch line to this amendment does not make any sense. If a party withheld a letter sent between person A and person B, what fact would be admitted? And if a party destroyed a document regarding subject X, what facts would be admitted?

In sum, the amendment is fatally flawed because it bears no relationship to how civil discovery really works. Second, and perhaps more importantly, the amendment would actually disrupt and water down existing rules that apply to the destruction or withholding of documents in the discovery process.

Federal Rule of Civil Procedure 37 already provides for an array of sanctions if a party destroys or withholds documents. The court may order that certain facts be admitted. The court may order that a party may not introduce certain defensive evidence at trial. The court may order that monetary sanctions be paid. And most importantly, the court may order a default judgment. The court may issue an order that the party that disobeyed a discovery order loses the entire case and must pay the plaintiffs what they requested.

There is a considerable risk that courts would view this amendment as replacing this very tough rule 37 in the context of class actions. The amendment only requires admissions. Rule 37 authorizes a court to impose much more serious penalties. Thus, this amendment likely would substantially weaken existing law in addressing and correcting discovery abuses in the context of class actions.

Rule 37 is a preferable approach to discovery abuse issues because it awards various levels of sanctions that may be imposed depending upon the seriousness of discovery abuse. Not every document destruction or withholding situation is the same, and rule 37 allows courts to impose even stronger sanctions than this amendment, if the circumstances warrant.

The chairman of the Committee on the Judiciary is exactly right. If we allow a person making an allegation and then demanding a production of documents to be deemed to have proven their point; that whatever they allege was in those documents to have been what that party alleged, a serious injustice will occur and abuses will crop up all throughout our legal system. This is a bad approach and I urge my colleagues to oppose it.

The CHAIRMAN pro tempore. The gentleman's time has expired. All time

for debate on amendment No. 3 has expired.

The question is on the amendment, as modified, offered by the gentlewoman from California (Ms. WATERS).

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

Mr. CONYERS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. WATERS) will be postponed.

The point of no quorum is considered withdrawn.

□ 1400

The CHAIRMAN pro tempore (Mr. SWEENEY). It is now in order to consider amendment No. 4 printed in House Report 107-375.

AMENDMENT NO. 4 OFFERED BY MR. KELLER

Mr. KELLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. KELLER:

Page 9, insert the following after line 20 and redesignate the succeeding section accordingly:

“§ 1716. Disclosure of attorney's fees

“Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—

“(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or

“(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff, the full amount of the attorney's fees charged by the attorneys for services rendered in the action.

Page 6, in the matter preceding line 1, strike the item relating to section 1716 and insert the following:

“1716. Disclosure of attorney's fees.
“1717. Definitions.”.

AMENDMENT NO. 4, AS MODIFIED, OFFERED BY MR. KELLER

Mr. KELLER. Mr. Chairman, I ask unanimous consent to modify the amendment and further request that such modification be considered as read.

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

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment No. 4, as modified, offered by Mr. KELLER:

Page 10, insert the following after line 4 and redesignate the succeeding section accordingly:

“§ 1716. Disclosure of attorney's fees

“Any court with jurisdiction over a plaintiff class action shall require that, if there is a settlement of the class action or a judgment for the plaintiffs, the attorneys for the plaintiffs shall disclose to each plaintiff—

"(1) at the time when any payment or other award is transmitted to the plaintiff in accordance with the settlement of judgment, or

"(2) in a case in which no such payment or award is made to a plaintiff, at the time when notice of the final settlement or judgment is transmitted to such plaintiff, the full amount of the attorney's fees charged by the attorneys for services rendered in the action.

Page 6, in the matter preceding line 7, strike the item relating to section 1716 and insert the following:

"1716. Disclosure of attorney's fees.

"1717. Definitions."

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentleman from Florida (Mr. KELLER) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Florida (Mr. KELLER).

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

Mr. Chairman, this is a straightforward amendment relating to the disclosure of attorneys' fees. Simply put, if there is a settlement or a judgment for the plaintiffs in a class action suit, the plaintiffs' attorneys shall be required to disclose to their own clients the full amount of the attorneys' fees they are charging.

Why is this necessary? Too often, lawyers cash in while the client gets a coupon or a de minimis cash payment.

For example, in a class action suit against General Mills over a food additive in Cheerios cereal, lawyers were paid \$2 million in fees while their clients received a coupon for a free box of cereal. In a class action lawsuit against Chase Manhattan Bank, the lawyers reached a settlement which provided the lawyers with \$3.6 million in attorneys' fees and provided their clients with 33 cents each.

In another settlement agreement reached last year with Blockbuster, the trial lawyers received \$9.25 million in attorneys' fees and their clients got two free movie rentals and \$1-off coupons.

In a Texas class action suit against two auto insurance companies, the lawyer who filed the suit got \$8 million in attorneys' fees. The policyholders got \$5.50.

In a class action suit brought against manufacturers of computer monitors, the trial lawyers settled the case for \$6 million in attorneys' fees for themselves and \$6 for their clients. The list literally goes on and on.

This amendment simply brings some much-needed sunlight to this situation by requiring attorneys to disclose their own fees. It does not tell them how much to charge, how little to charge, but whatever they charge they are going to have to disclose to their clients.

I ask my colleagues to vote "yes" on the Keller amendment and vote "yes" on final passage of the Class Action Fairness bill.

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

The CHAIRMAN pro tempore. Does the gentleman from Texas rise in opposition?

Mr. SANDLIN. Mr. Chairman, I rise in opposition.

The CHAIRMAN pro tempore. The gentleman from Texas is recognized for 10 minutes.

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

Everyone is interested in fairness. Everyone is interested in transparency. I think no one has any opposition to making sure that both sides in the litigation and the court know about the amount of attorneys' fees, and that is fine.

But this amendment is one-sided, Mr. Chairman, because this amendment requires only that the plaintiffs' attorney reveal the amount of fees to the clients. That is fair to neither the plaintiffs nor the defendants.

Also, our friends on the other side of the aisle forget to note that courts already review fees with a long laundry list of issues and criteria such as time and labor involved, novelty and difficulty of the questions, skill requisite to perform the employment, the customary fees and things such as that. So our position is that what is good for the goose is good for the gander. If we want to have transparency and we want to know what the fees are, let us talk about the fees on both sides so everyone knows where we are.

I wonder if the gentleman from Florida would be willing to consider requiring equal treatment for both sides, require the disclosure of fees for both defense attorneys and plaintiffs' attorneys.

REQUEST TO OFFER MODIFICATION TO
AMENDMENT NO. 4

Mr. SANDLIN. Mr. Chairman, I ask unanimous consent that the Keller amendment be amended by inserting the words "and the defendants" after "plaintiffs" in line 5 of the amendment.

The CHAIRMAN pro tempore. The Chair only would recognize that unanimous-consent request to make a modification if it was made by the amendment's sponsor himself.

Mr. SANDLIN. Mr. Chairman, as I said before, this amendment is one-sided and unfair. If the other side was really interested in letting consumers and the court and the public know about fees, the other side would say the defense should reveal the fees that the defense attorneys are charging, too. That is fair. That is equitable. They know it.

The change I offered to this amendment, which was rejected by the gentleman from Florida, would have corrected that inequality. I would support a fair and equitable disclosure of all attorneys' fees, and those on the other side would not.

I would note that later today the gentlewoman from Pennsylvania (Ms. HART) will offer an amendment to commission a study to look at, among other things, attorneys' fees and get

recommendations from experts on how best to ensure that they are fair and reasonable. Let us not put the cart before the horse. Let us not make change and then do a study. If we want to see if fees are fair, if they are equitable, if they are based upon the law, let us do the study and see what the study says; then we can look at the changes.

The change should be applicable to the plaintiffs, the change should be applicable to the defendants. I think the gentlewoman from Pennsylvania's approach would better ensure that we are addressing the real problems.

I urge my colleagues to defeat this amendment. If you want to review attorneys' fees on both sides, then support HART, support the study. But do not support one-sided legislation and then have the nerve to get up here and put the word "fairness" in the name of the bill. We know there is nothing fair about this bill.

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

The CHAIRMAN pro tempore. The Chair would note that the gentleman from Texas is not a member of the committee. Therefore, the gentleman from Florida has the right to close.

Mr. KELLER. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Florida for yielding me this time. I commend him for offering this amendment and I strongly support it. Let me tell you why.

To the gentleman from Texas, the plaintiffs in a class action lawsuit do not pay the defendants' attorneys' fees, but they sure do in some class actions. How about the Bank of Boston settlement? Would it not have been a good idea for all the plaintiffs in that case if they knew, after the attorneys in the case were paid \$8.5 million in attorneys' fees, that the members of the class would then be sued by their own attorneys to pay \$25 million more? Would that not have been a useful thing for the plaintiffs to have had in that case, when they decide whether or not they want to support this particular proposed settlement of the class?

Or how about the plaintiffs in the airline case where the attorneys received \$16 million in fees, and the plaintiffs themselves received coupons for \$25 off a \$250 or more airline flight, in other words, a 10 percent reduction? Many of those plaintiffs may have said the attorneys are getting \$16 million and I am getting a coupon, no, I do not want that settlement. They ought to know that ahead of time.

How about the case against the National Football League, where the attorneys received \$3.7 million and the subscribers got somewhere between \$8 and \$20? Maybe they would like that, maybe they would not, but they ought to know ahead of time before they vote on the settlement.

How about the Blockbuster case? Twenty-three class action lawsuits in

which the class members got dollar-off coupons and buy-one-get-one-free coupons; and the attorneys are estimated, we do not know for sure because we do not have this disclosure requirement, are estimated to get \$9.2 million in attorneys' fees. I think disclosure would be good in that case as well.

And then, of course, my favorite again, this case where, against Chase Manhattan Bank, the attorneys get \$4 million in fees and the plaintiffs get a check for 33 cents. But, of course, I remind you again they had to mail in that acceptance, so it cost them 34 cents to mail it in to get their 33 cents. I bet people who knew that the attorneys in this case were getting \$4 million would not vote to get a penny off which is what the net result of that is.

Again, that is the actual check from Chase Manhattan Bank. They cut all these checks. It cost 33 cents apiece to issue the check plus more than that to mail the checks to the plaintiffs. The attorneys, of course, their check is \$4 million and I think if the plaintiffs knew that, they would vote against these settlements. They would let the court know, do not approve a settlement where all we get is a 33-cent check and the plaintiffs' attorneys get a \$4 million fee.

I urge my colleagues to support this very good amendment.

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

The statement from our last speaker shows a gross misunderstanding of these suits and the way the fees are paid. He indicated that the plaintiffs do not pay the attorneys. They fail to recognize that there is only so much money in these suits.

What are the defendants scared of? What are the Enrons of the world trying to hide? What are the accounting firms trying to hide? What do the chemical manufacturers want to hide from the public? Why will they not accept fair and reasonable disclosure of the fees charged by defense counsel? That is because defense counsel is charging \$750 an hour, \$500 an hour, \$450 an hour, countless hours with scores of attorneys, most of them not doing any work.

If we are going to have transparency, if you are really interested in good public policy, if you really want to know how much fees are being paid, you should stand up there and do the right thing and say, we agree that the defense should reveal and show how much the defense is getting in addition to what the plaintiffs are getting.

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

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

The gentleman from Texas says, well, let us have the defense attorneys reveal how much they are charging. What he does not point out is that the class members themselves in this plaintiffs' suit are bound to class actions unless they affirmatively opt out.

Defendants, in contrast, actually hire and fire their attorneys. There is a

stark difference. They get those bills on an hourly basis every month. They know precisely what they are being charged and how much the attorneys make. It is the poor guy who gets the Cheerios coupon and then sees the attorney get several million dollars who is a little bit upset. And he is the one who needs some sunlight here; there already is sunlight on the other side.

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

Mr. SANDLIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the ranking member.

Mr. CONYERS. Mr. Chairman, I would like to ask my friend on the committee, the author of the amendment, the gentleman from Florida (Mr. KELLER). Is he not aware of the fact that in most of these settlements, the court requires that the amounts of recovery or payment to the lawyers is revealed in the settlement?

Mr. KELLER. If the gentleman will yield, I am aware that if that is the case, then he should have no objection to my amendment.

Mr. CONYERS. Is he aware or is he not?

Mr. KELLER. I am aware that a lot of people who are members of the class are shocked and appalled to find out.

Mr. CONYERS. I know they are shocked, but are you aware? You know that, do you not?

Mr. KELLER. I am not aware of that most of the time.

Mr. CONYERS. You do not know that.

I thank the gentleman very much. He is not aware of it.

Mr. KELLER. I am aware of the opposite.

Mr. CONYERS. Just a moment, sir. I am not yielding you any more time.

Mr. KELLER. You asked me a question.

Mr. CONYERS. Now that we do understand that this is revealed frequently in the court, even though the gentleman did not know it before, the courts make this matter public.

The other thing is, and this is a question I am going to yield to you on. Are you aware that in section 1715 of this bill that there is the same provision that you are now offering as an amendment?

I yield to the gentleman.

Mr. KELLER. To answer your first question?

Mr. CONYERS. Just answer this one, please. Are you aware or are you not?

You are not. Then I suggest you look at section 1715, and you will see that this request that you are making, as one-sided as it is, is already in the bill that I guess you are supporting; and so it is redundant.

I am impressed by the fact that defense attorneys' fees are not to be revealed, but plaintiffs' attorneys' fees are to be revealed, giving up yet another secret of the practice, namely, that defense lawyers frequently get far more than plaintiffs' lawyers.

So thanks a lot for public disclosure. This is a very helpful amendment in trying to get what we call the vengeance of the ex-trial lawyers in Congress on their former profession.

□ 1415

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

Mr. Chairman, I was asked several questions and really did not get a chance to respond to them, but I will go ahead and respond to them now.

I was asked are you aware you already have this identical language in section 1715? First, I would make the point if the language really were there, then the gentleman, of course, would have no objection to this amendment, which he obviously does, so that is a little bit of a supercilious argument.

Second, having looked directly at section 1715, I can say that language is not there. There is language talking about on the front end providing notice to members of the class as to a perspective amount of payment. My amendment deals with the actual payment that the attorney has received after there has been a judgment or a settlement. So it is distinctly different and is worthy of support.

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

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

Mr. Chairman, as was indicated by my friend, the gentleman from Michigan, fees are already revealed in settlements. Fees are a matter of public record; and they are approved, the fees, by the court based upon certain criteria that has been set out and is of long standing approval by the courts.

There are two basic methods, the percentage method and the load star method. They have many of the same elements; but they consider things, such as an evaluation of the number of hours worked, benefits secured, the nature and complexity of the issues involved, the amount of money or value of property, the extent of the responsibilities assumed by the attorney, or that the attorney lost employment as a result of being employed in this case, novelty and difficulty of the questions, time limitations, experience, reputation and ability of counsel, undesirability of the case, awards in similar cases and customary fees.

That is the general rundown. Those things are considered by the court and fees are placed against that standard when they are approved, and that is placed in the approval.

Now, true enough, attorneys do get fees and do get paid; but our friends on the other side do not want the defense to reveal that. Why not? What are they scared of? What are they hiding? Answer me why the defense will not do it.

In one case, Food Maker, Inc., as we heard today, killed three people. The attorneys got paid in a class action, and they got paid under the criteria that I read to you.

In another case, a sulfuric acid compound leaked from a car in a General

Chemicals Richmond, California, plant; 24,000 people sought medical treatment. The attorneys were paid, and they were paid based upon this criteria.

There was another case where we had \$50 million to a class of 3,500 people living near a pesticide plant contaminated in New Orleans. The amount paid to each plaintiff depended on the years they lived in the area, the extent of exposure, whether they owned their land, what illnesses arose, did they increase in severity, all reasonable things. The attorneys were paid. They were paid based on the criteria approved by the court and by the law.

Lawyers recently filed assault in New Jersey on behalf of by diabetics who used the prescription drug Rezulin to lower blood sugar levels. It was marketed as safe, but later it was showed that it caused severe liver damage, liver failure or death in 100 cases. It was shown the manufacturer knowingly concealed facts about the dangers of the drug from the consumers and the FDA in order to increase sales and make more money. They reached a settlement, and, you know what? The attorneys were paid, as they should have been, based upon the criteria approved by the law.

It is transparent, it is clear. Everyone knows what the plaintiff gets. Everyone knows what they are paid. And the people here that are hiding something are over on that side of the aisle that say we refuse to let you know what defense gets; we refuse to let you know what the insurance lawyers are paid; we refuse to let you know what corporate America's attorneys get paid, because it would offend people such as Enron.

If you want to protect corporate wrongdoers, you need to just get up there and say it and say that is what we are doing, because there is no excuse to say it should be transparent on one side but not transparent on the other. If you want to be fair, be fair; stand up, be fair about it. If you want to be partisan, if you want to protect corporate wrongdoers, just get up there and say it, because that is exactly what you are doing.

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

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

Mr. Chairman, this is a straightforward amendment. We are just shedding some sunlight on the situation and requiring that the plaintiffs' attorneys tell their clients the full amount of fees they are charging. It is as simple as that. We are not saying how much they can charge, how little they can charge, just shed some sunlight on the situation.

We have heard three principal objections to this amendment. First, we hear that some class actions may have merit, and you hear about the Enron case. Well, I agree. I think the Enron class action probably does have merit and probably think there are other class actions that have merit. This has

nothing to do with the merit or lack of merit or any particular class action. It has nothing to do with how much they can charge. It simply relates to disclosure of attorney fees, shedding some sunlight on the situation.

The second thing we have heard is this language of the Keller amendment is already in the bill. Well, it is not in the bill; but even if it were, then so be it. That would be great news. Vote for final passage.

The third thing we hear is, well, defense attorneys should be required to tell their clients how much they charge. In fact, they do. In fact, defense attorneys, unlike the poor people in the class, actually hire and fire their attorneys. They get a monthly statement as to how much they are being charged. There already is full disclosure on that side. So there is a clear distinction.

Mr. Chairman, I urge my colleagues to vote "yes" on the Keller amendment. Let us bring some much-needed sunlight to this situation to require attorneys to disclose their fees.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment, as modified, offered by the gentleman from Florida (Mr. KELLER).

The amendment, as modified, was agreed to.

WITHDRAWAL OF REQUEST FOR RECORDED VOTE ON AMENDMENT NO. 2, AS MODIFIED, OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, earlier I asked for a recorded vote on amendment No. 2, as modified. I ask unanimous consent to withdraw that request.

The CHAIRMAN pro tempore. Without objection, the recorded vote requested by the gentleman from New York (Mr. NADLER) on amendment No. 2, as modified, is withdrawn.

There was no objection.

The CHAIRMAN pro tempore. The amendment is agreed to pursuant to the voice vote taken earlier today.

It is now in order to consider amendment No. 5 printed in House Report 107-375.

AMENDMENT NO. 5 OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. LOFGREN: Page 15, line 6, strike "if—" and all that follows through line 17 and insert the following: "if monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact."

Page 15, line 21, strike "The" and all that follows through "subparagraph (A)." on line 24.

Page 16, line 2, strike "subparagraph (B)" and insert "this paragraph".

MODIFICATION OF AMENDMENT NO. 5 OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I ask unanimous consent to modify amend-

ment No. 5 so that the page numbers comport with the report this morning.

The CHAIRMAN pro tempore. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment No. 5, as modified, offered by Ms. LOFGREN:

Page 15, line 15, strike "if—" and all that follows through page 16, line 2, and insert the following: "if monetary relief claims in the action are proposed to be tried jointly in any respect with the claims of 100 or more other persons on the ground that the claims involve common questions of law or fact."

Page 16, line 6, strike "The" and all that follows through "subparagraph (A)." on line 9.

Page 16, line 12, strike "subparagraph (B)" and insert "this paragraph".

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Without objection, the modification is agreed to.

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentleman from California (Ms. LOFGREN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Ms. LOFGREN).

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

Mr. Chairman, there is no doubt that there have been problems in the area of class action lawsuits. We have heard some reference to those problems here today, and certainly the Committee on the Judiciary heard testimony about some of the issues that do need to be addressed.

However, the fact that there are problems with coupon settlements does not mean that we can adopt any old thing as a remedy. In fact, this bill has some flaws, and the amendment before the body now is a very important amendment because it cures one of those flaws.

This is an amendment that is very important for local prosecutors. H.R. 2341, oddly enough, prevents district attorneys from taking civil actions to benefit the public under the guise of "class action reform."

This provision of the bill is opposed by the California District Attorneys' Association, and that is because this provision of the bill is not limited to consumer protection class actions brought by plaintiff attorneys. It has a far-more reaching effect. It federalizes any State cause of action that is brought on behalf of the general public.

California, like many other States, has enacted strong antitrust laws that prohibit unfair combinations and unlawful restraints of trade, and Californians have chosen to allow their district attorneys, in addition to the State attorney general, to enforce

these laws in State courts. This bill would usurp California's choice with an expansive definition of "class action" that includes any case brought on behalf of the general public.

The Federal Government should not force a local prosecutor to try State antitrust lawsuits in Federal court. Nor should the Federal Government force local prosecutors to comply with Federal class certification requirements that they likely cannot comply with, and if they fail to comply, their cases will be dismissed and very likely they will not be able to refile in State court.

This bill would have a chilling effect on State and local antitrust law enforcement, as well as consumer protection actions in the civil side that are undertaken by district attorneys.

The ability to bring these suits is a powerful tool for local district attorneys, many of whom, including in my own county of Santa Clara, have set up consumer protection units. In fact, one such unit in the San Francisco District Attorney's Office successfully settled a major consumer protection action against Providian Financial Corporation that netted \$300 million for consumers.

I would note that in addition to standing up for consumers, local district attorneys can also generate revenue for local government in their very modest fees that do not match the fees that we have heard talked about on this floor.

Now, some have asked me, how can this bill do what I have described? I would simply direct Members to page 15 of the bill where class action is defined in this way: "The named plaintiff purports to act for the interests of its members (who are not named parties to the action) or for the interests of the general public, seeking a remedy of damages, restitution, disgorgement, or any other form of monetary relief, and is not a State attorney general."

Well, I think the drafters of the bill have understood that State attorneys general bring civil actions. They just apparently have not understood that district attorneys and city attorneys can bring those same kinds of actions. It does not make any sense at all to force those district attorneys into Federal court, where they are going to then be asked to comply with rule 23, and the district attorneys will not be able to comply with rule 23 because they are not bringing a class action lawsuit, and, then, according to the bill, their lawsuits made on behalf of the people, most mandatory, will be dismissed.

So this amendment offered by myself and the gentleman from California (Mr. SCHIFF), a former prosecutor in California, would remedy this serious defect in the bill.

I urge its adoption.

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

The CHAIRMAN pro tempore. Does the gentleman from Wisconsin (Mr.

SENSENBRENNER) rise in opposition to the amendment?

Mr. SENSENBRENNER. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman is recognized for 10 minutes.

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

Mr. Chairman, I rise in strong opposition to this amendment, which effectively excludes private attorney general claims from the provisions of H.R. 2341.

Allowing citizens to use private rights of actions as a class is an enormous loophole in this law that can be easily accessed and lead to continued abuses in local courts, even in California.

Now, let me say when we are talking about diversity jurisdiction as established in the Constitution, we are talking about claims between plaintiffs in different States and defendants in different States, so if all the plaintiffs lived in California and the defendant was living in California, there would be no Federal diversity jurisdiction whatsoever and the case would be tried in the California court.

However, the Federal courts were intended by the Framers in diversity jurisdiction to get away from having a State court be the hometown umpire and thus favoring litigants from the State where the court sat. So if I had a claim and were potentially a member of a class as a citizen of the State of Wisconsin, I really would not appreciate very much one of these private attorney general actions litigating my claim in a California court which is 1,500 miles away from my State. I would end up having my rights litigated and my remedies extinguished as a citizen of Wisconsin in a court that I might not think I would get a fair trial in.

Now, under H.R. 2341, I, as a citizen of Wisconsin, if I were a defendant in this action, would have the right to remove the case into a Federal court and even the playing field.

Mr. Chairman, I think we ought to realize that every case that arises under diversity jurisdiction arises under State law. Cases that arise under Federal law jurisdiction, the jurisdiction is in the Federal courts, and they can automatically be removed simply because a Federal question is posed. So diversity jurisdiction applies where no Federal question is posed, but you have plaintiffs and defendants who live in different States and are citizens of different States.

Now, I think that in order to protect the nonresident litigants, there ought to be a procedure to remove those types of private attorney general class action claims into Federal court. The bill provides that procedure. The gentlewoman from California wants to eliminate that procedure, and that means that those of us who happen to be either plaintiffs in a class action or a defendant in one of these private at-

torney general actions in a State like mine that does not allow them will end up having the case litigated in a court that might be thousands of miles away from where we live and would have the hometown bias.

□ 1430

That is not what this bill should be about, and that is why I hope this amendment will be defeated.

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

Ms. LOFGREN. Mr. Chairman, I yield myself 45 seconds to note that in the Providian case I mentioned where the district attorney in San Francisco pursued a remedy for the citizens, the public, the people in San Francisco, obtaining a \$300 million benefit for consumers, there was incomplete diversity and it was not removed because one of the subsidiary defendants was from out of State. However, under this act, that action would have to be removed and would have to be dismissed, because rule 23 relative to class actions cannot possibly be complied with by district attorneys acting on behalf of the people, and I think that this is a very stealthy way to eliminate jurisdiction of district attorneys and city attorneys acting in their civil capacity on the part of the people. I would urge that this amendment be adopted to cure this fatal defect.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time. I too oppose this amendment.

A rose by any other name would smell as sweet; a class action by any other name is still a class action. This legislation is designed to treat all similar types of actions similarly, and it is totally unfair to place parties in other States at the mercy of those who would have an exception to this rule that if it were brought by a local prosecutor or other attorney, that they would then be able to keep these cases in State court.

As to the concern raised by the gentlewoman regarding the bringing of these actions in Federal court, no, they do not have to be moved to Federal court; and if they are, the Federal court judge has wide latitude to remand cases to State court where the judge finds that an inequity would result or where it would be better to bring that case in State court in the first place.

So there is no reason to draw a distinction. There are many, many class action lawsuits that can and should be heard in the State courts. If they meet the criteria of the law, they should do it.

This bill is simply designed to make sure that cases that otherwise could be brought in Federal court because of diversity of jurisdiction can indeed be

brought for that reason and not bogged down under a \$75,000 per plaintiff limitation, which in so many, many of these class actions involving peanuts, being the amount of the settlement for the plaintiffs, could not be brought in Federal court and, instead, gets brought in that favorite jurisdiction, whether it is in California or any other State. This levels the playing field and makes sure that all of these actions are treated fairly and equally. There is no reason to make a distinction for this type of action.

Mr. Chairman, I would encourage my colleagues to oppose this amendment.

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

Ms. LOFGREN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, I rise in support of the amendment proposed by the gentlewoman from California (Ms. LOFGREN).

The gentleman who just spoke quoted that a rose by any other name is still a rose, and I would like to talk about one of those roses that we talk about frequently in this House, and that is the rose of federalism, that is the rose of State rights. Because State rights and deferring to the legislatures of the 50 States is as pure and as beautiful as a rose, both in this context, as it is in so many other contexts that our colleagues remind us of from time to time.

What does that mean in the case of this amendment? It means that when a legislature like that in California passes a law to protect the consumers of that State by empowering individuals to act as private attorneys general, rather than simply expanding the attorney general's office and hiring more and more attorneys general, California has chosen to protect consumers by empowering individuals to act as the attorney general when the attorney general lacks the resources to do it. Maybe the case is too small to impose upon the attorney general, so private citizens can bring these actions to protect their rights.

This is exactly what the States are supposed to do; they are supposed to innovate. They are supposed to use new methods of attacking old problems. So California has used this new method of private attorneys general to attack unfair business practices.

What is the Congress doing in this bill right now by opposing this amendment? It is saying that, well, we are fine with federalism, we are fine with State rights except when the rights are about protecting consumers; except when we do not like the direction where the State may be headed.

I served in the California legislature for 4 years. We have very strong consumer protections. Large corporations that do business in California, they take advantage of those protections in a positive way. They take advantage of all of the benefits of California law, and we should not pass a bill today

that basically says that these large, out-of-state companies that want to take advantage of the good economic environment in California and sell goods and products and services to Californians, to take advantage of that forum should be somehow immune, be able to remove from California courts, maybe remove from California completely, any action that consumers might bring or a private attorney general might bring on their behalf. That simply is not right.

A rose by any other name is a rose, and the rose of federalism supports this amendment. I urge an "aye" vote.

Ms. LOFGREN. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee.

Mr. CONYERS. Mr. Chairman, I want to compliment the gentlewoman from California (Ms. LOFGREN) on this amendment because the State of Michigan has precisely the same provision as the State of California.

The gentleman from California (Mr. SCHIFF) and the gentlewoman from California (Ms. LOFGREN) have explained it perfectly. I just had a Committee on the Judiciary staffer, Scott Deutchman, call the attorney general, Jennifer M. Granholm, in Michigan to confirm with her before I made the statement in support of the Lofgren provision that the Michigan attorney general is totally supportive and is stunned by the notion that anything in our laws, our procedures here would require her or citizens to go into a Federal court to seek a remedy that is uniquely available to them under State procedures.

So I am very pleased to indicate that our attorneys general and like those of California are totally in support of the Lofgren amendment. I hope that the Members will appreciate the significance of this provision.

Ms. LOFGREN. Mr. Chairman, do I have the right to close?

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Wisconsin (Mr. SENSENBRENNER) has the right to close. The gentlewoman from California has 1¼ minutes remaining.

Ms. LOFGREN. Mr. Chairman, I yield myself the remaining time.

I have heard the comments that the provision in the bill is fine because it is diversity jurisdiction, and I just do not buy that argument. I will tell my colleagues why.

Take a look at the provision that creates sort of class action coverage for the actions of district attorneys, our local prosecutors. It specifically exempts State attorneys general. So the argument my colleagues are making that these cases need to be brought and heard in Federal court when there is diversity of any sort at all does not wash if we are exempting the State attorneys general from the provisions of these consumer protection actions.

I called yesterday, I was ill last week and I wish I had called him before yesterday, but I called the district attor-

ney in Santa Clara County. He was stunned to see this provision and adamantly opposes it. He put me in touch with the California State Attorneys General Association. They could not believe that this provision would be proposed; and they were absolutely amazed that it would seriously be considered, that their divisions that act in behalf of the people would essentially be shut down because they could never comply with rule 23.

Please, support this amendment and cure this serious problem in the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the reason there is an exemption for State attorneys general in this bill is because the State attorney general is the chief law enforcement officer of the State. In most States, the attorney general is an elected official.

Now, if the attorney general is not doing his job, then it is up to the voters to choose a new attorney general in the next election. But just because attorneys general might not be able to do their job is no reason why we should empower a whole host of other people to file pseudo class actions, which is what the amendment of the gentlewoman from California seeks to do.

Now, again, diversity jurisdiction interprets State law. Federal questions are automatically removable to Federal court. The reason the Framers put diversity jurisdiction into the Constitution was to prevent a State judge from being a hometown umpire to the prejudice against citizens of other States who happen to be litigants.

So very simply, what we do in this bill is to provide a better way of protecting litigants who come from other States. For that reason, I would urge that this amendment be rejected.

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

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentlewoman from California.

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

Ms. LOFGREN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from California (Ms. LOFGREN) will be postponed.

It is now in order to consider Amendment No. 6 printed in House report 107-375.

AMENDMENT NO. 6 OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. CONYERS: Page 16, line 2, strike the quotation marks and second period.

Page 16, insert the following after line 2:

“(10)(A) For purposes of this subsection and section 1453 of this title, a foreign corporation which acquires a domestic corporation in a corporate repatriation transaction shall be treated as being incorporated in the State under whose laws the acquired domestic corporation was organized.

“(B) In this paragraph, the term ‘corporate repatriation transaction’ means any transaction in which—

“(i) a foreign corporation acquires substantially all of the properties held by a domestic corporation;

“(ii) shareholders of the domestic corporation, upon such acquisition, are the beneficial owners of securities in the foreign corporation that are entitled to 50 percent or more of the votes on any issue requiring shareholder approval; and

“(iii) the foreign corporation does not have substantial business activities (when compared to the total business activities of the corporate affiliated group) in the foreign country in which the foreign corporation is organized.”

AMENDMENT NO. 6, AS MODIFIED, OFFERED BY
MR. CONYERS

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to modify the amendment, and I further request that such modification be considered as read.

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

There was no objection.

The text of amendment No. 6, as modified, is as follows:

Page 16, line 12, strike the quotation marks and second period.

Page 16, insert the following after line 2:
“(10)(A) For purposes of this subsection and section 1453 of this title, a foreign corporation which acquires a domestic corporation in a corporate repatriation transaction shall be treated as being incorporated in the State under whose laws the acquired domestic corporation was organized.

“(B) In this paragraph, the term ‘corporate repatriation transaction’ means any transaction in which—

“(i) a foreign corporation acquires substantially all of the properties held by a domestic corporation;

“(ii) shareholders of the domestic corporation, upon such acquisition, are the beneficial owners of securities in the foreign corporation that are entitled to 50 percent or more of the votes on any issue requiring shareholder approval; and

“(iii) the foreign corporation does not have substantial business activities (when compared to the total business activities of the corporate affiliated group) in the foreign country in which the foreign corporation is organized.”

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentleman from Michigan (Mr. CONYERS) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

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

Mr. Chairman, I begin by hoping that this amendment may be accepted; but moving on, I would describe the amendment to my colleagues.

This is an amendment designed to help adjust the problem that is happening with increasing frequency

where our domestic United States corporations reincorporate at an office somewhere abroad, out of the United States, for the purpose of, one, avoiding United States taxes; and, two, avoiding legal liability.

Now, in the 6 months of our fight against terrorism at home or abroad, it would seem to me the last thing that we should be doing would be to pass legislation which would in any way aid, help, or assist what I would call these corporate tax traitors.

With increasing frequency, there are U.S. companies setting up shell companies in places like Bermuda, and the company continues to be owned by United States shareholders, continues to operate in the United States and do business in the USA and all its locations. The only difference is that the new foreign company escapes substantial tax liability and, under the provisions of this bill, could more easily avoid legal liability in State class action cases.

□ 1445

The actions of these companies are a slap in the face to every citizen who works hard and pays their taxes in this country. Our amendment responds to this egregious behavior by treating the former United States companies as a domestic corporation for class action purposes.

Now, apologists for these financial outlaws may attempt to argue that our amendment may not be necessary because the bill only deals with national class actions. But, Mr. Chairman, nothing could be further from the truth.

Under this bill, actions involving State consumer protection laws brought by residents who all reside in one State could be removable to a Federal court simply because the financial outlaws tried to abscond from the State. This is not a national class action. This is a State class action that belongs in a State court, the fact that a financial corporate outlaw engaged in a sham transaction should be irrelevant as far as the legal liability in these cases would be concerned.

So the bottom line is simple: as presently written, the bill gives a liability windfall to these foreign tax evaders. Today we have an opportunity to send a message that it is wrong to pretend one is a U.S. corporation when one is incorporated in Bermuda. It is wrong to seek the benefits of corporate citizenship without responsibility. It is wrong to engage in sham offshore transactions which leave hard-working United States citizens paying more taxes because they are paying less.

