□ 1705

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 5 o'clock and 5 minutes p.m.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Maryland (Mr. HOYER) come forward and lead the House in the Pledge of Allegiance.

Mr. HOYER 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.

MAKING IN ORDER MOTION TO SUSPEND THE RULES ON SUNDAY, MARCH 20, 2005, ON S. 686 REGARDING TERRI SCHIAVO, WITHOUT INTERVENTION OF ANY MOTION TO ADJOURN

Mr. DELAY. Mr. Speaker, I ask unanimous consent that upon entry of this order, the Speaker may decline to entertain a motion to adjourn until after disposition of the motion to suspend the rules described in this order; that it be in order at any time on Sunday, March 20, 2005, for the Speaker to entertain a motion that the House suspend the rules with respect to S. 686; and that such motion be debatable for 3 hours, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary or their designees.

The SPEAKER. Is there objection to the gentleman from Texas?

Mr. HOYER. Mr. Speaker, reserving the right to object, and if the majority leader will answer a question, it is my understanding that we have an agreement that there will be, pursuant to this unanimous consent request, debate on the pending piece of business, the House bill or the Senate Bill containing the House language, between 9 p.m. and 12 midnight this day; is that accurate?

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

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding, and before answering the question, I want to thank the gentleman for all the good work that he has been doing over the last 2 or 3 days under very difficult circumstances. The distinguished whip has worked very long hours, and we greatly appreciate his cooperation and his consultation.

I really do thank you for that, Mr. Whip.

To answer your question, our intentions are to come in at 9 o'clock. We hope to vote at midnight, and, therefore, we will have a 3-hour debate.

Mr. HOYER. Reclaiming my time, Mr. Speaker, the majority leader anticipated my next question.

And I appreciate your comments. This is, obviously, a very serious issue and we are prepared to deal with it seriously. We appreciate the fact that this provides for sufficient time in debate for the issues to be raised and addressed by the House of Representatives.

My second question, which you have anticipated, is that in fact Members can expect at 12 midnight, at the conclusion of the 3 hours of debate between 9 p.m. and 12 midnight, for the vote to occur on the pending legislation; is that accurate?

Mr. DELAY. Mr. Speaker, if the gentleman will continue to yield, the gentleman is absolutely correct. And hopefully, as the gentleman knows, every hour is incredibly important to Terry Schiavo. The Senate has passed the bill, so we will be taking up a Senate bill and, hopefully, we will expedite this process as fast as the House rules will allow us.

Mr. HOYER. I thank the gentleman for that answer. It is also my understanding, Mr. Leader, that although we will recess to the call of the Chair, it would be, as I understand it, the intention of the Chair not to recall the House until 9 p.m. tonight.

Mr. DELAY. I appreciate the gentleman's question, and that is the intention. But, hopefully, level heads will prevail, and maybe something will happen; lightning might strike and another agreement may be made.

Certainly we would not do anything without the distinguished whip's concurrence and okay, in consultation with him, and we will keep the whip advised if there is any unlikely reason for us to come back earlier than 9 o'clock.

Mr. HOYER. I thank the gentleman for those comments and would make it clear to the House, Mr. Speaker, that of course one of the considerations is Members are trying to get back. They have had 17 hours notice of reconvening and with the vote to occur at 12, obviously, 9 o'clock will have been 14 hours, and the reason we did not want to go sooner is because there are Members on either side of this question who would want to make their positions known. So that is the reason for our concern.

So I appreciate the gentleman's comment, and my expectation then is that we will go back in at 9.

Mr. Speaker, I withdraw my reservation of objection under those representations.

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

There was no objection.

RECESS

The SPEAKER. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2103

AFTER RECESS

The recess having expired, the House was called to order at 9 o'clock and 3 minutes p.m.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 20, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on March 20, 2005 at 6:20 p.m.:

That the Senate passed S. 686.

That the Senate agreed to S. Con. Res. 23.

With best wishes, I am,

Sincerely,

JEFF TRANDAHL,
Clerk.

FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

Mr. SENSENBRENNER. Mr. Speaker, pursuant to the order of the House of today, I move to suspend the rules and pass the Senate bill (S. 686) for the relief of the parents of Theresa Marie Schiavo

The Clerk read as follows:

S. 686

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

SECTION 1. RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO.

The United States District Court for the Middle District of Florida shall have jurisdiction to hear, determine, and render judgment on a suit or claim by or on behalf of Theresa Marie Schiavo for the alleged violation of any right of Theresa Marie Schiavo under the Constitution or laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 2. PROCEDURE.

Any parent of Theresa Marie Schiavo shall have standing to bring a suit under this Act. The suit may be brought against any other person who was a party to State court proceedings relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain the life of Theresa Marie Schiavo, or who may act pursuant to a State court order authorizing or directing the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life. In such a suit, the District

Court shall determine de novo any claim of a violation of any right of Theresa Marie Schiavo within the scope of this Act, notwithstanding any prior State court determination and regardless of whether such a claim has previously been raised, considered, or decided in State court proceedings. The District Court shall entertain and determine the suit without any delay or abstention in favor of State court proceedings, and regardless of whether remedies available in the State courts have been exhausted.

SEC. 3. RELIEF.

After a determination of the merits of a suit brought under this Act, the District Court shall issue such declaratory and injunctive relief as may be necessary to protect the rights of Theresa Marie Schiavo under the Constitution and laws of the United States relating to the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain her life.

SEC. 4. TIME FOR FILING.

Notwithstanding any other time limitation, any suit or claim under this Act shall be timely if filed within 30 days after the date of enactment of this Act.

SEC. 5. NO CHANGE OF SUBSTANTIVE RIGHTS.

Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.

SEC. 6. NO EFFECT ON ASSISTING SUICIDE.

Nothing in this Act shall be construed to confer additional jurisdiction on any court to consider any claim related—

(1) to assisting suicide, or

(2) a State law regarding assisting suicide.

SEC. 7. NO PRECEDENT FOR FUTURE LEGISLATION.

Nothing in this Act shall constitute a precedent with respect to future legislation, including the provision of private relief bills.

SEC. 8. NO EFFECT ON THE PATIENT SELF-DETERMINATION ACT OF 1990.

Nothing in this Act shall affect the rights of any person under the Patient Self-Determination Act of 1990.

SEC. 9. SENSE OF THE CONGRESS.

It is the Sense of Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of foods, fluid, or medical care.

The SPEAKER. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Florida (Mr. WEXLER) each will control 90 minutes.

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

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 include extraneous material on S. 686.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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

Mr. Speaker, I rise in support of S. 686, For the relief of the parents of Theresa Marie Schiavo. As the House convenes this Palm Sunday, the Florida courts are enforcing a merciless directive to deprive Terri Schiavo of her right to life.

Terri Schiavo, a person whose humanity is as undeniable as her emotional responses to her family's tender care-giving, has committed no crime and has done nothing wrong. Yet the Florida courts have brought Terri and the Nation to an ugly crossroads by commanding medical professionals sworn to protect life to end Terri's life. This Congress must reinforce the law's commitment to justice and compassion for all Americans, particularly the most vulnerable.

On March 16, the House passed legislation to avert the tragedy now unfolding in Florida. The House bill, H.R. 1332, The Protection of Incapacitated Persons Act of 2005, passed the House by voice vote. Earlier today, I introduced H.R. 1452, For the Relief of the Parents of Theresa Marie Schiavo. The Senate-passed legislation now before us is identical to that bill.

Mr. Speaker, while our federalist structure reserves broad authority to the States, America's Federal courts have played a historic role in defending the constitutional rights of all Americans, including the disadvantaged, disabled, and dispossessed. Among the God-given rights protected by the Constitution, no right is more sacred than the right to life.

The legislation we will consider today will ensure that Terri Schiavo's constitutional right to life will be given the Federal court review that her situation demands. Unlike legislation passed by the Senate a day after House passage of H.R. 1332, the legislation received from the Senate today is not a private bill. Also, and of critical importance, S. 686 does not contain a provision that might have authorized the Federal court to deny desperately needed nutritional support to Terri Schiavo during the pendency of her claim.

Unlike earlier Senate legislation, S. 686 also contains a bicameral and bipartisan commitment that Congress will examine the legal rights of incapacitated individuals who are unable to make decisions concerning the provision or withdrawal of life-sustaining treatment. Broad consideration of this issue is necessary to ensure that similarly situated individuals are accorded the equal protection under law that is both a fundamental constitutional right and an indispensable ingredient of justice.

It is important to note that this legislation does not create a new cause of action. Rather, it merely provides de novo Federal court review of alleged violations of Terri Schiavo's rights under the Constitution or laws of the United States. Furthermore, Senate 686 makes it clear that ''nothing in this act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of several States.''

In addition, the legislation does not reopen or direct the reopening of a final judgment; it merely ensures that opportunity for the review of any violation of Terri Schiavo's Federal and constitutional rights in a Federal court. As a result, the legislation is clearly consistent with both the separation of powers envisioned by our Founders and the weight of judicial precedent on point. As the Supreme Court held in Plaut v. Spendthrift Farms, ''While legislatures usually act through laws of general applicability, that is by no means their only legitimate mode of action.''

Finally, S. 686 presents no problems regarding retrospective application. As the Supreme Court held in Landgraf v. USI Film Products, ''A statute does not operate 'retrospectively' merely because it is applied in a case arising from conduct antedating the statute's enactment.'' Rather, the court must ask whether the new provision attaches new legal consequences to events completed before its enactment. S. 686 does not attach any new legal consequences to events completed before its enactment; it merely changes the tribunal to hear the case by providing Federal court jurisdiction to review alleged violations of Terri Schiavo's Federal and constitutional rights.

Mr. Speaker, the measure of a Nation's commitment to the sanctity of life is reflected in its laws to the extent those laws honor and defend its most vulnerable citizens. When a person's intentions regarding whether to receive lifesaving treatment are unclear, the responsibility of a compassionate Nation is to affirm that person's right to life. In our deeds and in our public actions, we must build a culture of life that welcomes and defends all human life. The compassionate traditions and highest values of our country command us to action.