Mr. Chairman, I urge support for this Conyers-Jackson-Lee-Neal amendment.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). Does any Member rise in opposition?

Mr. GOODLATTE. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. GOODLATTE) is recognized for 10 minutes.

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

Mr. Chairman, I rise in strong opposition to this amendment. This is a red herring if there ever was one. There is nothing in this legislation that has anything to do with the tax liability of corporations that may have been moved offshore. To raise it in this class action lawsuit is a big mistake. It would provide more jurisdiction over larger cases to State courts and undermine our effort to allow Federal courts jurisdiction over large, interstate class actions, the very point of bringing this legislation forward. The most complex cases should be heard in the courts designed to hear them: the Federal courts.

Attempting to redefine the home base of a corporation just for the purposes of class action lawsuits will not affect any other lawsuits brought against the corporation. It certainly will not affect their tax liability. If this amendment is about tax loopholes, then that is something that should be dealt with by the Committee on Ways and Means.

This amendment is intended to prevent nationwide, even international, class actions having national implications then plaintiffs from many States from being heard in Federal court.

The premise of H.R. 2341 is to allow Federal courts to resolve these large class actions in a balanced and fair way. That is why the Founding Fathers created article III courts, to resolve Federal questions and issues of a wide degree of diversity. That is what class actions are by their very nature.

The fact of the matter is that a dispute between two individuals from different States for slightly more than \$75,000 can be resolved by a Federal court, but with a national class action worth billions of dollars, in the case of this amendment a foreign corporation, the case cannot be heard in Federal court. That is wrong.

I urge my colleagues to oppose this amendment. It is something that would give State courts jurisdiction over cases that involve U.S. companies that have been purchased by foreign companies. These are generally large, nationwide lawsuits that we are talking about. They are precisely the kind of cases that should be brought and heard in Federal court.

I urge my colleagues to oppose the amendment.

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

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), who has worked on this subject matter for many years.

Mr. NEAL of Massachusetts. Mr. Chairman, I thank the gentleman from Michigan (Mr. CONYERS) for yielding time to me and certainly acknowledge some of the questions that have been raised by a former constituent of mine, the gentleman from Virginia (Mr. GOODLATTE).

But I want to call attention to this issue. The gentleman from Colorado (Mr. MCINNIS) is sitting on the floor, as well. I know that he has filed similar legislation to the bill that I filed last week.

Let me, if I can, Mr. Chairman, outline the nexus of this problem. Last week the Defense Department announced that the U.S. was sending military advisers to Yemen, the Philippines, and Georgia, in the former USSR. This is going to be expensive, but we acknowledge it is a necessary defensive action.

And as we prosecute this war on terrorism, Mr. Chairman, one U.S. corporation next week will vote on whether or not to leave the United States solely to avoid U.S. income taxes, taxes which our constituents and I will have to pay more of to fund this war against evil.

Today I am urging the Members to support a commonsense amendment telling these corporate expatriates, these financial deceivers, that they should not enjoy special legal protections. This amendment is based on bipartisan legislation that surely at some point is going to see the light of day and make it to the floor of this House.

But, Mr. Chairman, one accountant, a very aggressive accountant, I might add, advised her clients just 3 months ago to sneak out of the United States; just leave in the dark of night to avoid paying American income taxes. The Treasury Department just stated 2 weeks ago: "We are seeing a marked increase in the size and frequency of these transactions." For a mere \$27,000, a corporate expatriate can rent a post office box offshore and avoid \$40 million in Federal income taxes.

If individuals were doing this, the American people would be outraged. As our Senate colleague from Iowa, the ranking Republican on the Finance Committee, said last week, it is a slap in the face to individual taxpayers who bear the brunt of the total Federal tax burden when the business community buys into these deals. Support this amendment today denying a liability windfall to these corporations that shelve the Stars and Stripes to simply save on the bottom line.

Mr. GOODLATTE. Mr. Chairman, it is my pleasure to yield 3 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Chairman, I thank the gentleman for yielding time to me.

First of all, I agree with the comments of the gentleman from Michigan (Mr. CONYERS). I agree with most of the comments of the gentleman from Massachusetts (Mr. NEAL). I think it would be beneficial, and we would ask the gentleman to merge his bill with our bill.

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

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

Mr. NEAL of Massachusetts. Mr. Chairman, perhaps the gentleman from

Colorado (Mr. MCINNIS) would merge his bill with my bill. We are only 5 percent different.

Mr. MCINNIS. Mr. Chairman, as the first in order of number, we will take the gentleman on our bill.

Mr. Chairman, the point is, we agree on the substance of the abuse that is taking place out there, and we want to close the loophole. This is not the bill to close the hole. This is not the Committee on Ways and Means, and this is not the Committee on Ways and Means' bill.

What has happened here is they put this amendment out, I think, simply to express our disdain, properly express our disdain with what is going on out there and with what some of the corporations are doing, including Stanley Tool Corporation and some others that I think ought to be held publicly accountable.

In fact, I would say to the gentleman from Massachusetts, I was at a dinner last weekend with several hundred blue-collar workers, mechanics; and I urged every one of them not to buy Stanley tools as a result of what Stanley Tool Corporation is attempting to do. While our American young people fight overseas, we have these corporations that enjoy the protection of this putting up a post office box in Bermuda.

This simply has nothing to do with it. This amendment deals with diversity. This amendment deals with standing. To try and link, to make that leap, we are not making the link. So the issue is right and the platform is wrong.

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

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

Mr. CONYERS. Mr. Chairman, I just want to compliment the gentleman on his support for the theory behind this.

I would just point out to him that escaping legal liability is not a function of any other committee but the Committee on the Judiciary. So we are not trying to get to the tax prosecution, sir. We are just getting to those who are escaping, to escape the kind of jurisdiction of class action suits.

Mr. MCINNIS. Reclaiming my time very quickly, Mr. Chairman, I am not trying to take jurisdiction from the gentleman's committee, obviously. I disagree that this amendment is going to do what the gentleman is saying it is going to do. I say that with all due respect. I think this amendment out there is simply to bring up this discussion.

We ought to have lots of discussion and public exposure, I say to the gentleman from Massachusetts (Mr. NEAL), on what is going on out there. It is wrong. But this is not the platform to do it. This amendment does not accomplish what the sponsors say it will as far as the legal corporation for standing in class suits and diversity. I think it is a good discussion, wrong place.

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

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

Mr. GOODLATTE. Mr. Chairman, would the gentleman from Colorado (Mr. MCINNIS) agree that not only is this not the right place to do this, but this amendment does not cure the problem that the gentleman is talking about? It has nothing to do with changing the tax laws of these corporations.

Mr. MCINNIS. Reclaiming my time, Mr. Chairman, the gentleman from Virginia is absolutely correct. This does not accomplish what the intent behind it may be, and the proper discussion that is taking place here really will take place in great detail in front of the Committee on Ways and Means with both of our bills, and I urge that is where we move it back to and get on with the business at hand.

Mr. CONYERS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE), who is a cosponsor of the amendment.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I just wanted to go back to the comments of the gentleman from Colorado (Mr. MCINNIS), who I more frequently see on Special Orders at night in my home than I do on the floor. I am happy to find he and I in agreement.

But he asked the question, will this amendment accomplish what we say it will. Well, we have talked with the American Law Division, and they agree that, in its current form, the measure offers new abilities, this bill, to remove cases to Federal court for companies that engage in corporate repatriation transactions that are not available under present law.

So, in other words, the only place we can stop this is in the Committee on the Judiciary in terms of this jurisdictional opportunism.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding to me, and I would like to pursue the argument he just made. I think that is the crux of the difference of opinion that we have in opposing this legislation but supporting this amendment. That is, where there is a benefit, there has to be a burden.

I think that the Committee on the Judiciary in this jurisdiction is frankly the appropriate place for this amendment to be placed, because what we are suggesting is that if one is absconding from the United States, absconding from paying taxes, then one should not have the benefit of going into the Federal courts where they will be able to, in essence, block petitioners who are in a class action litigation.

We are opposed to this particular legislation because it does undermine

class actions that have been successful in State courts. Let me cite an example: Foodmaker, Inc., the parent company of Jack-in-the-Box restaurants, agreed to pay \$14 million in a class action settlement in Washington. The class included 500 people, mostly children, who became sick early in 1993 after eating undercooked hamburgers tainted with e. Coli bacteria.

The victims suffered from a wide range of illnesses, from more benign sicknesses to those that required kidney dialysis. Three children died. The settlement was approved on September 25, 1996, in King County, Washington Superior Court.

If, for example, this legislation was in place, there is clear opportunity, possibly if one of the plaintiffs had just moved over to Oregon or had been visiting from Oregon, that case would have been in a Federal court.

We are suggesting that if one absconds from the United States in order not to pay taxes, if this legislation were to have passed, we do not believe they should have any right to the benefit of moving the case, a class action case, to the Federal courts. That is the crux of this. This is the bill that is moving through the House now.

I certainly appreciate the legislation of the gentleman from Massachusetts (Mr. NEAL), and I want to support the legislation. I appreciate his support. He is on the Committee on Ways and Means.

□ 1500

That bill can move of its own legs, and we will support it, but this bill is moving, and we are only talking about legal liability, the inability to access the Federal court, a benefit that one would secure if this legislation passed. We want to block that benefit because we need to protect consumers on this.

Let me just simply say, we are standing here today to say to Americans, who have just gone through a traumatic experience with the collapse of a major corporation, that we are going to smack them in the face and go against the rights of consumers. We are also going to allow someone who absconds to another island, another place to establish a foreign corporation, to now not only access the Federal courts and benefit from the presence of that legislation, but also not pay taxes.

This is a common-sense, good-sense consumer protection amendment, and I believe my colleagues, if they look at it, will understand it is appropriately tracking this legislation which is under the jurisdiction of the Committee on the Judiciary, because we are preventing them from having a legal benefit when they abscond from the United States and desire not to pay taxes.

Thank you Mr. Chairman and Ranking Member CONYERS.

I am proud to join Mr. CONYERS in offering the Conyers Jackson-Lee Neal amendment which would deny corporations who relocate to foreign countries simply to avoid paying income taxes from enjoying the benefits of this bill.

As the saying goes, "death and taxes are the only guarantees in life". You and I could never avoid paying taxes, but we try to minimize them to the best of our ability. The same philosophy applies to companies.

However, there is a growing trend in this country where American companies are incorporating Bermuda, or other countries that do not have income taxes, to avoid paying taxes altogether while maintaining the benefits and security of doing business in the United States. But these companies don't actually relocate to Bermuda. Rather, they are a Bermuda corporation only on paper.

But the tax benefits are profound. Tyco International, a diversified manufacturer headquartered in New Hampshire but incorporated in Bermuda, saved more than \$400 million last year in taxes alone. And Stanley Works, a Connecticut manufacturer for 159 years, will cut its tax bill by \$30 million a year to about \$80 million.

Although it is a growing trend, some companies hesitate to incorporate in Bermuda because of patriotism issues, especially after the tragedies of September 11. But low and behold, "profits trump patriotism".

Enron Corp had set up an estimated 2,800 to 3,000 "special purpose entities" (SPEs) in an attempt to hid amounting debt and losses and to avoid paying taxes. As a matter of fact, Enron had not paid any income taxes in the last five years. And due to the nature of these transactions, and the fact that these SPEs were created as a separate entity from Enron, government officials have been unable to acquire more information to determine the extent of liability.

Allowing companies who relocate to foreign countries simply to avoid paying taxes and still benefit from class actions in a federal forum would enable a defendant corporation to avoid accountability and result in the plaintiff class having a more difficult time seeking redress.

Again, this amendment would attempt to bring justice within the reach of the victims aggrieved by these corporate giants. I ask my colleagues to support this amendment.

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

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman from Virginia (Mr. GOODLATTE), who has the right to close, has 4 minutes remaining.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, frankly this amendment is not just wrong, it does not make any sense at all. What the other side is proposing to do here will not have the effect that they are suggesting. They are limiting the options of those who would bring class action lawsuits against some of these corporations that they refer to.

There are many instances now in which a case cannot be brought in Federal court because of this diversity rule which could be brought against those corporations; in my State of Virginia, for example, a State that does not recognize class action lawsuits, so making it easier to bring actions in Federal court is not something that is going to harm these corporations whatsoever.

As explained during the Committee on the Judiciary markup, the purpose

of this amendment is to discourage companies from moving their parent entities offshore, to turn them into foreign corporations in order to achieve tax advantages. Thus, although this amendment does not seek to derail enactment of the core provision of the bill, that is, the provisions expanding Federal diversity jurisdiction over interstate class actions, it would preclude companies owned by foreign or offshore companies from exercising that change.

This effort to establish tax policy through procedural and jurisdictional rules applicable to civil litigation is truly bizarre, the ultimate non sequitur.

As stated by its authors, the purpose of the amendment is to punish companies with offshore owners by forcing them to litigate class actions brought against them in State court, while companies that have U.S. parents may remove their cases to Federal court under the expanded Federal jurisdiction of provisions of this bill.

Obviously, making this sort of distinction among companies based on foreign ownership is a constitutionally suspect policy, but equally important is the fundamental premise of the amendment, that forcing parties to litigate interstate class actions in State courts constitutes a sort of punishment.

Thus, although this amendment should be defeated, it does suggest agreement on the key predicate for H.R. 2341: State courts are not an ideal place for parties to litigate class actions.

This amendment should be defeated, but this amendment should be remembered as confirming the key reasons why the overall bill, the fundamental provisions of H.R. 2341, should be enacted.

Let us not limit the choice that is involved here where these cases can be considered. Let us make the Federal diversity rules work. That is what this bill is about. That is what this amendment would defeat, and I urge my colleagues to oppose the amendment.

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

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Michigan (Mr. CONYERS).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. CONYERS) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 3 offered

by the gentlewoman from California (Ms. WATERS); Amendment No. 5 offered by the gentlewoman from California (Ms. LOFGREN); and Amendment No. 6 offered by the gentleman from Michigan (Mr. CONYERS).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 3, AS MODIFIED, OFFERED BY MS. WATERS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on Amendment No. 3, as modified, offered by the gentlewoman from California (Ms. WATERS) on which further proceedings were postponed on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 251, not voting 9, as follows:

[Roll No. 56]

AYES—174

Abercrombie	Gutierrez	Moore
Ackerman	Hall (OH)	Moran (VA)
Andrews	Harman	Murtha
Baca	Hastings (FL)	Nadler
Baird	Hilliard	Neal
Baldacci	Hinchev	Obey
Baldwin	Hoeffel	Olver
Barcia	Holt	Ortiz
Becerra	Honda	Owens
Berkley	Hoyer	Pallone
Berman	Inslee	Pascrell
Berry	Israel	Pastore
Bishop	Jackson (IL)	Payne
Bonior	Jackson-Lee	Pelosi
Borski	(TX)	Phelps
Boswell	Jefferson	Pomeroy
Brady (PA)	Johnson, E. B.	Price (NC)
Brown (FL)	Jones (OH)	Rahall
Brown (OH)	Kanjorski	Rangel
Capps	Kaptur	Reyes
Capuano	Kennedy (RI)	Rivers
Cardin	Kildee	Rodriguez
Carson (IN)	Kucinich	Roemer
Carson (OK)	LaFalce	Ross
Clay	Lampson	Rothman
Clayton	Langevin	Roybal-Allard
Clement	Lantos	Rush
Clyburn	Larsen (WA)	Sanders
Conyers	Larson (CT)	Sandlin
Costello	Lee	Sawyer
Coyne	Levin	Schakowsky
Crowley	Lewis (GA)	Schiff
Cummings	Lipinski	Scott
Davis (CA)	Lowey	Serrano
DeFazio	Luther	Sherman
DeGette	Lynch	Shows
Delahunt	Maloney (CT)	Skelton
DeLauro	Maloney (NY)	Slaughter
Deutsch	Markey	Smith (WA)
Dicks	Mascara	Solis
Dingell	Matheson	Spratt
Doggett	Matsui	Stark
Doyle	McCarthy (MO)	Strickland
Edwards	McCarthy (NY)	Stupak
Engel	McCollum	Tanner
Etheridge	McDermott	Thompson (CA)
Evans	McGovern	Thompson (MS)
Farr	McIntyre	Tierney
Fattah	McKinney	Towns
Filner	Meehan	Turner
Ford	Meek (FL)	Udall (CO)
Frost	Meeks (NY)	Udall (NM)
Gephardt	Menendez	Velazquez
Gilman	Millender	Visclosky
Gonzalez	McDonald	Waters
Gordon	Miller, George	Watson (CA)
Green (TX)	Mink	

Watt (NC)	Weiner	Woolsey
Waxman	Wexler	Wynn
NOES—251		
Aderholt	Graham	Peterson (MN)
Akin	Granger	Peterson (PA)
Allen	Graves	Petri
Army	Green (WI)	Pickering
Bachus	Greenwood	Pitts
Baker	Grucci	Platts
Ballenger	Gutknecht	Pombo
Barr	Hall (TX)	Portman
Bartlett	Hansen	Pryce (OH)
Barton	Hart	Putnam
Bass	Hastings (WA)	Quinn
Bereuter	Hayes	Radanovich
Biggert	Hayworth	Ramstad
Bilirakis	Hefley	Regula
Blumenauer	Herger	Rehberg
Blunt	Hill	Reynolds
Boehler	Hilleary	Riley
Boehner	Hobson	Rogers (KY)
Bonilla	Hoekstra	Rogers (MI)
Bono	Holden	Rohrabacher
Boozman	Hooley	Ros-Lehtinen
Boucher	Horn	Roukema
Boyd	Hostettler	Royce
Brady (TX)	Houghton	Ryan (WI)
Brown (SC)	Hulshof	Ryun (KS)
Bryant	Hunter	Sabo
Burr	Hyde	Sanchez
Burton	Isakson	Saxton
Buyer	Issa	Schaffer
Callahan	Istook	Schrock
Calvert	Jenkins	Sensenbrenner
Camp	John	Sessions
Cannon	Johnson (CT)	Shadegg
Cantor	Johnson (IL)	Shaw
Capito	Johnson, Sam	Shays
Castle	Jones (NC)	Sherwood
Chabot	Keller	Shimkus
Chambliss	Kelly	Shuster
Coble	Kennedy (MN)	Simmons
Collins	Kerns	Simpson
Combest	Kind (WI)	Skeen
Condit	King (NY)	Smith (MI)
Cooksey	Kingston	Smith (NJ)
Cox	Kirk	Smith (TX)
Cramer	Klecza	Snyder
Crane	Knollenberg	Souder
Crenshaw	Kolbe	Stearns
Cubin	LaHood	Stenholm
Culberson	Latham	Stump
Cunningham	LaTourette	Sullivan
Davis (FL)	Leach	Sununu
Davis, Jo Ann	Lewis (CA)	Sweeney
Davis, Tom	Lewis (KY)	Tancredo
Deal	Linder	Tauscher
DeLay	LoBiondo	Tauzin
DeMint	Lofgren	Taylor (MS)
Diaz-Balart	Lucas (KY)	Taylor (NC)
Dooley	Lucas (OK)	Terry
Doolittle	Manzullo	Thomas
Dreier	McCrery	Thornberry
Duncan	McHugh	Thune
Dunn	McInnis	Thurman
Ehlers	McKeon	Tiahrt
Ehrlich	McNulty	Tiberi
Emerson	Mica	Toomey
English	Miller, Dan	Upton
Everett	Miller, Gary	Vitter
Ferguson	Miller, Jeff	Walden
Flake	Mollohan	Walsh
Fletcher	Moran (KS)	Wamp
Foley	Morella	Watkins (OK)
Forbes	Myrick	Watts (OK)
Fossella	Nethercutt	Weldon (FL)
Frank	Ney	Weldon (PA)
Frelinghuysen	Northup	Weller
Galleghy	Norwood	Whitfield
Ganske	Nussle	Wicker
Gekas	Wilson	Wilson (NM)
Gibbons	Osborne	Wilson (SC)
Gilchrist	Ose	Wolf
Gillmor	Otter	Wu
Goode	Oxley	Young (AK)
Goodlatte	Paul	Young (FL)
Goss	Pence	

NOT VOTING—9

Barrett	Davis (IL)	Kilpatrick
Bentsen	Eshoo	Napolitano
Blagojevich	Hinojosa	Traficant

□ 1527

Messrs. SKEEN, BOEHNER, GREENWOOD, EHLERS, HILL, BOOZMAN, Ms. PRYCE of Ohio, Ms. GRANGER,

and Mrs. THURMAN changed their vote from “aye” to “no.”

Mr. TIERNEY changed his vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. NAPOLITANO. Mr. Chairman, I was in the Chamber intending to vote “yes” on rollcall 56. Had I voted I would have voted “aye” on rollcall 56.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY). Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 5, AS MODIFIED, OFFERED BY MS. LOFGREN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentlewoman from California (Ms. LOFGREN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 194, noes 231, not voting 9, as follows:

[Roll No. 57]

AYES—194

Abercrombie	Davis (FL)	Inslee
Ackerman	DeFazio	Israel
Allen	DeGette	Jackson (IL)
Andrews	Delahunt	Jackson-Lee
Baca	DeLauro	(TX)
Baird	Deutsch	Jefferson
Baldacci	Dicks	Johnson, E. B.
Baldwin	Dingell	Jones (OH)
Barcia	Doggett	Kanjorski
Becerra	Dooley	Kaptur
Berkley	Doyle	Kennedy (RI)
Berman	Edwards	Kildee
Berry	Engel	Kind (WI)
Bishop	Etheridge	Klecza
Blumenauer	Evans	Kucinich
Bonior	Farr	LaFalce
Borski	Fattah	Lampson
Boswell	Filner	Langevin
Brady (PA)	Ford	Lantos
Brown (FL)	Frank	Larsen (WA)
Brown (OH)	Frost	Larson (CT)
Capps	Gephardt	Lee
Capuano	Gilman	Levin
Cardin	Gonzalez	Lewis (GA)
Carson (IN)	Gordon	Lipinski
Carson (OK)	Green (TX)	Lofgren
Clay	Gutierrez	Lowey
Clayton	Hall (OH)	Luther
Clement	Harman	Lynch
Clyburn	Hastings (FL)	Maloney (CT)
Condit	Hill	Maloney (NY)
Conyers	Hilliard	Markey
Costello	Hinchev	Mascara
Coyne	Hoeffel	Matheson
Cramer	Holt	Matsui
Crowley	Honda	McCarthy (MO)
Cummings	Hookey	McCarthy (NY)
Davis (CA)	Hoyer	McCollum

McDermott Payne Snyder Thomas Walden Weller Napolitano Rothman Stupak
 McGovern Phelps Solis Thornberry Walsh Whitfield Neal Roybal-Allard Tanner
 McIntyre Pomeroy Spratt Thune Thurne Wamp Wicker Oberstar Royce Tauscher
 McKinney Price (NC) Stark Tiahrt Waters Wilson (NM) Obey Rush Taylor (MS)
 McNulty Rahall Tiberi Watkins (OK) Wilson (SC) Sabo Thompson (CA)
 Meehan Rangel Stupak Toomey Wolf Ortiz Sanchez Thompson (MS)
 Meek (FL) Reyes Tanner Upton Weldon (FL) Young (AK) Ortiz Sanchez Thurman
 Meeks (NY) Rivers Tauscher Vitter Weldon (PA) Young (FL) Owens Sanders Tierney
 Menendez Rodriguez Thompson (CA) NOT VOTING—9 Pallone Sandlin Towns
 Millender- Roemer Thompson (MS) Barrett Davis (IL) Kilpatrick
 McDonald Ross Thurman Bentsen Eshoo Pelosi
 Miller, George Rothman Tierney Blagojevich Hinojosa Traficant
 Mink Roybal-Allard Towns Turner
 Mollohan Rush
 Moore Sabo Udall (CO)
 Moran (VA) Sanchez Udall (NM)
 Murtha Sanders Velazquez
 Nadler Sandlin Vislosky
 Napolitano Sawyer Watson (CA)
 Neal Schakowsky Watt (NC)
 Oberstar Schiff Waxman
 Obey Scott Weiner
 Olver Serrano Wexler
 Ortiz Sherman Woolsey
 Owens Shows Wu
 Pallone Skelton Wynn
 Pascrell Slaughter
 Pastor Smith (WA)

NOES—231

Aderholt Ganske Miller, Jeff
 Akin Gekas Moran (KS)
 Armey Gibbons Morella
 Bachus Gilchrest Myrick
 Baker Gillmor Nethercutt
 Ballenger Goode Ney
 Barr Goodlatte Northup
 Bartlett Goss Norwood
 Barton Graham Nussle
 Bass Granger Osborne
 Bereuter Graves Ose
 Biggert Green (WI) Otter
 Bilirakis Greenwood Oxley
 Blunt Grucci Paul
 Boehlert Gutknecht Pence
 Boehner Hall (TX) Peterson (MN)
 Bonilla Hansen Peterson (PA)
 Bono Hart Petri
 Boozman Hastings (WA) Pickering
 Boucher Hayes Pitts
 Boyd Hayworth Platts
 Brady (TX) Hefley Pombo
 Brown (SC) Herger Portman
 Bryant Hilleary Saxton
 Burr Hobson Putnam
 Burton Hoekstra Quinn
 Buyer Holden Radanovich
 Callahan Horn Ramstad
 Calvert Hostettler Regula
 Camp Houghton Rehberg
 Cannon Hulshof Reynolds
 Cantor Hunter Riley
 Capito Hyde Rogers (KY)
 Castle Isakson Rogers (MI)
 Chabot Issa Rohrabacher
 Chambliss Istook Rohrabacher
 Coble Jenkins Roukema
 Collins John Royce
 Combest Johnson (CT) Ryan (WI)
 Cooksey Johnson (IL) Ryun (KS)
 Cox Johnson, Sam Saxton
 Crane Jones (NC) Schaffer
 Crenshaw Keller Schrock
 Cubin Kelly Sensenbrenner
 Culberson Kennedy (MN) Sessions
 Cunningham Kerns Shadegg
 Davis, Jo Ann King (NY) Shaw
 Davis, Tom Kingston Shays
 Deal Kirk Sherwood
 DeLay Knollenberg Shimkus
 DeMint Kolbe Shuster
 Diaz-Balart LaHood Simmons
 Doolittle Latham Simpson
 Dreier LaTourette Skeen
 Duncan Leach Smith (MI)
 Dunn Lewis (CA) Smith (NJ)
 Ehlers Lewis (KY) Smith (TX)
 Ehrlich Linder Souder
 Emerson LoBiondo Stearns
 English Lucas (KY) Stenholm
 Everett Lucas (OK) Stump
 Ferguson Manzullo Sullivan
 Flake McCrery Sununu
 Fletcher McHugh Sweeney
 Foley McInnis Tancredo
 Forbes McKeon Tauzin
 Fossella Mica Taylor (MS)
 Frelinghuysen Miller, Dan Taylor (NC)
 Gallegly Miller, Gary Terry

Thornberry Walden Weller Napolitano Rothman Stupak
 Walsh Whitfield Neal Roybal-Allard Tanner
 Wamp Wicker Oberstar Royce Tauscher
 Waters Wilson (NM) Obey Rush Taylor (MS)
 Watkins (OK) Wilson (SC) Sabo Thompson (CA)
 Watts (OK) Wolf Ortiz Sanchez Thompson (MS)
 Weldon (FL) Young (AK) Ortiz Sanchez Thurman
 Weldon (PA) Young (FL) Owens Sanders Tierney
 NOT VOTING—9 Pallone Sandlin Towns
 Barrett Davis (IL) Kilpatrick
 Bentsen Eshoo Pelosi
 Blagojevich Hinojosa Traficant

□ 1536

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6, AS MODIFIED, OFFERED BY MR. CONYERS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 6, as modified, offered by the gentleman from Michigan (Mr. CONYERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 223, not voting 9, as follows:

[Roll No. 58]

AYES—202

Abercrombie Doggett Kildee
 Ackerman Dooley Kind (WI)
 Allen Doyle Kleczka
 Andrews Duncan Kucinich
 Baca Edwards LaFalce
 Baird Engel Lampson
 Baldacci Etheridge Langevin
 Baldwin Evans Lantos
 Barcia Farr Larsen (WA)
 Becerra Fattah Larson (CT)
 Berkley Filner Lee
 Berman Ford Levin
 Berry Frank Lewis (GA)
 Bishop Frost Lipinski
 Blumenauer Gephardt Lofgren
 Bonior Gilman Lowey
 Borski Gonzalez Luther
 Boswell Gordon Lynch
 Brady (PA) Green (TX) Maloney (CT)
 Brown (FL) Gutierrez Maloney (NY)
 Brown (OH) Hall (OH) Markey
 Capps Harman Mascara
 Capuano Hastings (FL) Matheson
 Cardin Hilliard Matsui
 Carson (IN) Hinchey McCarthy (MO)
 Carson (OK) Hoeffel McCarthy (NY)
 Castle Holden McCollum
 Clay Holt McDermott
 Clayton Honda McGovern
 Clement Hooley McIntyre
 Clyburn Hoyer McKinney
 Condit Hunter McNulty
 Conyers Insee Meehan
 Costello Israel Meek (FL)
 Coyne Jackson (IL) Meeks (NY)
 Crowley Jackson-Lee Menendez
 Cummings (TX) Millender-
 Davis (CA) Jefferson McDonald
 Davis (FL) Johnson (CT) Miller, George
 DeFazio Johnson (IL) Mink
 DeGette Johnson, E. B. Mollohan
 Delahunt Jones (OH) Moore
 DeLauro Moran (VA)
 Deutsch Kaptur Murtha
 Dingell Kennedy (RI) Nadler

Napolitano Rothman Stupak
 Neal Roybal-Allard Tanner
 Oberstar Royce Tauscher
 Obey Rush Taylor (MS)
 Olver Sabo Thompson (CA)
 Ortiz Sanchez Thompson (MS)
 Owens Sanders Thurman
 Pallone Sandlin Tierney
 Pascrell Sawyer Towns
 Pastor Schakowsky Turner
 Payne Schiff Udall (CO)
 Pelosi Scott Udall (NM)
 Peterson (MN) Serrano Velazquez
 Phelps Sherman Visclosky
 Pomeroy Shows Waters
 Price (NC) Skelton Watson (CA)
 Rahall Slaughter Watt (NC)
 Rangel Smith (WA) Waxman
 Reyes Snyder Weiner
 Rivers Solis Wexler
 Rodriguez Spratt Woolsey
 Roemer Stark Wu
 Ross Strickland Wynn

NOES—223

Aderholt Gillmor Oxley
 Akin Goode Paul
 Armey Goodlatte Pence
 Bachus Goss Peterson (PA)
 Baker Graham Petri
 Ballenger Granger Pickering
 Barr Graves Pitts
 Bartlett Green (WI) Platts
 Barton Greenwood Pombo
 Bass Grucci Portman
 Bereuter Gutknecht Pryce (OH)
 Biggert Hall (TX) Putnam
 Bilirakis Hansen Quinn
 Blunt Hart Radanovich
 Boehlert Hastings (WA) Ramstad
 Boehner Hayes Regula
 Bonilla Hayworth Rehberg
 Bono Hefley Reynolds
 Boozman Herger Riley
 Boucher Hill Rogers (KY)
 Boyd Hilleary Rogers (MI)
 Brady (TX) Hobson Rohrabacher
 Brown (SC) Hoekstra Ros-Lehtinen
 Bryant Horn Roukema
 Burr Hostettler Ryan (WI)
 Burton Houghton Ryan (KS)
 Buyer Hulshof Saxton
 Callahan Hyde Schaffer
 Calvert Isakson Schrock
 Cannon Issa Sensenbrenner
 Cantor John Sessions
 Capito Johnson, Sam Shadegg
 Collins Jones (NC) Shaw
 Combest Keller Shays
 Cooksey Kelly Sherwood
 Cox Kennedy (MN) Shimkus
 Crane Kerns Shuster
 Crenshaw King (NY) Simmons
 Cubin Kingston Simpson
 Culberson Kirk Skeen
 Cunningham Knollenberg Smith (MI)
 Davis, Jo Ann Kolbe Smith (NJ)
 Deal Lewis (CA) Smith (TX)
 DeLay Lewis (KY) Stenholm
 DeMint Linder Stearns
 Diaz-Balart LoBiondo Stump
 Doolittle Lucas (KY) Sununu
 Dreier Lucas (OK) Sweeney
 Duncan Manzullo Tancredo
 Dunn McKeon Tauzin
 Ehlers McHugh Taylor (NC)
 Ehrlich McInnis Terry
 Emerson McKeon Thomas
 English Mica Thornberry
 Everett Miller, Dan Thune
 Ferguson Miller, Gary Tiahrt
 Flake Miller, Jeff Toomey
 Fletcher Moran (KS) Upton
 Foley Morella Vitter
 Forbes Myrick Walden
 Fossella Nethercutt Walsh
 Frelinghuysen Ney Wamp
 Gallegly Northup Watkins (OK)
 Ganske Norwood Watts (OK)
 Gekas Nussle Weldon (FL)
 Gibbons Osborne Weldon (PA)
 Gilchrest Ose Weller
 Otter Otter Whitfield

Wicker	Wilson (SC)	Young (AK)
Wilson (NM)	Wolf	Young (FL)

NOT VOTING—9

Barrett	Davis (IL)	Istook
Bentsen	Eshoo	Kilpatrick
Blagojevich	Hinojosa	Traficant

□ 1544

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

□ 1545

The CHAIRMAN pro tempore (Mr. SHIMKUS). It is now in order to consider amendment No. 7 printed in House Report 107-375.

AMENDMENT NO. 7 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. JACKSON-LEE of Texas:

Page 18, line 14, strike the quotation marks and second period.

Page 18, insert the following after line 14: "(g) CERTAIN ACTIONS NOT REMOVABLE.—A party to a class action may not remove the class action to a district court under this section if that party has been found by a court to have knowingly altered, destroyed, mutilated, concealed, falsified, or made a false entry in, any record, document, or tangible object in connection with that class action."

MODIFICATION OF AMENDMENT NO. 7 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to modify the amendment, and further request that such modification be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment No. 7, as modified, offered by Ms. JACKSON-LEE of Texas:

Page 18, line 25, strike the quotation marks and second period.

Page 18, add the following after line 25: "(g) CERTAIN ACTIONS NOT REMOVABLE.—A party to a class action may not remove the class action to a district court under this section if that party has been found by a court to have knowingly altered, destroyed, mutilated, concealed, falsified, or made a false entry in, any record, document, or tangible object in connection with that class action."

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have before the House today the Class Action Fairness Act of 2002, and what those of us who believe this legislation could either be

made better or in fact does not really speak to the interests of consumers are trying to do is to ensure that those who are fraudulent, those who misrepresent, those who would abscond and not pay taxes, not have the benefit of an action or legislation that is proposed to be in the Class Action Fairness Act.

The amendment I offer today strikes at the very heart of consumer protection. It strikes at the very heart of the ability of any litigant to go into court with a fair opportunity to pursue their case.

This amendment would prohibit the removal provision in section 5 of this bill from applying if a party to a class action suit destroys material relating to the subject matter of the class action or makes a misrepresentation with respect to the existence of such materials.

The destruction of documents, particularly in contemplation of litigation, is already a sanctionable act. Destroying such documents prohibits the discovery of truth and justice. If a party participates in such activity, they should not have the benefit of removing a class action suit to Federal court jurisdiction, where this bill makes it more difficult for the class to be certified. Justice requires that these parties remain under State jurisdiction, where the playing field will be more level.

It is obvious that when you are trying to put together a massive class action case, there is nothing more daunting and devastating to your case than losing, the destruction of, or misrepresentation over, documents. An example of this would be the collapse of Enron, the Texas-based energy trading giant, that once was America's seventh largest company, now undergoing America's largest-ever bankruptcy.

On behalf of Enron employees, both existing and those who are no longer Enron employees, the fact that there are documents that no longer exist undermines probably the bankruptcy case and any other matter that they would be pursuing. It is certainly a case that when you lose documents, you lose a part of your case.

Mr. Chairman, this amendment seeks not to give giant corporate defendants in a class action lawsuit more benefits in defending their suit. They have deep pockets for such expenses as legal fees, travel and expert witnesses, which the class does not have.

Again, how daunting it would be to find out that documents that you might be able to secure no longer exist. So the information has been retained by the defendant; but you, the petitioner in the class action, have no way of accessing it.

We must maintain the spirit to which class action lawsuits were developed, to efficiently bring justice to a large group of people victimized by historically large, giant, multiconglomerate corporations.

In addition, Mr. Chairman, I might say that the court of equity was the

first place the State class actions was to go based on common law, common sense, equity and fairness. To destroy documents strikes at the very heart of the access of the little person to get in the courtroom.

This amendment would prohibit the removal provision in Section 5 of this bill from applying if a party to a class action suit destroys material relating to the subject matter of the class action, or makes a misrepresentation with respect to the existence of such materials.

The destruction of documents, particularly in contemplation of litigation, is already a sanctionable act. Destroying such document prohibits the discovery of truth and justice. If a party participates in such activity, they should not have the benefit of removing a class action suit to federal court jurisdiction where this bill makes it more difficult for the class to be certified. Justice requires that these parties remain under state jurisdiction where the playing field will be more level.

An example of this would be the collapse of Enron Corporation, the Texas-based energy-trading giant that was once America's seventh-biggest company, now undergoing America's largest ever bankruptcy proceeding. Enron is based in my District—the 18th District of Texas.

Enron's former accounting firm, Arthur Andersen, in light of approaching litigation, organized the destruction of tons of Enron-related documents that may have been potentially harmful and would have subjected Andersen to civil as well as criminal liability.

Mr. Chairman, this amendment seeks to not give giant corporate defendants in a class action lawsuit more benefits in defending their suit. They have deep pockets for such expenses as legal fees, travel, expert witnesses, for which the class does not have. And we must maintain the spirit to which class action lawsuits were developed—to efficiently bring justice to a large group of people victimized historically by corporate giants.

I ask my colleagues to support this amendment.

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

The CHAIRMAN pro tempore. Does the gentleman from Wisconsin (Mr. SENSENBRENNER) rise in opposition to the amendment?

Mr. SENSENBRENNER. I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Wisconsin is recognized for 10 minutes.

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

Mr. Chairman, if the civil and criminal law did not provide for sanctions against those who deliberately destroy documents, I believe that the arguments of the gentlewoman from Texas would be valid. But they do. Adopting the amendment that she proposes will simply allow the trial lawyers to have another tool to game the system and to prevent the removal of cases that really should be removed as a result of the changes in the diversity of citizenship requirements that are contained in this bill.

Let me point out that in many instances, the destruction of subpoenaed

documents is a criminal obstruction of justice. The gentlewoman from Texas keeps on bringing up the case of Enron. There is a criminal investigation going on whether Enron and Arthur Andersen and other people who are involved in this obstructed justice by altering or destroying documents. I hope that that investigation is thorough, and, if there is probable cause to believe that such misconduct happened, that the Justice Department will seek indictment, prosecute those who are responsible, the jury will convict them, and I hope that the judge sentences them to jail for a long, long time, because destroying documents that are needed to fairly administer justice is something that cannot be tolerated, and it goes to the very heart of the ability of the courts to fairly mete out justice. We wish the gentlewoman were on the other side when we were talking about that when President Clinton was accused of destroying documents a few years ago.

But on the civil side, there are plenty of sanctions that can be imposed by a court if discovery is being thwarted, up to and including the court ordering a default judgment entered against a defendant that destroys documents and completely obstructs the discovery that the Federal Rules of civil procedure allow.

Mr. Chairman, I will tell you what will happen if the Jackson-Lee amendment becomes a part of this bill and the bill becomes law, and that is there will be repeated allegations of misconduct through the destruction of documents. When an allegation is made, the court is going to have to hold a hearing on it and take testimony and make a determination on whether removal can be thwarted because of the provision of the Jackson-Lee amendment. As a result, it ends up being tried in the State court, because the Federal court will not be able to determine whether or not a case is removable.

Now, that is ridiculous. If this type of amendment was put into law, if there was a civil action filed alleging a civil rights violation in a State court with a redneck judge anywhere in the country, this game could be played to prevent the Federal court from getting jurisdiction over it, and that would be equally ridiculous in terms of thwarting the administration of justice.

Now, this bill, in section 1716(C)(2), provides that discovery should not proceed while a motion to dismiss an action is pending and also during appeals from class certification rulings.

But the bill flatly states that in these circumstances, discovery shall proceed where necessary to preserve evidence and to prevent undue prejudice. Thus the bill anticipates and deals with document destruction risk and gives the Federal court the authority to prevent documents that are necessary to find out what the true facts are from being altered or mutilated or destroyed.

According to the Manual for Complex Litigation, third edition, courts nor-

mally issue orders requiring the preservation of documents at the outset of litigation of such cases. Thus any document-destruction risk is addressed by such orders. So we do not need additional laws, civil laws, statutory laws or criminal laws, to protect against the destruction and mutilation of documents.

The amendment of the gentlewoman from Texas merely gives the trial lawyers' bar another tool to game the system. It is unnecessary because of the other provisions of law and rule that I stated and should be rejected.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, first of all, I totally agree with my chairman in that I hope that all those who have misrepresented and destroyed documents in the present ongoing protracted episode of Enron and Arthur Andersen are in fact brought to justice. That we agree on.

With respect to my position on the Clinton documents, my amendment responds to that by indicating that it should be a court-determined destruction of documents. That was not the case in the Clinton situation.

So I would hope that we recognize that if you are court determined to have destroyed documents, then you do not need the benefit of this legislation.

Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Chairman, we hope that the first legislation passed in this House in the post-Enron world should not be to make the world safer for Enron.

My friend, the gentleman from Wisconsin (Mr. SENSENBRENNER), challenged me earlier when I said that this could make the world safer for Enron. Well, we just did a little bit of research about that over the lunch hour and found a case called *Bullock v. Arthur Andersen, et al.* It is a case in Washington County, Texas. If it were to be certified as a class action under this legislation, the defendants, who include some names Andrew Fastow, Kenneth Lay and Jeffrey Skilling, would be given the privilege by your legislation to force this to be removed to Federal court away from Washington County.

Now, that is exactly one of the reasons why we think this is the wrong approach. And even if you exempted Enron in its entirety, Enron is an example of why we are going the wrong way because of all the other companies that potentially could be liable.

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

Mr. INSLEE. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, do the three gentlemen that the gentleman mentioned live in Texas?

Mr. INSLEE. Mr. Chairman, reclaiming my time, I do not know the residence. I cannot tell the gentleman off-hand. But I can say this is subject to your bill if it is a class action, and therefore it is wrong.

Mr. SENSENBRENNER. Mr. Chairman, if the gentleman will yield further, if they all live in Texas, the case is not removable because there is not diversity.

Mr. INSLEE. Mr. Chairman, reclaiming my time, the point I bring to the gentleman's attention is this is exactly the kind of case that is subject to removal if there is diversity. They plead fraud, they plead negligence; and under your statute, you want to give them the right to get out of Texas into Federal court. We think that is wrong.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 10 seconds to say that some of the defendants in the case that the gentleman from Washington (Mr. INSLEE) was speaking of dealing with Enron are not from Texas.

Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. SANDLIN), a former State district court judge in the State of Texas.

Mr. SANDLIN. Mr. Chairman, in the law we have a doctrine called the "clean hands doctrine." Courts express it by saying he who seeks equity must do equity.

We have seen precious little equity today. First, our friends want to reveal plaintiffs' fees and what they receive, but when we ask to reveal the exorbitant fees of the corporate attorneys and insurance attorneys and defense attorneys, they said no.

I have got a question: What are you hiding? What are you hiding?

You said the recovery in Cheerios is not enough. You forgot to tell us that the expensive litigation is between the insurance companies. The defendants have been indicted, tried and sent to prison.

You are outraged that the plaintiffs have received too little money in one case, but there is absolutely no outrage in your position when a major American company, Nestle, put sugar water in bottles and sold it to American mothers to give to children. You got no outrage in that, other than the attorneys got paid.

Well, surely, surely you can support legislation that says if you destroy evidence, if you commit a crime, if you do things that you are not supposed to do, you do not get the benefit of the law. If you commit a crime, you do not have clean hands. If you destroy evidence, you do not get the benefit of the legislation. Surely you can support something as clean as that.

□ 1600

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, if the gentleman from Texas was so interested in disclosing defendant's fees, he could have gone to the Committee on Rules and asked

them to make in order an amendment for the disclosure of defendant's fees. He failed to do so, and that is why we are not considering this today under the structured rule.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding me this time. I also strongly oppose this amendment.

This amendment is doing what those offering amendments have already done on two other occasions in this debate so far, and that is to try to obscure what this legislation is all about with unrelated issues. Whether or not a case is heard in Federal court or State court has nothing to do with whether or not documents have been destroyed.

In the earlier debate with regard to the Waters amendment, we pointed out all of the tools that are available to a Federal court judge when documents are destroyed in a case. It could very well be much better that the case is in Federal court rather than State court, and we should not write law based upon unrelated matters.

That is exactly what has been offered here repeatedly today to try to obfuscate the issue here, which is a very simple one, and that is that our Federal diversity rules are written in such a way that the most complex litigation in the country cannot get into the courts that were not designed to handle diversity cases and designed to handle more complex litigation and designed to consolidate class actions brought in various parts of the country related to the same issue.

When we create these artificial barriers to removing the case, we are not accomplishing justice for the plaintiff or the defendant. Somebody in the case has to have the ability to remove the case to Federal court. What we say is that any party in the case should be able to do that. If they have unclean hands, address that with the Rules of Procedure that exist in the Federal Rules.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate the gentleman's argument.

The crux of these amendments that we have been offering on this legislation is to talk about benefit and burden. This amendment specifically says if the court has determined that documents have been destroyed, what we are doing is undermining the plaintiffs' case, which typically are little people who have come together in a class action.

That defendant who has destroyed documents should not be allowed to take the benefit of this legislation if it passes. That is all we are saying.

Mr. GOODLATTE. Mr. Chairman, reclaiming my time, there are a multitude of Federal Rules of Civil Proce-

dures, and I do not know of other ones, in which the law says in advance that because somebody did something else somewhere else unrelated to the issue of whether the case belongs in Federal court or State court would be prohibited from raising that issue. It is a matter of fairness for everybody involved, but that is particularly true of the plaintiffs.

We are trying to create an environment here where cases can be heard in such a way that uniform fairness applies. If we start drawing distinctions between domestic corporations and foreign corporations and somebody who may have shredded documents for a good reason or for a bad reason and deciding whether or not they can remove cases to court, that is simply bad public policy and should not be the measure upon which this bill is voted upon; and certainly this amendment should be opposed.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am delighted to yield 2½ minutes to the distinguished gentleman from Texas (Mr. DOGGETT), a former member of the Texas Supreme Court.

Mr. DOGGETT. Mr. Chairman, I thank the gentlewoman for yielding me this time.

How truly typical it is, sad though it is, that the first piece of legislation dealing with the Enron-Andersen fiasco that our House Republican leadership permits us to discuss here on the floor of the United States Congress is a bill designed to protect the wrongdoer and to place more burdens on the victims. This is exactly the opposite of where our priorities should be; yet that is the approach that is taken with this piece of legislation.

It is rather fundamental that a right without a remedy, is rather meaningless. People do not choose to come together in class actions because they like to be in a class with many other people; they come together in class actions because often, that is the only way, given the complexities of our legal system and the tremendous imbalance in power between one individual who has been defrauded and one of the largest corporations in the world, to equalize the power. If they are working together in a class, they may have a chance, difficult as it may be, to equate in our courts of justice their rights against those who have wronged them.

All this bill is designed to do is to help those, who committed wrongs to avoid responsibility for their wrongdoing. This bill seeks to ensure that wrongdoers are not held personally accountable for their misconduct, if they just took a little from everybody instead of a great deal from a few.

As for the importance of the gentlewoman's amendment in the debate on this particular bill, the only thing that has been faster than those shredding machines shredding up the documents of misconduct at Enron and Andersen, the only thing faster than those shred-

ders is the spin machine running here in Washington today, spinning that this bill to help some avoid responsibility has anything to do with helping American families. Get serious.

The judges of the States of the United States, our State court judges, have not asked for this. Our Federal court judges, upon whom the burden will be placed of handling these cases, are already overburdened; they have not asked for it. The National Conference of State Legislatures opposes it. This is the wrong thing to do at the wrong time. It is being done only to protect wrongdoers like Enron and Andersen, and it ought to be rejected.

To aid even those who tear up documents and give them additional rights in our courts is particularly outrageous.

I commend the gentlewoman for attempting to resolve this problem, and I recommend her amendment.

Mr. SENSENBRENNER. Mr. Chairman, how much time is remaining on each side?

The CHAIRMAN pro tempore (Mr. SHIMKUS). The gentleman from Wisconsin (Mr. SENSENBRENNER) has 1½ minutes remaining; the gentlewoman from Texas (Ms. JACKSON-LEE) has 1 minute remaining.

PARLIAMENTARY INQUIRY

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentlewoman will state it.

Ms. JACKSON-LEE of Texas. As the proponent of the amendment, do I have the right to close?

The CHAIRMAN pro tempore. The Member on the committee opposing the amendment has the right to close.

Ms. JACKSON-LEE of Texas. I thank the Chair.

The CHAIRMAN pro tempore. Does the gentleman from Wisconsin wish to close?

Mr. SENSENBRENNER. The gentleman does wish to close.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself the remaining time, although I was hoping to hear the distinguished chairman's representation of the Cheerio box.

But let me say this, in all sincerity: We have come into some very troubling times in the litigation history of America. With Enron as a backdrop, and Firestone that knowingly sold defective tires where tread separation caused more than 800 injuries, and Monsanto, which hid 40 years' worth of dumping toxic PCBs, there is great opportunity for documents to be destroyed, because people want to win. The only opportunity for the little guy to achieve victory sometimes is to organize a class action.

They have been successful in State courts, but they cannot be successful under this legislation, nor can they be

successful when those will go knowingly into the courthouse, who have destroyed documents, fraudulently misrepresented and disadvantaged their cases.

This amendment will prevent that kind of action, allowing those who have been found to have destroyed documents not to take advantage of this legislation. This is consumer protection legislation. I cannot imagine any of my colleagues that would not support this amendment.

I ask my colleagues to support the Jackson-Lee amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I am really disappointed in the argument of the gentleman from Texas (Mr. DOGGETT), who is a distinguished former member of the State Supreme Court, saying that this has to do with Enron. Enron is in bankruptcy. Bankruptcy is a Federal law. The Federal bankruptcy court will determine the rights of all people who have got claims against Enron, and there is an automatic stake that is entered by the Federal court when a bankruptcy is filed against proceeding in any other court, State or Federal, besides the bankruptcy court.

Now, I think what we are really getting down to is, how are consumers being protected? I do not think most consumers really care whether a class action suit is litigated in State court or Federal court; they care what kind of recompense they get, should the class action suit be resolved.

I have this box of Cheerios here, because General Mills, which owns Cheerios, was sued in a class action suit alleging that there were harmful additives in Cheerios. When the case was settled, what did all the members of the class get? A coupon to buy another box of Cheerios. If Cheerios had food additives that were so damaging, that caused millions of dollars in lawyers' fees to settle this suit out, then why would the lawyers sign off to require people who wanted to cash in on their settlement to eat more Cheerios? It does not make any sense.

The amendment ought to be rejected.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

It is now in order to consider Amendment No. 8 printed in House report 107-375.

AMENDMENT NO. 8 OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. FRANK:

Page 18, line 14, strike the quotation marks and second period.

Page 18, insert the following after line 14: "(g) PROCEDURE AFTER REMOVAL.—If, after an action is removed under this section, the court determines that any aspect of the action that is subject to its jurisdiction solely under the provisions of section 1332(d) may not be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, the court shall remand all such aspects of the action to the State court from which the action was removed. In such event, the State court may certify the action or any part thereof as a class action pursuant to the laws of that State, and such action may not be removed to Federal court unless it meets the requirements of section 1332(a)."

MODIFICATION TO AMENDMENT NO. 8 OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I was informed, and perhaps I should have been paying closer attention, that there was some line number item alteration and I, therefore, in compliance with what has happened, ask unanimous consent to modify the amendment, and I request that the modification be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of Amendment No. 8, as modified, is as follows:

Page 18, line 25, strike the quotation marks and second period.

Page 18, insert the following after line 25: "(g) PROCEDURE AFTER REMOVAL.—If, after an action is removed under this section, the court determines that any aspect of the action that is subject to its jurisdiction solely under the provisions of section 1332(d) may not be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, the court shall remand all such aspects of the action to the State court from which the action was removed. In such event, the State court may certify the action or any part thereof as a class action pursuant to the laws of that State, and such action may not be removed to Federal court unless it meets the requirements of section 1332(a)."

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gentleman from Massachusetts (Mr. FRANK) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. FRANK).

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

When I originally heard of this bill, I was inclined to be supportive. It was described to me several years ago as a bill that would more accurately determine, in fact, whether a class action was multistate or unistate in its real focus. I was told, and I think there is some accuracy, that the technical way in which the diversity rules operated resulted in some class actions that really were national in scope being tried in particular State courts when, under our system of government, they would more appropriately be tried in Federal court; and I thought that was reasonable, and I supported a bill that

would do that, and I still would, unlike some of my colleagues here.

When I read the bill, though, it became clear that the bill does not simply say that certain class actions will be tried in Federal court rather than State court; much of its attraction, I believe, to its proponents is that it will make sure that certain potential class actions are never tried at all. That is the way the bill reads.

If a class action is brought in State court, and under the liberalized removal procedures of this bill, it is then removed to Federal court, and a Federal judge finds that he or she does not believe that it meets the requirements for a Federal class action, it is dismissed, in effect, with prejudice. That is, it cannot ever again be tried as a class action. If it was restarted in State court, it would go back again to Federal court, which would again dismiss it, so that would be fruitless. An individual case could obviously be brought.

So I have been asked if this is an amendment that guts the bill. I do not think it guts the bill. I think it does something of which I am generally more in favor. I think it outs the bill. What it does is to say, let us stop pretending to be something we are not. Let us not claim simply to be a bill that is about which jurisdiction tries the case. Let us be clear that its impetus is to reduce the number of class actions, because people believe that some States imprudently and improvidently allow class actions and because some Members in the majority, many of them, do not trust all of the State courts to honestly apply class action rules; they want to be able to go into Federal court so the Federal court can, in some cases, prevent the class action from being maintained anyway.

Again, under the proposal that I advance in my amendment, if, in fact, the case meets the criteria set forward in this bill for removal, it is removed, and the Federal court can go forward with it. The only change I make is, the Federal court does not have the option of saying, this can never be tried as a class action.

So I hope the Members will adopt it.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume, and I rise in opposition to the amendment and claim the time in opposition.

Mr. Chairman, this can be called the two-or-more-kicks-at-the-cat amendment, because what the gentleman is proposing is that when the Federal court refuses to certify a class, then it goes back to State court and the State court looks at it again and may certify a class. While most States have got class action rules similar to rule 23 of the Federal Rules of Civil Procedure, they are not always uniformly applied, and that is why there is all this forum shopping that is going around that has caused this bill to come before the House of Representatives today.

□ 1615

So I think that we really should not allow two kicks at the cat. They can have their day in court. If the Federal court determines that the Federal rules do not allow for the certification of a class, then we should not go back to square one and have the plaintiffs' lawyers shop around to a friendly State judge that may very well certify that the class that is not allowed in the Federal rules ends up getting certified and the trial ends up proceeding.

So I think that everybody should have one day in court, not more than one day in court. For that reason, I would urge that the amendment be rejected.

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

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

Mr. Chairman, the very purpose of that amendment is to guarantee that as a class action you will get one day in court. Without that amendment, the bill gives no days in court.

Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. BERMAN) be allowed to control the time.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BERMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, just on the good chairman's last point, he wants to give people a day in court. As the gentleman from Massachusetts (Mr. FRANK), the author of the amendment, just pointed out, without this amendment, there is no day in court. They file their class action in State court, the defendants remove it to Federal court, the Federal court refuses to certify it, remanding it back to the State court, they pursue it in State court, and they remove it again back to Federal court. They never get a chance to try it.

If this bill is about trying to have cases, legitimate Federal class action cases, heard in Federal court and not in State courts, then the amendment does nothing to destroy the focus of this bill.

If this bill is about removing the ability of local judges, rather than Federal judges, to give hometown kinds of decisions and rulings, there is nothing in this amendment that hurts this bill.

It is only if one accepts, which I believe is true, that the only purpose of this bill is to eliminate any State or any of the 50 States' ability to decide there are certain kinds of class actions they want to hear that come outside the scope of rule 23, and that, in effect, this bill wipes out the right of all 50 States to make that decision, and defines rule 23 in the Federal courts as the only place to ever bring a class action, that is the only reason to oppose this amendment.

It is hard for me to believe that States' rights-loving adherents to fed-

eralism who see a role for the Federal courts and the State courts could, with a straight face, promote this bill, which, in effect, preempts and sucks up all class action rights, forces them into Federal court, eliminates a State legislature and a State judiciary's ability to decide that, there are situations and circumstances where we want a State class action body of law to exist that go beyond the Federal rule 23.

I urge an "aye" vote for this amendment. I think it is essential. With this amendment, this bill truly becomes an effort to get the true Federal class action cases into Federal court and still allows the States to decide if there are areas left out where they want to allow at least some jurisdiction so that the person can have his day in at least one court.

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

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. I thank the gentleman for yielding time to me, Mr. Chairman.

I rise in strong support of the bill and in opposition to this particular amendment. It undermines the principles of H.R. 2341, which is that large interstate class actions should be allowed in Federal court because many State courts are not effectively processing these lawsuits.

As chairman of the Subcommittee on the Constitution, I welcome the opportunity to address the criticism that this legislation would diminish State court authority or otherwise offend basic federalism principles.

Opponents of this bill have suggested that removing a lawsuit filed in State court to Federal court deprives the State court of its right to decide matters of State law. But all State law-based actions do not presumptively belong in State court. Federal diversity jurisdiction, established by no less than the Framers of the United States Constitution, allows State law-based claims to be moved from local courts to Federal courts to ensure that all parties will be able to litigate on a level playing field and that interstate commerce interests will be protected.

Additionally, the expansion of diversity included in the Class Action Fairness Act is consistent with current diversity laws, since it allows Federal courts to hear large cases which have interstate implications. By nature, class actions fulfill these requirements.

Mr. Chairman, in most State law-based class actions, the proposed classes encompass residents of multiple States. Thus, the trial court, regardless of whether it is a State or Federal court, must interpret and apply the laws of multiple jurisdictions. It is far more appropriate for a Federal court to interpret the laws of various States as opposed to having one State court dictate the substantive laws of other States.

For that and other reasons, I would oppose this particular amendment, and

I urge my colleagues to oppose the amendment.

Mr. FRANK. Mr. Chairman, I ask unanimous consent to reclaim my time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, I yield 2½ minutes to my colleague, the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I rise in strong support of this amendment. Let us be clear: the vote on this amendment will tell us whether this is a bill aimed at giving Federal courts the chance to deal with class actions that they currently cannot, or whether this is a bill aimed at just shutting down all class actions. That is what this is about.

Under this amendment, a class action originally filed in State court could still be removed to Federal court. But let us say that a Federal court will not certify that class. That is where the rubber meets the road. The failure to get class certification in Federal court does not mean that the suit lacks merit. It does not mean this case will be decided on the merits. It simply means it does not meet rule 23.

But the sponsors of this bill would shut down class actions right there, just shut them all down, whether they have merit or whether they do not, saying that if it is refiled in State court, it gets shunted back out to the Federal court that has already said it will not hear it. So what is the result? There is a merry-go-round that begins. It is nothing more than a merry-go-round. Justice is delayed, and then it is denied.

So this bill goes beyond giving Federal courts a chance to hear and use their powers to consolidate class actions that they currently cannot touch. It blocks class actions that were capable of being certified under State law. This amendment would stop the merry-go-round by letting that class action, sent back to State court, move forward on the merits.

There was a letter by a well-known outside group in support of this bill in 1998. This is what the outside group said. I think it kind of gets to the meat of what we are talking about here: "This bill would enable class action suits filed in State courts to be moved to Federal court, where such wasteful lawsuits can easily be dismissed."

That is what an outside group said. We should not let that happen. If this is a bill about taking any kind of lawsuit and saying that they are all wasteful and dismissing them early, then let us say that is what this is about. That is what the group said earlier.

This amendment allows the framers of the bill, the authors of the bill, to get their way in terms of having Federal courts to deal with these, but lets the State courts hear these actions on the merits if they do not meet the

technical definition of a class action suit.

We should not let this happen. We want to support this bill. This bill should not be about killing class action. Support this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. BOUCHER).

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

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Wisconsin for yielding time to me.

Mr. Chairman, I will be brief in stating my opposition to this amendment. If the amendment is adopted, the basic reforms that we are seeking to achieve simply will not be achieved. Some cases simply should not be certified as class actions, either in the Federal or the State courts.

Federal Rule of Civil Procedure 23 is narrowly drawn so as to protect the rights of both plaintiffs and defendants to traditional due process as their rights are litigated. Under rule 23, cases that are overly broad because of conflicting laws that establish the rights of individual class members, or because of the factual differences in the circumstances of the plaintiffs, will not be certified as class actions. Only through denial of certification can the rights of the plaintiff class members be protected.

When cases are denied class action status, all of the individual plaintiffs are then free to file their individual claims, no one is denied a right to recover damages, and another class action can be instituted in State court if it is reconfigured to be a state-centered class action.

I want to stress that denial of class action status in Federal court when the case is removed does not mean an end to the litigation. It does not preclude recovery by the plaintiffs, either in individual actions or in a reconfigured class action proceeding.

But if the gentleman's amendment is adopted, any case which, because of its broad scope, cannot meet the requirements of Federal Rule 23, and therefore is dismissed as a class action in Federal court, could then be certified as a class action in State court from which it was removed. The case would be free to proceed as a State class action, and no further removal to Federal court would then be allowed.

Under the amendment, the cases that are truly national in scope would still be heard in State court, and some States would continue to apply their often unique laws to govern the rights of plaintiffs who live in States that have laws that would dictate that an opposite result be reached.

This extraterritorial application of State law does serious damage to our traditional principles of federalism. It is a kind of reverse federalism that should not continue. But under the amendment that is now pending, it would continue. Our basic reform would not be achieved.

The amendment is a recipe for a continuation of the status quo, and I urge that it not be accepted.

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

I thank the gentleman from Virginia for the honesty with which he acknowledged that the effect of the bill without the amendment, and indeed the purpose, is to prevent many cases from being class actions at all.

I differ with one aspect of his argument when he said that some truly national cases will then be, under my amendment, brought to State court. No, I think that is not true. If they are truly national and they truly represent a national class, they will be tried in Federal court, because under this bill, the Federal court can, under the terms of this bill, take the case from the State court if somebody moved it and try it in the Federal court. So we are not saying that truly national ones cannot be done in Federal court.

What this bill does is to say very simply, in modern slang, rule 23 rules. What it says is this: rule 23 of the Federal Rules of Civil Procedure describing class actions is now, by this bill, the rule for every State in America. No State can deviate from rule 23, because if you have a different description of what class action ought to be, then you will lose to the Federal people.

Now, I find it particularly odd that my friends who pretend to be for States' rights, and excuse me, I do not want to violate the rules, who assert that they are for States' rights, now want to say that rule 23 will preempt any State law to the contrary, because that is what this bill does. This bill says the Federal standard for class action will be the standard to govern everywhere.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Arizona (Mr. FLAKE).

The CHAIRMAN pro tempore. The gentleman from Arizona (Mr. FLAKE) is recognized for 3½ minutes.

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, what this boils down to is if we believe there is a need for reform, it is with class action or not. If Members do not believe there is a need for reform, then this amendment is fine, because under this amendment we have no change at all. There is no reform, because anything that goes to the Federal court can come right back to the State court, where the abuse occurred in the first place.

The examples of abuse are rampant here. We have gone through them before, but it serves us well to go through a few of them again.

In this case, trial lawyers, \$2 million; the plaintiffs, a coupon for a box of Cheerios. That kind of abuse, if allowed by this amendment, would go up to the Federal court. If the Federal court says under rule 23 it does not qualify as a class action, it goes back to the State court, where the abuse can occur again.

□ 1630

The other example, trial lawyers get over \$100,000; the plaintiffs, four golf balls.

If my colleagues do not think that that is abuse, then this amendment is fine. If Members do, strike down the amendment; do not vote for the amendment because we need reform, and we need it now.

Next example, where the attorneys were awarded \$4 million, what did the plaintiffs get? Thirty-three cents, only after they sent in for it, costing them 34 cents. So a net loss of one cent.

If Members do not think there is at least a need for reform, vote for the amendment. If Members agree that there is abuse, then they had better vote for the amendment because it will occur regardless otherwise. If it goes to State court or Federal court, goes back to State court, we have the abuse again. It does not solve anything.

I urge my colleagues to vote against the amendment. It is the only way reform will occur. Vote against the amendment. If Members vote for the amendment, no reform occurs. If Members believe that we have fraudulent abuse as it stands, Members have to vote against the amendment.

If Members believe the situation, the status quo is fine, then certainly vote for the amendment.

The CHAIRMAN pro tempore (Mr. SHIMKUS). All time for debate has expired.

The question is on the amendment, as modified, offered by the gentleman from Massachusetts (Mr. FRANK).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment, as modified, offered by the gentleman from Massachusetts will be postponed.

It is now in order to consider Amendment No. 9 printed in House Report 107-375.

AMENDMENT NO. 9 OFFERED BY MS. HART

Ms. HART. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Ms. HART:

Page 19, insert the following after line 11 and redesignate the succeeding section accordingly:

SEC. 7. REPORT ON CLASS ACTION SETTLEMENTS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and House of Representatives a report on class action settlements in the Federal courts.

(b) CONTENT.—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members whom the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(C) **AUTHORITY OF FEDERAL COURTS.**—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's fees.

MODIFICATION OF AMENDMENT NO. 9 OFFERED
BY MS. HART

Ms. HART. Mr. Chairman, I ask unanimous consent to modify the amendment and further request that such modification be considered as read.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

The text of the amendment, as modified, is as follows:

Page 19, insert the following after line 21 and redesignate the succeeding section accordingly:

SEC. 7. REPORT ON CLASS ACTION SETTLEMENTS.

(a) **IN GENERAL.**—Not later than 12 months after the date of the enactment of this Act, the Judicial Conference of the United States, with the assistance of the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall prepare and transmit to the Committees on the Judiciary of the Senate and House of Representatives a report on class action settlements in the Federal courts.

(b) **CONTENT.**—The report under subsection (a) shall contain—

(1) recommendations on the best practices that courts can use to ensure that proposed class action settlements are fair to the class members whom the settlements are supposed to benefit;

(2) recommendations on the best practices that courts can use to ensure that—

(A) the fees and expenses awarded to counsel in connection with a class action settlement appropriately reflect the extent to which counsel succeeded in obtaining full redress for the injuries alleged and the time, expense, and risk that counsel devoted to the litigation; and

(B) the class members on whose behalf the settlement is proposed are the primary beneficiaries of the settlement; and

(3) the actions that the Judicial Conference of the United States has taken and intends to take toward having the Federal judiciary implement any or all of the recommendations contained in the report.

(C) **AUTHORITY OF FEDERAL COURTS.**—Nothing in this section shall be construed to alter the authority of the Federal courts to supervise attorney's fees.

The CHAIRMAN pro tempore. Pursuant to House Resolution 367, the gen-

tlewoman from Pennsylvania (Ms. HART) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentlewoman from Pennsylvania (Ms. HART).

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

The editorial that many have referred to today that appeared in last Saturday's Washington Post supporting the passage of H.R. 2341 did get it right. Too often our current class action system allows trial lawyers to enrich themselves without benefiting those that those lawyers represent.

As presented, though, H.R. 2341 would have corrective influence on this problem, particularly by allowing the removal of more interstate class actions from the State courts to the Federal courts. Empirical data indicate that this problem of attorneys getting the biggest piece of class action settlements is fundamentally a State court problem. Our Federal courts have done a far better job of ensuring that that does not happen.

Though I do support the bill in all its respect, I would like to add one modest piece to the legislation that I believe would aid in ensuring that these class actions do benefit to serve the class members, not just the attorneys.

The amendment is a request by Congress that the Judicial Conference of the United States, our Federal judges, prepare for the House and Senate Committees on the Judiciary a report on class action settlements. As envisioned by my amendment, that report would have several parts.

First, it would contain the judges' recommendations on best practices that the court will use to ensure that these proposed class action settlements are fair to the class members, that is, the plaintiffs. After all, these class members are the people that the settlements are supposed to benefit, but as we have seen, have not been benefiting. We need to find ways to make sure that they are not forgotten when their claims are being settled.

Second, this report will contain recommendations on best practices that the courts would use first to ensure that attorneys' fees in class settlements appropriately reflect the results that the attorneys get for the class members; and also the report would contain recommendations to ensure that class members, and not the lawyers, are the primary beneficiaries of a settlement.

Finally, the report would indicate the Judicial Conference's plans for implementing the good practices recommendations.

I believe that the value of this amendment is obvious, Mr. Chairman, but let me make two points about its purposes.

First, I want to stress that this amendment is not intended in any way to be an intrusion on the judicial branch of our government. I offer this amendment because I have been advised that the Judicial Conference, par-

ticularly through its Advisory Committee on Civil Rules, is already devoting considerable time and energy to this important issue. The committee has held public hearings already, they have conducted research, they have drafted and proposed civil rules amendments, and these are all intended to bring more rationality to class settlements.

I believe that we should applaud the efforts of our Federal judges in this regard. Thus, I offer this amendment not to give our diligent Federal judges a new homework assignment, but rather I offer it to recognize their effort and suggest that they continue their investigation in this arena and encourage them to complete this project.