We must work diligently not to not only help Terri Schiavo continue her own fight for life, but to join the fight of all those who have lost capacity to fight on their own. As millions of Americans observe the beginning of Holy Week this Palm Sunday, we are reminded that every life has purpose, and none is without meaning. The battle to defend the preciousness of every life in a culture that respects and defends life is not only Terri's fight, but it is America's fight.

I commend the other body for passing this legislation without objection, and urge my colleagues across the aisle to join us in this fight by passing S. 686 to affirm the sanctity of life and to permit Terri to continue hers.

Mr. Speaker, I include for the RECORD a supplemental legislative history on this bill and a letter addressed to me dated today from Professor Robert A. Destro, who is the attorney for Robert and Mary Schindler, who is next friend of their daughter Theresa Marie Schindler Schiavo and is a professor of law at the Columbus School of Law in the Catholic University of America.

THE CATHOLIC UNIVERSITY OF AMERICA COLUMBUS SCHOOL OF LAW, OFFICE OF THE FACULTY,

Washington, DC, March 20, 2005.

Hon. JAMES SENSENBRENNER,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

Re S. 686 (identical to H.R. 1452)—A Bill for the Relief of the Parents of Theresa Marie Schiavo

DEAR MR. CHAIRMAN: You have asked me to comment on the proposed ''Bill for the Relief of the Parents of Theresa Marie Schiavo'' (to be brought up in the House today, which is the same bill the Senate passed earlier today) in my capacity as co-counsel in the Federal litigation filed by Robert and Mary Schindler on behalf of their daughter, Theresa Marie Schiavo. On behalf of the legal team and the family, we thank you and your colleagues in both the House and the Senate for your efforts, and those of your respective staffs, on behalf of Terri Schiavo.

TERRI SCHIAVO'S FEDERAL CLAIMS

This case has attracted worldwide attention—including that of the United States Congress and the political branches of the State of Florida—for two reasons. The first is that the situation in which the members of Terri Schiavo's family find themselves is a human tragedy with ''real-time'' life and death consequences. The second reason is the one that brings us before Congress and the federal courts. Terri's parents, Robert and Mary Schindler, allege that neither they nor their daughter got a fair trial in the Florida courts. Terri Schiavo is the first incapacitated person in the history of the State of Florida to have been involved in a ''substituted judgment'' proceeding where there is a significant difference of opinion over both the nature of her condition (i.e. ''Is Terri actually in a persistent vegetative state [PVS]?'') and her wishes (i.e. ''What would Terri say about continued nutrition and hydration if she could speak to us today?''

Getting accurate answers to both of these questions is critical. Not only does Terri's life hang in the balance, so too does the Nation's understanding of how a society committed to both individual rights and the rule of law should determine the wishes of persons with severe brain injuries. The Florida courts spent many years trying to figure out what to do in such a case. Unfortunately for Terri Schiavo—and for the nation—they did not apply the Florida statutes that usually govern such cases. They created new constitutional laws.

Terri's parents have alleged that the law created by Florida courts in Terri's case violated both Terri's rights and theirs because:

1. The guardianship court compromised his judicial independence when the he appointed himself, rather than an independent guardian ad litem, to serve as Terri Schiavo's health care proxy.

2. The Florida courts permitted Terri's husband, Michael Schiavo and his attorney to represent Terri's interests notwithstanding the Florida courts own admission that his interests were adverse to hers.

3. The Florida courts did not appoint a guardian ad litem for Terri, nor did they provide her with counsel to argue and protect her interests. The result was a situation in which Terri herself had no assistance of counsel in a case in which her life hangs in the balance.

4. The way the Florida courts applied the state's law and constitution to incapacitated persons with severe cognitive disabilities violated her rights under the Equal Protection Clause of the Fourteen Amendment. After Terri's case, the only persons in the State of Florida who are not entitled to an independent judiciary and effective representation are incapacitated persons who cannot speak for themselves.

5. The state court order for under which Terri's nutrition and hydration is currently being withheld was entered after a proceeding tainted by ''structural defects'' that call the integrity of the entire fact finding process in to question. As a result, we simply do not know either ''what Terri wants'' or what her current medical condition actually is.

6. The state court order violates the standards set out in both federal and state precedents that recognize the right to self-determination in health-care decisionmaking. *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261, 280 (1990) and *Guardianship of Browning*, 568 So.2d 4, 12 (Fla. 1990). Both of those cases recognize that accuracy, not finality, is essential in any case where a guardian has asked for a judicial decree authorizing the death of the a person with a severe disability such as Terri's.

THE NEED FOR THE PROPOSED LEGISLATION

Review of Terri's federal claims by a federal court is an essential step in protecting her right to privacy. We have argued in federal court that Terri's federal rights were violated by the state courts, and that her continued custody in the guardianship violates her constitutional rights. Generally speaking, such reviews can take place in only two ways: 1) direct review by the Supreme Court of the United States by Petition for Certiorari; or 2) a federal writ of habeas corpus.

Because Terri will die within two weeks from starvation and dehydration, the traditional option of a petition to the Supreme Court of the United States is not an option. It simply takes too long. We did try an emergency motion for a stay, but the Court denied it on Thursday, March 17, 2005. As a result, Mr. and Mrs. Schindler's only option was a petition to the United States District Court for the Middle District of Florida asking for a writ of habeas corpus.

Unfortunately for Terri, the habeas corpus statutes are focused almost exclusively on prisoners. Getting the courts to understand that people in Terri's situation are also entitled to habeas relief is both difficult and time consuming. On Friday, March 18, 2005 the United States District Court for the Middle District of Florida dismissed Mr. and Mrs. Schindler's attempt to get a fair trial for Terri because Judge Moody believed: (a) that Terri is not a ''person in custody'' entitled to habeas relief; (b) that Mr. and Mrs. Schindler do not have standing to argue that Terri did not get a fair trial; and (c) that the federal courts are duty bound to respect the findings of the Florida courts concerning her wishes.

Because we believe that federal law is to the contrary, we asked for, and received, a ''Certificate of Appealability'' from the United States Court of Appeals for the Eleventh Circuit, which is currently considering our request that the District Court give Terri and her parents a hearing on their federal claims.

S. 686 (which is identical to H.R. 1542) is absolutely necessary to guarantee a federal hearing of Terri's claims. This law is absolutely necessary to cut through the procedural barriers that were designed by Congress to make it difficult to litigate the claims of convicted criminals. Terri, however, is no criminal. She is a person with a severe brain injury whose only ''crime'' is that she is incapacitated.

Section 5 guarantees that this law protects only Terri's existing rights under federal law. It neither creates new rights, nor any power for federal courts that does not already exist. This provision also resolves any problems that I may have had with prior drafts of the legislation proposed in the Senate. Since the law will not change any law already applicable to Terri, it should eliminate any claim that the law is designed to overturn either a state or federal judicial decree, see Plant v. Spendthrift Farm.

Section 1 gives the United States District Court for the Middle District of Florida specific jurisdiction to hear Terri's federal claims. We believe that it has that jurisdiction already, but Judge Moody disagreed. Since we do not have time to appeal to the Supreme Court if the Eleventh Circuit agrees with Judge Moody, we need this law if Terri's rights are to be vindicated before she dies from starvation and dehydration.

Section 2 resolves any questions concerning the right of Terri's parents to argue in court on Terri's behalf. Judge Moody questioned their standing. This bill eliminates that procedural hurdle.

Section 3 allows the court to grant an injunction against further interference with Terri's rights should we prevail in our claim that she did not get a fair trial. This provision guarantees that Terri will have the same remedies as a condemned criminal.

Section 4 is both a ''sunset provision'' and a guarantee that we have the time we need to bring her case to court. Rest assured, the case will be filed as soon as the President signs this bill.

Section 6—Terri's case has nothing to do with ''assisted suicide'' or ''the right to die.'' This case is about one thing: Did Terri get a fair trail?

Section 7—We read this as a promise that Congress will give serious attention to the rights of persons with severe cognitive disabilities. We applaud its sponsors for making that promise.

THE HOUSE BILL DOES NOT VIOLATE EITHER SEPARATION OF POWERS OR FEDERALISM

I raised questions concerning the federal court's unwillingness to undertake a review of state court proceedings, not only because of the respect that federal courts owe the Florida courts, but also because two cases urge caution in framing private legislation. We cannot afford to create a problem that would make this private relief bill unconstitutional.

The changes Congress proposes to make in the House bill to be brought up in the House today provide an even more effective means that attempted by Governor Bush and the Florida Legislature in ''Terri's Law,'' Laws of Florida, Chapter 2003–418. Governor Bush has conceded that Terri did not get a fair trial, and urged the Supreme Court of the United States to review the proceedings in the Florida courts. There is no violation of either separation of powers or federalism here.

Finally, I concur with the legal analysis Chairman Sensenbrenner will be submitting into the Congressional Record regarding the constitutionality of the House bill to be brought up today.

CONCLUSION

We hope that this answers the questions that Members and Senators may have. We thank you, once again, on behalf of the family and on behalf of our client, Terri Schiavo.

Sincerely,

ROBERT A. DESTRO,
Attorney for Robert and Mary Schindler, as next friend of their Daughter, Theresa Marie Schindler Schiavo.

S. 686 IS CONSISTENT WITH SUPREME COURT PRECEDENT

SUPPLEMENTAL LEGISLATIVE HISTORY OF CHAIRMAN F. JAMES SENSENBRENNER, JR. FOR S. 686, FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

The bill for the relief of the parents of Theresa Marie Schiavo (S. 686) does not create a new cause of action. Rather, it simply allows a de nove review of ''alleged violation[s] of any right of Theresa Marie Schiavo under the Constitution of laws of the United States'' in Federal court. Further, S. 686 makes clear that ''Nothing in this Act shall be construed to create substantive rights not otherwise secured by the Constitution and laws of the United States or of the several States.''