Second, Mr. Chairman, I wish to emphasize this amendment would not directly regulate attorneys' fee awards. I truly believe that the attorneys' fees lie at the root of the key problems in what the Washington Post editorial referred to as the "sorry world of class action litigation here in the United States." I also recognize an effort by this body to regulate directly the award of such fees could be very divisive.

The bill that we presently have before us is worthy of, and actually has, healthy bipartisan support. So my proposal on the fees issue is a very limited one. It would simply encourage the completion of the work that our Federal judges have undertaken to develop best practices on this issue, all within the current framework of the attorneys' fee awards.

For all of these reasons, I urge my colleagues to adopt the amendment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. HART. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I think that this is a very constructive amendment, and I would urge the House to adopt it.

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

The CHAIRMAN pro tempore. Does any Member claim the time in opposition?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) is recognized.

Ms. JACKSON-LEE of Texas. Mr. Chairman, it is my pleasure to yield 4½ minutes to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I thank the gentlewoman from Texas (Ms. JACKSON-LEE) for yielding me the time.

There is kind of a breathtaking level of temerity that the Republicans are engaging in today. As the Enron case and many others hang over our country's financial marketplace, as Arthur Andersen basically struggles for survival of all of the fraudulent activity that was perpetrated on investors, on

workers, on consumers across this country, the Republican response to it is to bring out yet another bill that will make it difficult for those ordinary investors and workers to bring suits against the big guys, the people who play games with the books.

It is almost like there is no shame whatsoever, and I would almost understand it if they kind of snuck this through in July or August when the coast was clear on the Enron and Arthur Andersen case, that had kind of died down a little bit.

What they are doing today is putting in place a dangerous anticonsumer, anti-investor and antiworker piece of legislation. They are standing with the Enrons of the world, the Arthur Andersens of the world against the consumer, against the investors in our country, and it is just incredible to me.

However, remember, the first article of the Republican Contract with America back in 1995 was passing out on this floor the Private Securities Litigation Reform Act of 1995. Amongst other things, that is making it very difficult for people to sue Arthur Andersen right now because they no longer have joint and several liability. They only have proportionate liability. Even as their auditors and consultants are together playing the game and keeping score, because of that 1995 Act it is hard to make them liable, and everyone knows that they were part of this game.

Today, we see the results of their fine handiwork. Just a few weeks ago, Members may have read press reports about Arthur Andersen reaching a \$217 million settlement in a class action lawsuit brought under State law in the State of Arizona against Arthur Andersen in connection with a fraud involving a charity organization. According to the testimony delivered to the Committee on the Judiciary at around the same time the State class action was filed, a Federal class action was also filed, same case, same facts, State court, Federal court.

Guess what happened to the Federal class action. It was thrown out of court because the Republicans in 1995 changed the pleading standards in the Federal securities laws to favor wrongdoers. So these poor people who have been defrauded could not even get into Federal court.

What happens? We have a controlled experiment seeing what happens in Federal and State court. The same people now go to the State court with the same case, same facts. In the State court, the plaintiffs win. They can win. They do win. Same case, same events, same facts. In Federal court, under the 1995 Republican Act, wrongdoers are protected. They cannot recover, they are out \$217 million. In the State courts, the plaintiffs won. The wrongdoers lost.

What is the Republican vision of the future? They now want to do that for all classes of all plaintiffs. They want to take the public's legal rights away, and that is what this bill would do. So

we have to defeat this bill. It is terrible. It says we cannot trust the States, we cannot trust local courts, we cannot give local people a chance to decide whether or not local, fraudulent, big companies have hurt the investors and the workers in their community.

That is a vision of the past, not of the future. Defeat this bill.

Ms. HART. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I rise today in complete support of the idea behind my colleague from Pennsylvania's amendment to H.R. 2341.

It seems perfectly logical to want to know exactly whether or not this legislation is really needed by requesting a report on Federal class action settlements. We need to know what we are doing.

This report would include recommendations on how to ensure settlements are fair, that they are in the best interests of the plaintiffs, and that the expenses awarded to the lawyers are appropriate.

I end up asking myself, why are we considering this as an amendment? Why not its own legislation? Why would we pass legislation and then amend it with a requirement that we be told whether or not the legislation was actually necessary in the first place? That makes no sense.

I propose today that we work together and pass this amendment as stand-alone legislation and then revisit this whole area of class action reform when we have the recommendations from the report and can act accordingly.

To date, we have not been provided with comprehensive data justifying the changes proposed in this legislation. The report would give Congress a chance to really understand whether or not these reforms are even necessary.

I offer today to spearhead an effort in this body to quickly adapt stand-alone legislation introduced by the gentlewoman from Pennsylvania (Ms. HART) that would require such a report.

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

Ms. HOOLEY of Oregon. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, could we hold up this bill till we get the report?

Ms. HOOLEY of Oregon. Mr. Chairman, I would either withdraw this proposal today so that, in fact, we could do this amendment as a stand-alone bill.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I reserve the balance of my time.

Ms. HART. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I thank the author of this amendment for yielding me the time.

One of the previous speakers referred to something he called the 1995 Repub-

lican Act. Specifically, he was talk about the Securities Litigation Reform Act of 1995.

□ 1645

First, it was not the 1995 Republican Act. It was passed overwhelmingly by Democrats and Republicans, including such well-known Democrats as the chairman of the Democratic National Committee, CHRIS DODD from Connecticut, who supported this in the Senate, in the other body; TED KENNEDY, from the Member's own State who made these remarks; my own Senator FEINSTEIN, and so on. And it was supported by all these Democrats and Republicans because it benefits the plaintiffs in these cases.

The Enron case is the best example. In the old days, before this law, the first plaintiff to file would have been able to pick who the lead plaintiff in the case is and collusion between the lawyers and the favored class member through bonus payments, which were also outlawed in that legislation, resulted in cents on the dollar. But now the University of California Regents have been selected as the lead plaintiff in the Enron case, and they will be a real lead plaintiff and stand up for the rights of all the plaintiffs. That is the kind of reform that both Democrats and Republicans supported.

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

Mr. COX. I yield to the gentleman from Louisiana, the chairman of the Committee on Energy and Commerce.

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

The Security Litigation Reform Act, passed in 1995, was indeed passed by a great overwhelming majority of the House and Senate Democrats and Republicans. It was the first class action reform, and it stopped the strike suits that were filed against American corporations not to win judgments for fraud but just to shake them down.

Ninety-five percent of those cases were being settled at 10 cents on the dollar. They were shake-down lawsuits designed to defraud the companies. These class action lawsuits before the 1995 act were not real efforts to find fraud, and those reforms have indeed protected constituents across America.

The class action suit brought against Enron now is the best example. Where there is real evidence of fraud, those suits go forward. The strike suits, on the other hand, have ended; and they should have ended a long time ago. That is good reform, just like this bill before us.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SHIMKUS). Members are reminded to avoid inappropriate references, under House rules, to Members of the other body.

Ms. JACKSON-LEE of Texas. Mr. Chairman, may I inquire about how much time I have remaining.

The CHAIRMAN pro tempore. The gentlewoman from Texas (Ms. JACKSON-LEE) has 5½ minutes remaining,

and the gentlewoman from Pennsylvania (Ms. HART) has 1½ minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, the distinguished chairman of the Committee on Energy and Commerce was talking about sham class action lawsuits. I do not know which ones he was talking about, but he was not talking about the Firestone case, the Monsanto case, the W.R. Grace case, all the tobacco company cases, the asbestos cases, the black lung case, air bags, Pinto, and it goes on and on.

None of those were sham lawsuits settled at 10 cents on the dollar. And I am sorry he is not here to further explain which cases he had in mind.

Ms. HART. Mr. Chairman, I yield myself the balance of my time.

The debate, unfortunately, around this amendment has not really dealt with this amendment. I would like to clarify that this amendment has absolutely nothing to do with Enron, Mr. Chairman.

This amendment has to do with doing what is right. It has to do with Congress requesting facts, requesting the Judicial Conference to prepare a report for us, for the House and Senate Committees on the Judiciary, so that we know and we have better information about class action settlements.

The report would contain recommendations from the judges on best practices to ensure that attorneys' fees in class settlements actually reflect the results of those class actions, that is, that the attorneys get appropriate fees, the class action members, the plaintiffs, actually get a settlement instead of 33 cents.

It is a simple amendment that complements the work our Federal judges have already begun. It urges them to complete their report 12 months after the bill is passed so that we will make sure that we are not just paying lip service to our constituents who believe that class actions have become a joke in this country. It is to make sure that class action lawsuits are real and really provide a real answer to the concerns that were brought to the court.

Mr. Chairman, I urge adoption of the amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I certainly attribute to the gentlewoman from Pennsylvania her concern about the consumers, inasmuch as she has offered an amendment to determine the facts of how this legislation would impact those consumers or individuals petitioning the courts. I would have liked this amendment to precede the passage of this legislation. And, in fact, in the discourse just had with the gentleman from Michigan (Mr. CONYERS) and a proponent of the amendment, it was just noted that the pro-

ponent of the amendment would have rather and would liked for this to be a stand-alone amendment and leave the class action legislation off to the side. Leave it where it is right now. Do not proceed with it. Let us get a study to find out if in fact there is a problem with class actions in State courts versus Federal courts.

I am confused about a study after the fact. I believe those who oppose this legislation have been asking repeatedly to be given the data to suggest there is a premise for denying plaintiffs, that is the little guy, to get into State court. In fact, Mr. Chairman, I will later submit for the RECORD letters from the Federal courts that absolutely oppose the underlying legislation.

I am concerned that we would make light of the decisions in State courts when I have already noted for the record the Foodmaker, Inc. case, the parent company of the Jack-in-the-Box, where three children died and 500 people were part of a class. Most of these children were made sick by undercooked hamburgers. I believe this case was in a State court. The settlement was approved on September 25, 1996; and it was a reputable settlement for people who had no other opportunity to address their grievances other than to go into Washington Superior Court in King County.

This legislation, Mr. Chairman, is one that does not protect the consumers. The gentlewoman would do well to have her amendment presented singly, standing alone, to provide us with the data so that we might make an intelligent decision not on behalf of special interests but on behalf of the consumers of America, the children that died from the tainted hamburger at the Jack-in-the-Box, those impacted by asbestos, and those impacted by the Firestone tires. Those are the people we should be trying to impact in this House today, particularly in light of the ups and downs that we have had in corporate America over the last couple of months.

I would ask my colleagues to recognize that this amendment may have a good underlying basis; but in fact, the question is why not have it do the job without this legislation. I ask my colleagues to oppose the underlying legislation.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentlewoman from Pennsylvania (Ms. HART).

The amendment, as modified, was agreed to.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment No. 7 offered by the gentlewoman from Texas (Ms. JACKSON-LEE) and amendment No. 8 offered by the gentleman from Massachusetts (Mr. FRANK).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 7, AS MODIFIED, OFFERED BY MS. JACKSON-LEE of TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 7 offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 248, not voting 9, as follows:

[Roll No. 59]

AYES—177

Abercrombie	Hilliard	Oberstar
Ackerman	Hinchee	Obey
Andrews	Hoeffel	Olver
Baca	Holt	Ortiz
Baird	Honda	Owens
Baldacci	Hooley	Pallone
Baldwin	Hoyer	Pascrell
Barcia	Inslee	Pastor
Becerra	Israel	Paul
Berkley	Jackson (IL)	Payne
Berman	Jackson-Lee	Pelosi
Berry	(TX)	Phelps
Bishop	Jefferson	Pomeroy
Bonior	Johnson, E. B.	Price (NC)
Borski	Jones (OH)	Rahall
Boswell	Kanjorski	Rangel
Brady (PA)	Kaptur	Reyes
Brown (FL)	Kennedy (RI)	Rivers
Brown (OH)	Kildee	Rodriguez
Capps	Klecza	Ross
Capuano	Kucinich	Rothman
Cardin	LaFalce	Roybal-Allard
Carson (IN)	Lampson	Rush
Clay	Langevin	Sabo
Clayton	Lantos	Sanchez
Clement	Larsen (WA)	Sanders
Clyburn	Larson (CT)	Sandlin
Conyers	Lee	Sawyer
Costello	Levin	Schakowsky
Coyne	Lewis (GA)	Schiff
Crowley	Lipinski	Scott
Cummings	Lowey	Serrano
Davis (CA)	Luther	Sherman
DeFazio	Lynch	Shows
DeGette	Maloney (CT)	Slaughter
Delahunt	Maloney (NY)	Smith (WA)
DeLauro	Markey	Solis
Deutsch	Mascara	Spratt
Dicks	Matheson	Stark
Dingell	Matsui	Strickland
Doggett	McCarthy (MO)	Stupak
Doyle	McCarthy (NY)	Tanner
Duncan	McCollum	Thompson (MS)
Edwards	McDermott	Tierney
Engel	McGovern	Towns
Etheridge	McIntyre	Turner
Evans	McKinney	Udall (CO)
Farr	Meehan	Udall (NM)
Fattah	Meek (FL)	Velazquez
Filner	Meeks (NY)	Visclosky
Ford	Menendez	Waters
Frost	Millender-	Watson (CA)
Gephardt	McDonald	Watt (NC)
Gilman	Miller, George	Waxman
Gonzalez	Mink	Weiner
Green (TX)	Mollohan	Wexler
Gutierrez	Moore	Woolsey
Hall (OH)	Nadler	Wu
Harman	Napolitano	Wynn
Hastings (FL)	Neal	

NOES—248

Aderholt	Bachus	Bartlett
Akin	Baker	Barton
Allen	Ballenger	Bass
Armey	Barr	Bereuter

Biggert Gutknecht
 Bilirakis Hall (TX)
 Blumenauer Hansen
 Blunt Hart
 Boehlert Hastings (WA)
 Boehner Hayes
 Bonilla Radanovich
 Bono Hefley
 Boozman Herger
 Boucher Hill
 Boyd Hilleary
 Brady (TX) Hobson
 Brown (SC) Hoekstra
 Bryant Holden
 Burr Horn
 Burton Hostettler
 Buyer Houghton
 Callahan Hulshof
 Calvert Hunter
 Camp Hyde
 Cannon Isakson
 Cantor Issa
 Capito Istook
 Carson (OK) Jenkins
 Castle John
 Chabot Johnson (CT)
 Chambliss Johnson (IL)
 Coble Johnson, Sam
 Collins Jones (NC)
 Combest Keller
 Condit Kelly
 Cooksey Kennedy (MN)
 Cox Kerns
 Cramer Kind (WI)
 Crane King (NY)
 Crenshaw Kingston
 Cubin Kirk
 Culberson Knollenberg
 Cunningham Kolbe
 Davis (FL) LaHood
 Davis, Jo Ann Latham
 Davis, Tom LaTourette
 Deal Leach
 DeLay Lewis (CA)
 DeMint Lewis (KY)
 Diaz-Balart Linder
 Dooley LoBiondo
 Doolittle Lofgren
 Dreier Lucas (KY)
 Dunn Lucas (OK)
 Ehlers Manzullo
 Ehrlich McCrery
 Emerson McHugh
 English McInnis
 Everett McKeon
 Ferguson McNulty
 Flake Mica
 Fletcher Miller, Dan
 Foley Miller, Gary
 Forbes Miller, Jeff
 Fossella Moran (KS)
 Frank Moran (VA)
 Frelinghuysen Morella
 Gallegly Myrick
 Ganske Nethercutt
 Gekas Ney
 Gibbons Northup
 Gilchrest Norwood
 Gillmor Nussle
 Goode Osborne
 Goodlatte Ose
 Gordon Otter
 Goss Oxley
 Graham Pence
 Granger Peterson (MN)
 Graves Peterson (PA)
 Green (WI) Petri
 Greenwood Pickering
 Grucci Pitts

NOT VOTING—9

Barrett Davis (IL) Kilpatrick
 Bentsen Eshoo Murtha
 Blagojevich Hinojosa Traficant

□ 1719

Messrs. LEACH, SIMPSON and BASS, Mrs. JOHNSON of Connecticut and Mrs. BONO changed their vote from “aye” to “no.”

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SHIMKUS). Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the remaining amendment on which the Chair postponed further proceedings.

AMENDMENT NO. 8, AS MODIFIED, OFFERED BY MR. FRANK

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 8, as modified, offered by the gentleman from Massachusetts (Mr. FRANK), on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 191, noes 234, not voting 9, as follows:

[Roll No. 60]

AYES—191

Abercrombie Farr
 Ackerman Fattah
 Allen Filner
 Andrews Ford
 Baca Frank
 Baird Frost
 Baldacci Gephardt
 Baldwin Gilman
 Barcia Gonzalez
 Becerra Gordon
 Berkeley Green (TX)
 Berman Gutierrez
 Berry Hall (OH)
 Bishop Hall (TX)
 Blumenauer Harman
 Bonior Hastings (FL)
 Borski Hill
 Boswell Hinchey
 Brady (PA) Hoeffel
 Brown (FL) Holt
 Brown (OH) Honda
 Cannon Hooley
 Capps Hoyer
 Capuano Insole
 Cardin Israel
 Carson (IN) Istook
 Carson (OK) Jackson (IL)
 Clay Jackson-Lee
 Clayton (TX)
 Clement Jefferson
 Clyburn Johnson, E. B.
 Condit Jones (OH)
 Conyers Kanjorski
 Costello Kaptur
 Coyne Kennedy (RI)
 Crowley Kildee
 Cummings Kleczka
 Davis (CA) Kucinich
 Davis (FL) LaFalce
 DeFazio Lampson
 DeGette Langevin
 Delahunt Lantos
 DeLauro Larsen (WA)
 Deutsch Larson (CT)
 Dicks Lee
 Dingell Levin
 Doggett Lewis (GA)
 Doyle Lofgren
 Edwards Lowey
 Engel Roybal-Allard
 Etheridge Luther
 Evans Lynch

Sanchez Sanders
 Sandlin Stark
 Sawyer Strickland
 Schakowsky Stupak
 Schiff Tauscher
 Scott Thompson (CA)
 Serrano Thompson (MS)
 Sherman Thurman
 Shows Tierney
 Skelton Towns
 Slaughter Turner
 Snyder Udall (CO)

NOES—234

Aderholt Graham
 Akin Granger
 Armey Graves
 Bachus Green (WI)
 Baker Greenwood
 Ballenger Grucci
 Barr Gutknecht
 Bartlett Hansen
 Barton Hart
 Bass Hastings (WA)
 Bereuter Hayes
 Biggert Hayworth
 Bilirakis Hefley
 Blunt Herger
 Boehlert Hilleary
 Boehner Hilliard
 Bonilla Hobson
 Bono Hoekstra
 Boozman Holden
 Boucher Horn
 Boyd Hostettler
 Brady (TX) Houghton
 Brown (SC) Hulshof
 Bryant Hunter
 Burr Hyde
 Burton Isakson
 Buyer Issa
 Callahan Jenkins
 Calvert John
 Camp Johnson (CT)
 Cantor Johnson (IL)
 Capito Johnson, Sam
 Castle Jones (NC)
 Chabot Keller
 Chambliss Kelly
 Coble Kennedy (MN)
 Collins Kerns
 Combest Kind (WI)
 Cooksey King (NY)
 Cox Kingston
 Cramer Kirk
 Crane Knollenberg
 Crenshaw Kolbe
 Cubin LaHood
 Culberson Latham
 Cunningham LaTourette
 Davis, Jo Ann Leach
 Davis, Tom Lewis (CA)
 Deal Lewis (KY)
 DeLay Linder
 DeMint LoBiondo
 Diaz-Balart Lucas (KY)
 Dooley Lucas (OK)
 Doolittle Manzullo
 Dreier McCrery
 Duncan McHugh
 Dunn McInnis
 Ehlers McKeon
 Ehrlich Mica
 Emerson Miller, Dan
 English Miller, Gary
 Everett Miller, Jeff
 Ferguson Moran (KS)
 Flake Moran (VA)
 Fletcher Morella
 Foley Myrick
 Forbes Nethercutt
 Fossella Ney
 Frelinghuysen Northup
 Gallegly Norwood
 Ganske Nussle
 Gekas Osborne
 Gibbons Otter
 Gilchrest Oxley
 Gillmor Paul
 Goode Pence
 Goodlatte Peterson (PA)
 Goss

NOT VOTING—9

Barrett Davis (IL) Kilpatrick
 Bentsen Eshoo Murtha
 Blagojevich Hinojosa Traficant

□ 1728

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. CANNON. Mr. Chairman, on rollcall No. 60, I inadvertently voted "aye" but I meant to vote "no."

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

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GILCREST) having assumed the chair, Mr. SHIMKUS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2341) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consideration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes, pursuant to House Resolution 367, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

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

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1730

MOTION TO RECOMMIT OFFERED BY MR. SANDLIN

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

The SPEAKER pro tempore (Mr. GILCREST). Is the gentleman opposed to the bill?

Mr. SANDLIN. Yes, Mr. Speaker, I am opposed to the bill in its present form.

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

The Clerk read as follows:

Mr. SANDLIN moves to recommit the bill H.R. 2341 to the Committee on the Judiciary with instructions that the Committee report the same back to the House with the following amendment:

Page 19, add the following after line 25:

Any defendant who is a knowing participant in any conspiracy to hijack any aircraft or commit an act of terrorism shall not be entitled to remove a class action to federal court pursuant to section 1332(d) of title 28, as added by section 4 of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SANDLIN) is recognized for 5 minutes in support of his motion.

Mr. SANDLIN. Mr. Speaker, by matter of correction, retraction and addition, the reference is section 1332(d).

Mr. Speaker, today's debate has illustrated a number of very serious problems with the bill before us. By federalizing class actions, it would make it far more burdensome, expensive, and time-consuming for groups of injured victims to obtain access to justice and far more difficult to protect our citizens against violations of fraud, consumer health, safety, and environmental laws.

The legislation goes so far as to prevent State courts from considering class actions which involve solely violations of State laws such as State consumer protection laws. In the post-Enron world, when we are trying to hold corporate wrongdoers accountable for their actions, this bill takes us in exactly the wrong direction.

The motion to recommit responds to another very serious problem with this legislation: the fact that it would permit parties who engage in terrorism to remove a class action brought against them in Federal court. As the bill is presently written, if a terrorist released a nuclear device or an anthrax cloud, the harmed victims could very well lose their ability to seek redress as a class in their local State court.

For example, if a class composed of mostly New Yorkers, but some citizens in New Jersey and Connecticut, want to pursue a terrorist in New York State court, I believe they should have that option. It is a matter of national security. This bill today prevents that.

The language in the motion would eliminate this problem by removing terrorists from the party defendants whose rights are enhanced by the bill. The language is based on the text of the airline bailout bill and the airport security bill we approved last fall. Any defendant who is a knowing participant in any conspiracy to hijack any aircraft or commit terrorist acts should not get the benefits of the bill.

The bills we passed previously provided for protections and limitations on liability to protect airlines, airplane manufacturers, the City of New York, and others, but we agreed on a bipartisan basis that nothing in the reform should in any way assist terrorist defendants. We should do the same thing in this bill.

Let me repeat, since September 11, every single liability bill we have passed has included an exclusion for

terrorists based on the language of this motion. We have excluded terrorists. The last thing we should be doing today is anything that will make the terrorists lives easier.

Let us vote yes on the motion, send the bill back to committee, and let us fix this bill.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this is not the usual motion to recommit that this House considers at the end of legislation. Those motions direct the committee of jurisdiction to report the legislation back to the House forthwith with an amendment. The motion to recommit of the gentleman from Texas omits the word "forthwith," and that means that if this motion is adopted, the bill will go back to the Committee on the Judiciary and will come out sometime in the future to be brought up under another rule where the House will spend another day listening to the same arguments that we have debated and rejected repeatedly through the amendment process.

So for that reason alone, the motion to recommit should be rejected.

Now, secondly, litigation resulting from a massive terrorist attack is precisely the type of complex legislation envisioned to be decided in our Federal courts. That type of litigation involves multiple parties from different districts asserting multiple laws, but having the same set of facts that the court will decide.

The House has already dealt with this issue when, earlier last year, it passed H.R. 860 by voice vote. This was supported by Members on both sides of the aisle and unanimously reported by the Committee on the Judiciary. This legislation is known as the multi-multi-multi bill, which is in direct response to air crash cases and multiple tort cases such as a terrorist attack, and it directs which Federal court those types of cases can be consolidated in. So the House has already dealt with that issue.

The amendment is unnecessary because it does not require the bill to be brought back forthwith. It is a sneaky way to attempt to kill the bill by referring it to the committee, and I would urge Members to oppose this motion simply to get rid of this issue and to send it on its way to the other body.

Mr. Speaker, I yield the balance of the time to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time, and for his leadership in moving this legislation through the House.

This is a good, bipartisan bill. I was pleased to introduce it with the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Virginia (Mr. MORAN). We need bipartisan support to pass this legislation.

We have all day long from the opponents of this bill seen obfuscation. This

bill is not about terrorists, it is not about Enron, it is not about shredding documents; what it is about is good, common-sense class action lawsuit reform to end this kind of abuse, where the lawyers get \$2 million in attorneys' fees and the plaintiffs, the American families, get a box of Cheerios.

It is about a case where the plaintiffs get a \$25 coupon off a \$250 future plane flight, a 10 percent reduction, and the attorneys get \$16 million in attorneys' fees.

It is about this great case wherein the Bank of Boston, the attorneys got \$8.5 million in fees and then sued, sued their own clients for an additional \$25 million.

It is about this Blockbuster case, 23 class action lawsuits settled for \$1-off coupons; the attorneys got an estimated \$9.2 million in attorneys' fees.

Here is my favorite one. The attorneys got \$4 million in their suit against Chase Manhattan Bank; the plaintiffs, including this plaintiff, 33 cents. But there is a catch to the 33 cents. There it is, 33 cents; the catch is that in order to accept the settlement, you had to use a 34-cent stamp to send in the acceptance, and so you came out 1 penny short.

Our friends at the Washington Post summed it up best when they said, Having invented a client, the lawyers also get to choose a court. Under the current absurd rules, national class actions can be filed in just about any court in the country. This bill changes that. This bill treats American families with more than pennies; it restores integrity to our judicial system. Vote against this obfuscating motion to recommit and for this good legislation.

Again, the Washington Post: That it is controversial at all reflects less on the merits of the proposal than on the grip that the trial lawyers have on many Democrats.

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

RECORDED VOTE

Mr. SANDLIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 191, noes 235, not voting 8, as follows:

[Roll No. 61]

AYES—191

Abercrombie	Baldacci	Berry
Ackerman	Baldwin	Bishop
Allen	Becerra	Blumenauer
Andrews	Bentsen	Bonior
Baca	Berkley	Borski
Baird	Berman	Boswell

Boyd	Jackson-Lee
Brady (PA)	(TX)
Brown (FL)	Jefferson
Brown (OH)	Johnson, E. B.
Capps	Jones (OH)
Capuano	Kanjorski
Cardin	Kaptur
Carson (IN)	Kennedy (RI)
Carson (OK)	Kildee
Clay	Kleczka
Clayton	Kucinich
Clement	LaFalce
Clyburn	Lampson
Condit	Langevin
Conyers	Lantos
Costello	Larsen (WA)
Coyne	Larsen (CT)
Crowley	Lee
Cummings	Levin
Davis (CA)	Lewis (GA)
Davis (FL)	Lipinski
DeFazio	LoFazio
DeGette	Lowey
DeLaunt	Luther
DeLauro	Lynch
Deutsch	Maloney (CT)
Dicks	Maloney (NY)
Dingell	Markey
Doggett	Mascara
Doyle	Matheson
Edwards	Matsui
Engel	McCarthy (MO)
Etheridge	McCarthy (NY)
Evans	McCollum
Farr	McDermott
Fattah	McGovern
Filner	McIntyre
Ford	McKinney
Frank	McNulty
Frost	Meehan
Gephardt	Meek (FL)
Gonzalez	Meeke (NY)
Gordon	Menendez
Green (TX)	Millender-
Gutierrez	McDonald
Hall (OH)	Miller, George
Harman	Mink
Hastings (FL)	Mollohan
Hill	Moore
Hilliard	Nadler
Hinchey	Napolitano
Hoeffel	Neal
Holt	Oberstar
Honda	Obey
Hooley	Olver
Hoyer	Ortiz
Inslee	Owens
Israel	Pallone
Jackson (IL)	Pascrell

NOES—235

Aderholt	Combest
Akin	Cooksey
Armey	Cox
Bachus	Cramer
Baker	Crane
Ballenger	Crenshaw
Barcia	Cubin
Barr	Culberson
Bartlett	Cunningham
Barton	Davis, Jo Ann
Bass	Davis, Tom
Bereuter	Deal
Biggert	DeLay
Bilirakis	DeMint
Blunt	Diaz-Balart
Boehlert	Dooley
Boehner	Doolittle
Bonilla	Dreier
Bono	Duncan
Boozman	Dunn
Boucher	Ehlers
Brady (TX)	Ehrlich
Brown (SC)	Emerson
Bryant	English
Burr	Everett
Burton	Ferguson
Buyer	Flake
Callahan	Fletcher
Calvert	Foley
Camp	Forbes
Cannon	Fossella
Cantor	Frelinghuysen
Capito	Galleghy
Castle	Ganske
Chabot	Gekas
Chambliss	Gibbons
Coble	Gilchrest
Collins	Gillmor

Pastor	Keller
Payne	Kelly
Pelosi	Kennedy (MN)
Peterson (MN)	Kerns
Phelps	Kind (WI)
Pomeroy	King (NY)
Price (NC)	Kingston
Rahall	Kirk
Rangel	Knollenberg
Reyes	Kolbe
Rivers	LaHood
Rodriguez	Latham
Roemer	LaTourrette
Ross	Leach
Rothman	Lewis (CA)
Roybal-Allard	Lewis (KY)
Rush	Linder
Sabo	LoBiondo
Sanchez	Lucas (KY)
Sanders	Lucas (OK)
Sandlin	Manzullo
Sawyer	McCrery
Schakowsky	McHugh
Schiff	McInnis
Scott	McKeon
Serrano	Mica
Sherman	Miller, Dan
Shows	Miller, Gary
Skelton	Miller, Jeff
Slaughter	Moran (KS)
Smith (WA)	Moran (VA)
Snyder	Morella
Solis	Myrick
Spratt	Nethercutt
Stark	Ney
Strickland	Northup
Stupak	Norwood
Tauscher	Nussle
Thompson (CA)	Osborne
Thompson (MS)	Ose
Thurman	Otter
Tierney	
Towns	
Turner	
Udall (CO)	
Udall (NM)	
Velazquez	
Visclosky	
Waters	
Watson (CA)	
Watt (NC)	
Waxman	
Weiner	
Wexler	
Woolsey	
Wu	
Wynn	

Oxley	Smith (MI)
Paul	Smith (NJ)
Pence	Smith (TX)
Peterson (PA)	Souder
Petri	Stearns
Pickering	Stenholm
Pitts	Stump
Platts	Sullivan
Pombo	Sununu
Portman	Sweeney
Pryce (OH)	Tancredo
Putnam	Tanner
Quinn	Tauzin
Radanovich	Taylor (MS)
Ramstad	Taylor (NC)
Regula	Terry
Rehberg	Thomas
Reynolds	Thornberry
Riley	Thune
Rogers (KY)	Tiahrt
Rogers (MI)	Tiberi
Rohrabacher	Toomey
Ros-Lehtinen	Upton
Roukema	Vitter
Royce	Walden
Ryan (WI)	Walsh
Ryun (KS)	Wamp
Saxton	Watkins (OK)
Schaffer	Watts (OK)
Schrock	Weldon (FL)
Sensenbrenner	Weldon (PA)
Sessions	Weller
Shadegg	Whitfield
Shaw	Wicker
Shays	Wilson (NM)
Sherwood	Wilson (SC)
Shimkus	Wolf
Shuster	Young (AK)
Simmons	Young (FL)
Simpson	
Skeen	

NOT VOTING—8

Barrett	Eshoo	Murtha
Blagojevich	Hinojosa	Traficant
Davis (IL)	Kilpatrick	

□ 1802

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. GILCHREST). The question is on the passage of the bill.