Consequently, S. 686 does not ''reopen [] (or direct [] the reopening of) final judgments in a whole class of cases [or] in a particular suit.'' *Plaut* v. *Spendthrift Farm, Inc.*,; 514 U.S. 211, 227 (1995). This is because any final determination made by the Florida courts regarding Florida State law will remain final under S. 686 S. 686 merely requires that a Federal court assume jurisdiction over the Federal law claims of Theresa Marie Schiavo. Doing so for Theresa Marie Schiavo is proper, as the Supreme Court in *Plaut* made clear that ''The premise that there is something wrong with particularized legislative action is of course questionable. While legislatures usually act through laws of general applicability, that is by no means their only legitimate mode of action.'' *Plaut* v. *Spendthrift Farm, Inc.*, 514 U.S. 211, 239 n.9 (1995).

S. 686 also presents no problems regarding retrospective application. The Supreme Court has held that ''A statute does not operate 'retrospectively' merely because it is applied in a case arising from conduct antedating the statute's enactment . . ., or upsets expectations based in prior law. Rather, the court must ask whether the new provision attaches new legal consequences to events completed before its enactment.'' *Landgraf* v. *USI Film Products*, 511 U.S. 244, 269–70 (1994). S. 686 does not attach any new legal consequences to events completed before its enactment.'' S. 686 merely ''changes the tribunal that is to hear the case,'' and it is entirely proper to have a Federal court hear Federal law claims. *See Landgraf* v. *USI Film Products*, 511 U.S. 244, 274–75 (1994) (''Application of a new jurisdictional rule usually takes away no substantive right but simply changes the tribunal that is to hear the case. Present law normally governs in such situations because jurisdictional statutes speak to the power of the court rather than to the rights or obligations of the parties . . . Changes in procedural rules may often be applied in suits arising before their enactment without raising concerns about retroactivity . . . Because rules of procedure regulate secondary rather than primary conduct, the fact that a new procedural rules was instituted after the conduct giving rise to the suite does not make application of the rule at trial retroactive.'') (quotations and citations omitted.)

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

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

Mr. Speaker, for those of us from Florida, the heart-wrenching case involving Terri Schiavo is not new. In fact, for 15 years Mrs. Schiavo has remained in a persistent vegetative state. For 7 years the courts and the State of Florida have heard, ad nauseam, arguments of both sides.

There is this perception possibly that only one judge has been involved in this case. In fact, 19 judges in the State of Florida have participated in various legal proceedings regarding Terri Schiavo. The State of Florida, through our court system, has acted deliberatively, with justice and with due care. The State of Florida, through our judicial system, has taken testimony from everyone in the family and from everyone who knew Mrs. Schiavo that was capable of giving it. The courts in Florida have received expert testimony from many of the most prominent neurosurgeons and neurologists throughout the entire country.

The court system and the 19 judges in Florida have been unanimous, unanimous, in stating that from the evidence provided by a standard of clear and convincing evidence, that it is Mrs. Schiavo's wish that she not be required to continue in a persistent vegetative state.

So I would respectfully suggest for those of us that take exception to the proposed action by the chairman of the Committee on the Judiciary and by this Congress that we stand in the shoes of Terri Schiavo. We stand in her shoes, because what we are simply arguing is that the will of Terri Schiavo, as found by the legal system of Florida, which is the law of the land as of now, that her will be respected and that her will be carried out.

With all due respect to the proposed remedy, in effect if this bill were to pass what this Congress is designating is that the court system of Florida will lose its long history of jurisdiction of this matter and others like it, and the jurisdiction of the Federal Court will be substituted.

□ 2115

The majority would argue that this is a principal position. And while I would not dare suggest otherwise, I would ask the question, if the Florida courts had found in favor of Terri Schiavo's parents, would we be here this evening? I suspect not. So it is fair to conclude, therefore, that the reason we are here this evening is that the majority is unhappy, objects to the decision rightfully reached by the courts of the State of Florida; and as a result, the majority wishes to undermine over 200 years of jurisprudence and a long history in this country for respect for our judicial independence as well as the States court systems and the jurisdictions assigned to it.

In closing, Mr. Speaker, I would simply suggest this one thing, this is heart-wrenching for all Americans. Each American I believe tonight and today has been searching his or her soul wondering how they would react if, God forbid, they were in this position. But the issue before this Congress is not an emotional one. It is simply one that respects the rule of law, the rule of law in the State of Florida, the rule of law which has involved the participation of 19 judges, all unanimous in their view. Not a single medical piece of evidence has been provided by anybody who has diagnosed or in person witnessed Mrs. Schiavo that has said anything other than that she persists in an vegetative state.

And yet this Congress seeks to replace and substitute our judgment, even though not a single one of us as far as I understand has ever diagnosed Mrs. Schiavo, nor do we have the medical expertise to do so; and yet we are willing tonight to replace with our judgment the judgment of the most prominent doctors in our country and a court system which has labored extensively to yield a just result.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Speaker, I thank the chairman for yielding me time. I especially thank the chairman for his leadership on bringing this legislation to the floor in the condition that it is in, and I would like to compliment all the leadership in the House and on the Senate on both sides of the aisle that have worked so hard and so diligently throughout this weekend and given up their Palm Sunday weekend to serve a very important citizen of this country and someone whom we have an obligation to protect the constitutional rights of Terri Schiavo.

She has a right to due process under the 14th amendment, and she has a right to equal protection. She has a right to her day in court. We look at the circumstances that took place in the Florida courts and the continual appeals that we went back through and the relentless efforts to end her life by her guardian, her estranged husband, who may have a conflict of interest. And I look back into that to see what that might amount to because it is always important to understand the potential for the motives.

And as I added up these dollars, the settlement for medical malpractice, $250,000 preliminarily and the court then ruled another $1.4 million to Terri Schiavo and $600,000 awarded to Michael Schiavo, that is $2,225,000 awarded in her behalf. Of that one can assume approximately $800,000 went to attorneys fees and costs.

Now, additionally the court ordered $750,000 to go into the Terri Schiavo trust account. Now, that was pledged to go for her rehabilitation, her care, her medical treatment, and her tests. And that was a pledge made by her guardian, Michael Schiavo. But of that $750,000, these are the most conservative numbers that I can produce, there was $486,941 that went to attorneys' fees to promote her death, not her care; another $10,929 to Michael Schiavo for expenses; another $55,000 to the bank for, assumedly, administrative fees.

When you do the math on this and shake this down, it breaks down to this: approximately $2 million out of that $2.25 million against her interests

into the pockets of attorneys and into the pockets of Michael Schiavo and into the pockets of the bank for administrative fees. Less than $200,000 was committed to her care over all of these years, 13 or 14 years.

And I think this illustrates a potential for a conflict of interest. She is not on life support, Mr. Speaker. She needs only a feeding tube and the court ordered to remove the tube. And if it were determined that her food and fluid were to be stopped, all they had to do was stop adding it. It is a horrible way to die. She has been denied therapy, and she has been denied treatment. It has been stated that she does not show any electronic brain waves. She only had a CAT scan back in the early 90s. She has never had an MRI. She has never had a PET scan, and she has been denied treatment even for infection. And when they sent her to the hospice 5 years ago, a place where a person is sent to die, 5 years she has been there, Mr. Speaker, and 5 years she has been denied sunshine, denied even the ability to be rolled out into the sunshine in her wheelchair.

Mr. WEXLER. Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Massachusetts (Mr. FRANK) for purposes of control.

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

There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who both as a Member of this body and previously as a member of the Florida legislature has a rare commodity on the floor today, genuine knowledge on the subject of which we are speaking.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding me time.

There are a number of things that I would like to correct for the record before I begin. I apologize for not knowing the State that the gentleman is from, but the representation regarding the care of Theresa Schiavo by her husband as represented in the Chamber is totally inaccurate. Theresa's husband, and I am quoting from the guardian ad litem report, the independent guardian ad litem report that was required by Florida law during the special session in October of 2003, it says: ''Theresa's husband, Michael Schiavo, and her mother, Mary Schindler, were virtually partners in their care of and dedication to Theresa. There is no question but that complete trust, mutual caring, explicit love, and a common goal of caring for and rehabilitating Theresa were the shared intentions of Michael Schiavo and the Schindlers. Despite aggressive therapies, physician and other clinical assessments consistently revealed no functional abilities, only reflexive rather than cognitive moments, random eye opening, no communication system, and little change cognitively or functionally.''

And the gentleman referenced the percentage of the medical malpractice damage award being $486,000 going to attorneys' fees and to helping her reach her demise. That is also totally inaccurate. Also quoting from the guardian ad litem report: There was a medical malpractice case filed and pursued. Michael Schiavo and Terri Schiavo were awarded $750,000 in economic damages. The economic damages were put into a trust that was meticulously cared for according to the guardian ad litem and which was managed by South Trust Bank as the guardian and independent trustee. This fund was accounted for and Michael Schiavo had absolutely no control over its use. Michael Schiavo was awarded $300,000 for loss of consortium damages.

That is money that was awarded to him. There is not very much of that left. And there is no truth to the accusation that he would benefit financially from that damage award and there certainly was not $2 million in damages awarded.

Mr. Speaker, I submit for the RECORD the report of the guardian ad litem.

[Dec. 1, 2003]

A REPORT TO GOVERNOR JEB BUSH AND THE 6TH JUDICIAL CIRCUIT IN THE MATTER OF THERESA MARIE SCHIAVO

(Submitted by Jay Wolfson, DrPH, JD, Guardian Ad Litem for Theresa Marie Schiavo)

Theresa Marie Schiavo was born in the Philadelphia, Pennsylvania area on 3 December 1963 to Robert and Mary Schindler. She has two younger siblings, Robert Jr., and Susan. Through the age of 18, Theresa was, according to her parents, very overweight, until she chose to lose weight with the guidance of a physician. She dropped from 250 pounds to around 150 pounds, at which time she met Michael Schiavo. They dated for many months and married in November of 1984. The Schiavo and Schindler families were close and friendly.

Theresa and Michael moved to Florida in 1986 and were followed shortly thereafter by Theresa's parents and siblings. Theresa worked for the Prudential Life Insurance Company and Michael was a restaurant manager.

About three years later, without the apparent knowledge of her parents, Theresa and Michael sought assistance in becoming pregnant through an obstetrician who specialized in fertility services. For over a year, Theresa and Michael received fertility services and counseling in order to enhance their strongly held desire to have a child. By this time, Theresa's weight had dropped even further, to 110 pounds. She was very proud of her fabulous figure and her stunning appearance, wearing bikini bathing suits for the first time and taking great pride in her improved good looks. Testimony and photographs bare witness to these facts.

On the tragic early morning of 25 February 1990, Theresa collapsed in the hallway of her apartment, waking Michael, who called Theresa's family and 911. The lives of Theresa, Michael and the Schindlers were to change forever.

Theresa suffered a cardiac arrest. During the several minutes it took for paramedics to arrive, Theresa experienced loss of oxygen to the brain, or anoxia, for a period sufficiently long to cause permanent loss of brain function. Despite heroic efforts to resuscitate, Theresa remained unconscious and slipped into a coma. She was intubated, ventilated and trached, meaning that she was given life saving medical technological interventions, without which she surely would have died that day.

The cause of the cardiac arrest was adduced to a dramatically reduced potassium level in Theresa's body. Sodium and potassium maintain a vital, chemical balance in the human body that helps define the electrolyte levels. The cause of the imbalance was not clearly identified, but may be linked, in theory, to her drinking 10–15 glasses of iced tea each day. While no formal proof emerged, the medical records note that the combination of aggressive weight loss, diet control and excessive hydration raised questions about Theresa suffering from bulimia, an eating disorder, more common among women than men, in which purging through vomiting, laxatives and other methods of diet control becomes obsessive.

Theresa spent two and a half months as an inpatient at Humana Northside Hospital, eventually emerging from her coma state, but not recovering consciousness. On 12 May 1990, following extensive testing, therapy and observation, she was discharged to the College Park skilled care and rehabilitation facility. Forty-nine days later, she was transferred again to Bayfront Hospital for additional, aggressive rehabilitation efforts. In September of 1990, she was brought home, but following only three weeks, she was returned to the College Park facility because the ''family was overwhelmed by Terry's care needs.''

On 18 June 1990, Michael was formally appointed by the court to serve as Theresa's legal guardian, because she was adjudicated to be incompetent by law. Michael's appointment was undisputed by the parties.

The clinical records within the massive case file indicate that Theresa was not responsive to neurological and swallowing tests. She received regular and intense physical, occupational and speech therapies.

Theresa's husband, Michael Schiavo and her mother, Mary Schindler, were virtual partners in their care of and dedication to Theresa. There is no question but that complete trust, mutual caring, explicit love and a common goal of caring for and rehabilitating Theresa, were the shared intentions of Michael Schiavo and the Schindlers. In late Autumn of 1990, following months of therapy and testing, formal diagnoses of persistent vegetative state with no evidence of improvement, Michael took Theresa to California, where she received an experimental thalamic stimulator implant in her brain. Michael remained in California caring for Theresa during a period of several months and returned to Florida with her in January of 1991. Theresa was transferred to the Mediplex Rehabilitation Center in Brandon, where she received 24-hour skilled care, physical, occupational, speech and recreational therapies.

Despite aggressive therapies, physician and other clinical assessments consistently revealed no functional abilities, only reflexive, rather than cognitive movements, random eye opening, no communication system and little change cognitively or functionally. On 19 July 1991 Theresa was transferred to the Sable Palms skilled care facility. Periodic neurological exams, regular and aggressive physical, occupational and speech therapy continued through 1994.

Michael Schiavo, on Theresa's and his own behalf, initiated a medical malpractice lawsuit against the obstetrician who had been overseeing Theresa's fertility therapy. In 1993, the malpractice action concluded in Theresa and Michael's favor, resulting in a

two element award: More than $750,000 in economic damages for Theresa, and a loss of consortium award (non economic damages) of $300,000 to Michael. The court established a trust fund for Theresa's financial award, with South Trust Bank as the Guardian and an independent trustee. This fund was meticulously managed and accounted for and Michael Schiavo had no control over its use. There is no evidence in the record of the trust administration documents of any mismanagement of Theresa's estate, and the records on this matter are excellently maintained.

After the malpractice case judgment, evidence of disaffection between the Schindlers and Michael Schiavo openly emerged for the first time. The Schindlers petitioned the court to remove Michael as Guardian. They made allegations that he was not caring for Theresa, and that his behavior was disruptive to Theresa's treatment and condition. Proceedings concluded that there was no basis for the removal of Michael as Guardian Further, it was determined that he had been very aggressive and attentive in his care of Theresa. His demanding concern for her well being and meticulous care by the nursing home earned him the characterization by the administrator as ''a nursing home administrator's nightmare''. It is notable that through more than thirteen years after Theresa's collapse, she has never had a bedsore.

By 1994, Michael's attitude and perspective about Theresa's condition changed. During the previous four years, he had insistently held to the premise that Theresa could recover and the evidence is incontrovertible that he gave his heart and soul to her treatment and care. This was in the face of consistent medical reports indicating that there was little or no likelihood for her improvement.

In early 1994 Theresa contracted a urinary tract infection and Michael, in consultation with Theresa's treating physician, elected not to treat the infection and simultaneously imposed a ''do not resuscitate'' order should Theresa experience cardiac arrest. When the nursing facility initiated an intervention to challenge this decision, Michael canceled the orders. Following the incident involving the infection, Theresa was transferred to another skilled nursing facility.

Michael's decision not to treat was based upon discussions and consultation with Theresa's doctor, and was predicated on his reasoned belief that there was no longer any hope for Theresa's recovery. It had taken Michael more than three years to accommodate this reality and he was beginning to accept the idea of allowing Theresa to die naturally rather than remain in the non-cognitive, vegetative state. It took Michael a long time to consider the prospect of getting on with his life—something he was actively encouraged to do by the Schindlers, long before enmity tore them apart. He was even encouraged by the Schindlers to date, and introduced his in-law family to women he was dating. But this was just prior to the malpractice case ending.

As part of the first challenge to Michael's Guardianship, the court appointed John H. Pecarek as Guardian Ad Litem to determine if there had been any abuse by Michael Schiavo. His report, issued 1 March 1994, found no inappropriate actions and indicated that Michael had been very attentive to Theresa. After two more years of legal contention, the Schindlers action against Michael was dismissed with prejudice. Efforts to remove Michael as Guardian were attempted in subsequent years, without success.

Hostilities increased and the Schindlers and Michael Schiavo did not communicate directly. By June of 1996, the court had to order that copies of medical reports be shared with the Schindlers and that all health care providers be permitted to discuss Theresa's condition with the Schindlers—something Michael had temporarily precluded.

In 1997, six years after Theresa's tragic collapse, Michael elected to initiate an action to withdraw artificial life support from Theresa. More than a year later, in May of 1998, the first petition to discontinue life support was entered. The court appointed Richard Pearse, Esq., to serve as Guardian Ad Litem to review the request for withdrawal, a standard procedure.

Mr. Pearse's report, submitted to the court on 20 December 1998 contains what appear to be objective and challenging findings. His review of the clinical record confirmed that Theresa's condition was that of a diagnosed persistent vegetative state with no chance of improvement. Mr. Pearse's investigation concluded that the statements of Mrs. Schindler, Theresa's mother, indicated that Theresa displayed special responses, mostly to her, but that these were not observed or documented.

Mr. Pearse documents the evolving disaffections between the Schindlers and Michael Schiavo. He concludes that Michael Schiavo's testimony regarding the basis for his decision to withdraw life support—a conversation he had with his wife, Theresa, was not clear and convincing, and that potential conflicts of interest regarding the disposition of residual funds in Theresa's trust account following her death affected Michael and the Schindlers—but he placed greater emphasis on the impact it might have had on Michael's decision to discontinue artificial life support. At the time of Mr. Pearse's report, more than $700,000 remained in the guardianship estate.

Mr. Pearse concludes that Michael's hearsay testimony about Theresa's intent is ''necessarily adversely affected by the obvious financial benefit to him of being the sole heir at law . . .'' and ''. . . by the chronology of this case . . .'', specifically referencing Michael's change in position relative to maintaining Theresa following the malpractice award.

Mr. Pearse recommended that the petition for removal of the feeding tube be denied, or in the alternative, if the court found the evidence to be clear and convincing, the feeding tube should be withdrawn.

Mr. Pearse also recommended that a Guardian Ad Litem continue to serve in all subsequent proceedings.

In response to Mr. Pearse's report, Michael Schiavo filed a Suggestion of Bias against Mr. Pearse. This document notes that Mr. Pearse failed to mention in his report that Michael Schiavo had earlier, formally offered to divest himself entirely of his financial interest in the guardianship estate. The criticism continues to note that Mr. Pearse's concern about abuse of inheritance potential was directly solely at Michael, not at the Schindlers in the event they might become the heirs and also choose to terminate artificial life support. Further, significant chronological deficits and factual errors are noted, detracting from and prejudicing the objective credibility of Mr. Pearse's report.

The Suggestion of Bias challenges premises and findings of Mr. Pearse, establishing a well pleaded case for bias. In February of 1999, Mr. Pearse tendered his petition for additional authority or discharge. He was discharged in June of 1999 and no new Guardian Ad Litem was named.

Actions by the Schindlers to remove Michael as Guardian and to block the petition to remove artificial life support took on a frenetic quality at this juncture. More external parties on both sides made appearances as potential interveners.