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

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 190, not voting 11, as follows:

[Roll No. 62]

YEAS—233

Aderholt	Bryant	Davis, Jo Ann
Akin	Burr	Davis, Tom
Armey	Burton	Deal
Bachus	Buyer	DeLay
Baker	Callahan	DeMint
Ballenger	Calvert	Dooley
Barcia	Camp	Doolittle
Barr	Cannon	Dreier
Bartlett	Cantor	Duncan
Barton	Capito	Dunn
Bass	Castle	Ehlers
Bereuter	Chabot	Ehrlich
Biggert	Chambliss	Emerson
Bilirakis	Coble	English
Blunt	Collins	Everett
Boehlert	Combest	Ferguson
Boehner	Cooksey	Flake
Bonilla	Cox	Foley
Bono	Cramer	Forbes
Boozman	Crane	Fossella
Boucher	Crenshaw	Frelinghuysen
Boyd	Cubin	Galleghy
Brady (TX)	Culberson	Ganske
Brown (SC)	Cunningham	Gekas

Gibbons	Leach	Ryun (KS)
Gilchrest	Lewis (CA)	Saxton
Gillmor	Lewis (KY)	Schaffer
Goode	Linder	Schrock
Goodlatte	LoBiondo	Sensenbrenner
Gordon	Lucas (KY)	Sessions
Goss	Lucas (OK)	Shadegg
Graham	Manzullo	Shaw
Granger	McCrary	Shays
Graves	McHugh	Sherwood
Green (WI)	McInnis	Shimkus
Greenwood	McKeon	Shuster
Grucci	Mica	Simmons
Gutknecht	Miller, Dan	Simpson
Hall (TX)	Miller, Gary	Skeen
Hansen	Miller, Jeff	Smith (MI)
Harman	Moran (KS)	Smith (NJ)
Hart	Moran (VA)	Smith (TX)
Hastings (WA)	Morella	Souder
Hayes	Myrick	Stearns
Hayworth	Nethercutt	Stenholm
Hefley	Ney	Stump
Herger	Northup	Sullivan
Hilleary	Norwood	Sununu
Hobson	Nussle	Sweeney
Hoekstra	Osborne	Tancred
Holden	Ose	Tanner
Horn	Otter	Tauzin
Hostettler	Oxley	Taylor (MS)
Houghton	Paul	Taylor (NC)
Hulshof	Pence	Thomas
Hunter	Peterson (MN)	Thornberry
Hyde	Peterson (PA)	Thune
Isakson	Petri	Tiahrt
Issa	Pickering	Tiberi
Istook	Pitts	Toomey
Jenkins	Platts	Upton
John	Pombo	Vitter
Johnson (CT)	Portman	Walden
Johnson (IL)	Pryce (OH)	Walsh
Johnson, Sam	Putnam	Wamp
Jones (NC)	Quinn	Watkins (OK)
Keller	Radanovich	Watts (OK)
Kelly	Ramstad	Weldon (FL)
Kennedy (MN)	Regula	Weldon (PA)
Kerns	Rehberg	Weller
Kingston	Reynolds	Whitfield
Kirk	Riley	Wicker
Knollenberg	Rogers (KY)	Wilson (NM)
Kolbe	Rogers (MI)	Wilson (SC)
LaHood	Rohrabacher	Wolf
Larson (CT)	Roukema	Young (AK)
Latham	Royce	Young (FL)
LaTourette	Ryan (WI)	

NAYS—190

Abercrombie	Diaz-Balart	Klecza
Ackerman	Dicks	Kucinich
Allen	Dingell	LaFalce
Andrews	Doggett	Lampson
Baca	Doyle	Langevin
Baird	Edwards	Lantos
Baldacci	Engel	Larsen (WA)
Baldwin	Etheridge	Lee
Becerra	Evans	Levin
Bentsen	Farr	Lewis (GA)
Berkley	Filmer	Lipinski
Berman	Ford	Lofgren
Berry	Frank	Lowe
Bishop	Frost	Luther
Blumenauer	Gephardt	Lynch
Bonior	Gilman	Maloney (CT)
Borski	Gonzalez	Maloney (NY)
Boswell	Green (TX)	Markey
Brady (PA)	Gutierrez	Mascara
Brown (FL)	Hall (OH)	Matheson
Brown (OH)	Hastings (FL)	Matsui
Capps	Hill	McCarthy (MO)
Capuano	Hilliard	McCarthy (NY)
Cardin	Hinche	McCollum
Carson (IN)	Hoeffel	McDermott
Carson (OK)	Holt	McGovern
Clay	Honda	McIntyre
Clayton	Hooley	McKinney
Clement	Hoyer	McNulty
Clyburn	Inslee	Meehan
Condit	Israel	Meek (FL)
Conyers	Jackson (IL)	Meeks (NY)
Costello	Jackson-Lee	Menendez
Coyne	(TX)	Millender-
Crowley	Jefferson	McDonald
Cummings	Johnson, E. B.	Miller, George
Davis (CA)	Jones (OH)	Mink
Davis (FL)	Kanjorski	Mollohan
DeFazio	Kaptur	Moore
DeGette	Kennedy (RI)	Nadler
Delahunt	Kildee	Napolitano
DeLauro	Kind (WI)	Neal
Deutsch	King (NY)	Oberstar

Obey	Roybal-Allard	Tauscher
Oliver	Sabo	Terry
Ortiz	Sanchez	Thompson (CA)
Owens	Sanders	Thompson (MS)
Pallone	Sandlin	Thurman
Pascarell	Sawyer	Tierney
Pastor	Schakowsky	Towns
Payne	Schiff	Turner
Pelosi	Scott	Udall (CO)
Phelps	Serrano	Udall (NM)
Pomeroy	Sherman	Velazquez
Price (NC)	Shows	Visclosky
Rahall	Skelton	Waters
Rangel	Slaughter	Watson (CA)
Reyes	Smith (WA)	Watt (NC)
Rivers	Snyder	Waxman
Rodriguez	Solis	Weiner
Roemer	Spratt	Wexler
Ros-Lehtinen	Stark	Woolsey
Ross	Strickland	Wu
Rothman	Stupak	Wynn

NOT VOTING—11

Barrett	Fattah	Murtha
Blagojevich	Fletcher	Rush
Davis (IL)	Hinojosa	Traficant
Eshoo	Kilpatrick	

□ 1812

Ms. BROWN of Florida changed her vote from “yea” to “nay”.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KILPATRICK. Mr. Speaker, due to business in the District, I was unavoidably detained on Wednesday, March 13. Had I been present, I would have voted as follows on the amendments to H.R. 2341, the Class Action Fairness Act: “aye” on the Waters Amendment (Roll-call No. 56); “aye” on the Conyers Amendment (Roll-call No. 58); “aye” on the Jackson-Lee Amendment (Roll-call No. 59) and “aye” on the Frank Amendment (Roll-call No. 60).

Finally, I would have voted “aye” on the motion to recommit offered by Mr. SANDLIN (Roll-call No. 61) and “nay” on final passage of H.R. 2341 (Roll-call No. 61).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 2341, the bill just passed.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3694

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3694.

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

There was no objection.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on March 7 I had to return to

my district on official business. On Rollcall No. 51, if I had been present, I would have voted no.

On Rollcall No. 52, H.R. 3090, the economic stimulus package to increase the unemployment benefits for laid-off workers, I would have voted aye.

On March 12, 2002, Rollcall No. 53, H.R. 1885, Enhanced Border Security and Visa Entry Reform Act of 2002, I was unavoidably detained in my district. If I had been present, I would have voted aye.

Mr. Speaker, my final one, today, March 13, 2002, on Rollcall No. 54, the Journal vote, I was delayed because of air travel. I was coming from my district. If I had been present, I would have voted aye.

CUBANS SEEKING POLITICAL CHANGE

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. FLAKE. Mr. Speaker, I rise today to talk about a remarkable event that occurred last Thursday on the island of Cuba. According to Reuters, “In an apparently unprecedented move during Fidel Castro’s 43-year rule, a group of dissidents says it has gathered 10,000 signatures to ask the Cuban parliament for a referendum on political reforms.”

“We are proposing a consultation with the people so that they can decide about change,” a leading moderate dissident, Oswaldo Paya, who is the main promoter of the so-called Varela Project, told Reuters late on Wednesday.

The project, named for the pro-independence Catholic Priest Felix Varela, is based on Article 88 of the Cuban constitution, which says new legislation may be proposed by citizens if more than 10,000 voters support them.

The proposed referendum, Paya says, would be on the need to guarantee rights of freedom of expression and association and amnesty for political prisoners; more opportunities for private businesses; and new electoral law and a general election.

Unfortunately, it is virtually certain that the National Assembly will reject the referendum.

Mr. Speaker, I include these two articles and state for the RECORD that these dissidents from Cuba deserve to be seen and heard.

[From the Associated Press, Mar. 8, 2002]

CUBANS SEEKING POLITICAL CHANGE

(By Anita Snow)

HAVANA.—Cuban dissidents said Friday they have collected 10,000 signatures needed to force a referendum on overhauling the government, a move unprecedented in communist Cuba.

Miguel Saludes of Cuba’s Christian Liberation Movement said activists were checking the signatures to verify their authenticity. The petition will then be delivered to Cuba’s National Assembly, he said.

He would not say when activists expected to have the document ready. The proposed referendum, known as the Varela Project, appears to be the first signature-gathering effort to get this far under the government of Fidel Castro (news—web sites), in power for 43 years.

The referendum would ask voters whether they think guarantees are needed to assure the rights of free speech and association and whether they support an amnesty for political prisoners. It would also call for new electoral laws and more opportunities for Cubans to run their own private businesses.

Castro's government has not commented publicly on the effort. Previous petition efforts have stalled in part because people were afraid to sign, but in the decade since the collapse of the Soviet Union, the government has shown slightly more tolerance for opposition groups.

The project is named for Father Felix Varela, a Roman Catholic priest who fought for the emancipation of slaves on the Caribbean island. The referendum was first mentioned by the Christian Liberation Movement shortly after Pope John Paul (news—web sites) II's visit here in January 1998.

The Cuban Commission for Human Rights and Reconciliation and the Democratic Solidarity Party later joined the Christian Liberation Movement in helping coordinate the signature-gathering drive. The groups have been gathering signatures across the island since early last year.

All three groups operate here without the approval of the government, which regularly characterizes its opponents as "counter-revolutionaries" and "mercenaries" for the U.S. government and Cuban exiles.

CUBA DISSIDENTS SAY 10,000 SIGN
REFERENDUM APPEAL

(By Isabel Garcia-Zarza)

HAVANA (Reuters)—In an apparently unprecedented move during President Fidel Castro's 43-year rule, a group of dissidents says it has gathered 10,000 signatures to ask the Cuban parliament for a referendum on political reforms.

"We are proposing a consultation with the people so they decide about change," a leading moderate dissident, Oswaldo Paya, who is the main promoter of the so-called Varela Project, told Reuters late on Wednesday.

The project, named for pro-independence Catholic priest Felix Varela (1788-1853), is based on article 88 of the Cuban constitution, which says new legislation may be proposed by citizens if more than 10,000 voters support them.

The proposed referendum, Paya said, would be on the need to guarantee the rights of free expression and association; an amnesty for political prisoners; more opportunities for private business; a new electoral law; and a general election.

Havana, which scorns dissidents as "counter-revolutionary" pawns of a hostile U.S. government and anti-Castro Cuban American groups, has publicly ignored the project. But Paya and others behind the campaign accused the government of mounting a strong campaign of "threats and persecution" to impede the gathering of signatures and delivery of letters to authorities.

"Authorities are acting like gangsters," said Paya, who has a long list of alleged verbal and physical abuse against Varela Project activists in the last year.

'GOVERNMENT AFRAID'—PAYA

"The government is afraid of this liberating gesture, where a social vanguard is showing it has no fear. The government is afraid when the people are not afraid," he added. Castro frequently says his one-party communist system is more democratic than

the Western model and denies the existence of political prisoners or repression of freedom of expression.

The signatures, gathered by activists across the Caribbean island of 11 million inhabitants over the last year, will be presented to the National Assembly in a few weeks, once all 10,000 signatures have been checked and ratified, Paya said.

"This has never been done before, it has no precedent," he added. "It shows Cubans not only want changes, but also are ready to face the risks to show they want changes." According to Paya, more than 100 small opposition groups have backed the initiative. However, some prominent dissidents, such as Martha Beatriz Roque, do not support it, arguing it is unrealistic to seek change within a constitution designed by the Castro government.

Paya did not say what Varela Project backers will do if the initiative is rejected by the National Assembly, something analysts and diplomats think is virtually certain. "We are ready to keep demanding our rights," he said.

Over the four decades since the 1959 revolution, Cuba's scattered and marginalized internal dissident movement has made little headway against Castro's grip on power. Castro again scathingly lambasted dissidents this week, in a three-hour TV speech, as non-representative of the Cuban people and intent on helping Washington bring Cuba into the U.S. "empire."

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

STEEL PROTECTIONISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, I am disheartened by the administration's recent decision to impose a 30 percent tariff on steel imports. This measure will hurt far more Americans than it will help, and it takes a step backward toward the protectionist thinking that dominated Washington in decades past. Make no mistake about it, these tariffs represent naked protectionism at its worst, a blatant disregard of any remaining free market principles to gain the short-term favor of certain special interests.

□ 1815

These steel tariffs also make it quite clear that the rhetoric about free trade in Washington is abandoned and replaced with talk of "fair trade" when special interests make demands. What most Washington politicians really believe in is government-managed trade,

not free trade. True free trade, by definition, takes place only in the absence of government interference of any kind, including tariffs. Government-managed trade means government, rather than competence in the marketplace, determines what industries and companies succeed or fail.

We have all heard about how these tariffs are needed to protect the jobs of American steelworkers, but we never hear about the jobs that will be lost or never created when the cost of steel rises 30 percent. We forget that tariffs are taxes and that imposing tariffs means raising taxes. Why is the administration raising taxes on American steel consumers? Apparently no one in the administration has read Henry Hazlitt's classic book "Economics in One Lesson." Professor Hazlitt's fundamental lesson was simple: we must examine economic policy by considering the long-term effects of any proposal on all groups.

The administration, instead, chose to focus on the immediate effects of steel tariffs on one group, the domestic steel industry. In doing so, it chose to ignore basic economics for the sake of political expediency. Now, I grant you that this is hardly anything new in this town, but it is important that we see these tariffs as the political favors that they are. This has nothing to do with fairness. The free market is fair. It alone justly rewards the worthiest competitors. Tariffs reward the strongest Washington lobbies.

We should recognize that the cost of these tariffs will not only be borne by American companies that import steel, such as those in the auto industry and building trades. The cost of these import taxes will be borne by nearly all Americans, because steel is widely used in the cars we drive and in the buildings in which we live and work. We will all pay, but the cost will be spread out and hidden, so no one complains. The domestic steel industry, however, has complained; and it has the corporate and union power that scares politicians in Washington. So the administration moved to protect domestic steel interests, with an eye towards upcoming elections. It moved to help members who represent steel-producing States.

We hear a great deal of criticism of special interests and their stranglehold on Washington, but somehow when we prop up an entire industry that has failed to stay competitive, "we are protecting American workers." What we are really doing is taxing all Americans to keep some politically favored corporations afloat. Some rank-and-file jobs may also be saved, but at what cost? Do steelworkers really have a right to demand Americans pay higher taxes to save an industry that should be required to compete on its own?

If we are going to protect the steel industry with tariffs, why not other industries? Does every industry that competes with imported goods have the same claim for protection? We have propped up the auto industry in the

past; now we are doing it for steel. So who should be next in line? Virtually every American industry competes with at least some imports.

What happened to the wonderful harmony that the WTO was supposed to bring to the global market? The administration has been roundly criticized since the steel decision was announced last week, especially by our WTO "partners." The European Union is preparing to impose retaliatory sanctions to protect its own steel industry. EU Trade Commissioner Pascal Lamy has accused the U.S. of setting the stage for a global trade war; and several other steel producing nations, such as Japan and Russia, also have vowed to fight the tariffs. Even British Prime Minister Tony Blair, who has been a tremendous supporter of the President since September 11, recently stated that the new American steel tariffs were totally unjustified.

The WTO was supposed to prevent all this squabbling, was it not? Those of us who opposed U.S. membership in the WTO were scolded as being out of touch, unwilling to see the promise of a new global prosperity. What we are getting instead is increased hostility from our trading partners and threats of economic sanctions from our WTO masters. This is what happens when we let government-managed trade schemes pick winners and losers in the global trading game. The truly deplorable thing about all this is that the WTO is touted as promoting free trade.

Mr. Speaker, it is always amazing to me that Washington gives so much lip service to free trade while never adhering to true free trade principles. Free trade really means freedom, the freedom to buy and sell goods and services free from government interference. Time and time again, history proves that tariffs do not work. Even some modern Keynesian economists have grudgingly begun to admit that free markets allocate resources better than centralized planning. Yet we cling to the idea that government needs to manage trade when it really needs to get out of the way and let the marketplace determine the cost of goods.

I sincerely hope that the administration's position on steel does not signal a willingness to resort to protectionism whenever special interests make demands in the future.

The SPEAKER pro tempore (Mr. SHUSTER). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR 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 Virginia (Mrs. JO ANN DAVIS) is recognized for 5 minutes.

(Mrs. JO ANN DAVIS of Virginia 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 the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON 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 Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS 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 New York (Mr. MEEKS) is recognized for 5 minutes.

(Mr. MEEKS of New York 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 Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI 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 Georgia (Ms. MCKINNEY) is recognized for 5 minutes.

(Ms. MCKINNEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

THE DEBT CEILING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Texas (Mr. STENHOLM) is recognized for 60 minutes as the designee of the minority leader.

Mr. STENHOLM. Mr. Speaker, today I want to take this time to continue a discussion that we, the so-called Blue Dog Democrats, the Blue Dog Coalition, have been carrying on for the last 2 or 3 weeks talking about the urgency of this body in dealing with the debt ceiling and dealing with our economic game plan that has now pushed us once again into a position of having to borrow on the Social Security trust fund for the next 10 years.

Just a little bit of a reminder or a refresher on everyone's mind tonight. It was just 1 year ago that we were on this floor advocating a budget, an economic game plan for this country that was different from what the majority and the administration wished. The thing that we said was that this \$5.6 trillion was projected surpluses, and we emphasized projected. These were guesstimates. Most everyone agrees we

cannot predict tomorrow, much less 10 years. But we lost. What we suggested was let us take half of that projected surplus and pay down our national debt. We were told we were in danger of paying it down too fast. That was somewhat laughable to most of us, the idea that you could pay down debt too fast, when you owed \$5.6 trillion.

When we have an unfunded liability in the Social Security trust fund of \$22 trillion, we also proposed in our budget plan that the first thing that we should do as a body is fix Social Security and Medicare; that we should deal with those two problems first before we begin making any other decisions as to how much money we spend. Again, we lost. We have not seriously addressed Social Security as of this moment, and we will not do so until at least next year.

But now we find, again contrary to what we were told a little over 1 year ago, that we were not going to need to increase our debt ceiling for at least 7 more years; that in December, the Secretary of the Treasury, Mr. O'Neill, wrote and said we must increase our debt ceiling and do it immediately by \$750 billion. Now, where are we tonight? As of the close of business Friday, March 8, the debt subject to limit stood at \$5.924 trillion, leaving about \$26 billion of room left in our debt ceiling.

Now, what does this mean to the average layperson? It is kind of like a student going to their parents with a \$6,000 credit card bill. Of course the parents will pay, because they do not want the kids rating to be damaged and probably their own, because they are responsible for their child; but they will work out an arrangement with that child that includes reducing his allowance, getting a part-time job, making promises for less partying, and on and on. That is what concerns us Blue Dogs and why we are here again tonight. We are being asked to increase the debt ceiling by \$750 billion without a plan, without a plan to deal with these deficits that now have, in the President's budget, a projected raiding of the Social Security trust fund for the next 10 years.

We do not believe that is an acceptable game plan. We are prepared to support our President, and we are prepared to work with our friends on the other side of the aisle on a new plan. But so far nothing has come forward. One would think that the budget that we are going to be having on the floor next week would address this. Instead, we are told that we are not even going to have a budget that is in balance anytime in the future.

We are being told now that this budget that is going to be presented to us will be scored by OMB. The last time we had a fight on the debt ceiling, one of the things that we agreed to was that we would use CBO. In fact, 1995, the last time we had this difference of

opinion on how we raise the debt ceiling, 48 Democrats joined with the Republican majority to insist that President Clinton submit a plan that was balanced under CBO numbers.

Now, I am saying to the leadership of this House, and we again would welcome someone from the other side to come and join in this discussion tonight, we hope that the 148 Republicans who voted for that legislation in 1995, who are still in the House, will stay consistent and insist that before we raise the debt ceiling that we have a plan that gets us out of it. Is that unreasonable? Does that not make sense? If so, why are we now talking about doing the same thing that Secretary Rubin did in 1995 that had the majority threatening to impeach him? Now we are talking about perhaps doing the same thing, and now it is okay.

Again, all we are saying tonight is increasing the debt ceiling by \$750 billion to borrow money for what? Now, let me point out very clearly, we support the President's request for additional funding for defense and are perfectly willing to include that in any debt ceiling increase. If the President proposes to borrow the money rather than to pay for it, we are behind him, and that includes the domestic defense as well as the foreign. That is not an item in dispute.

What is in dispute tonight is why should we increase the debt ceiling \$750 billion without putting a plan in place to deal with it, just like the father and son or father and daughter would certainly do if it was in their household budget? I find most American people agree with that rationale. We are puzzled why we are not having that bill on the floor next week.

Mr. Speaker, I ask unanimous consent that I be allowed to yield the balance of my time to the gentleman from Florida (Mr. BOYD), and that he be allowed to control that time.

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

There was no objection.

□ 1830

Mr. BOYD. Mr. Speaker, I thank the gentleman from Texas for filling in.

The gentleman from Texas has been a leader in this House for, I guess, 23, 24 years now on this issue of fiscal responsibility. One thing we know about him, his message has always been consistent, that we ought to be willing to pay for those programs that we as a nation want to have, have the government fund, and we ought not to be in a position of deficit spending and asking our children to pay for those programs that we have.

I want to thank the gentleman from Texas.

Mr. Speaker, I want to call on another leader, the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. I thank the gentleman from Florida for yielding. Let us stand up for fiscal responsibility in

this country and conservative budgeting and conservative spending.

Last year we were worried about paying off the debt too quickly. That seems long ago. What does it say now that we are looking at raising the debt limit in this country?

The administration's request to raise the debt limit by \$750 billion confirms the warnings of the Blue Dogs from last year, that it was dangerous to make long-term commitments to tax cuts or new spending programs based on shaky projections of surpluses over a 10-year period. It is impossible to make those 10-year projections in your home, in your business, and it is certainly impossible to make them in this country.

Last year, the Blue Dogs proposed taking the on-budget surplus and immediately paying one-half of that available fund on the debt of this country. To pay down the debt, we proposed taking one-quarter of that surplus and making it available for tax cuts for working families here in America, and taking one-quarter of that surplus and making that available for investment in areas such as agriculture, defense and the education of our children.

Instead, we enacted a budget consuming 100 percent of the projected surplus, not the surplus but the projected surplus, we used risky and too-rosy projections, and we left absolutely no margin for error in our projections. We have things such as national emergencies, natural disasters, wars. We made no provisions for those changes. So we put ourselves on a course for budget deficits once the circumstances changed and our projected surpluses disappeared for a number of reasons.

The vote to raise the debt in part is an acknowledgment that we have broken our pledge on Social Security, and the Social Security lockbox is now wide open; and we are going to leave it open to raid it time and time again unless we enact fiscally responsible budgeting principles in this country.

The war and the recession represent a part, but only a small part, of the reason the debt limit needs to be increased. We are willing to authorize debt to cover the cost of war. Our fighting men and fighting women across the world need every advantage, every piece of equipment, every bit of technology, every bit of training that is necessary to root out terrorism. But we are not willing to allow the government to continue on deficits as far as the eye can see without a budget, without a plan, without any forethought.

The last two increases in the debt limit came when Congress and the President were negotiating on a bipartisan basis to balance the budget. Many of us were here in 1997, and that led to the balanced budget agreement of 1997, a strong bipartisan effort. But presently, instead of working with the Congress to put the budget back on track, the administration's request for an increase in the debt limit is in-

cluded in a budget which projects deficits financed by borrowing from the Social Security surplus for the next decade and beyond.

It avoids making difficult choices. It extends and expands existing tax cuts. It increases the long-term obligations of this country. And it results in more borrowing, just what we do not need.

Blue Dogs do not want to see the country in default on the debt, but we do not want to give out just a blank check, a blank check with no plan, with no budget, with no forethought. An increase in the debt limit must be accompanied by a plan to put our fiscal house in order.

What is wrong with asking for a plan? What is wrong with asking for a budget before we make these decisions?

In 1997, a Member from the other side of the aisle said, "We said from the beginning of this Congress that we want to negotiate with the President, but we cannot negotiate with a President who does not want to balance the budget. We do not want to negotiate over whether to balance the budget or not; we want him to submit a budget that balances by CBO what he called for. We will negotiate with him in the parameters within that balanced budget. But if the President cannot submit one, how do we negotiate apples with oranges? You know, the saying goes, 'If at first you don't succeed, try, try again.'"

We agree with those statements. We hope that the current President agrees with those statements and that we can hold the President and the administration to the same standard. It is certainly reasonable. We want to work with the administration.

We propose that in the interim, the Congress pass a short-term debt limit increase equal to an amount that the President tells us is needed to fight the war. We want to listen to the President and support him in his efforts in fighting terrorism and speak with one voice when we leave the shores of the United States of America. So we want to pass short-term limits, that is, in an amount that he tells us is needed; not that it is extravagant, but needed. We want to continue the lawful government obligations and functions of the United States Government.

Any additional debt limit, other than those two things, fighting the war and our obligations, must be passed and would be contingent upon successful completion of a comprehensive and complete budget plan. That is fiscal soundness. That is fiscal responsibility. That is putting our house in order. We need a budget.

A long-term budget plan should reestablish a glide path for a balanced unified budget. We need to put everything on the table to look at when we are talking about the finances of this country. We have to control spending and include that in our long-term budget plan. And we have to ensure that we do not continue to be the parents borrowing from our own children.

This will not be done overnight and there are legitimate arguments about the fact that we could reach a critical point before there is adequate time to develop a plan and develop a budget and approve a plan which meets the criteria. This is why we have proposed, as Blue Dogs, the short-term debt limit increase while the planning is going on.

Certainly, Blue Dogs do not want to threaten the United States' credibility or expose United States taxpayers to risks associated with defaulting on the debt. We do not believe in brinkmanship. We do not believe in political posturing. We believe in fiscal responsibility. We do not want the government to continue to function and meet its lawful obligations in a risky manner. And we absolutely refuse in every case to jeopardize our troops or our homeland security or undermine the war effort in any way.

However, we do not want to simply write a \$750 billion blank check absent concrete actions and concrete plans to restore discipline and return to fiscally responsible policies in this country.

If we want to address critical issues such as Social Security, prescription drugs, veterans' benefits for those that fought to defend the country, a true and meaningful Patients' Bill of Rights, and education, we have to have a firm financial foundation in this country. We need fiscal responsibility.

We are willing to work on a short-term debt limit increase. We are willing to do anything we can to encourage the economy. All we are saying is, let us please use proper planning. Let us enact a budget just like every home and business in America does. Let us get this country back on a path of fiscal responsibility.

Mr. BOYD. I want to thank the gentleman from Texas for his work on behalf of this country.

I would like now to recognize the gentleman from Illinois (Mr. PHELPS), who represents a very large rural district. I think his people back home certainly understand about fiscal responsibility.

Mr. PHELPS. Mr. Speaker, I thank the gentleman from Florida and my fellow Blue Dogs for their comments and for giving me this opportunity to speak out on such an important issue. It is good to know that Florida and Illinois can kind of balance out the Texans that have come before us with their input, which is so valuable.

All of us here this evening have certain concerns with increasing the debt limit. Of course we do, because we are a group of Democrats who focus on being fiscally responsible. It is obvious that questions are going to be raised by Treasury Secretary O'Neill's request that Congress increase the debt limit by \$750 billion, especially since this request comes 7 years earlier than predicted when the budget was submitted last year. As a fiscal conservative, this increase request makes me wonder not only about the current fiscal condition or state of our Nation, but what this

means for the future. What does it mean for the future?

As a former teacher, a father, and a grandfather, I have always tried my best to do what is right for future generations. We do not want our mistakes to leave our children and our grandchildren in a mess that they cannot clean up. I do not want my grandson, Nolan, who just turned 4, to wonder what his grandfather was doing when he served in Congress, when all this mess was created, or could have been addressed.

The administration says the publicly held debt would begin to gradually decline again in 2005. Even if the debt does start to decline and the government does their part in beginning to pay it down, we still need to remember the impact this is having on our system of Social Security. This is where our children are going to be impacted the most.

From my understanding, the total debt of our Nation is going to continue to increase. That is right. Even though the administration suggests that the publicly held debt will begin to decline, the fact is the total debt will continue to rise due to the fact that we have not kept the commitment to save the Social Security trust fund surplus.

The President's proposed budget does nothing to solve the problem with the declining Social Security trust fund. In fact, the proposed budget calls for tapping the Social Security trust fund for other government programs every year over the next 10 years for a total of \$1.5 trillion.

In other words, over the next 10 years, the Social Security surplus will not be used for paying down the national debt, which would actually strengthen Social Security's long-term solvency. Not one Member of Congress who ran for election ever varied from that focus. They promised that that is what we should do. Every campaign speech, let me remind you, every one of you, as well as myself, gave our honorable word that we would work toward this end. Now we abandon it.

It is not a secret that our Nation's Social Security system is in trouble. It is up to us to do what we can do to look at the future and try to save the Social Security trust fund.

I completely understand and support the need for spending what is necessary to win the war on terrorism and ensure the protection of my fellow Americans here at home. We must do that. We will. And we are doing that. We are united and we will stand united on that front. However, we need to work together on developing a plan that will fight the war on terrorism and will also protect the Social Security trust fund for the benefit of future generations. We really do need to start thinking about our children's future.

We can do both. We can defeat terrorism; we can be prepared for homeland security. But the security that is most important to those who have invested their dollars for what might

come in the near future, when they do not expect to hear these kind of reports, when we can, and we should, defeat any kind of threat to our Social Security system. That is where we need to come down today.

I stand with my Blue Dog friends in trying to raise the alarm for the administration to consider the budget in these terms.

Mr. BOYD. I want to thank my friend from Illinois for his thoughtful work and his leadership in our group, the Blue Dog Democrats.

Next, I want to call on the gentleman from Texas (Mr. TURNER) who serves in our group, the Blue Dog Democrats, as the cochair for policy.

Mr. TURNER. I thank the gentleman from Florida for yielding. I thank him for his leadership tonight on the floor.

It is good to see a good group of Blue Dog Democrats here speaking out for fiscal responsibility. I know that each of us, in our own way, has fought long and hard to try to be sure that we have a balanced budget here in Washington. It only makes sense that the Federal Government manage its financial affairs the same way that we all expect our own households to be run.

□ 1845 That is, if we have money coming in that we can spend or invest or save, we make those choices; but in the end, we make sure we do not spend more than our income.

Washington, as we all know, spent more money than it had coming in for 30 years; and finally, when several of us here on the floor were first-term Members of this Congress, we cast the most significant vote I think this Congress has cast in many years, and that is we passed the Balanced Budget Act of 1997. Through that action, we had 3 years of surpluses in the Federal budget.

Now, with the President's new budget submitted to the Congress, we are back into deficit spending, back into spending more money than we take in every year.

Some people may say, well, what is wrong with deficit spending? Deficit spending is bad for several reasons. It is bad because it passes debt that we are creating by deficit spending on to our children. It seems to me that if we are going to make wise decisions and if we are going to have fiscal responsibility in Washington, we should not be spending money and incurring debt that our children are going to have to pay for some day. But that is where we are once again here in this Nation's Capital.

Another reason that we should not engage in deficit spending is because it simply creates larger debt, and larger debt means we have greater interest to pay every year. What a waste, to be consuming so much of our Federal budget every year just paying interest.

A lot of people do not realize that the interest alone on the Federal debt runs almost \$1 billion every day. I did not misstate that: \$1 billion every day, just

to cover the interest on our national debt, which is approaching \$6 trillion.

What a waste in resources. We could fund the President's requested budget increase for defense many times over if we were not paying \$1 billion a day in interest on our Federal debt.

Another reason it is wrong to deficit spend is because when you are deficit spending, you are raiding the Social Security trust fund. If any corporation in America were to dip into the employees' retirement trust fund to cover the business losses of that corporation, those business executives would be prosecuted. They would be indicted and sent to prison.

In Washington, we seem to be able to get by raiding the American people's retirement fund, Social Security. When we are deficit spending, we are taking Social Security payroll taxes and we are using it, not for Social Security, but we are using it to run the rest of the government, and that is wrong. That breaks a promise, a covenant, that this government has with the American people to protect Social Security for this generation and for generations to come.

Finally, deficit spending is wrong because when we increase the national debt, which happens every time we run an annual deficit in the Federal budget, we undermine the public's faith and confidence in the economy of the United States.

How big a debt can the United States run before there is some crisis of international proportions? I do not have the answer to that, but I know that \$6 trillion in debt is an awful lot of debt to be passing on to our children and grandchildren; and I know paying \$1 billion a day in interest is a waste of Federal taxpayer dollars, and I know that when the national debt increases, it means that the government is borrowing more and more of the available credit out there in the economy; and it has the effect of pushing up interest rates for all of us. When interest rates go up, it costs the American family more to buy a new car on credit, to buy a home and finance it through a home mortgage. It costs more to borrow money to send your children to college. It costs more money when you charge to your credit card.

Lower interest rates are good for the American economy, and one way to get lower interest rates in the economy is to be sure that the government, the Federal Government, is not consuming a larger and larger share of the available credit in our economy.

For all of those reasons, deficit spending is wrong. Common sense tells us that the Federal Government ought to be managed like our own households, our own businesses; and if we do not do that, we are doing a disservice to the American people, and we are encumbering our children with a debt that they may never be able to get out from under.

We believe as Blue Dog Democrats that we need to support the President

in fighting this war. We need to commit whatever resources are necessary to win the war on terrorism. But the only people that are having to sacrifice today in that war are those young men and women in uniform who are defending our country tonight. The American people need to be ready to sacrifice as well, and that means that we need to pay the bills to fight that war, and not pass those bills on to our children.

I again thank the gentleman from Florida (Mr. BOYD) for his leadership tonight, and I am proud to join with my Blue Dog colleagues in standing up for fiscal responsibility.

Mr. BOYD. Mr. Speaker, I want to thank the gentleman from Texas, particularly for his leadership in the Blue Dog Democrats as the policy cochair. It is his responsibility to work with our members to develop policy. I am sure we will be seeing more from him as this budget discussion unfolds.

Mr. Speaker, next I want to yield to the gentleman from New York (Mr. ISRAEL), one of our newest members, one of our Blue Puppies.

Mr. ISRAEL. Mr. Speaker, I thank the gentleman from Florida for giving me the honor of being the only member of the New York congressional delegation to have joined the congressional Blue Dogs. I am proud of the work we do and the agenda we advance for fiscal responsibility and budget responsibility.

Mr. Speaker, like any household and business in America, when the government's revenues do not match its expenses, it faces some choices. It can cut spending, it can increase revenues, it can borrow.

The administration is telling the American people we do not have enough money to meet our expenses. We need to spend \$1 billion a month in Afghanistan. That is \$1 billion a month we must spend. The administration is making the argument, an argument I agree with, that we need to spend more on our national security. The administration is making an argument that I agree with that we need to spend more on our homeland security; and the administration says in order to pay for these critical necessities, we cannot raid Social Security, we cannot increase taxes, so we have to lift the debt ceiling in order to meet those needs.

But there is another way, and it is a much fairer way. Rather than finding revenues by borrowing money from our children, let me suggest exactly where the administration can find those revenues to meet those expenses right now at this very moment: in Bermuda, in the Island of Bermuda, where the New York Times reports that many American corporations, big businesses, are paying nominal fees to register their corporations all to avoid paying their fair share of corporate taxes here in the United States, to avoid paying their fair share of the war against terrorism, to avoid paying their fair share for senior citizens who are being kicked out of their Medicare HMOs.

They are putting profit ahead of patriotism.

Let me share a quote from the New York Times articles about these big businesses that are fleeing for Bermuda in order to escape their fair share of corporate taxes. The New York Times said: "Becoming a company in Bermuda is a paper transaction, as easy as securing a mail drop there and paying some fees while keeping the working headquarters back in the United States. Bermuda is charging Ingersoll-Rand just \$27,653 a year for a move that allows the company to avoid at least \$40 million annually in American corporate taxes."

No wonder we are being asked to increase the debt ceiling. There are plenty of other companies as well.

The New York Times went on to say: "There is no official estimate of how much the Bermuda moves are costing the government in tax revenues. The Bush administration is not trying to come up with one."

Now, according to the Wall Street Journal of March 1, finally the Treasury Department has agreed to do a study. But we should not have had to bring them in kicking and screaming all the way.

This is common sense. They want us to raise the debt ceiling, to borrow from our children; but they were hesitant to find out how much this corporate greed was costing the American taxpayer today.

Mr. Speaker, I voted to deliver tax relief to the families I represent. I voted to repeal the marriage penalty. I voted to repeal the death tax. I voted to reduce marginal rates across the board for working families. I was one of only a handful of Democrats in this Chamber to support the administration's economic stimulus measures, because working families and small businesses deserve that relief.

But this spring, over the next few weeks, those same working families and those same small businesses will sit around their dining room tables or meet with their local accountants and struggle over their income taxes, and struggle over paying their fair share to support our military and to save Social Security and to help senior citizens who have been kicked out of the Medicare HMOs. And the people that I represent, in Babylon and Huntington and Islip and Smithtown, they do not have the option of registering themselves in Bermuda in order to avoid their fair share of income taxes. That is not a choice for them. They are simply told, pay up, do your duty, support our troops.

Meanwhile, the biggest businesses in America are shifting the tax burden to them; and even worse, Mr. Speaker, the biggest businesses in America, the irresponsible ones who flee for that tax shelter in Bermuda, are shifting the burden to our children.