On 11 February 2000, consequent to hearings and the presentation of competent evidence, Judge Greer ordered the removal of Theresa's artificial life support. The Schindlers aggressively sought means by which to stop the removal of Theresa's feeding tube. Most of the motions in these efforts were denied, but not without apparent careful and detailed review by the court, often involving hearings at which considerable latitude was afforded the Schindlers in their efforts to proffer testimony and admit evidence.

The motion and hearing process continued through 2000. Then the Schindlers sought to introduce new evidence that was believed to be of a sufficiently substantial nature as to change the court's decision regarding the removal of the feeding tube. The hearings and testimony before the trial court leading to the decision to discontinue artificial life support included admitted hearsay from Theresa's brother-in-law (Michael Schiavo's brother) and his wife (Michael Schiavo's sister-in-law) along with testimony from Michael.

The testimony of these parties referenced specific conversations in which Theresa commented about her desire never to be placed on artificial life support. The testimony reflected conversations at or proximate to funerals of close family members who had been on artificial life support. The context and content of the testimony, while hearsay, was deemed credible and consistent and was used by the court as a supporting basis for its decision to discontinue artificial life support.

The Schindlers' new evidence ostensibly reflected adversely on Michael Schiavo's role as Guardian. It related to his personal romantic life, the fact that he had relationships with other women, that he had allegedly failed to provide appropriate care and treatment for Theresa, that he was wasting the assets within the guardianship account, and that he was no longer competent to represent Theresa's best interests.

Testimony provided by members of the Schindler family included very personal statements about their desire and intention to ensure that Theresa remain alive. Throughout the course of the litigation, deposition and trial testimony by members of the Schindler family voiced the disturbing belief that they would keep Theresa alive at any and all costs. Nearly gruesome examples were given, eliciting agreement by family members that in the event Theresa should contract diabetes and subsequent gangrene in each of her limbs, they would agree to amputate each limb, and would then, were she to be diagnosed with heart disease, perform open heart surgery. There was additional, difficult testimony that appeared to establish that despite the sad and undesirable condition of Theresa, the parents still derived joy from having her alive, even if Theresa might not be at all aware of her environment given the persistent vegetative state. Within the testimony, as part of the hypotheticals presented, Schindler family members stated that even if Theresa had told them of her intention to have artificial nutrition withdrawn, they would not do it. Throughout this painful and difficult trial, the family acknowledged that Theresa was in a diagnosed persistent vegetative state.

The court denied the Schindlers' motions to remove the guardian, allowing that the evidence was not sufficient and in some instances, not relevant. It set a date for the artificial life support to be discontinued, as of 24 April 2001.

The decision was appealed to the Florida 2nd District Court of Appeals (DCA), and was affirmed in January 2001. The requested appeal to the Florida Supreme Court was denied on 23 April 2001, one day before the

scheduled removal of Theresa's feeding tube. On 24 April 2001, Theresa Schiavo's artificial feeding tube was clamped, and she ceased receiving nutrition and hydration. Under normal circumstances, Theresa would die naturally within a week to ten days.

Two days after the clamping of Theresa's feeding tube, the Schindlers filed a civil action in their capacity as ''natural guardians'' for Theresa. The trial court, in emergency review, granted a temporary injunction and the tube was unclamped. Michael Schiavo filed an emergency motion to vacate the injunction. This led to the second review and appeal to the 2nd DCA.

The 2nd DCA found that the intention of Florida Statute 765 with respect to matters such as Theresa's, is to help expedite proceedings of the court when decisions have been made by the bona fide guardian. The 2nd DCA also noted that the Court had acted independently as proxy decision maker regarding the removal of artificial life support.

In October 2001, the 2nd DCA concluded that the Schindlers ''have presented no credible evidence suggesting new treatment can restore Mrs. Schiavo.'' The injunction was lifted and plans moved forward to discontinue artificial nutrition.

Fresh and exhaustive motions regarding new evidence were again crafted and proffered to the trial court by the Schindlers resulting in a lengthy hearing. Affidavits from medical doctors and others alleged that Theresa's condition could be improved.

In particular, the sworn statement of a single, osteopathic physician, Dr. Webber, claimed that he could improve Theresa's condition and had done so in like and similar cases.

The quality of evidence in this affidavit was marginal, but the court allowed it to create a colorable entitlement to additional medical review. The case was remanded to the trial court with the charge that each side would select two expert physicians (a neurologist or a neurosurgeon, according to the court) and agree between them regarding a fifth, and if they could not agree on the fifth, the court would select it.

By May of 2002, the physicians were selected by both sides, but no agreement could be reached about a fifth, so the court selected one. Curiously and surprisingly, Dr. Webber, who had served as the basis for this entire process at the 2nd DCA, did not participate in the exams or the procedure.

Each of the physicians was afforded access to Theresa for the purpose of conducting a thorough examination. Video tape recordings were made of some of the examinations along with segments in which family members interacted with Theresa. The physicians were deposed and proffered testimony regarding their findings. Written reports of the examinations were prepared by all five physicians, and a very detailed hearing was held in October of 2002.

The clinical evidence presented by the five physicians reflected their examinations and reviews of the medical records. Four of the physicians were board certified in neurology, as suggested by the court, and one physician was board certified in radiology and hyperbaric medicine. All of the physicians had excellent pedigrees of medical training. The scientific quality, value and relevance of the testimony varied. The two neurologists testifying for Michael Schiavo provided strong, academically based, and scientifically supported evidence that was reasonably deemed clear and convincing by the court. Of the two physicians testifying for the Schindlers, only one was a neurologist, the other was a radiologist/hyperbaric physician. The testimony of the Schindler's physicians was substantially anecdotal, and was reasonably deemed to be not clear and convincing.

The fifth physician, chosen by the court because the two parties could not agree, presented scientifically grounded, academically based evidence that was reasonably deemed to be clear and convincing by the court.

Following exhaustive testimony and the viewing of video tapes, the trial court concluded that no substantial evidence had been presented to indicate any promising treatment that might improve Theresa's cognition. The court sought to glean scientific, case, researchbased foundations for the contentions of the Schindler's physician experts, but received principally anecdotal information.

Evidence presented by Michael Schiavo's two physicians and the fifth physician selected by the court was reasonably deemed clear and convincing in support of Theresa being in a persistent vegetative state with no hope for improvement. Simultaneous appeals of this decision and renewed actions to remove Michael Schiavo as Guardian were initiated based upon new evidence.

The June 2003 appeal to the 2nd DCA was Schiavo IV. The 2nd DCA panel of judges engaged in what approximated a de novo review of all of the facts, testimony and video tapes presented at trial. The appellate court affirmed the trial court's ruling and its conclusions, and in addition, ordered the trial court to set a hearing date for removal of the artificial life support.

The trial court set 15 October 2003 as the date for the removal of Theresa's artificial nutrition tube.

The Schindler's renewed efforts to remove Michael Schiavo as Guardian, and to disqualify judges, were not successful. Multiple amicus briefs and affidavits from parties supporting the Schindlers were submitted through the Schindler's actions and in some instances, independently to the court.

By mid 2003, the landscape and texture of Theresa Schiavo's case underwent profound changes. National media coverage, active involvement by groups advocating right to life, and the attention of the Governor's office and the Florida Legislature, catapulted Theresa's case into a different dimension.

The Schindlers, acting on behalf of Theresa, filed a motion in federal district court seeking a preliminary injunction to stay the removal of the artificial life support from Theresa, scheduled to occur on 15 October 2003. On 6 October 2003, Florida Governor Jeb Bush filed an Amicus brief in support of the motion for a preliminary injunction. The brief argues that removal of artificial nutrition, resulting in death, should be avoided if that person can take oral nutrition and hydration. The Governor predicates his memorandum on the pivotal question as to whether Theresa could ingest food and water on her own. That Theresa is in a diagnosed, persistent vegetative state is explicitly recognized.

On 15 October 2003, Theresa Maria Schiavo's artificial feeding tube was disconnected, for the second time.

The Florida legislature, in special session, passed HB 35 E on 21 October 2003, authorizing the Governor to stay the disconnection of the artificial feeding tube and required, among other things, the appointment of a Guardian Ad Litem to produce this report.

On that same day, 21 October 2003, the artificial feeding tube was re-inserted per the stay ordered by Governor Bush. Other suits and actions were initiated immediately the governor became a named party in the matters involving Theresa Schiavo.

I just wanted to correct some of those facts for the record, Mr. Speaker. The circumstances that bring us here today are horribly tragic. No matter where you may fall on this issue, the details of Terri's case are heartwrenching. No one in this Chamber questions the pain, heartache, and personal struggles that every member of Ms. Schiavo's family has had to deal with over the last 15 years. But heartbreaking decisions like this are deeply intimate, personal, and private matters; and the Federal Government and this body, in particular, should not inject itself into the middle of this private family matter.

This very personal matter should not be politicized as it is being here today. Just a few hours ago, I had an opportunity to sit down with Ms. Schiavo's brother, Bobby Schindler. I know that he speaks with great sincerity as I told him about his sister. Indeed, it is important to emphasize that this type of gut-wrenching, angst-ridden decision happens every day across the country among families dealing with the tragic circumstances of a loved one. And I know the pain that this causes families only too well because it happened in my own family not even 5 weeks ago. My husband's family had to make the identical decision to withdraw sustenance to disconnect the feeding tube of my husband's aunt.

Her children came together to make that very difficult decision, and no one in my family felt it was essential that I or any other Member of Congress file legislation to stop it. This type of decision happens every single day to thousands of families across America. Where will we stop if we allow this to go forward? Today will be Terri Schiavo. Tomorrow it will be someone's brother or a constituent's uncle or next week a family member, God forbid, of one of my colleagues or another constituent.

Do we really want to set the precedent of this great body, the United States Congress, to insert ourselves in the middle of families' private matters all across America?

If we do this, we will end up throwing end-of-life decisions into utter and complete chaos; and we cannot and should not do that. We are Members of Congress. We are not doctors. We are not medical experts. We are not bioethicists. We are Members of Congress.

When I ran for Congress, I did not ask my constituents for the right to insert myself in their private, personal families decisions; and they do not want me to make those for them. They do not want you to make those for them either. That is the bottom line.

I cannot get into the kind of questions that we are getting into being asked here because we do not know. I have never met Michael Schiavo or Terri Schiavo or the Schindlers and the vast majority of people in this body have not either.

We do not have the expertise or the facts in enough detail to get into these kinds of decisions and make decisions on these kind of cases. We are not God and we are not Terri Schiavo's husband, sister, brother, uncle or relation. We are Members of Congress. We make

laws and we uphold the law and we swore to uphold and protect the Constitution and we are thumbing our noses at the Constitution if we do this here tonight.

Now, I have heard a lot of things said about this legislation and about the very proceeding that we are engaging in this evening. I have heard accusations that because this body is debating this legislation, we are threatening somehow the life of Ms. Schiavo. I think it is really important to note that this is a legislative body created by our forefathers for the express purpose of deliberations and representation.

The accusation that because we have 3 hours of debate on an unprecedented piece of legislation that seeks to insert the Federal Government in between a family while overruling State courts and circumventing the Constitution, that is an outrageous accusation and not worthy of a representative elected to craft and debate legislation.

I notice today that President Bush has returned from Crawford hoping to sign this legislation if it is passed by Congress. I think it is important to note that President Bush when he was Governor of Texas in 1999 signed a Texas law that is on the books today that was just used a few days ago to allow a hospital to withdraw, over the parents' objections, the life support of a 6-month-old boy, over the parents' objections.

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President Bush signed a law called the Texas Advanced Directives Act, when he was Governor of Texas. This law, that has been used several times and as recently as a few days ago, liberalized the situations under which a person in Texas can avoid artificial life support. Under it, life support can be withheld or withdrawn if you have an irreversible condition in Texas from which you are expected to eventually pass away.

Indeed, this law, signed by then Governor Bush, allows doctors to remove a patient from life support if the hospital's ethics committee agrees, even over the objections of a family member, only allowing the family 10 days to find another facility that might accept the patient, barring any State judicial intervention.

It appears that President Bush felt, as Governor, that there was a point at which, when doctors felt there was no further hope for the patient, that it is appropriate for an end-of-life decision to be made, even over the objections of family members. That was a law that President Bush did not just allow to become law without his signature, he came back from a campaign trip to sign it.

There is an obvious conflict here between the President's feelings on this matter now as compared to when he was Governor of Texas, so I thought that was an important conflict that should be raised here this evening in our discussion.

Let me just close my remarks by reiterating there is no room for the Federal Government in this most personal of private angst-ridden family matters, in which a family has to make the most personal of decisions when dealing with the course of care of a loved one. We should not politicize this very personal family matter.

Ms. Schiavo made it clear, as opposed to what the gentleman from Wisconsin said, that she would not have wished to remain in a persistent vegetative state, and the guardian ad litem report well documents that. In fact, it documents it to such a degree that it cites the specific conversations referenced by her family members when she attended funerals of loved ones who were in similar situations when they had life support removed; and she had stated that if, God forbid, she was ever in this situation, that she would not have wished to remain on life support.

The court heard that testimony not from Terri Schiavo's husband, not from her parents, but from other family members and friends who heard her say these things. They said that there was enough evidence to render the belief that she had made those statements. She made it clear that she wished not to remain in a persistent vegetative state, which she is in today. And this U.S. Government should not step in to circumvent the wishes of one dying woman.

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

Mr. Speaker, Federal courts have always reviewed whether or not a person's Federal constitutional or legal rights have been violated, and that is all this bill does. It gives a Federal Court the opportunity to review the Federal questions that are presented here.

Now, if we accepted the position that has been made by the opponents of this legislation, we would not have had a civil rights revolution in this country if rural courts in the South decided Federal questions that were opposed by those who were petitioning to have their civil rights protected. That required Federal judicial action. And this country is better because of that Federal judicial action. That is all that is being proposed here today, and that is why the bill ought to pass.

Now, secondly, I would like to correct some of the representations my colleague from Florida has made. Terri Schiavo is not on life support. She is not on a ventilator. She is not on any kind of artificial heart pump. All she has is a feeding tube, or had a feeding tube until it was removed 2 days ago, and that is not life support. That is simply requiring somebody to have the nutrition and the hydration they need as a living human being.

To starve someone to death or to have them die of dehydration slowly is one of the most cruel and inhumane ways to die, and what this bill does is it requires the reinsertion of the feeding tube for so long as it takes for a Federal Court to determine whether or not her Federal constitutional or statutory rights are violated. And that is reasonable, because she should not be allowed to die while the courts are determining what her legal rights are and whether anybody has violated them.

Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me this time.

I wanted the opportunity to address the issue of the funding that has gone in on behalf of Terri Schiavo, and the report that I have put together, I could easily add several hundred thousand dollars to that that have gone towards attorneys and towards the interests of Michael Schiavo as opposed to the interests of Terri Schiavo.

I would have a documented report that I would file with the CONGRESSIONAL RECORD, except that the trust fund for Terri Schiavo has been sealed at the request of the attorney on behalf of Michael Schiavo. So, therefore, we cannot get those records. We do not know what is going on behind the scenes. What we know is that she has not had tests, she has not had therapy, and she has been denied medical treatment.

The attorney of record for Michael Schiavo happens to also have been a former member of the board of directors of the hospice where Terri Schiavo is now being taken care of. And by the way, I happen to have another piece of information that flowed to me today, a GAO audit looked in on that and that organization paid $14.8 million back in Medicaid fees that were inappropriately collected.

Another question we have is, we do not know whether there is a life insurance policy that would name someone as beneficiary in the event of the death of Terri Schiavo. The question has been asked of the guardian several times, and he has refused to answer every time. So we cannot even evaluate the assets or the intent of the guardian. Those issues will be looked at by the court.

Another issue that should be addressed, and we will hear this continually as this 3-hour debate goes on, is the allegation that 19 judges have reviewed this and 19 judges have concurred. I have put together the full list of the judges that have heard the case of Terri Schiavo in the history of this, and throughout all of that I can identify Judge Greer, and I can identify a three-judge panel that heard her case en banc, and I can identify the Supreme Court of the State of Florida, which we saw perform a number of times in the year 2000, and also the United States Supreme Court, which simply refused or denied cert on the subpoenas last week.

So if we are going to count judges sitting en banc and if we are going to count supreme courts in totals of 7 and

9, that narrows it down pretty much to one judge that has seen and reviewed all this case and that is Judge Greer. And I believe that Terri Schiavo deserves her day in court. She deserves a de novo review. She deserves an opportunity to be heard and an opportunity at life.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, it is never a good recommendation for a bill when its proponents deny its plain meaning. The gentleman from Wisconsin said this is not a private bill. Well, perhaps in the technical and irrelevant terms of the House calendar it is not a private bill. It is in fact a very private bill. It is so private that it deals only with the Schiavo case and her parents.

And in an admission that it is not a very good idea, a provision of this bill, really quite unusual, says by the way, we hope no one will pay attention to this in the future. In legal language, that is, this is not to be precedent setting. Well, if this is such a good idea, if Congress acting as the super Supreme Court of Florida is the right thing to do for Ms. Schiavo, why go to such pains, those of you who wrote the bill, to say it should not be a precedent?

By the way, anyone who thinks it will not be a precedent, of course, is not paying attention. What you will do today, if this bill passes, is invite every family dispute of this terrible, painful, heartrending nature to come to the Congress. When brothers and sisters disagree, when parents disagree, the courts of the States will have no relevance; probably the Federal courts will not. Every single dispute will come here.

Now, here is what we are doing here, and it is not the Federalism argument that bothers me as much as it is the separation of powers. We have already heard debates. What was the fee in the legal case? What about the hospice? Does she or does she not, this poor woman who was so terribly hurt, does she or does she not have brain function? Does she or does she not respond?

Nobody in here knows. Nobody in here has any way of knowing. What we have are Members choosing a side based on their ideologies. There are people who believe, in what is described as pro life, that nothing that terminates a life is ever justified. In fact, people have said, well, if she had said so, but many of those who hold that do not think you have a right to say that. There are others of us who believe, and I must tell you, from what I have read, if I were a member of the Schiavo family, if a member of my family were involved, I would have made the same decision. But I haven't made the decision. I have no right to make that decision, and I have no information for it.

Separation of powers. When they wrote the Constitution, they were not kidding around. They made some sensible distinctions. We legislate on broad policy. When you get to individual ajudications, when you get to the case, people have said, well, we disagree with the medical report. We had the eminent Dr. Frist looking at it on television and making his diagnosis. We have people making specific judgments about her wishes. We have people making specific judgments about her medical condition. We have not spent very much time on that. Judges have done that, lawyers have done that, in adversarial proceedings they have done that.

Now, I know we heard a disparagement of the Supreme Court of Florida. People did not like the way they voted 4 years ago, but what does that have to do with whether or not the husband's wishes and wife's wishes are carried out in this case? That is why we should not be making this decision.

If you listen to the debate, this is confirmation of what the writers of the Constitution did when they said separation of powers. Congress deals with broad policy. Individual adjudications are made by judges, with cases of lawyers and presentations and evidence. None of that has happened here. You are asking to make a decision based on most of us knowing very little, if anything, at all. Ideology is driving this, and that is why we have a separation of powers.

This is not a bill, by the way. This is a court decision. What happened has been that this has been very well litigated in Florida, litigated on a number of occasions, with lawyers on all sides. Because the majority, for their ideological reasons, do not like the decision of the Florida courts, we have now a new principle; that the Congress of the United States will be the super Supreme Court of a State.