Well, Mr. Speaker, I am pleased that the Treasury Department has changed its mind; and despite its earlier reticence, it is going to study the loss of

revenues as a result of this Bermuda tax shelter. But a study on a shelf cannot replace real action by this body. We need to stop companies who wrap themselves in the American flag to sell their products and then strangle our budgets by registering themselves abroad, who escape their fair share.

As the ranking member of the Committee on Ways and Means said, "Supporting America is more than about waiving the flag and saluting. It is about sharing the sacrifice."

That is true of soldiers, citizens; and it should be true of big companies too. Raise the debt ceiling? How about making sure that every big company in America does what every working family in America does, pay their fair share. Maybe then we will not have to mortgage the future of our children. All we ask is fair play, all we ask is a fair share, and all we ask is a shared sacrifice at a time of war.

Mr. BOYD. Mr. Speaker, I thank the gentleman from New York for his thoughtful remarks.

Mr. Speaker, at this time I yield to the gentleman from Mississippi (Mr. TAYLOR), one of the leaders in this House on defense-military issues. He has a very unique perspective on this whole notion of fiscal responsibility and borrowing from the trust funds that belong to the American people.

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank the gentleman from Florida and those of you who are watching back home for the opportunity to talk about the President's desire to raise the debt limit.

One of the most moving books I ever read was called "The Winds of War." It is a novel, but it talks about the events leading up to World War II, the American participation in it.

One of the many things that is going on in this book is a family member of the participants who is in a concentration camp, and he is thinking to himself, how can it be that the Americans do not know that this is going on? We have smuggled information to America showing the Jews and Gypsies and other people that the Nazi regime wanted to get rid of, that these horrible things are happening, and somehow the Americans are not responding.

The author called it "the will not to believe," and I guess, to a certain extent, it hits all of us, whether it is finding out that a family member has been diagnosed with a terminal illness, or maybe your favorite football team lost to a team you did not think they could possibly lose to.

I bring these numbers to the floor tonight that have been updated as of the end of this month to show the American people what I keep in my congressional office. It is a constant reminder sitting right by my desk as folks come to me and say can you help us with this tax break or can you help us with this additional spending. It is a constant reminder that I point to as different constituents come to visit me of just how far in debt our Nation is, how much

farther in debt we have gotten in the past 12 months, because it really is within all of us.

I see it in my town meetings, when I walk the Wal-Marts and the KMarts and the hardware stores in my district, when I visit with shrimpers, or people at the other end of the economic scale.

It is just hard to believe that our Nation is now \$6 trillion in debt. In fact, last year at this very time the President of the United States and a lot of folks in the media were running around saying Washington is awash in money. There are surpluses as far as the eye can see.

Well, apparently the people who said that, both inside and outside of government, never took the time to look at this, because one year ago right now, our Nation was \$5,735,859,380,573 in debt.

Unlike the previous speaker, I voted against most of those proposals that came up last year, because none of them paid for themselves and almost all of them would add to the debt. That was my gut conclusion. It turns out my gut conclusion was better than whatever economists the President and some others were calling on, because the amount of debt increase in just one year, in the past 12 months, is \$267,593,636,009.87.

□ 1900

Now, most of this is because of the tax breaks that were passed last year by Congress. Some of it is because of the war in Afghanistan, but that is \$1 billion a month. Mr. Speaker, \$1 billion a month would be, since September about 6, \$6 billion of this. The rest of it was increases in spending in the President's budget.

And let us remember, the President got his budget. At the time it was proposed, Republicans controlled the House, Republicans controlled the other body; he got his budget. So please do not come back and tell this Member that, well, the reason we have this big debt is because you guys spent money that I did not want to spend.

Mr. President, you got your budget. You got your tax breaks, you got your budget, and that is what you have added to the debt with your numbers.

What really troubles me about that is, I am the father of three kids and they are going to get stuck with that bill and until then, our Nation is going to squander more money every day on interest on the national debt than we spend pursuing the war in Afghanistan. It costs us about \$1 billion a month to pursue the war in Afghanistan. It costs us \$1 billion a day to pay interest on that debt and much of it is a direct result of the budget from last year. That is the President's part.

Now, what is particularly troubling about this, if I were to bring these numbers up from the 1st of January 1980, that would be a "1" and most of these would be zeroes. The first of January, 1980, our Nation was \$1 trillion in debt. Now, that is a heck of a lot of

money for a guy from Mississippi, but that is \$5 trillion less than it is now. One of the reasons this has been allowed is that on a regular basis, Congress has come to this floor, different Presidents, both Democrats and Republicans, and have said, I need to borrow just a little bit more, I need a little temporary fix to get this monkey off of my back. Those are the temporary fixes, the accumulated problem that that has caused.

Mr. President, I am not going to vote to raise the debt limit.

I also want to point out that one of the reported stories that is coming from this is that your Treasury chairman is considering taking that money from the trust funds. Let me remind the American people that for all of the rhetoric, Democrats and Republicans, people inside the media and outside of the media, with this so-called lockbox for Social Security, and that is a line item on your taxes, that is taken out of your taxes with the promise that it is going to be put aside for your Social Security benefits, there is no lockbox. What there is, is somewhere an IOU that says that the United States of America owes the Social Security trust fund \$1.23 trillion. There is nothing there.

If you look on your pay stub, you also pay Medicare taxes. Again, that is supposed to be set aside for your Medicare benefits when you reach the proper age to receive them. It is supposed to be in a lockbox. The truth of the matter is, if you were to open up that lockbox, you will find an IOU from the United States for \$256.3 billion.

Then there is the Civil Servants Retirement Fund. Civil servants, contrary to popular belief, do pay into their own retirement. That money is supposed to be set aside to do nothing but pay for their benefits when they retire. If you found that box and opened it up, you would find an IOU for \$532 billion.

Now, the reason I mention that one in particular is that the Treasury Secretary now says, Well, maybe we do not have to raise the debt limit if we just steal it from the Civil Service Retirement System. It is just temporary.

The problem, Mr. O'Neill, with that is, you have already taken \$500 billion out of that account. Where do you stop taking it? At what point does the President come to this Congress with a budget that is balanced? At what time does this Congress pass a balanced budget?

About 6 years ago we passed a balanced budget amendment to the Constitution. It went to the other body and failed by one vote. You would think a body that on a weekly basis is finding new ways to spend money and driving up the debt would try at least one more time in the past 6 years to pass a balanced budget amendment to the Constitution.

I have recently signed on to the recent attempt by the gentleman from Arizona (Mr. BERRY) to do that, and I

hope that we will have a speedy vote on this, Mr. Speaker, because I think this body should pass it. I think that the American people should know that that is how much we are in debt, that we are squandering over \$1 billion a day on interest on that debt, and until then, we are continuing to rob from their Social Security trust fund, their Medicare trust fund, the Civil Service Retirement trust fund and the Military Retirees' trust fund.

Mr. Speaker, that is why I am going to vote against raising the debt limit.

The other thing I am going to ask the American people to do is check my facts. Last year when all of these people were talking about the big surpluses, did anyone ever tell you to check the facts? I would encourage, and I hope the camera can get this, because this is where the Treasury reports on a monthly basis just how broke our Nation is:

<http://www.publicdebt.treas.gov>.

Look it up for yourselves. I have been encouraging the American people to do this for the past year and not one of them has ever written me back and said, Taylor, you are wrong, because I am right on this one. I am not right on everything, but I am sure as heck right on this one.

So I want to thank the gentleman for the opportunity to speak on this. If my colleagues would like a copy of this for their offices, when folks come to see you and tell you that we have all kinds of money and we have a project that we just cannot live without, maybe my colleagues here this evening can say, maybe we can live without it for just a little while until we find the money to pay for it.

Mr. Speaker, I thank the gentleman from Florida (Mr. BOYD) for this opportunity.

Mr. BOYD. Mr. Speaker, I want to thank the gentleman from Mississippi. He always brings a very unique perspective, and he always brings the facts. As he says, they do not lie; they really tell the story.

I want to recognize at this time, Mr. Speaker, and yield to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding. I wish my colleague from Mississippi did not have to leave the floor, but I wanted to point out that the thee of us, the gentleman from Mississippi (Mr. TAYLOR), the gentleman from Florida (Mr. BOYD), and I were the three votes against the stimulus package last week. The reason we voted no is that it was not paid for.

The gentleman from Mississippi (Mr. TAYLOR) has been one of the most consistent Members in this body over the last couple of years in doing what he showed us again tonight, and that is recognizing that our debt is going up; and this is a debt that our children and grandchildren are going to have to pay, and it should not be unreasonable to expect this body to deal with it.

All we asked for in that bill last week, the three of us, and, boy, I have

been ridiculed politically and otherwise as being one of the three, but I voted that way for a very, very important reason, and that is consistency in saying that we should now, the budget that we will debate next week, we should put ourselves back on track in balancing our Federal Government.

Now, we got off track and, yes, part of it was the war, no question about that. No one foresaw 9-11-01. One of the reasons the Blue Dogs last year said, Let us set aside that projected surplus, was because something might happen unforeseen. We were not prophetic. We just said it was good, prudent business to set aside rather than expend it, whether it be in tax cuts or in spending.

Mr. Speaker, it is interesting now, and I am puzzled by this: In 1995, one of our colleagues, the gentleman from Ohio (Mr. PORTMAN), in talking about, at that time, a different President in the White House, he said, It is not okay to play games with the \$30 billion in payroll taxes that workers pay each month that retirees rely on to finance their benefit checks.

The gentleman from Georgia (Mr. KINGSTON) stood over here day after day after day, and on this particular day he said, Mr. Speaker, it seems unbelievable to me that we are sitting here debating whether the President can tap into the Social Security trust fund and the Civil Service Retirement fund. I find that it is almost unbelievable that the Democratic Party, who has been using the senior citizens all over America as their own cheap pawn, as their shield, to ram or resist any kind of legislation that comes up, now they want to take the money out of the senior citizens' trust fund.

That is exactly what is being contemplated by the majority party in this body as of tonight, doing what they condemned Secretary Rubin for doing. If it was wrong then, it is wrong now.

Some of us are willing to do the right thing. The right thing would be to increase the debt ceiling and do it clean. That is the right thing to do. But just as was argued by our friends on the other side in 1995, it is inconceivable that anyone would vote to increase the debt ceiling without first putting in a plan that will get us back into balance and take us out of the Social Security trust fund. That is all we are asking, and we are willing to work in a bipartisan way to accomplish that goal.

We do not want to play games. It is too important. The creditworthiness of the United States of America is on the line. It is too important to play games. But play games, we have in the past, and play games, it seems like the leadership of this House are willing to do again.

They condemned us, and I was one of the 48 that stood up with you and 148 Republicans still in the House and voted to increase the debt ceiling. I was there. Where are you tonight? Where will you be next week? Why are

you insisting that now, in spite of the fact that you argued, even to the point of bringing this government down, which we did for weeks, shutting down the Washington Monument, doing all of the things that you felt were so important, because you felt like the President, President Clinton, would not, did not, would refuse to bring a balanced budget plan to you.

All we are saying tonight is, we are ready to join with you, but do not change the rules. The rules are that the Congressional Budget Office is the official scorer. Do not change the rules and say OMB, and reduce the deficit and the debt by \$40 million because OMB scores it differently. We agreed to play by those rules. Let us stay consistent.

All we are asking again is, put up a plan. One unnamed staffer was quoted this last week on the other side of the aisle and was asked, are you going to present a balanced budget? Well, we are going to say we do, but it is really not. That was an honest answer.

We are so close to doing good things for this country. We were there. We squandered it. Yes, the war was unpredictable; that is a part of it. The recession now, we are being told, was not nearly as deep as anyone thought, and I hope, just like I stood in this well 1 year ago and said, when we argued against the economic game plan that was put in place and we voted that way and we sincerely believed it was wrong, and we said at that time, I said, I hope I am wrong and I hope I get to eat the biggest plate of crow in this town. And I know that had I been wrong, I would have been served up, and I should have been.

But tonight we simply come back before this body with a message to our leadership: We think balancing our Federal budget, we think pay-go, paying for those new expenditures that we need, makes good economic sense; and we think that every bill that comes before this House, new and over and above that which we passed in the budget resolution that we are now operating under for this year, that we ought to give serious consideration to paying for them or voting them down. That is what the three of us did last week. Well, obviously three do not vote down anything.

But here I have a real sincere, puzzling question. If we voted last week and the President signed the stimulus package that CBO has scored to increase our debt by \$42 billion over 10 years and \$92 billion over the next 3, and the reason for the difference is, the tax provisions make money in the out-years, projected; if we did that last week and it was signed into law, how can you possibly leave that out of next week's budget deliberations?

How can you possibly say that that law that we passed that is going into effect that will increase our debt by \$42 billion over the next 10 years, and the 5-year budget will increase our debt by \$100 billion, how can you possibly come

to this floor and just ignore it? I mean, you talk about the Enronization of the budget process. This is it. Shifting offshore. Taking it off budget. Hiding it.

Well, we will be back next week to talk about that. But tonight, I appreciate the gentleman yielding to me. The gentleman is a true leader of fiscal responsibility in this body, and it is a pleasure for me to join with the gentleman day after day in proposing what we believe are some of the better solutions.

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When one is in the minority, one loses. But every now and then, as we showed on the farm bill, if we work with the other side, we find that you can get bipartisanship. It was not by accident that we got 290 votes for the farm bill. That is what we ought to get on the budget next week. But if they ignore us, they will not do so. If they want to increase our Nation's debt without a new plan, count me out.

Mr. BOYD. Mr. Speaker, I want to thank the gentleman from Texas (Mr. STENHOLM) for his leadership on the budget issues. The Blue Dogs have written a budget every year since I have been in the Congress. The first year was 1997. That actually was the year, as the Speaker may recall, that the historic Balanced Budget Act, the bipartisan act, was negotiated between the Republican-controlled House and Senate and the Democratic administration. That plan was a wonderful plan that got us into balance, and now we are headed in the opposite direction.

Mr. Speaker, I yield to the gentleman from Arkansas (Mr. BERRY).

Mr. BERRY. Mr. Speaker, I thank the distinguished gentleman from Florida for the great job he has done in his leadership on budget matters and many other things, and the courageous stand that he takes, and also my distinguished colleague, the gentleman from Texas (Mr. STENHOLM). He has been working on these issues for all the time he has been in this body, and we all appreciate his leadership.

The first thought that comes to my mind is this time last year the Blue Dog Coalition extended an opportunity to the administration, and we said we wanted to work with them. We want to do the right thing. We want to have a balanced budget, and we want to have tax cuts. We want to pay off the debt.

They sent the director of the Office of Management and Budget to us. He said, we really do not need you. We can do whatever we want to do. We are in the majority, and we are going to pass this budget. We are going to do it like we want to do it. We will listen a little bit, but we have plenty of money. We have so much money that we are more worried about paying off all of the debt than we are what we are going to pass on to our children, which is a great debt, it has turned out.

I would beg the administration and the Republican majority, please do not do this to our children and grand-

children. Please do not continue to run up debt and spend the Social Security and Medicare trust funds, and force our children into a totally impossible fiscal situation in this country 15 years from now.

Please do not do that. Work with us. That is all we are asking. Sit down and work with us. Be honest, and give us a plan so we do not destroy the future of our children and grandchildren. We want to work with them, and it just does not make any sense what we are doing.

We took \$5 trillion last spring, piled it up in front of the United States Capitol and burned it. Now we are acting like that money is still there. We continue to spend the Social Security trust fund. We continue to spend the Medicare trust fund. We continue to borrow money to operate on, to pass this debt on to our children and grandchildren. It is not right. We should not do it. If we were not building up more debt, we would not need to raise the debt ceiling. It would not be necessary.

So all we ask of them is, give us a plan. Let us work with them. We all want to do the right thing.

Mr. BOYD. Mr. Speaker, I thank the gentleman from Arkansas.

In closing, I just wanted to say that we are all aware, and I hope that the viewers, our listeners, our constituents, are aware that late last year the Treasury Secretary, Mr. O'Neill, formally requested that Congress increase the statutory debt limit by \$750 billion, from the current level of \$5.9 trillion to \$6.65 trillion.

Mr. Speaker, this request comes a full 7 years earlier than the administration had predicted when it presented its budget 1 year ago. Again, I would say this budget, this debt limit increase, comes a full 7 years earlier than was predicted by the administration when it presented its budget to us 1 year ago.

Mr. Speaker, I tell my constituents back home every chance that I have to speak to whatever group it is that we are the most fortunate and blessed people in the world. We live in the greatest country in the world. We are the economic leader of the world. We are the richest country in the world. This country has 5 percent of the world's population and 25 percent of the world's wealth.

We are the military leader of the world. All the other military hardware of the countries, all the countries around the world will not stack up to the firepower that this Nation has at its disposal.

We ought to be able to figure out a plan to pay our bills. We ought not to have to dip into the Social Security trust fund to pay our operating bills. That is all that we are asking this administration and the majority, the Republican majority in the House, to do is to sit down with us and let us work together to develop a plan to get us back into balance with our Federal spending before we raise the debt ceiling.

Mr. Speaker, I thank the members of the Blue Dogs who have come here tonight and spoken so eloquently and succinctly on this issue.

THE PROBLEMS AND THE FUTURE OF SOCIAL SECURITY, AND THE COST OF DOING NOTHING

The SPEAKER pro tempore (Mr. FORBES). Under the Speaker's announced policy of January 3, 2001, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, following the presentation from the Blue Dogs, let me just say from our side of the aisle that the Blue Dogs have come up with some good, thoughtful ideas in terms of fiscal responsibility.

I think we have to be careful about not passing blame, and I would hope that as one of the three separate entities of government that our Founding Fathers set up, that we as a Congress would also take on some responsibility and not expect just that it is up to the administration to present us a plan of what is good for the future of this country. We also have that responsibility.

It seems to me, I say to the gentleman from Texas (Mr. STENHOLM), that if we are going to be honest with the American people, if we think that our problems today are so important that we have to borrow money that is in a sense a mortgage that our kids and our grandkids are going to have to pay back, then we should not do it by borrowing.

If we think what we are spending money on today is so important, then we should increase taxes and not try to hoodwink the American people into thinking the size of this government is less costly than it really is by sort of off on the side borrowing more money, where it is not quite as visible as quickly in terms of the obligation that people have to eventually spend to cover what we think is more important today maybe than what our kids and grandkids are going to be facing 20 and 30 years from now.

I would just like to call on the gentleman from Texas (Mr. STENHOLM) as we get into the Social Security debate, because he has been one of the leaders.

Before I do that, Mr. Speaker, I want to remind everybody what we did in 1998. At that time, we promised that there was going to be a balanced budget by 2002, and we did that predicated on an estimate that revenues in 2002 would be \$1.4 trillion. Now, what happens to revenues, just in the most recent projections this year and 2002, are that revenues are going to be almost \$2 trillion, so \$600 billion more than we anticipated in 1998 when we promised to have a balanced budget.

Even if we take \$40 billion out for the tax cuts and another \$30 billion out for the war on terrorism, there is still \$530 billion that was increased spending rather than lost revenues.

So part of the danger that we need to face up to is the propensity for Members of Congress and the administration to start new programs, to spend more money, because it tends to make us a little more popular. If we take the pork barrel projects home, we would probably get on television cutting the ribbons, et cetera.

I think the challenge is huge. I think we have to face up to both Social Security and Medicare. But tonight I want to concentrate on a discussion of what the problem is in Social Security, where we might go, and the cost of doing nothing.

Mr. Speaker, I yield to the gentleman from Texas (Mr. STENHOLM), who has been a leader in terms of trying to come up with a bipartisan effort to solve the Social Security problems. I would ask him to give us his best guess of what we should do to get both sides of the aisle together to help solve this problem.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman from Michigan for yielding to me. I wish I had the answer to that question tonight. But certainly we cannot blame it on the gentleman and I, because it has been a pleasure for me to work with the gentleman, and with the gentleman from Arizona (Mr. KOLBE) and with our friend, the gentleman from Florida (Mr. BOYD), who has been a cosponsor of our bill, the proposal of which we believe should be seriously considered in fixing Social Security.

One of the things that we know is necessary is that any proposed fix has to be bipartisan. That is why I appreciate the fact that about 4 years ago, when the gentleman and I were joined together at that time in proposing some solutions, the gentleman's opponent attacked him and my opponent attacked me. I appreciate the letter to the editor the gentleman sent to my district saying, get off his back, because he is trying to fix a problem; and I did the same for the gentleman.

That is the spirit in which we have tried to operate. We hope we will get a few more folks beginning to acknowledge the fact, and this is a fact, no one disagrees that Social Security in its current form is not sustainable for our children and grandchildren. There is no problem with those on it today, but there is a problem for our children and grandchildren; and the longer we wait and the longer we wait, it makes it that much more difficult.

I know when I first got here in the Congress in 1979, 2011 was so far away we did not worry about it; but tonight, 2011 is 9 years away. That is why the gentleman and I have been trying to at least get the relevant committees to begin in a bipartisan way acknowledging some proposed solutions.

Mr. SMITH of Michigan. Reclaiming my time, Mr. Speaker, from the gentleman from Texas, do I understand correctly that between us we have 12 grandchildren? I have 10.

Mr. STENHOLM. If the gentleman will yield further, I have two.

Mr. SMITH of Michigan. Mr. Speaker, I have heard the gentleman say many times that, look, 40 years from now or 50 years from now or however long we might live, to have those kids come to us and say, look at the increased tax burden that you have put on us because you did not do anything back in 2002 and 2003, that should make every Member here feel a little bit more conscious of the obligations that we are passing on to those kids if we do not stand up to some of the tough decisions and correct the problems now.

I think that it is an easy issue to demagogue. Republicans say, well, maybe that Democrat would be vulnerable because there are so many seniors that are so dependent on Social Security, so if we can suggest that the gentleman from Texas (Mr. STENHOLM) is bad and might mess up the program because he is looking for a solution. And, of course, vice versa, Democrats could demagogue and say, well, Republicans are going to ruin our Social Security benefits. And with seniors, so many of our seniors that are so dependent on Social Security, we can understand their emotional concern even at the suggestion.

I do not know quite how we are going to stop the demagoguery. It will probably go on at least one more election. But somehow, the key is a better effort of informing the American people of what the situation really is.

Mr. STENHOLM. Mr. Speaker, if the gentleman will continue to yield, in the gentleman's opening remarks concerning our Blue Dog Special Order just before this, the gentleman seemed to have taken the opinion that we were beating up on the administration. That certainly was not my intent, but it was to consider the administration equally with the Congress in coming up with a solution. That is what we were trying to do.

In the case of Social Security, this is one Democrat who agrees with my President, what he proposed in the campaign and what I am ready to work with him on, on an individual account approach. I happen to agree with that. That is something that the gentleman from Arizona (Mr. KOLBE) and I share, and the gentleman from Michigan has joined with us in cosponsoring our one area. The gentleman has some different views, and I respect those, and the gentleman has some great ideas that need to be considered in this endeavor.

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I think it is important for the American public to realize that we can have differences of opinion, but we do not have to be disagreeable about it. Because I do not pretend for a moment that the bill that the gentleman from Arizona (Mr. KOLBE) and I put together is the solution, but we have been scored to do that which we all agree needs to be done, and that is to fix the problem, the unfunded liability of \$22 trillion. We take care of \$19 trillion of that, not a small amount of money in

this body, but the main thing is to start a dialogue; and that is why I appreciate my colleague inviting me to be part of his dialogue tonight, and I hope we can get more of this. We seemingly cannot get it done in the committees of jurisdiction.

Mr. SMITH. Mr. Speaker, titles often sell a book and they often sell an idea, but they also sell demagoguery. The word "privatizing" Social Security has not been my colleagues' intention in their bill. It has not been the intention in any of the four Social Security bills that I have introduced. The American people need to know that there is nobody suggesting privatization. There is a safety net in every legislation. In fact, in most of the legislation there is a promise of at least as much, if not more, of Social Security retirement benefits.

We just need to look at history, that every time Social Security has gotten into a problem, the tendency has been for the administration and Congress to increase taxes and/or reduce benefits, and of course, in 1983 we did both.

Mr. STENHOLM. Mr. Speaker, there are other solutions to the problem, and that is why I appreciate the opportunity to join with my colleague tonight in talking about some of these other solutions.

I think it is awfully important at this stage, and my colleague probably ought to do this and I am going to have to leave in a moment, but about every 10 or 15 minutes when we start talking about Social Security, we are not talking about those who are on it today. We are not talking about those about to be on it, i.e., 55 years of age and older. They are safe.

We are talking about our children and grandchildren. That needs to be over and over emphasized, and we have got a plan which tonight I will not go into all of it. The gentleman is going to talk about his, and I happen to agree with most of what he is doing, particularly with addressing the problem. It has been so difficult, so seemingly impossible, for this body to address it.

The Blue Dogs, a moment ago, what we said last year is, before we get into any new budget, any new tax cuts, any new anything, the first thing we should have done was sit down and fix Social Security. The gentleman from Michigan would agree with that, but that is not to be. That is water under the bridge. That is gone.

Now we find ourselves here it is 2002. Now, then, we are being told, and rightfully so, this being an election year, no one is going to address Social Security this year in a meaningful way, i.e., a chance to get a bill through the House and the Senate and the President signing it. So that means we are postponing it until 2003.

The next thing we are going to hear is, we cannot do it in 2003 because the next elections are in 2004. That is why I am so disappointed that we did not have an opportunity to show bipartisan support for what our President has had

the courage to do in the campaign, and I am so sorry that we have not been able to take the Commission on Social Security that made recommendations, that we have not had a serious opportunity to discuss those recommendations, pluses and minuses, and pursue the legislative process of a solution.

The gentleman from Michigan and I are not controlling that process.

Mr. SMITH. Mr. Speaker, also, our former President came close, several meetings, several efforts. I think both my colleague and I were encouraged 5 years ago when we had the White House meetings, when we started moving ahead, when there was more talk on Social Security.

The fact is, the solutions are not easy. There is a little pain in all of the solutions simply because of the statistics where the demographics mean that there are fewer people paying into the Social Security tax and people are living longer. So when we have a program that takes current workers' taxes and uses that money to pay for current retirees and we have a situation where people are living longer to increase the senior population and the number of people working is reduced in terms of their portion of the senior population, it becomes a situation where insolvency is inevitable, and the solutions are tough.

There are a lot of solutions. We are going to talk about them, but tonight I am sort of going to start from scratch of what the background and the solutions are. So, again, I congratulate the gentleman from Texas (Mr. STENHOLM) on his effort, and hopefully we will prevail next year.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman from Michigan for sharing his time, and I want to keep on plugging, because he has been a valuable resource to this body, to those who bother to stop and listen; and some of the areas he will be talking about now are something that colleagues on both sides of the aisle, and I am going to do my best to make sure that folks on my side listen; and if they are going to complain or if they are going to talk negatively about what the gentleman is talking about, my answer is, okay, what is the solution?

At least the gentleman has got a solution, and for that I commend the gentleman and thank him for yielding some time to me tonight.

Mr. SMITH. Mr. Speaker, well, here it is, Social Security is taking a big hunk out of the total Federal budget. Twenty percent of the total Federal budget goes into Social Security. We match defense, the domestic discretionary; it is one of the largest expenditures we have. Medicare is smaller than Social Security, but the cost of Medicare is growing very rapidly.

Right now, if we include Medicaid, Medicare and Social Security, it represents a little over 7 percent of the total economy of the United States, a little over 7 percent of GDP; and see

the projection over the next 30 years, it is going to double as a percentage of GDP.

So it eats up that much more of the total finances that are available to the Federal Government, and it should be easy to project the fact that to accommodate that doubling of cost, of Social Security and Medicare and Medicaid, we are going to either have to substantially increase taxes or we are going to have to substantially increase borrowing. My guess is that we are not going to be able to reduce the expenditures of Federal Government to accommodate anywhere near that kind of increase in these programs eating up those revenues.

It is a system stretched to its limits. Seventy-eight million baby boomers begin retiring in 2008. Social Security spending exceeds tax revenues in 2015 and the Social Security trust fund goes broke in 2037, although the crisis is going to arrive much sooner. In 2015 or 2016 there is going to be less coming in from the Social Security tax than is required to pay promised benefits. So we have a trust fund that we call a Social Security trust fund, but all that is in that trust fund, in those steel boxes is IOUs. I mean, there are no dollars there.

So how do we come up with the money to pay back Social Security what we owe it? Again, it is the same action that would take place if there was no Social Security trust fund, because we are going to keep our promises, we are going to pay those Social Security benefits, but to do it, we have got to either increase taxes or increase borrowing, and that is what is going to happen unless we face up to the problem today. We use some of the surpluses that are coming into Social Security over and above the cost of the program, and we start getting real dollar returns on those invested funds.

I think we need to make it very clear that insolvency is certain. We hear people talking about, well, if the economy gets better that will solve the Social Security problem. It will not. We know how many people there are and we know when they are going to retire. We know that people will live longer in retirement.

The auto industry and Xerox came before the Social Security task force that I chaired. I chaired the bipartisan Social Security task force last session, and the medical futurists were suggesting that within 20 years anybody that wanted to live to be 100 years old, because of the tremendous increase in our medical technology, would have that option, to live to be 100 years old. So think what that is going to do not only to Social Security but to every pension plan, to every personal savings plan, if someone is going to live 15 years longer than expected back in 2002.

We know how much they will pay in, these workers, and we know how much they will take out. Payroll taxes will not cover benefits starting in 2015, and

the shortfalls will add up to \$120 trillion between 2015 and 2075. Let me say that again. The unfunded liability today in today's dollars is \$9 trillion, but in tomorrow's dollars over that 75-year period, it is \$120 trillion that Congress, and our annual budget is \$2 trillion, that somehow Congress and the administration are going to have to come up with borrowing or increasing taxes to pay promised Social Security benefits.

Let me just comment on the demographics. Our pay as you go retirement system will not meet the challenge of demographic change. This chart represents the number of workers per Social Security benefit. Back in 1940 there were thirty-eight people working for every one retiree. So thirty-eight people paid in their Social Security tax to cover the benefits of one retiree.

A year and a half ago there were three people working. Now it is just slightly less than three, three people working to pay in their taxes to cover each one retiree, and by 2025 the projection is that there will only be two individuals working, paying in that much more tax per individual to cover every retiree.

So at the same time that there are less workers for seniors, and that is because seniors are living longer, and after the baby boomers, there was a relative decline in the birth population. So fewer workers trying to cover the existence in Social Security of a larger number of retirees per worker.

The red chart simply represents trying to dramatically display the future deficits of Social Security. We have a little blip up here. On the top left is a little blip of surpluses. That is because in 1983 when they last changed the Social Security system, they actually made a mistake. They calculated taxes that were higher than they needed to pay Social Security benefits.

So what has happened since 1983 is, there has been a surplus, more taxes coming in from workers of the United States than were needed to pay benefits, and so that was the extra surplus. And so what government did, they said, Well, we will just borrow that extra money and spend it for other government services and write an IOU out to the Social Security trust fund for the last couple of years.

We came up with this idea; it approaches gimmickry. We called it the Social Security lockbox, but it was an effort to try to have some discipline within this Chamber and the Senate and the administration to at least pay down some of the other debt held by the public instead of spending this money for increased programs, which tend to perpetuate themselves.

Anyway, the long-term deficit, again, in today's dollars, \$9 trillion. Over the next 75 years, \$120 trillion in addition to the amount of dollars and money that is coming in from the Social Security tax to pay current promised benefits.

There is no Social Security account with an individual name on it, and as I make speeches back in Jackson and Hillsdale and Adrian and Battle Creek and up in Eaton County, Charlotte next to Lansing, most people think that somehow there is an account that they are entitled to. Not so. The Supreme Court now on two decisions has said that the taxes someone pays in are simply a tax and the benefits that they might get from Social Security are a benefit passed by Congress and signed by the President that can be changed anytime. That is why there is some advantage, some merit, to having an account with someone's name on it that politicians in Washington cannot mess around with.

□ 1945

So if you have your private account, and we can mandate how the investment is made in that account to make sure that it is a safe investment, but it is going to be in that individual worker's name so he has possession. So if he dies, he or she dies, before they are 62 or 65, then it goes into their estate rather than going back into the system with maybe a \$240 death benefit. These trust fund balances are available to finance future benefit payments and other trust fund expenditures, but only in a bookkeeping sense.

Now, read this with me. There are claims on the Treasury that, when redeemed, will have to be financed by either raising taxes, borrowing from the public, or reducing benefits, or reducing some other expenditures. And this is what the Office of Management and Budget said a year and a half ago.

Some have said, well, if the economy gets strong, and we are underestimating how strong the economy is going to grow, an expanding economy with higher wages will fix the problem of Social Security. Not so. Because of the fact that Social Security benefits are directly related to your earnings and how much Social Security tax you pay in, the more you earn eventually, the higher your Social Security benefits are going to be. Social Security benefits are indexed to wage growth. And when the economy grows, workers pay more in taxes but also will earn more in benefits when they retire. Growth makes the numbers look better in the short run, but leaves a larger hole to fill later.

The administration has used these short-term advantages, I think, as an excuse to put off Social Security; and now we are in an extremely challenging time when we are trying to fight terrorists in our war on terror. And I think rightfully so it is reasonable to finance the war on terror to the extent necessary to make sure we win; but at the same time, we have to look at the long-term challenges. And as we saw in an earlier chart, the long-term financial challenges of this country, of this Congress, of the Presidency of the United States is Social Security and Medicare and Medicaid, all of which

are using up more and more money, especially not only in the increased cost of medical care but as more and more seniors live to be an older age.

The biggest risk is doing nothing at all. Social Security has a total unfunded liability of over \$9 trillion. The Social Security trust fund contains nothing but IOUs, and to keep paying promised Social Security benefits, the payroll tax will either have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent.

There was an article in the Detroit News recently that said, well, the Social Security problem is not as bleak as some say because you will still get 75 percent of your benefits in 2032. But I say that is pretty bleak, especially to the large number of seniors that depend on Social Security for 90 percent or more of their total retirement income. And to reduce that benefit from \$800 to \$600 in today's dollars is going to be pretty dramatic for those individuals that depend on that Social Security check for so much of their retirement existence.

Social Security was one of the issues that I first dealt with when I first came to Congress. I have now introduced four Social Security bills. In the next couple of weeks I will introduce the next one. But I think an interesting point, as I have written these Social Security bills that have been scored by the Social Security actuaries to make Social Security solvent, every 2 years, 2-year session, that I have introduced a bill, it is that much harder to figure out ways to solve the Social Security problem. The longer we put it off, the more drastic the solution is going to have to be. And that is because what we are doing is not using the current Social Security surplus, the extra amount that comes in over and above what we are paying out in benefits; we are not using that to help in a transition to get some real return on the extra money that is coming in, to get some real return on individuals.

This chart shows the diminishing return of your Social Security investment. The real return of Social Security is about, this says less than 2 percent, but it is about 1.7 percent for most workers, and shows a negative return for some compared to over 7 percent for the market as a whole. Now, if you look at the little chart, you see minorities actually lose out, and that is because minorities tend to die at an earlier age. So a young minority worker can work all of their life and die before they reach the age of 62, and that means that they end up getting a negative return from the money that they have paid into the Social Security System. It helps everybody else, but it does not help that individual. And that is one thing that, it seems to me, is reasonable for us to correct, and I do that in my Social Security bill.

The average, as I mentioned, is a 1.7 percent return. But here is a marketplace over the last 100 years that has given us a return of 7 percent. And so

if there is a way to increase some of the real return on that money, and you can do this in a way that is going to minimize, if not do away with, all risk, it is to have indexed stocks and indexed bonds and have a system where it is shared. So the return over a 30-year period is going to be what your benefits and returns are going to be based on.

I am going to be showing you a chart that shows the returns on 30-year averages, but just now let us go back to how long you are going to have to live after you retire to break even with the money that you and your employer paid into Social Security. See, it was a good deal back in 1940. You worked 2 months, paid in your taxes for 2 months, and it only took the first 2 months of retirement to get everything back that you put into it. But as we have increased taxes over the years, and as we have, as individuals, lived longer, there is less money to spend on all individuals. You can see that by 2005 you are going to have to live 23 years after retirement to break even, and that goes to 26 years by 2015. So it is not a good investment. Social Security is not a good investment.

And I want to point out that nobody is suggesting doing anything with the disability portion of Social Security. So, roughly, the 2.4 percent of your taxes that covers disability and survivor benefits, nobody, in none of these bills that have been presented, none of this legislation is suggesting that we make any changes in that insurance portion of Social Security for disability benefits and survivor benefits.

I think this is an interesting chart. Seventy-eight percent of families now pay more in payroll taxes than income taxes. So the Social Security tax of 12.4 percent has become the major tax for most American workers.

The six principles of saving Social Security that I have come up with: protect current and future beneficiaries; allow freedom of choice; preserve the safety net; make Americans better off not worse off; and create a fully funded system; and, with 75 percent of the people now paying more in the Social Security tax than they do in the income tax, let us not again raise taxes, the FICA taxes, for Social Security.

The personal retirement accounts. Number one, they do not come out of Social Security. Two, they become part of your Social Security benefits. And, three, a worker will own his or her own retirement account. What I do with these retirement accounts in my legislation, for women, some who might be staying home with the young kids, some who might have gone into the job market later, I add the husband's eligibility for private investments and the wife's eligibility for private investments and divide by two, so that each, husband and wife, have the identical amount of dollars going into their retirement savings plan, their personal retirement investment savings plan in their own name. So in case there is a

divorce, it is already divided. We divide it every year.

And while I am talking about women, a couple other things that I thought were important in restructuring Social Security is taking away the penalty that we now put on mothers that stay home with their children. So in my legislation I, for a mother who is staying home with a child under 3 years old, I allow those years to be figured in the calculation of their retirement benefits, assuming that those years had the highest earning of any earning year that that mother might have had. So it does not penalize the mother that stays home with her young kids.

The other thing I do is I increase the benefits for a surviving spouse from the existing 100 percent to 110 percent. And that is to encourage more people to stay in their own homes rather than going to a very expensive nursing home. The 110 percent helps accommodate that.

The last blip that I have not mentioned yet is that it is limited to safe investments in the personal retirement account. Safe investments that will earn more than the 1.9 percent paid by Social Security.

I was in Europe representing the United States and our Social Security plan and talking with a lot of other countries. Many countries in the world have now gone from a fixed benefit plan to a fixed contribution plan. So they, like almost every State in the United States, has made that change to accommodate for what everybody knows is going to be a demographic problem, with more seniors and fewer workers. We need to make the transition, and we can still have the kind of safety net that is going to guarantee that future retirees are going to have as much or more benefits than they do now.

My grandson, who is named Nick Smith, sort of my immortality maybe, my grandson was painting on a fence and he had \$160 coming to him. I said, let us put this in a Roth IRA, because look what the magic of compounding interest can do, and I figured this out based on the last 20 years return on indexed stocks. So I calculated this out and I said, okay, now, look, by the age of 64, you are going to have about \$70,000 if you put this all in a Roth IRA right now. He says, gosh, though, grandpa, I sort of wanted to save it to buy a car when I turn 16. Well, wait a minute, if you wait just another 7 years, until you are 71, then it will double again and it will be \$140,000. Well, he finally agreed that maybe he could put \$20 in a Roth IRA.

But the point I sort of make is that it is hard to convince people that saving now can be so valuable in retirement simply because of the magic of compound interest. It is so much easier to say, well, I need to spend this on these things today. But if everybody in the United States could save a little more and put it in a savings investment account, then the average income

worker could retire as a very wealthy retiree simply because of the magic of compound interest.

So my legislation goes farther than just fixing Social Security. It increases and encourages additional savings above and beyond Social Security so that today's workers that have a modest income can retire, even if they live to be 100 years old, in much more wealth than they are having today, if they are willing to sacrifice and save a little today.

The U.S. trails other countries. When I went to Europe, it was interesting that in the 18 years since Chile offered PRAs, 95 percent of the Chilean workers have created accounts and their average rate of return has been 11.3 percent per year. Again, this compares to the 1.7 percent that the retiree depending on Social Security is going to get.

□ 2000

Among others, Australia, Britain, Switzerland offer workers a personal retirement savings account that is in their name, that the politicians cannot mess with.

Let me say again, every time that we have come up against not having enough money to pay Social Security benefits, Congress and the administration has either increased taxes and/or reduced benefits. That is what we did in 1983 under the Greenspan Commission, we reduced benefits and substantially increased taxes.

The British workers chose PRAs with 10 percent returns. You cannot blame them. Two out of three British workers enrolled in what they call the "second tier social security system" chose to enroll in the personal retirement accounts. The British workers have enjoyed a 10 percent return on their pension investments over the past few years. The pool of PRAs in Britain exceeds nearly \$1.4 trillion, larger than their entire economy and larger than the private pensions of all other European countries combined.

Here it is. Mr. Speaker, this chart is a rolling 30-year average of the returns in stocks between 1901 and, I take it, up to 2001. A 30-year return. We see some downs on this. But the average is 6.7 percent.

Some people say, "Don't put it in any kind of stocks because it is too risky." Let me just suggest that if this country does not continue to grow, then whether it is the current system with no changes or whether it is any system that depends on revenues coming in and the economy of the United States, the money is not going to be there. We need to look at the kind of decisions that are going to stimulate economic expansion.

I am getting off on a footnote here, but I just want to say, we need to continue our investments in basic research, we need to continue our priorities like this administration has to improve education, because that human capital investment and that capital investment is what is the

strength of economic growth in this country in the past, and it has got to be that way in the future.

Here again, we see ups and downs, even over the last year on the far-down blip, but on a rolling 30-year average, not much of a downer in terms of average returns on investment.

Okay. Here is the return. Here is what I was talking about earlier, when we have problems, we increase taxes. If we do not deal with this problem, Mr. Speaker, the temptation is going to be to yet again increase taxes on workers.

In 1940, the rate was 2 percent. This program started in 1934, by the way. By 1940, the rate got up to 2 percent on the first \$3,000. That is \$60 a year maximum. By 1960, 6 percent, 6 percent on the first \$4,800. That was a maximum per year of \$288. In 1980, it went to 10.16. In 2000, it is up to 12.4 percent, and we are now at 12.4 percent of the first \$86,000 of payroll.

We are increasing the base every year. If we put it off, the tax will again go up.

Here are, in summary, some provisions that I thought was sort of the basis of the legislation that I have introduced. First of all, it allows workers to only invest a portion of their Social Security taxes. I limit the investments to indexed stocks, indexed bonds. Some people say, well, this is going to be a bankroll for Wall Street. The cost of administering an indexed fund is approximately .004 percent, so our Thrift Savings account that so many Members of Congress are familiar with, you would invest in indexed funds that have very low administrative costs.

PRSAs, personal retirement savings account investments, in my legislation, start at 2.5 percent out of the 12.4 percent. Then it gradually increases over the next 40 years to get up to 8 percent that would be in your private investment account. The PRSAs are limited to a variety of safe investments. I think that is important.

But what I think is even more important is that the individual worker owns that account, controls that account; nobody can take that account away from him because it is in his or her name. If he or she happens to die before they start collecting Social Security benefits, then it goes into their estate and their heirs rather than, like our current Social Security system, simply going back into the Social Security system.

It uses surpluses to finance the PRSAs. Right now we are still in this time period up to 2015 or 2016 when there are surpluses coming into Social Security. There is no increase in taxes or government borrowing in my bill.

PRSA account withdrawals may begin at 59½, while the eligibility age for fixed benefits is indexed to life expectancy. So here again, if you have the kind of savings that will pay for an annuity to give you the same benefits as Social Security would, then you can retire as early as 59½.

What we have also done in our legislation is say that if you do not retire at

65 but you decide to keep working and not start taking those Social Security benefits, your Social Security benefits will increase by 8 percent a year for every year you delay taking Social Security benefits after 65. A lot of us are very healthy and want to keep working a few more years. If you wait 4 years and increase your benefits by 25 percent, if you are optimistic about your life span, then it becomes a good deal.

But the point is, if you retire earlier, then actuarially you are going to get less, but still have the option of retiring earlier. If you wait to retire, then you are going to actuarially have more benefits, but it is going to not cost anybody anything simply because, on the average, it is going to be actuarially sound.

PRSA account withdrawals may begin at 59½, as I mentioned. There are tax incentives for workers to invest an additional \$2,000 each year so that you have the same tax advantages as you would in a Roth savings account, or an IRA, to encourage that additional investment, especially for low-income workers where government would add to that investment in those retirement accounts.

It gradually slows down benefit increases for high-income retirees by changing benefit indexation from wage growth to inflation. Right now, we have a system where future benefits are indexed to wage growth which goes up much faster than the CPI, than inflation. So this changes that index.

Generally what I do to pay for this system is, I slow down the increase in benefits for high-income workers and increase them for low-income workers. But that is what helps pay for the transition into some private ownership accounts. We divide the PRSAs, like I mentioned, between couples. Widow's or widower's benefits increase to 110 percent. It repeals the Social Security earnings test, it is scored by the Social Security Administration to keep Social Security solvent, and it maintains the trust fund reserves. Some people have said, we need the trust fund reserves there, so I keep the reserves there as an additional safety net.

Right now, the average retiree gets about 30 percent of their last year's earnings. The current retiree gets, on the average, 30 percent of their last year's earnings. What we are suggesting is that we have the kind of guarantee that if an individual that is 20 years old today ends up getting, whatever, 50 percent of their last year's earnings, or as we have experienced in some counties down in Texas that decided to have private investments rather than the Social Security, they are receiving three and four and five times as much as Social Security would pay.

So if we say to the 55-year-old worker that, look, you go into the system, he comes up with funds in his personal savings retirement account that would accommodate, say, 20 percent of what he would have of his last year's earnings, then Social Security and govern-

ment would add the additional 17 percent to guarantee what he would have gotten under the old Social Security system. We can have the kind of safety net, because over the long term we can get a lot better return than the 1.7 percent of the average retiree.

Again, in closing, Mr. Speaker, let me just suggest to all of my colleagues, to everyone that might be listening to this presentation, that the longer we put off solving Social Security, the more drastic the solution is going to be. I think we cannot afford the imposition on current workers or we cannot afford to put the burden on future wage earners by not facing up and dealing with the Social Security problem.

ASPECTS OF THE WAR ON TERRORISM

The SPEAKER pro tempore (Mr. FERGUSON). Under the Speaker's announced policy of January 3, 2001, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I would like to talk about a very important aspect of the kind of war against terrorism which I think the United States should wage. I would like to talk about a dimension of that war which is very seldom discussed. We are in the process now of preparing for our budget. The vote on the budget may come as early as next week. In that budget, the largest increase is \$48 billion for the military and for homeland security, items which are designated as part of the war against terrorism. I want to talk about that in terms of its being utilized in a new way, of being expanded so that it has a greater impact against terrorism than the present administration foresees.

The emphasis of the present administration is too much on the military and too little on foreign aid and other kinds of necessities that are needed, both at home and abroad.

I think the discussion before on Social Security is relevant here, also, but today, earlier, we took some steps which I think weaken our war on terrorism. A bill was passed which erodes the ability of the American citizens to bring class action suits. For some time, since the Contract With America and the majority was taken over by the Republican Party, we have had an effort to erode the rights of citizens in our civil courts.

Certainly the effort to end class action suits as we know them has been going on for some time. That bill was passed today, by a narrow majority, but it was passed; and it is one more example of how we are restricting and oppressing, with a light hand, and swindling our own population. Every time we do that, every time an act takes something away from the American people, the citizens, who must be at the heart of fighting the war on terrorism, we are weakening our war against terrorism.

One thing this war needs is every American enthusiastically involved.

Every American must understand that the war is going to be a long war and the war is a war for people's minds across the globe. It is a war to show our compassion. It is a war to help educate the rest of the world. There are a number of items, of components in this war against terrorism which require massive help by our entire population.

□ 2015

When we make our own population a little less comfortable or disgruntled, we move in ways which are going to restrict the rights and freedoms of our own population; we are weakening our effort in the war against terrorism.

When we refuse to appropriate adequate funds for education, we are greatly weakening the ability to fight a war against terrorism. And over what? In the most elemental concrete way, the ability of our military to fight a war with high-tech weapons, very complex weapons, is dependent to some degree on the quality of the education of the personnel involved.

I am not a military expert; but the large number of accidents that have occurred, the large amount of human error and the number of casualties that were the result not of hostile fire but of our own mistakes, indicate that the quality of personnel could be greatly improved.

I am mindful of the time when, just a few years ago, we launched a new super aircraft carrier, the largest and most complex machine on the water, about 3 years ago was launched by the Navy, and they said that they were short 300 personnel. They could not fill 300 positions on that aircraft carrier because they could not find within the Navy the enlisted men who could do the things that were necessary, could operate the complex high-tech equipment. It was just one example of how education directly relates to our ability to fight a war. In this example it is obviously quite concrete and related to the military.

On a larger scale, we need all the people we can to help educate the populations of certain nations, to help educate the leaders, to be able to spread the constitutional civilization that we enjoy, how you operate under a constitution, to be able to spread the economic system that we enjoy, the legal system that goes along with economic system. Capitalism cannot exist without a legal framework. There are a number of things that are not so simple that the rest of the world needs to learn, and one of the ways we are going to be able to win the war against terrorism is to have more and more people, ordinary people in the nations of the world, understand these complex processes.

So educated people in America will help not only increase our own level of prosperity, the ability of our own Nation to function, but also we are going to be needed to help spread democracy across the world and help democracy take a firm hold, to help improve the economic systems take hold.

The nation building that is going to have to take place in Afghanistan is just one example of a large number of people of all walks of life, technicians, mechanics, scholars. All kinds of people are going to be needed to help rebuild the nation of Afghanistan. We are not going to do it all. The United Nations is responsible for the nation building in Afghanistan, and that is the way it should be; but we must make a great contribution.

The larger war is one that we must understand how serious it is, the projection of a larger threat. It is not the kind of threat that we have faced before with the Soviet Union, the possibility of nuclear annihilation overnight, the possibility of them having more nuclear warheads than we had, the Soviet Union having better rockets than we had and the necessity to keep monitoring what the Evil Empire was doing. The Evil Empire, on the other hand, was monitoring us constantly.

We are in a different kind of situation, and the threats we face now are not as easy to describe or to imagine as they were before. But one thing that September 11 taught us is that we are vulnerable.

There is this great Nation, we are not an empire, call us the American colossus, with all of its strength in so many ways, which is very vulnerable, like any other civilized society is vulnerable. We did not know that on September 11 to the degree we know it now.

We are very vulnerable, because if you hit one nerve center, and in the case of September 11 they hit the financial center of New York, a communications center, two buildings. Large numbers of people died, but a lot of other repercussions took place as a result. It was a domino impact. A domino impact helped to make the recession worse, not only in New York City and New York State, but it had an impact right across the Nation.

We were vulnerable in that a relatively small group of people somewhere in the world, and they were based in Afghanistan, we have assumed, I think correctly, a small group of people struck down all the airplanes of the skies of the great United States of America. They were empty for a few days as a result of the actions of these few people.

So we are vulnerable, because the Internet connections and the television broadcast connections at the World Trade Center meant a lot of people found themselves without television service, and communications in New York is very much still affected by the fact there were telephone switching stations and complicated operations located near the World Trade Center.

So in a number of ways a very complex, modernized society is vulnerable. Now terrorists know it as well as everybody else; and we have to recognize that, sooner or later, the possibility of these things happening again is there. We will have other kinds of attacks.

We seem to be quite vulnerable here on Capitol Hill, when one letter going through the post office and then to Senator DASCHLE's office led to an anthrax scare. Appropriately, that shut down the whole Senate building. One-third of the Senate offices were shut down; employees were terrorized to some degree. Two postmen lost their lives as a result of the anthrax just passing through the post office machines, and all of us saw our mail brought to a halt. We did not receive mail for a couple of months. Our mail has to go through an irradiation process now.

A lot of complex things happened as a result of the relatively small anthrax attack. We are grateful for the fact that whoever perpetrated that attack did not send 10 or 20 envelopes through the mail at the same time.

So we are vulnerable now. We know we are vulnerable to an anthrax attack; and just as anthrax was sent through, you could have other kinds of biological attacks, very potent diseases. The smallpox virus, all kinds of things could be done in similar ways, through the mail and various ways dropped in areas where you have a dense population in our big cities. There are a number of ways that we can discern that we could be attacked by faceless, nameless, nationless people. We know that now, and so do a lot of other people out there know it.

How do we make ourselves safer? I do not have all the answers, nobody has all the answers; but we are evolving answers. One answer is to reduce the number of people in the world who would cooperate with terrorists, reduce the number of people in the world who would become terrorists, reduce the number of people in the world who would aid and abet terrorists. That is one way to begin to make a safer world.

In doing that, we have to have a foreign policy and domestic policy which put people first. I am not speaking as a pacifist. I am a follower of Martin Luther King, I believe in non-violence, but I also recognize that we have to, in some cases, go to war. The only way to stop certain kinds of threats is with violence matching violence, and that is what our military is all about.

I said the last time I was here in a small poem that I wrote that wars never leave us thrilled, but there are some maniacs who demand to be killed. Wars never leave us thrilled, but there are some maniacs who demand to be killed, and we would indeed be quite stupid not to recognize that after a long history of dealing with these maniacs.

Adolph Hitler was a maniac that could not be stopped any other way except with violence against violence. We had to have a military force to match his overwhelming military force. We thought after Hitler you would have a decrease in those kinds of maniacs. He was thoroughly punished as a result, and the nation that followed him was

punished as a result of his activities. That did not stop Pol Pot from arising. That did not stop Slobodan Milosevic from trying his hand.

On and on it goes. These maniacs will come. Saddam Hussein is another one of those maniacal creatures that exist. We cannot put our heads in the sand and pretend that they are ever going to be able to be stopped if you only have a nonviolent approach to them.

However, there are also the nameless, faceless groups out there that have not even formed yet, that can be dissuaded, stopped, if we remove the fertile ground for terrorism that exists among those groups.

I am a child of World War II. I was just a grade school student during World War II, and we lived with the possibility that the Nazis would prevail. In school we were told they wanted to take over the world. In black schools they were told they hate black people, and one thing worse than the Ku Klux Klan is the Nazi SS storm troopers. The terror of the Nazis we lived with until they were defeated.

Then we lived with the terror of the Cold War, the Russians are coming, the Evil Empire. At school we used to have drills and have to go under the desks because the Russians now had the atomic bomb and we might have nuclear war. So we lived through that. Even up to the time of my children in school, they still had drills and were very much conscious of the need to be afraid of an attack by the Soviet Union. All of that was horrible; and all of that, of course, left quite an impression on a lot of us.

But none of it was as horrible as 9-11. Even the attack on Pearl Harbor, we lived with the knowledge that the Japanese were very sneaky and they might attack, coming over California and into the heartland of America. That was another one of the nightmares that young people used to have. But the attack on Pearl Harbor, of course, brought the war home closer than any other war we had ever realized from a foreign nation; but at Pearl Harbor, at that time Hawaii was not even part of the United States, so it was a little more distant, and, of course, most Americans who lost their lives at Pearl Harbor were at least military people.

It was not until 9-11, nothing compares, nothing we experienced in World War I or World War II, the Cold War, the Korean War, nothing compares to the attack on America that took place on September 11. It brought home the fact that we are in a different kind of world.

The Evil Empire, as the Soviet Union was described, and I am sure they had descriptions for us that were similar, no longer exists. Russia and America now have generals and officers stationed in the missile sites, and we closely monitor each other and the number of nuclear weapons we promised to reduce. Certainly the rockets and their trajectories have been altered, and there are agreements that

make us all feel secure that the Soviet Union and the United States will never go to war. We are the only nations with the capability of delivering long-term nuclear weapons.

We are not happy and secure about the Chinese or North Koreans, but even then there is a nation to negotiate with; and America has negotiated with the North Koreans. Despite the fact that the President called them part of an "evil axis," we are still in negotiation with North Korea. It is a nation.

China, our relationship with China, there is a multiplicity of contacts and relationships. Capitalism has invaded China; and China has invaded our consumer markets, for good or ill. We are not that afraid that China is ever going to pull a sneak attack on us.

But those unknown, unnamed forces out there, in small groups, al Qaeda and Osama bin Laden is just one that we have profiled, a high profile, we understand. Who knows how many other there might be out there. But certainly al Qaeda gives us a good example of the kind of danger we face from stealth, stealth attacks, stealth violence, S-T-E-A-L-T-H. The world "stealth" is what every civilization has to fear from now on.

We have come to the point where weaponry is so complex and so powerful that small amounts of explosives and small bombs or small packages of lethal viruses or small packages of powder, like anthrax, can do tremendous, tremendous harm. We are threatened by stealth from possible terrorists in the future.

□ 2030

So they are and could be as numerous as the stars. We cannot ever be able to stamp out all of those possibilities out there.

The one way to guarantee that they are kept at a minimum and the one way to guarantee that they have an atmosphere and a milieu and an environment to operate which is hostile to them and protective of us is to try to make a world which includes justice, peace and compassion; a world where all the babies receive enough to eat; a world where young people are allowed and encouraged and supported to get an education which will allow them to look beyond hate.

A great deal has been said about the madrassahs in Pakistan. The madrassahs are schools in Pakistan which have come into great prominence and merited a great deal of attention and discussion because Pakistan as a nation abandoned its public school system. A very limited amount of money is appropriated in the Pakistan budget. This year they have done much better. Before 9-11, very limited amounts were being appropriated for education, huge amounts for the military, and other expenses; and parents seeing their children abandoned were happy, quite pleased that they could send their children to religious schools which not only gave them an edu-

cation, it taught them to read and write, but also provided some hot meals each day for them.

So large numbers of children, especially males, were spent to the madrassahs and the madrassahs, we know now, taught them to read and to write, but only a limited amount of reading and writing, not a broad education about the whole world, a limited amount, and taught them to focus on hatred for the West and hatred for certain religions and taught them to dedicate their lives to the eradication of what they call the Evil Empire, the decadent West and Christianity and a number of other kinds of things they were taught to hate. So many of them went off to the camps in Afghanistan to become a part of the Taliban and a part of the army of the Stealth Army of Osama bin Laden. So we have that example that we are watching. It is a case history.

Pakistan is an interesting case history for the United States, because Pakistan as a nation has always been an ally of the United States. From its inception, it has been a friendly relationship. The United States has rattled its sabers and flexed its muscles a few times to protect Pakistan from India, and in wars that India could have won easily if they had continued. I can remember the United States making veiled threats and telling them they needed to back down, and that has happened. On the other hand, Pakistan was a loyal ally during the Cold War. While India was far closer to the Soviet Union, Pakistan was very close to this Nation.

Of course, when the Soviet Union invaded Afghanistan, the key to the defeat of the Soviet Union in Afghanistan by American-led Stealth forces supporting the Afghan people was Pakistan. Pakistan was the avenue through which the United States funneled its aid, its weapons, its military power. And it defeated the great Soviet Union as a result. Pakistan, in alliance with the United States.

But each time we have an engagement with Pakistan, each time Pakistan serves as our ally, we have not rewarded Pakistan. We did not reward them for the great service they did as a result of the Soviet defeat in Afghanistan. We did not reward them for all of the years that they served as our loyal ally during the Cold War. Pakistan was sort of left to drift when we got through with using them. So we missed a golden opportunity. A nation of more than 160 million people is no small nation. Compared to India with 900 million, 160 million may seem small, but among the nations of the Earth, Pakistan ranks among the top 10 in population.

Having deserted, left Pakistan alone, not rewarded Pakistan in any way, the establishment of a closer alliance with military aid, no Marshall Plan for Pakistan, no Marshall Plan, no continuing relationship, aid was very meager, and then when Pakistan, as they

have had unstable governments, each time there was a coup, we punished them by taking away something. They had given us the money to buy planes, we kept the money and did not give them planes. We had a meager amount of aid going to them, and we cut all of that off through A.I.D. Nothing happened as a result of punishing them for their own instability in their own government. For various reasons, Pakistan could be very disgruntled. However, Pakistan has risen to the occasion and was one of the first nations to respond to President Bush's call for allies in the war against terrorism.

Considering the fact that Pakistan has a huge border with Afghanistan, Pakistani response, the Pakistani support for the war on terrorism was crucial. We could not have reached the point that we have reached now in terms of pretty much containing the violent situation, the capacity of the Taliban to wreak violence on its population or anybody outside without Pakistan. We could not have reached the point where Osama bin Laden is on the run somewhere or hiding somewhere or maybe dead; we could not say that we have dealt a critical blow to terrorism if it had not been for Pakistan. We owe Pakistan a great deal.

I want to applaud our own administration. For once they have responded by rewarding the nation of Pakistan. There is a package that is part of President Bush's war against terrorism of \$500 million or \$600 million in aid, and some of that aid is earmarked for education. It is earmarked for education. More than \$100 million is earmarked to be spent only on education. There are other moves that have been made to aid education in Pakistan at the same time we are giving other kinds of aid.

So Pakistan is an ally that we are taking care of.

The rest of my speech I want to dedicate to the proposition that there are allies in the western hemisphere that we continue to ignore and take for granted at our peril. In a world where we face terrorism threats, where we face threats from unknown groups, some of them not even established yet, but we know the conditions that give birth to these kinds of terrorist groups, in that kind of world, we are at risk in our own hemisphere. We are ignoring the Caribbean Islands. We are ignoring the threat from the South American countries. We are ignoring the role that Haiti could play in a positive way or in a negative way. We are ignoring the fact that these nations in this hemisphere, close to us, have one great advantage and they can impact in a more meaningful way on our lives because they are so close, just because they are so close.

We are ignoring the fact that for years now, we have been fighting what we call a drug war, and the drug war has involved our deploying operatives to all of these nations of one kind or another related to the war against

drugs. Not just the island nations, but the nations joined to us at the southern tip of Mexico. Mexico and the island nations of the West Indies and Haiti, all have had serious problems with respect to either the growth and processing of drugs or the transshipment of drugs. If we ignore the fact that these nations already have a problem and that that problem may lead to a situation where the governments are forced to succumb to drug lords; there are some things worse in the world than the Taliban. The Taliban at least had religious rationale. It may be a phony religious rationale, but it was a religious rationale. The drug lords do not attempt to pretend to be moral in any way.

The primary problem between Haiti and the United States during the Clinton administration or during the last, for the last 20 years has been the fact that forces in Haiti, certain forces in Haiti were being financed by drug lord money. The problem of the President of Colombia is that Colombia is at the point where there is a danger that drug lords will take over the entire nation. Most Americans do not know that we spend more than \$1 billion in this little country called Colombia in South America. This is \$1 billion being spent in the war against drugs and we are continuing to invest. Unfortunately, it is a military war. We are giving aid to fight a guerilla army which is financed by drugs. We are giving aid to fight a population which has no other means. They see themselves as having no other means to survive, so they are part of the process of growing drugs and processing drugs.

Colombia is just the beginning. Colombia is right next to Panama, and Panama now is an independent nation. The canal is owned, operated; it is part of Panama, not America any more, and they are right next to Colombia. Drug lords could take over Panama sometime in the future if we do not understand that that kind of war is as important as a war against terrorism. In fact, it is a kind of terrorism, and it certainly could become a part of an income-producing empire for terrorism in the future. We have not talked very much, we have not heard much about the role of drugs in Afghanistan and how the Taliban and all of the forces in Afghanistan have been involved in selling drugs. Heroin, the poppy from which heroin is made is the number one product of Afghanistan, and the control of the heroin trade by these factions, including the religious Taliban, was one way in which they financed their operations, selling drugs. So it is not farfetched to say that the drug war in this hemisphere will become a major problem in the war against terrorism in the future.

We need to look at all of the nations in this hemisphere in terms of what is our relationship to them, why do we continue to take them for granted, why can we not have a Marshall Plan for the western hemisphere on a scale

similar to the Marshall Plan which saved Europe after World War II? Why can we not have a Marshall Plan which develops an economy, helps to develop the economy of the Caribbean Islands? It would not cost very much. Why could not we have approached Colombia with aid for economic development and other kinds of things, rather than only aid for the military? I am sure if we spent \$1 billion for economic development in Colombia, we would get a better return on our investment than we have gotten for the dollars that we spend on military aid in Colombia. They are fighting a guerilla group, a guerilla operation which could not exist if it did not have the support of a large percentage of the population. Why does it have the support of a large percent of the population? Because a large percent of the population make their living growing cocaine, the coca leaf, and that is where they have an affinity with the lawlessness of the drug lords.

What would happen if in the future in this hemisphere we are surrounded by all of these nations and they are taken over by drug lords, they run the governments? That means that drug lords have a vote in the United Nations. There are a lot of small nations in the Caribbean Islands that are right now directly threatened by drug lords. There is one island where the chief law enforcement officer was murdered by a local drug lord. Everybody knows who killed that person. Everybody in the islands is afraid to participate in the process of apprehending and prosecuting the murderer. That is just a small island and one dilemma which foretells the future of a lot of others.

There are some larger islands which have recently had violent outbreaks in certain parts of the island, and Jamaica is one, where the battles were fought in Kingston, where the police were outgunned by modern weapons that the criminals had. How do criminals in a small island get such modern weapons and are able to outgun the local police? Through the financing of the drug trade. There are some islands where drug lords are known and despised by the population; but if a drug lord gives a birthday party, your top officials of government go to the birthday party. You are eroding slowly the respect for the civilian governments, you are eroding the authority of governments, and you are saying to the population, that process is saying to the population that drug lords are all powerful.

□ 2045

It is like in our neighborhoods in New York and some other big cities where powerful people demand a lot of money and forces, and young people begin to look up to them because they have money, they drive the big cars, and they have the best wardrobes, et cetera.

In the island nations, we have the same development of powerful forces

that may get out of hand. If we really want to fight terrorism, and we have \$48 billion in the present budget, I am not way out in left field, I want to stay on the subject, if we have \$48 billion in the budget to fight terrorism and for homeland security, then a portion of that money ought to go to looking at this hemisphere and what we can do in this hemisphere at a much lower cost now than we would have to pay in the future if we had to fight empires of drug lords with votes in the United Nations and all kinds of influence in the future.

I want to use Haiti as a case history, because I am quite disturbed, and we have good reason to be disturbed, by the present policies of the United States Government toward Haiti.

Haiti has a long history of being a loyal ally of the United States, just like Pakistan, way back when, when Haiti was the second nation in this hemisphere to gain its freedom. The United States became an independent country in 1776. Haiti came second in this hemisphere as an independent nation.

When the British tried to undo the Revolutionary War and to subdue the infant nation of America in the War of 1812, Haitian soldiers fought on the side of American soldiers. Haitian soldiers were sent or came to this nation.

Throughout the history of Haiti and the relationship between Haiti and the United States, the Haitian people have never raised their hands against the United States. They have never been disloyal. Yes, we have done some terrible things to the Haitians. We occupied their country for more than 30 years. But the Haitians have never done anything to subvert the United States. Neither Hitler nor Castro nor Osama bin Laden has been able to drive a wedge between the Haitians and the people of the United States.

That ought to stand for something. We ought to be interested in rewarding Haiti. Haiti would be a good example to hold up to the rest of the countries in this hemisphere as to what it means to be a friend and ally of the United States. Let us take care of our friends at home, as well as seek to make new friends across the world.

Vice President CHENEY is on a tour throughout the world to build up alliances, to get alliances for the American-led war against terrorism. That is probably altogether fitting and proper. He should do that. But in the meantime, the nations in this hemisphere are being treated very badly, and I begin with Haiti.

Haiti is at the point right now where it may cease to exist as a nation. Haiti may implode or explode and just fall apart completely because of the hostile policies of the United States. The key to the death of Haiti would be the policies of this nation. Haiti does not deserve to die. The second oldest independent nation in this hemisphere, the nation of Haiti has been driven to the brink of chaos and dissolution by a hostile U.S. foreign policy.

Seven years ago, the U.S. reneged on a \$200 million development fund promised to Haiti. Now the U.S. is presently blocking humanitarian aid in order to bolster the position of a destructive opposition in Haiti. For petty political reasons, Haiti is being strangled to death, but Haiti does not deserve to die. Haiti is being cruelly smothered by a small group of petty, but powerful, decision-makers here in Washington.

Long before the recent Haitian election controversy, and there is now a controversy in Haiti about the last election of people, and we are using the fact that that election was not a perfect election as an excuse to hold up aid to Haiti and to block aid to Haiti from other sources. That election in Haiti probably was far more reasonably executed and implemented than the election in Florida. But we are using that as a way to deny aid to the present administration.

But long before that, long before the Haitian election controversy, for personal, ignoble, and irrational reasons, a noose was tied around the neck of President General Bertrand Aristide's first administration.

As the democratically elected president was returned, with the support of the U.S. military, President Clinton and the international community promised Haiti an economic aid package vital to the survival of the country. The start-up and kingpin donation was to be \$200 million from the U.S. That was going to be the start-up, and the other nations, using that or recognizing that \$200 million, would create an infrastructure, an administrative infrastructure, which would allow Haiti to make use of additional aid.

They promised to give additional aid. Other nations, Canada, France, Japan, they promised to follow the lead of the U.S. with a sum total of more than \$1 billion. In other words, let me make it clear, if the United States had followed through on its promise to give \$200 million, the rest of the nations of the world would have chipped in and the amount of aid that Haiti would have gotten 7 years ago was \$1 billion or more.

But the U.S. did not follow through on its promise. There were certain powerful people in Washington who said that Haiti would never get a dime from the United States because they personally would see to it that it did not happen. There are a few people in Washington who are just that powerful.

Unfortunately, certain power brokers within our midst counted themselves as close friends of the old oppressive ruling class in Haiti, and they thus became sworn enemies of President Aristide. The president of Haiti who was elected with an overwhelming democratic vote of the people was targeted by the U.S. right wing for punishment.

What was the U.S. right wing? Certain people in high positions in the Congress of the United States were part of it; certain people in the CIA

were part of it. They had all surfaced during the years that Aristide was in exile and had spoken against Aristide in various ways. We know who they were; we know who they are.