In lawyers terms, we can vacate a judgment and then remand it. But not even remand it. Not send it back to the court that decided it, to a better court. Talk about forum shopping. People wanted to get rid of forum shopping. This is the grandparent of all forum shops. We dislike what the courts in Florida have done, so we cancel their decision and we send it elsewhere.

The gentleman from Wisconsin said this does not create any new rights. Well, it gives standing by its own terms to the parents. And, by the way, if it does not create any new rights, why is it necessary? If in fact without this bill no new rights have been created, why could they not have gone to court without us? The answer is they could not. Because that is not what American jurisprudence has said.

I believe, as I said, if I were making this decision for myself or anyone close to me, I would make the same decision Michael Schiavo made. But I would not try to defend my judgment in this case. I do not know her medical condition. I do not know what her wishes were. But neither do any of you.

This is as difficult a decision as human beings can make. I am proud to be a politician, but I think we would all agree that you should not make this kind of a decision, this kind of a decision about life, in these terribly emotional circumstances. It should not be made politically. I think we would all agree to that. But then let us look at the corollary. If you do not want a decision to be made politically, why in the world do you ask 535 politicians to make it?

Does anyone think that this decision will be made without consideration of electoral support or party of ideology? Of course not. And again, this is not the only case. People should understand that, those who are watching what we do. Despite your argument that this is not setting a precedent, every aggrieved party in any similar litigation can now come to Congress and ask us to make a series of decisions.

This is the point. This is a terribly difficult decision, which we are institutionally totally incompetent to make.

□ 2145

To allow ideology to triumph in that context is a shame.

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

Mr. Speaker, in 1995, my friend from Massachusetts said, in a habeas corpus bill, ''I want judicial review in a reasonable way. I want people who may have had their rights interfered with to be able to sue in reasonable fora.''

That is what this bill does. He was right then. I think this bill is right now.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. FRANKS), a member of the committee.

Mr. FRANKS of Arizona. Mr. Speaker, I thank the gentleman from Wisconsin for his humanity and courage to deal with this issue.

Mr. Speaker, perhaps it is important for those of us in this Chamber to first remind ourselves again of why we are really all here. Thomas Jefferson said, ''The care of human life and its happiness and not its destruction is the chief and only object of good government.''

Mr. Speaker, protecting the lives of our innocent citizens and their constitutional rights is why we are all here. The phrase in the 14th amendment capsulizes our entire Constitution. It says: ''No State shall deprive any person of life, liberty or property without due process of law.'' It is unconscionable that judges holding responsibility to protect Terri Schiavo's constitutional rights have chosen to abandon those responsibilities so that now Congress has no honorable alternative but to respond as we are.

Hubert Humphrey once said that a society is measured by how it treats those in the dawn of life, those in the shadows of life, and those in the twilight of life. It is true that Terri Schiavo lives among us in the shadows of life. But she is not brain dead or comatose. She is awake and she is able to hear, she is able to see, she is often alert. She can feel pain, she interacts with her environment, she laughs, she

cries. She expresses joy when her parents visit her and sorrow when they leave.

Mr. Speaker, she reminds me so much of another woman, whose name I will not mention, who was in much the same circumstance as Terri and a young nurse insisted every morning on singing to this patient. Of course, her colleagues upbraided her and said, well, she can't hear you; those are just reflex actions. But she continued day after day, year after year, to sing to her every morning. Finally she left the hospital, and yet a few years later, the patient regained her state of mind and came back, as it were, to a healthy, clear mind. And all of the nurses gathered around her and met with her and they said, Do you remember? Do you remember when we took care of you, when we turned you to keep you from getting bed sores? When we washed you? When we tried to feed you?

And she said, No, I don't remember anything except someone singing.

Mr. Speaker, Terri Schiavo represents the mortality and helplessness of us all as human beings. And whether we realize it or not, we are at this moment lying down beside her listening for that song of hope. If we as a Nation subject her to the torture and agony of starving and thirsting to death while her brother, her mother and her father are forced to watch, we will scar our own souls. And we will be allowing those judges who have lost their way to drag us all one more ominous step into a darkness where the light of human compassion has gone out and the predatory survival of the fittest prevails over humanity.

If the song of hope is to be silenced, Mr. Speaker, let it not be tonight.

The SPEAKER. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 74½ minutes remaining, and the gentleman from Massachusetts (Mr. FRANK) has 68 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

The gentleman from Wisconsin in an effort to find an inconsistency quoted me as being for habeas corpus so people can have their day in court. I am. I do not ever remember supporting a bill in Congress where we decided person by person who got the right of habeas corpus and who did not. My argument is a separation-of-powers argument. Yes, I believe a general right to go to court when you have claimed there has been an error in your criminal procedure makes sense, but we are not talking about that here. We are talking about, despite his claim that this is not a private bill, a private bill, a bill that names one individual and allows this individual to do it. So if the question is would I be in favor of this House deciding who got the right to bring habeas petitions and in what circumstances on a case-by-case basis, the answer is, I would not. It would be a failure to understand the separation of powers, what is an appropriate function for a legislative body and what is an appropriate case-by-case adjudication for the court system.

Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. WU).

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

Mr. WU. Mr. Speaker, this is a profound tragedy for the Schiavo family, and I sympathize with all of the family members. It is also a deeply personal matter, one which should be decided within the family. No one wants this personal decision to be made by 536 politicians: 435 Members of the House, 100 Members of the Senate, and the President of the United States.

The facts of this tragedy, and the competing wishes of the family members, have already been determined by those best placed to do so. Those determinations have been repeatedly ratified over the past 7 years, by 19 judges in more than 10 trials, appeals or other proceedings. None of those decisions have been reversed, until today. In an unprecedented procedure, the United States House of Representatives and the United States Senate are voting to direct a Federal court to relitigate this entire matter.

There are deeply personal and private issues that are discussed by every married couple. These discussions occur in bedrooms across America. Also, intensely personal decisions are made in hospital and hospice rooms across this country. By forcing this vote through Congress, the Republican leadership is demonstrating that no bedroom in America and no hospital room in this land is beyond the reach and power of this Federal Government. This is wrong.

The Republican leadership has transformed a profound tragedy for the Schiavo family into a tragedy for the entire Nation. It is my hope that from this tragedy more people will understand the importance of determining their own futures and that of their family in the form of living wills.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. MILLER).

(Mr. MILLER of Florida asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, 2,000 years ago Jesus Christ entered Jerusalem on Palm Sunday, marking the beginning of a week that throughout history and the world over has signified the sanctity of human life. Tonight we are here on Palm Sunday to afford the greatest presumption of life possible under our United States Constitution to a woman who has never truly been afforded representation and whose wishes are truly unknown.

This is not about the sanctity of the Schiavo marriage. That is a matter between Terri and Michael. Mr. Schiavo has got some answering to do himself. Any insinuation otherwise is clear hypocrisy and nothing more. And this is not about congressional interference into a family issue. I agree that it should be a family issue.

The problem is Terri's parents want her to live, and Terri's husband wants her to die. And Terri did not use a living will to tell us what she would want. So before an irreversible decision is made, her country must afford her the due process to which she is entitled under the 14th amendment of our Constitution. That means that the State of Florida may not starve Terri to death unless every legal resource to prevent it has been taken. Death by starvation, as we have already heard tonight, is lengthy and incredibly painful. And Terri Schiavo can feel pain. The bill that we are going to pass is going to give her due process before she is sentenced to die in this painful manner.

Convicted serial killers and other death row inmates are afforded Federal review in their cases. The Constitution confers upon this Congress the power to effect the authority on the Federal courts to conduct this kind of review, and that is what I hope we do here tonight. It is square within our powers, it respects the separation between the legislative and the judicial branches, and it holds to the principles of federalism.

There is going to be hollow rhetoric in this Chamber tonight about the need for investigations and about reviewing facts before acting and about attempts to politicize religious beliefs. But where were these arguments last Wednesday night when we passed a bill for Terri unanimously under voice vote? And where were these arguments Friday afternoon when Judge Greer ignored a congressional subpoena designed to allow us the chance to get more information?

The Supreme Court has stated that the authority to subpoena is an "indispensable ingredient" of Congress' legislative power. Judge Greer's Friday order expressly disregards that authority, and he should be held in contempt of this body. Like Michael Schiavo, the Judge has some answering to do.

We have a woman who hasn't had food or drink in over two days. We made efforts in the ordinary course of legislative business to afford Terri Schiavo her constitutional rights, and they were rejected. Now, we are left with no choice but to implement extraordinary means in the middle of the night.

Whether you're using morality, or religion, or the Golden Rule, or legal analysis to guide your decision, at the root of all this is a living, breathing American citizen who has been deprived of her rights. This measure will correct that, so I urge all my colleagues to support it.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 8 minutes to the gentleman from Florida (Mr. DAVIS), again someone who has worked on this for quite some time.

Mr. DAVIS of Florida. Mr. Speaker, tonight I join millions of Floridians and Americans hoping and praying for Terri and her family at this incredibly difficult time. Terri Schiavo's case is a tragedy we all hope and pray our own families will never go through. And tonight this Congress is about to commit a travesty.

I think we can agree the impact of this legislation extends far beyond

Terri Schiavo. Tonight, congressional leaders are poised to appoint this Congress as a judge and a jury. These actions are a threat to our democracy. More than 200 years ago, our forefathers designed government with three separate, yet equal, branches. This Congress is about to overturn the separation of powers by disregarding the laws of Florida and the decision of a judge that have never been reversed. This Congress is on the verge of telling States and judges and juries that their laws, their decisions do not matter.

Multiple courts have had an opportunity to rule in Terri's case, including the United States Supreme Court, Federal district courts, and the Florida Supreme Court. As Justice Scalia has said himself in end-of-life cases like this, ''The Federal courts have no business in this field. American law has always accorded this power to the States.''