Despite the fact that Aristide's administration was in no way corrupt, and Aristide obeyed his own nation's constitution and he stepped down at the end of the 5-year term, the U.S. allowed a ruthless and shortsighted few to condemn Haiti to death by neglect, death by abandonment, death by the denial of vital aid for survival.

Let me repeat: Aristide's administration was in no way corrupt. We could find no fault with Aristide. Aristide returned after being in exile for 3 years. He was elected, and the army staged a coup, and they forced him out of the country. He was in this country for 3 years. He went back. He had only 2 more years to serve in his term. He had a right to make a claim that he had been exiled and was not able to fulfill the wishes of his people, and he had a right to say, "I should be allowed to stay 5 years." But no, he accepted the constitution and wanted to promote the authority of the constitution, and he stepped down after serving for 2 years, 3 years in exile and 2 years after he went back. We asked him to do that. The United States Government wanted that to be done.

He did everything we asked; but nevertheless, a ruthless and shortsighted few decided to condemn Haiti to death by neglect, death by abandonment, death by the denial of vital aid for survival.

We descendants of Jefferson, Lincoln, Roosevelt, and Martin Luther King should no longer tolerate the lynching of a nation before the eyes of all who can see in this hemisphere and the rest of the world. That is what is happening: We are lynching the nation of Haiti. We are strangling a nation to death. We are assassinating a nation. That is the charge I make, and I think that the facts will bear it out. The policies of the United States Government at this point are destroying the nation of Haiti.

Haiti does not deserve to die. As I said before, in the War of 1812, after the vengeful British had burned the White House and were threatening to recolonize the fledgling American Republic, Haiti sent troops to aid in the defense of our new nation. Since that time, Haiti's hand has never been raised against this land. Neither Hitler nor Castro nor Osama bin Laden could break the bond that exists between the U.S. and the people of Haiti. Haiti does not deserve to die at the hand of the United States foreign policy.

Mr. Speaker, today I am inviting all of my colleagues to unite with the Congressional Black Caucus to rescue a Haiti that is being unjustly subjected to cruel and inhuman torture. Haiti is being unjustly subjected to cruel and inhuman torture. The denial of humanitarian aid to Haiti right now is being used as a political sledgehammer. We

are coupling humanitarian aid, aid that is designed to help people, aid, most of which would not go to the government, it would go through non-governmental organizations, we are denying that aid as a way to force Haiti to do some things we want done which would benefit the opposition in Haiti, the opposition that has been favored by the right-wing forces in the United States since the very beginning of Aristide's term.

I am asking my colleagues in the House to join us in an appeal, asking both Houses of Congress to join us in an appeal to the rest of our colleagues to try to save Haiti. Join us in the appeal for a special initiative by President Bush and Secretary Powell. We want to ask them to review and reconsider the Haiti policies that they are presently promulgating.

The President showed great animosity towards Haiti, even during the campaign for his election. Haiti was singled out in two of the debates as being the kind of place that President Bush felt we should not have given aid and help, so we know that there are problems in this administration.

Secretary Powell recently went to a CARICOM conference. CARICOM is an organization of the island nations of the Caribbean. He went to a conference and talked about punishing Haiti further by denying or continuing to deny aid. This administration should immediately deliver, this administration should immediately deliver to Haiti, first of all the \$200 million that were promised in 1994, or promised several years ago. After that, it should follow up with the humanitarian aid that is being denied right now.

I would like to say to my colleagues that if our own Nation will not yield, if our own Nation insists on pursuing this course of destruction of Haiti, yes, it is an assassination course, we are assassinating a nation, I can think of no terms that would be too harsh for what we are doing, if we continue to pursue this assassination course, then I would like our colleagues to consider joining us, the Congressional Black Caucus, in an appeal to the United Nations. Why not ask the United Nations to try to bring some sense back to the situation?

A very small group of very powerful people in Washington is using power to destroy a nation of between 7 million and 8 million people. Something should be done. I would like to ask our colleagues to join the Congressional Black Caucus in an appeal for help. If the United Nations will not do it or is slow, an appeal for help from some of the other more moral nations of the world. Why can we not appeal for help to Norway, Sweden, the Netherlands, Denmark? Somewhere, someone on this globe should be able to understand the situation and come to the aid of Haiti.

I recall that Norway, a very unlikely place for the solution to be worked out in the Middle East, but Norway took the leadership in developing a dialogue between Israel and the Palestinians.

□ 2100

The peace process that was started and later brought to fruition by President Clinton, which led to Arafat and Rabin shaking hands in the White House garden, was started by Norwegians. So maybe we can appeal to the Norwegians or the Swedish or the Netherlands or Denmark or some other nation, some other decent, civilized nation, Germany, to help, because our Nation is locked in a position which is inhuman and disgraceful and murderous for a whole group of people.

Perhaps we should follow the moral example of Australia. Australia sent their soldiers to stop the bloodshed in East Timor. At the request of the United Nations, Australia sent their soldiers to stop the bloodshed in East Timor, and the Australians did not leave and say we are not going to engage in Nation building the way certain people insisted we leave Haiti: The United States should not stay in Haiti; we should not have to help to build a Nation; we restored the President, let us get out. No, the Australians stayed under the supervision of the U.N., and they have helped to build a nation in East Timor.

East Timor is today being celebrated as a new democratic Nation. Pretty soon East Timor will take their place in the United Nations as an independent nation. It could not have happened without those outsiders, those white Australian troops, going to the aid of a nation in distress and committing themselves under the supervision of the United Nations to a moral and very civilized venture to save human beings, to restore a government of the people, and to help to build a government of the people in that far-flung corner of the world.

It is a decision of the Congressional Black Caucus that we send out pleas throughout the whole globe in search for some nation that will help us to aid Haiti, if our own government will not. We are going to appeal first to those Members of the Congress. We are going to appeal to President Bush. We are going to appeal to all the forces in this Nation to take a hard look at what we are doing and to back away from a foreign policy.

If that does not happen, we intend to go to the United Nations and to the civilized nations of the world. Haiti does not deserve to die. If we fervently seek it, then somewhere in the civilized world there must be enough compassion and mercy to save the long-suffering people of Haiti. Haiti does not deserve to be strangled at the hand of our government. Haiti does not deserve to die.

This is a very strong language. I have lived with the problems of Haiti for a long time. My district has the second largest concentration of Haitian Americans in America. Miami has the largest concentration. The congressional district of the gentlewoman from Florida (Mrs. MEEK) has the largest concentration of Haitian American; I have

the second largest. Together, we in the Congressional Black Caucus have sought to try to establish a new relationship between the United States and Haiti since the days when Haiti had democratic elections and President John Bertrand Aristide was elected by something like 80 percent of the voters.

Because he did not follow its precepts and was not a puppet of the oppressive ruling class, ruled for a long time, the Army staged a coup and Aristide barely escaped with his life. He spent 3 years in this Nation, in Washington here, while we tried to get a negotiated return of Aristide to his rightful place in Haiti. However, because the people in power, the army leaders who staged a coup, were so well financed by drug lords that they did not have to worry about economic sanctions, that they did not have to worry about their own income, they would not budge. They would not yield.

There were several negotiations with them which almost came to the point of reaching some agreement, but it turned out they were just leading us on and had no intention whatsoever of ever letting Aristide back in the country. All the way, they had their lines into the drug lords. Haiti was a major transshipment point for drugs.

Raoul Cedras, the commander of the Army, his second in command Biamby, Michel Francois, they were all on the payroll, well financed by drug lords. Michel Francois was later indicted by the United States for his role in drug transshipment.

So the long history between the United States and Haiti has not been a good one from the time that the occupying forces left Haiti. First of all, we occupied Haiti for 32 years, which is most unfortunate. I will not go into the circumstances that led to that, but after we left Haiti, we left in charge and had bonds between a ruling class that had the benefits of an army which was trained by the United States. The Haitian army and the ruling class that had been very oppressive for the rest of the Haitian people ruled for a long time.

Francois Devalier was elected as president. He made a bond with the ruling class and the Haitian army and created his own army called the Ton Ton Macoutes, which was a civilian militia, death squads that were feared by the people, and the combined balance of the Haitian army and the Ton Ton Macoutes kept Haiti in a state of terror for more than 40 years.

Finally, they got a decent election under pressure from the United Nations and the United States. They had a fair election and President Aristide was elected, and of course, I have told my colleagues before, the army immediately overthrew the elected president, forced him into exile. He barely escaped with his life.

President Clinton, responding to the repeated request of the Congressional Black Caucus trying to shape a decent Haitian policy, after many, many at-

tempts to negotiate with the leaders of Haiti, decided to restore John Bertrand Aristide to power in Haiti through the use of military intervention. Our troops went into Haiti, and as I told the President, he does not have to worry about the people fighting the United States troops. The people will welcome the United States troops with open arms. They will cheer the troops as they come in.

Exactly what I predicted and told the President would happen, happened. The Haitian army was made up of 4,000 folks who were thugs and cowards, and they ran to hide when the army came in, and the people cheered the United States forces. Aristide was restored to power, and the leaders of the Haitian army were sent into exile.

Military leaders like Cedras and Biamby were exiled to Panama on October 13, 1994. The U.S. provided an airliner which shipped them out of the country. Michel Francois had escaped. We believe he went to the Dominican Republic, but he was later convicted in exile of drug transshipment and of murder. However, I have a brief chronology here which I will quickly go through as a backup for what I have said before of our relationship with Haiti.

On 15 October Aristide returned to Haiti, and Aristide, at the part of the United States Government, called for reconciliation and an end to violence. He did not call for retribution. He did not call for trials to punish the traitors. He followed the example of Nelson Mandela and the leadership of South Africa, and he sought reconciliation with the opposition forces.

On 11 October, Aristide moved to reduce the army. Already most of them fled, but he reduced the army to 1,500 troops from a strength of 7,000, and he offered the soldiers of that army that had deposed him jobs within the community and preference for new positions in the government.

On November 4, Aristide appointed a new prime minister in accordance with their constitution and the parliament approved that new prime minister.

On December 17, Aristide, by presidential decree, established a commission on justice and truth to investigate crimes committed by military regime. The commission on justice and truth is the exact same name that was used by Nelson Mandela and the people of South Africa and Bishop Tutu as they sought to unravel the relationship between the oppressive whites of South Africa and the new black-dominated government without bloodshed, with a minimum of bloodshed.

February 9 of 1995, the multinational force of the United Nations collected 20,345 weapons, including 5,853 grenades and 1,736 machine guns from the remnants of the Ton Ton Macoutes and the Haitian army.

January 30, 1995, the U.N. Security Council passed a resolution which extended the United Nations mission in Haiti until July 31, 1995.

March 31, 1995, President Clinton made a trip to Haiti, the first President to set foot on Haiti since Roosevelt; and President Clinton went to oversee the transition ceremony which reduced and established the pattern for the pullout of all the United States forces and handed over the multinational transition of Haiti Government to the multinational forces of the United Nations.

On April 28, Aristide did the most important thing of his career. He dissolved the Haitian army. If he had not dissolved the Haitian army at that point, we would not be standing here, about the point that he was not reelected after he gave up his presidency; and he is now the president of Haiti, but he is hated by right-wing forces in this nation, and we determined that he will not let Haiti die.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BARRETT of Wisconsin (at the request of Mr. GEPHARDT) for March 12 and the balance of the week on account of medical 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 Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

- Mr. PALLONE, for 5 minutes, today.
- Ms. KAPTUR, for 5 minutes, today.
- Ms. NORTON, for 5 minutes, today.
- Mr. CUMMINGS, for 5 minutes, today.
- Mr. MEEKS of New York, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.
 Ms. MCKINNEY, for 5 minutes, today.
 (The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

- Mrs. Jo ANN DAVIS of Virginia, for 5 minutes, today and March 14.
- Mr. JONES of North Carolina, for 5 minutes, March 14.
- Mr. BILIRAKIS, for 5 minutes, March 19.

ADJOURNMENT

Mr. OWENS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 12 minutes p.m.), the House adjourned until tomorrow, Thursday, March 14, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5862. A letter from the Deputy Assistant Secretary for Program Operations, PWBA, Department of Labor, transmitting the Department's final rule—Class Exemption for Cross-Trade of Securities by Index and Model-Driven Funds [Prohibited Transaction Exemption 2002-12; Application No. D-10851] received February 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5863. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions; and Requirements for Control Technology Determinations for Major Sources in Accordance with Clean Air Act Sections, Sections 112 (g) and 112 (j) [FRL-7155-8] (RIN: 2060-AF31) received March 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5864. A communication from the President of the United States, transmitting a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995, pursuant to 50 U.S.C. 1641(c); 50 U.S.C. 1730(c); 22 U.S.C. 2349aa-9(c); (H. Doc. No. 107-188); to the Committee on International Relations and ordered to be printed.

5865. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, Department of Defense, transmitting the Department's final rule—Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings [FAC 2001-03; FAR Case 1999-010 (stay); Item I] (RIN: 9000-A140) received February 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5866. A letter from the Director, OPM, Office of Personnel Management, transmitting the Office's final rule—Locality-Based Comparability Payments (RIN: 3206-A181) received February 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5867. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Miscellaneous Changes in Office of Personnel Management's Regulations (RIN: 3206-AJ54) received February 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5868. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended: Automatic Visa Revalidation—received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5869. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Civil Penalty Inflation Adjustment Revisions [Docket No. FAA-2002-11483; Amendment No. 13-31] (RIN: 2120-AH21) received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5870. A letter from the Senior Regulations Analyst, TSA, Department of Transportation, transmitting the Department's final rule—Civil Aviation Security Rules [Docket No. TSA-2002-11602; Amendment Nos. 91-272; 107-15; 108-20; 109-4; 121-289; 129-31; 135-83; 139-24; 191-5] (RIN: 2110-AA03) received February 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5871. A letter from the Regulations Officer, FHA, Department of Transportation, transmitting the Department's final rule—Design Standards for Highways [FHWA Docket No.

FHWA-2001-10077] (RIN: 2125-AE89) received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5872. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E5 Airspace; Andrews—Murphy, NC [Airspace Docket No. 01-ASO-15] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5873. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; MD Helicopters, Inc. Model MD900 Helicopters [Docket No. 2001-SW-56-AD; Amendment 39-12601; AD 2001-25-51] (RIN: 2120-AA64) received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5874. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment, Redesignation, and Revocation of Restricted Areas; NV [Airspace Docket No. 00-AWP-13] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5875. A letter from the Senior Regulations Analyst, TSA, Department of Transportation, transmitting the Department's final rule—Security Programs for Aircraft 12,500 Pounds or More [Docket No. TSA-2002-11604] (RIN: 2110-AA04) received February 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5876. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment of Honolulu Class E5 Airspace Area Legal Description [Airspace Docket No. 01-AWP-29] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5877. A letter from the Regulations Officer, FHA, Department of Transportation, transmitting the Department's final rule—Revision of the Manual on Uniform Traffic Control Devices; Accessible Pedestrian Signals [FHWA Docket No. FHWA-2001-8846] (RIN: 2125-AE83) received February 20, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5878. A letter from the Chairman, Department of Transportation, transmitting the Department's final rule—Modification of the Carload Waybill Sample Reporting Procedures [STB Ex Parte No. 385 (Sub-No. 5)] received February 15, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5879. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class D Airspace; Eglin AFB, FL; Correction [Airspace Docket No. 02-ASO-3] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5880. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision to Class E Surface Area at Marysville Yuba County Airport, CA [Airspace Docket No. 01-AWP-22] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5881. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Hillsboro, ND [Airspace Docket No. 00-AGL-29] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5882. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace, Bellingham, WA [Airspace Docket No. 00-ANM-31] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5883. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Stanley, ND [Airspace Docket No. 00-AGL-28] received February 19, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5884. A letter from the Trial Attorney, Department of Transportation, transmitting the Department's "Major" final rule—Regulations on Safety Integration Plans Governing Railroad Consolidations, Mergers, and Acquisitions of Control; and Procedures for Surface Transportation Board Consideration of Safety Integration Plans in Cases Involving Railroad Consolidations, Mergers, and Acquisitions of Control (RIN: 2130-AB24) received March 12, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5885. A letter from the Senior Regulations Analyst, Department of Transportation, transmitting the Department's final rule—Aviation Security Infrastructure Fees [Docket No. TSA-2002-11334] (RIN: 2110-AA02) received February 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5886. A letter from the Director, Office of Regulations Management, Department of Veterans' Affairs, transmitting the Department's final rule—Exclusion from Countable Income of Expenses Paid for Veteran's Last Illness Subsequent to Veteran's Death but Prior to Date of Death Pension Entitlement (RIN: 2900-AK84) received February 28, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

5887. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Negotiated Rulemaking: Coverage and Administrative Policies for Clinical Diagnostic Laboratory Services [CMS-3250-F] (RIN: 0938-AL03) received March 5, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

5888. A letter from the Board Members, Railroad Retirement Board, transmitting the Board's Congressional Justification of Budget Estimates for Fiscal Year 2003, pursuant to 45 U.S.C. 231f(f); jointly to the Committees on Appropriations, Transportation and Infrastructure, Ways and Means, and Government Reform.

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:

[Omitted from the Record of March 12, 2002]

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 2341. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, to outlaw certain practices that provide inadequate settlements for class members, to assure that attorneys do not receive a disproportionate amount of settlements at the expense of class members, to provide for clearer and simpler information in class action settlement notices, to assure prompt consid-

eration of interstate class actions, to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, and for other purposes; with an amendment (Rept. 107-370). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform. A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Rept. 107-371). Referred to the Committee of the Whole House on the State of the Union.

Mr. HANSEN: Committee on Resources. H.R. 1712. A bill to authorize the Secretary of the Interior to make minor adjustments to the boundary of the National Park of American Samoa to include certain portions of the islands of Ofu and Olosega within the park, and for other purposes; with amendments (Rept. 107-372). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. CAPITO (for herself, Mr. SANDLIN, Mr. OXLEY, and Mr. BACHUS):

H.R. 3951. A bill to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; to the Committee on Financial Services.

By Mr. DEFAZIO:

H.R. 3952. A bill to establish an Office of Consumer Advocacy within the Department of Justice to represent the consumers of electricity and natural gas in proceeding before the Federal Energy Regulatory Commission, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, 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. SCHAFFER (for himself, Mr. HOEFFEL, Mr. SESSIONS, Mr. CROWLEY, Mr. GUTIERREZ, Mr. WELDON of Pennsylvania, and Mrs. TAUSCHER):

H.R. 3953. A bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine; to the Committee on Ways and Means.

By Mr. ACEVEDO-VILÁ (for himself, Mr. UDALL of Colorado, and Mr. RAHALL):

H.R. 3954. A bill to designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Resources.

By Mr. ACEVEDO-VILÁ (for himself, Mr. UDALL of Colorado, and Mr. RAHALL):

H.R. 3955. A bill to designate certain National Forest System lands in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Ms. ESHOO (for herself, Ms. DELAURO, Mrs. LOWEY, Mr. BROWN of Ohio, Mr. GEORGE MILLER of California, Ms. BROWN of Florida, Mr. DOYLE, Mr. KILDEE, Mr. FRANK, Mr. ENGEL, Ms. RIVERS, Ms. NORTON, Mr. BONIOR, Mr. FORD, Mr. RANGEL, Mr. STRICKLAND, Mr. CROWLEY, and Ms. ROYBAL-ALLARD):

H.R. 3956. A bill to clarify the authority of the Secretary of Agriculture to prescribe

performance standards for the reduction of pathogens in meat, meat products, poultry, and poultry products processed by establishments receiving inspection services; to the Committee on Agriculture, and in addition to the Committee on Energy and Commerce, 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. GRAHAM (for himself, Mr. BOEHNER, Mr. MCKEON, Mr. DEMINT, Mr. NORWOOD, and Mr. HILLEARY):

H.R. 3957. A bill to increase the amount of student loans that may be forgiven for teachers in mathematics, science, and special education; to the Committee on Education and the Workforce.

By Mr. HANSEN:

H.R. 3958. A bill to provide a mechanism for the settlement of claims of the State of Utah regarding portions of the Bear River Migratory Bird Refuge located on the shore of the Great Salt Lake, Utah; to the Committee on Resources.

By Ms. LOFGREN (for herself and Mr. HONDA):

H.R. 3959. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to require the Immigration and Naturalization Service to verify whether an alien has an immigration status rendering the alien eligible for service in the Armed Forces of the United States and to achieve parity between the immigration status required for employment as an airport security screener and the immigration status required for service in the Armed Forces, and to amend the Immigration and Nationality Act to permit naturalization through active-duty military service during Operation Enduring Freedom; to the Committee on the Judiciary, and in addition to the Committee on 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. JEFF MILLER of Florida (for himself, Mr. BOYD, Ms. BROWN of Florida, Mr. CRENSHAW, Mrs. THURMAN, Mr. STEARNS, Mr. MIGA, Mr. KELLER, Mr. BILIRAKIS, Mr. YOUNG of Florida, Mr. DAVIS of Florida, Mr. PUTNAM, Mr. DAN MILLER of Florida, Mr. GOSS, Mr. WELDON of Florida, Mr. FOLEY, Mrs. MEEK of Florida, Ms. ROS-LEHTINEN, Mr. WEXLER, Mr. DEUTSCH, Mr. DIAZ-BALART, Mr. SHAW, and Mr. HASTINGS of Florida):

H.R. 3960. A bill to designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the "Joseph W. Westmoreland Post Office Building"; to the Committee on Government Reform.

By Mr. NADLER (for himself, Mrs. MINK of Hawaii, Mrs. JONES of Ohio, and Mr. ANDREWS):

H.R. 3961. A bill to provide additional resources to States to eliminate the backlog of unanalyzed rape kits and to ensure timely analysis of rape kits in the future; to the Committee on the Judiciary.

By Mr. PETERSON of Pennsylvania (for himself, Mr. OTTER, Mr. SIMPSON, Mr. GIBBONS, Mr. POMBO, and Mr. HERGER):

H.R. 3962. A bill to limit the authority of the Federal Government to acquire land for certain Federal agencies in counties in which 50 percent or more of the total acreage is owned by the Federal Government and under the administrative jurisdiction of such agencies; to the Committee on Resources, and in addition to the Committee on Agriculture, 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. REYNOLDS:

H.R. 3963. A bill to repeal limitations under the Home Investment Partnerships Act on the percentage of the operating budget of an organization receiving assistance under such Act that may be funded under such Act; to the Committee on Financial Services.

By Ms. MILLENDER-MCDONALD:

H. Con. Res. 349. Concurrent resolution calling for an end to the sexual exploitation of refugees; to the Committee on International Relations.

By Mr. FOLEY (for himself, Mr. MICA,

Mr. HASTINGS of Florida, Mr. DAVIS of Florida, Mr. TOM DAVIS of Virginia, Mr. SIMPSON, Mr. ROHR-ABACHER, Mr. SKELTON, Mr. KENNEDY of Minnesota, Mr. MORAN of Virginia, Mr. PICKERING, Mr. BALLENGER, Mr. ETHERIDGE, Mr. EDWARDS, Mrs. MORELLA, Mr. MCGOVERN, Mr. LANGEVIN, Mr. WOLF, Mr. FARR of California, Mr. YOUNG of Alaska, Mr. CASTLE, Mr. RADANOVICH, Mr. NETHERCUTT, Mr. LOBIONDO, Ms. KAPTUR, Mr. SESSIONS, Mr. WATTS of Oklahoma, Mr. MASCARA, Mr. ABERCROMBIE, Mr. DOYLE, Mr. BACHUS, Mr. WELDON of Florida, Mr. OLVER, Mr. TIAHRT, Mr. MARKEY, Mr. SAXTON, Mr. EHRLICH, Mr. JENKINS, Mr. TOWNS, Mr. BARR of Georgia, Mr. HAYWORTH, Mr. COOKSEY, Mr. DOOLEY of California, Mrs. CHRISTENSEN, Mr. DELAY, Mr. PUTNAM, Mr. LAHOOD, Mr. WYNN, Mr. SPRATT, Mrs. MEEK of Florida, Mr. CRENSHAW, Mr. WAMP, Mr. OWENS, Mr. HALL of Texas, Ms. PRYCE of Ohio, Mr. LEWIS of Georgia, Ms. MCCARTHY of Missouri, Mr. McNULTY, Mr. OXLEY, Mr. FLAKE, Mr. WALSH, Mr. STUPAK, Mr. SOUDER, Mr. CALVERT, Mr. CROWLEY, Mr. KENNEDY of Rhode Island, Mr. HEFLEY, Mr. FROST, Ms. LOFGREN, Mr. PHELPS, Mr. FORBES, Mr. JONES of North Carolina, Mr. WU, Ms. SLAUGHTER, Mr. ISAKSON, and Mr. SABO):

H. Res. 368. A resolution commending the great work that the Pentagon Renovation Program and its contractors have completed thus far, in reconstructing the portion of the Pentagon that was destroyed by the terrorist attack of September 11, 2001; to the Committee on Armed Services.

By Mr. ROGERS of Michigan (for himself, Mrs. TAUSCHER, Mr. TOM DAVIS of Virginia, Mr. OTTER, Mr. KIRK, Mr. UPTON, Mr. CHAMBLISS, Mr. TERRY, Mr. KNOLLENBERG, Mrs. CAPPS, Mr. MATSUI, Mr. GRUCCI, Mr. WEINER, Mr. HAYES, and Mr. BLUMENAUER):

H. Res. 369. A resolution recognizing the goals and objectives of the Intelligent Transportation Systems Caucus; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. PAUL introduced a bill (H.R. 3964) for the relief of Rudy Valente Jauregui; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 128: Ms. WOOLSEY.

H.R. 218: Mr. FORD and Mr. BACA.

H.R. 250: Ms. SOLIS.

H.R. 303: Mr. ROYCE and Mr. MURTHA.

H.R. 321: Ms. JACKSON-LEE of Texas, Mr. PASTOR, Mr. RODRIGUEZ, Ms. WOOLSEY, and Mr. BARRETT.

H.R. 394: Mr. VITTER, Mr. SENSENBRENNER, and Mr. KING.

H.R. 399: Mr. LAMPSON.

H.R. 440: Mr. YOUNG of Alaska.

H.R. 510: Ms. DeLAURO, Mr. GEKAS, Mr. SKELTON, Mr. PENCE, and Mr. DOOLEY of California.

H.R. 572: Mr. AKIN.

H.R. 600: Mr. CLYBURN.

H.R. 638: Mr. LANGEVIN.

H.R. 745: Mr. GUTIERREZ, Mr. FOLEY, and Mr. MCGOVERN.

H.R. 781: Mr. ETHERIDGE.

H.R. 786: Mr. MCDERMOTT.

H.R. 848: Mr. GEKAS.

H.R. 1038: Mr. FRANK, Mr. DAVIS of Illinois, Ms. WATERS, and Mr. CONYERS.

H.R. 1041: Mr. ANDREWS and Mr. HOFFFEL.

H.R. 1090: Mr. ORTIZ, Mr. BLUMENAUER, Mr. VITTER, Mr. OWENS, and Mr. RUSH.

H.R. 1097: Mrs. KELLY.

H.R. 1177: Mr. FOLEY.

H.R. 1214: Mr. HALL of Ohio and Mr. LARSEN of Washington.

H.R. 1265: Mr. BALDACCIO and Mr. HOLT.

H.R. 1290: Ms. WATERS.

H.R. 1296: Mr. BRADY of Pennsylvania and Mr. WELDON of Florida.

H.R. 1354: Mr. GONZALEZ.

H.R. 1360: Mr. McNULTY, Mr. BENTSEN, and Mr. VISCLOSKEY.

H.R. 1434: Mr. BECERRA.

H.R. 1626: Ms. MCCARTHY of Missouri, Mr. ANDREWS, Mr. WHITFIELD, and Mr. HOFFFEL.

H.R. 1701: Mr. HALL of Texas.

H.R. 1724: Mr. PLATTS and Mr. LANTOS.

H.R. 1731: Mr. MICA and Ms. ROS-LEHTINEN.

H.R. 1781: Mr. PASCARELL.

H.R. 1822: Mr. BOSWELL, Mr. FORD, and Mr. ROSS.

H.R. 1859: Ms. BERKLEY.

H.R. 1903: Mrs. CHRISTENSEN, Mrs. JONES of Ohio, Mr. KILDEE, Ms. MCKINNEY, and Mr. BLAGOJEVICH.

H.R. 1935: Mr. DOYLE, Mr. CANNON, Mr. HILL, Mrs. MALONEY of New York, Mrs. MORELLA, Mr. ROSS, Mr. SNYDER, Mr. LYNCH, Mr. BOOZMAN, Mr. BRADY of Pennsylvania, and Mr. CANTOR.

H.R. 1987: Mr. CALVERT.

H.R. 2059: Mr. HOLT.

H.R. 2096: Mr. NORWOOD.

H.R. 2117: Mr. RYUN of Kansas, Mr. PORTMAN, Mr. DOYLE, Mr. SCHAFFER, Ms. BERKLEY, Mr. CLAY, Mr. SABO, Mr. PHELPS, Mr. BARRETT, Mr. KUCINICH, Mr. OBERSTAR, Ms. WOOLSEY, Mr. LANTOS, and Mr. FATTAH.

H.R. 2125: Mr. KINGSTON and Ms. ROS-LEHTINEN.

H.R. 2162: Mr. GONZALEZ.

H.R. 2173: Mr. BARRETT and Mr. LAMPSON.

H.R. 2219: Mr. WALSH.

H.R. 2237: Mr. CAMP.

H.R. 2374: Mr. MATSUI.

H.R. 2405: Mr. LARSON of Connecticut, Mr. DAVIS of Illinois, and Ms. WATERS.

H.R. 2610: Mr. GORDON.

H.R. 2667: Mr. FOLEY.

H.R. 2795: Mr. WALDEN of Oregon, Mr. GIBBONS, Mr. HANSEN, Mr. PUTNAM, and Mrs. EMERSON.

H.R. 2820: Mr. FOSSELLA, Mr. BARCIA, Mr. COYNE, Mr. TOWNS, Mrs. ROUKEMA, Mr. TURNER, Mrs. MALONEY of New York, Mr. JENKINS, Mrs. BONO, Ms. MILLENDER-MCDONALD, Mr. BARTLETT of Maryland, Ms. BROWN of Florida, Mr. GUTIERREZ, Mr. LYNCH, Mrs. CHRISTENSEN, Mr. LATOURETTE, Mr. McNULTY, and Mr. MURTHA.

H.R. 2863: Mr. HOLT.

H.R. 2874: Mr. KANJORSKI.

H.R. 2918: Mr. PAYNE.

H.R. 2966: Mr. BONIOR.

H.R. 3065: Mr. DAVIS of Illinois.

H.R. 3070: Mr. DUNCAN.

H.R. 3106: Ms. CARSON of Indiana.

H.R. 3131: Mr. CONYERS, Mr. FILNER, Mr. FARR of California, Mr. THOMPSON of California, Ms. ESHOO, Mr. DOOLEY of California, and Ms. ROYBAL-ALLARD.

H.R. 3143: Mr. MANZULLO.

H.R. 3236: Mr. LAMPSON and Mr. BERMAN.

H.R. 3244: Ms. RIVERS.

H.R. 3278: Mr. JOHN and Mr. HINCHEY.

H.R. 3280: Mr. KUCINICH.

H.R. 3320: Mr. PAUL and Mr. JOHNSON of Illinois.

H.R. 3341: Mr. GUTIERREZ and Ms. BERKLEY.

H.R. 3352: Mr. DAVIS of Illinois.

H.R. 3389: Mr. KINGSTON, Mr. THOMPSON of Mississippi, Mr. ISRAEL, Mr. ENGLISH, Mr. PUTNAM, and Mr. ENGEL.

H.R. 3414: Mr. LUCAS of Kentucky.

H.R. 3424: Mr. WAXMAN.

H.R. 3489: Mr. FRANK.

H.R. 3524: Ms. SANCHEZ, Mr. HOFFFEL, Mr. WEXLER, Mr. WATT of North Carolina, and Ms. SLAUGHTER.

H.R. 3581: Ms. SOLIS.

H.R. 3657: Mr. DAVIS of Illinois.

H.R. 3669: Mr. MOORE.

H.R. 3671: Mr. FARR of California.

H.R. 3688: Mr. MASCARA.

H.R. 3733: Mr. WAXMAN.

H.R. 3747: Mr. HONDA.

H.R. 3768: Mr. TOWNS, Ms. KAPTUR, Mr. DAVIS of Illinois, and Mr. RUSH.

H.R. 3777: Mr. McKEON.

H.R. 3782: Mrs. JO ANN DAVIS of Virginia, Mr. DICKS, Mr. PORTMAN, Mr. COSTELLO, Mr. TOWNS, Mr. GILLMOR, Mr. MORAN of Kansas, and Mr. SHUSTER.

H.R. 3792: Mr. QUINN and Mr. SIMMONS.

H.R. 3803: Mr. LEACH.

H.R. 3814: Ms. RIVERS, Mr. TOWNS, and Mrs. MINK of Hawaii.

H.R. 3833: Mrs. WILSON of New Mexico.

H.R. 3839: Mr. KINGSTON.

H.R. 3840: Ms. SANCHEZ.

H.R. 3895: Mr. LUCAS of Kentucky and Mr. LAHOOD.

H.R. 3899: Mrs. CHRISTENSEN, Mr. FROST, and Mr. HOLT.

H.R. 3900: Mr. McNULTY, Mr. LANTOS, Mr. FROST, and Mr. LANGEVIN.

H.R. 3915: Mr. ENGEL and Mr. DINGELL.

H.R. 3917: Mr. GEKAS, Mr. SMITH of New Jersey, Ms. LEE, and Mr. FRANK.

H.J. Res. 23: Mr. HEFLEY.

H.J. Res. 40: Mr. DOYLE, Mr. SMITH of Washington, Mr. CRAMER, Mr. OBERSTAR, Mr. KANJORSKI, and Mr. LYNCH.

H.J. Res. 41: Mr. JEFF MILLER of Florida, Mr. KERNS, and Ms. HART.

H.J. Res. 85: Mr. PHELPS, Mr. LIPINSKI, Mr. BOYD, Mr. CONDIT, and Mr. BISHOP.

H. Con. Res. 26: Mr. KILDEE.

H. Con. Res. 99: Mr. SERRANO and Mr. WYNN.

H. Con. Res. 164: Ms. CARSON of Indiana.

H. Con. Res. 181: Ms. KAPTUR, Mr. DAVIS of Illinois, Mr. LARSEN of Washington, Ms. CARSON of Indiana, Mr. BAIRD, and Mr. WALDEN of Oregon.

H. Con. Res. 263: Mr. ABERCROMBIE and Mr. PAUL.

H. Con. Res. 301: Mr. GIBBONS, Mr. KING, Mr. McNULTY, and Mr. SKEEN.

H. Con. Res. 329: Mr. SKELTON.

H. Con. Res. 333: Mr. KUCINICH, Mrs. DAVIS of California, Mr. STARK, and Ms. LEE.

H. Con. Res. 346: Mr. FARR of California and Mrs. TAUSCHER.

H. Res. 281: Mr. PAYNE.