This Congress should respect the law and the rulings of courts and not trample the Constitution. If we do not draw a line in the sand tonight, what limit is there to the democratic principles that this Congress is prepared to violate? What limit is there to the liberties that we might trample upon?

For those of us that are Floridians, this is a very painful issue. Not just because we represent many, many people, Democrats, Republicans or people that are not particularly political who have living wills, who have wishes they expect to be honored and not interfered with. We are also deeply saddened because we have been in the middle of this saga for quite some time, and it is very important you know this is just the latest chapter.

In 2003, unhappy with the decisions of the court, the Governor and the State legislature in Florida attempted to change the rules that controlled Terri's wishes and to pass what was referred to as Terri's Law, giving Governor Bush the authority to reinsert the feeding tube. The Florida Supreme Court ruled that law unconstitutional, and the United States Supreme Court refused to hear Governor Bush's appeal.

Last week, the Florida legislature and the Governor attempted yet a second time to change the rules that would cover the enforcement of what was found to be Terri's wishes. For the good of Floridians, for the good of the country, after the House had passed the bill and the Governor continued to pursue it, very courageous members of the Florida senate and the Florida house, on both sides, Democrats and Republicans, refused to make the same mistake a second time. One of the top Republicans in the Florida house said, ''The legislature should stay out of family court issues.''

The State legislation that failed in the State senate died when some of the leading Republican Senators said, ''We cannot and should not sacrifice our oaths as political officers on the altar of political convenience.''

These were State legislators recognizing the limits of their power. Here tonight in the United States Congress, will we recognize the appropriate limits of our power?

Leading the charge in this debate are several physicians who are Members of Congress. I think it is fair to say none of them have examined Terri Schiavo. I seriously doubt any of them had a chance to review the medical records. Instead, many of them, many Members of Congress, are forced to rely upon a videotape that is several years old that does not begin to tell the story.

Let us keep in mind neither this House nor Senate has had a single hearing, has heard from a single witness, has provided any meaningful opportunity for the public to participate in this very important debate.

The bill under consideration tonight essentially does one thing: it starts the process all over again with a different judge, an attempt to achieve a different result, a different finding as to Terri's wishes or simply to delay the enforcement of her wishes.

It has been described by the chairman of the committee that what this bill does, if I heard him correctly, is to provide an opportunity for Terri's parents to assert their rights under the United States Constitution. They have always had that right. They had that right in State court. They had that right in Federal court. They had that right in the United States Supreme Court, which turned down the appeal.

□ 2200

This bill does not create any new rights. It simply creates a new judge in an attempt to achieve a different result or to delay a different decision.

One of the chief Senate sponsors of the bill said earlier today that the purpose and the effect of the bill in his judgment was to cause the Federal judge who will hear this case to reinsert the tube.

Before we vote tonight, I would like to ask the Members to ask one question of themselves. If this were their family, if they some day, and I hope they do not and I hope I do not, find themselves in this tragic situation, one of the most tragic we will ever experience in our lives, and they and their wife had come to a conclusion about what they want as a couple or individually as to how they end their life, how would they feel if elected officials they had never met who did not know them thought their judgment was superior to theirs? How would they feel if that affected them and their spouse?

I have followed this case for years. My views tonight are the same as they have been always. This case is about Terri's will as interpreted by the courts, God's will, and it should not be about the will of the United States Congress. Sadly, regardless of what this Congress does tonight, everyone may lose. Terri's husband may lose his wife. Their parents may lose a daughter.

My hearts and prayers go out to Terri and her family.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Speaker, it is a sad day in America when a society as great as ours and filled with as many opportunities as ours turns its back on one of its most vulnerable disabled citizens. It is unfortunate that it has come to this.

My colleague said a little bit ago or asked the question, ''Where will we stop if we allow this to go forward?'' I ask the same question of them: Where will we stop if we allow this to go forward? This is not an end of life decision.

Those who have said that this issue should be a private and personal matter are correct. I agree with them. Congress has no business interjecting its opinion in the end-of-life decisions of any family.

This is not what we are doing here. Terri Schiavo is not brain dead, she is not on artificial life support. She is not terminally ill or in the process of dying. She is brain damaged but if given the chance to be rehabilitated again, there is no telling what she can do.

We are here precisely because we respect the rule of law. And my colleague read the 14th amendment to us before, and I will not do it again. Congress is merely saying to the Nation that we think a Federal court should look into this case and determine whether or not her constitutional right to life has been infringed upon. End-of-life decisions are excruciatingly difficult for any family to make. I know. My mother told us every week of her life that she did not want to be kept on life support. She had a stroke and she was on life support. The most difficult decision I ever made in my life, and my father's. But we consulted with the physicians, and we were able to get her to a point where she could live off of life support and leave it in the hands of God, and that is what we did.

I know how difficult this decision is too. I do not know anyone here in this legislative body who wants to interject their opinion in any family's decision, but starving a woman to death when death is not imminent is wrong. Terri Schiavo deserves to have her constitutional rights respected.

Mr. Speaker, my thoughts and prayers are with Terri and her parents tonight.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, we are turning a sad family tragedy into a grotesque legislative travesty. It is a tragedy. But what we are talking about tonight is nothing other than inserting our judgment for the courts. Today every day in every county in America, families, doctors, hospital chaplains are making life-and-death decisions, tough decisions and tender decisions. Each one has its own circumstance,

and Congress cannot reasonably understand each and should not be involved. For 215 years it has been a solid principle of this country that Congress is not involved in issues like this.

Today in church at Palm Sunday services, I read the bulletin, and as is the usual practice there was a list of the sick and hospitalized, the homebound. I read each name. There are some family tragedies in that list and some tragedies yet to come. But those families would not want Congress to send them to one court or another for a review. This evening I had dinner with a family, my own relatives who yesterday and today had visited the hospital where the family decided to remove the feeding tube from a loved one. They came out of the hospital to find, to their dismay, that Congress is second guessing their decision. Imagine how they feel. Why should they believe that Congress will stay out of their personal affairs?

By the way, why are we debating this case? I do not want to be too cynical, but could it be that the TV cameras are rolling?

Doctors sometimes make the wrong decisions, Mr. Speaker. Families sometimes make the wrong decisions. But the wisdom of the founders of this government in not putting these decisions in the Congress is that they understood that most of the time we would make the wrong decisions. We do not know the facts of this case or thousands of others that are out there today despite assertions to the contrary tonight.

That is why we should not, we should not, substitute our judgment for the courts. Congress should not play doctor, certainly not by long-distance video or hearsay diagnosis, nor should we be the judiciary. If Congress wants to avoid tragedies like this, we should deal with policy questions, such as adequate home care for the 8 million Americans who need it and see that Medicare and Medicaid provide adequate long-term care. Yes, we should spend our time that way, and every Member of this body should spend the time tonight talking with their family members about advanced medical directives and living wills. That is something we can do to help prevent tragedies like this.

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

Mr. Speaker, this bill does not make a decision on whether or not the feeding tube should be reinserted. It does not make a final decision on the issues that are being decided in Florida. What it does do is that it says that a Federal court, a judge, will review the Federal constitutional and legal rights that belong to Terri Schiavo, and that Federal judge will make a decision on Federal issues, and that is all the bill does.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we meet tonight under extraordinary circumstances, and I for one am very grateful to the Speaker and majority leader DELAY for bringing us back because a much-loved disabled woman in Florida has been ordered to die by starvation and dehydration. We meet tonight because Terri Schiavo's family, including her parents, Bob and Mary Schindler, refuse to allow their precious daughter, who is not in a coma nor is she terminally ill nor is she in a persistent vegetative state, to be killed by starving her to death.

Disabled people deserve no less than everyone else deserves, to have their fundamental human rights protected and properly asserted. We meet here tonight because there are serious questions whether Terri Schiavo's estranged husband, Michael, who has abandoned Terri for another woman and has had two kids with the other woman, could be trusted as a legal guardian for a woman for whom he has sought death for many years.

Let us not forget she has been in a hospice for 5 years. My mother was in a hospice. She had terminal brain cancer and was dying. One goes into a hospice when they are in the process of dying. Terri was not dying.

Mention was made earlier by the gentleman from Florida (Mr. WEXLER) that everyone agrees that Terri is in a persistent vegetative state. That's not true. Let me remind my colleagues that no less than 14 independent medical professionals, including six neurologists, have said she is not in a persistent vegetative state.

Let me also point out to my colleagues Dr. William Hammesfahr, an M.D., board certified neurologist from Clearwater, Florida has testified, and he has signed an affidavit as recently as March 6 of this year, and he has said Ms. Schiavo is not in a persistent vegetative state. He goes on to point out that she could benefit, and I will include this full statement in the RECORD, from medical interventions that are available right now as we meet, she could be getting therapies, medical and otherwise, that would make her situation all that much better. All of that has been denied to her. She has sat in a hospice to languish denied these basic medical provisions and procedures that could enhance her life.

I would hope that we would vote for this legislation.

The material previously referred to is as follows:

DECLARATION OF WILLIAM M. HAMMESFAHR, M.D.

I, William M. Hammesfahr, M.D. have personal knowledge of the facts states in this Declaration and, if called as a witness, I could and would testify competently thereto under oath.

I declare as follows:

1. I am a Board-certified neurologist in private practice in Clearwater, Florida. My curriculum vitae is attached to this declaration.

2. I have previously filed affidavits and testified in the matter involving Terri Schiavo.

3. I have personally examined Terry Schiavo, reviewed her available medical records, and reviewed her CT can. When I last reviewed her CT scan I noted that Ms. Schiavo had significant brain tissue. She has a large amount of viable brain tissue in her cerebellum space and cerebral hemispheres, not just scar tissue or spinal fluid.

4. I have previously testified, and I am still of the opinion, that Ms. Schiavo is not in a persistent vegetative state.

5. Further, Ms. Schiavo had the ability to swallow. When I examined her approximately two years ago, she was not PVS of MCS, she was in an alert state, able to follow commands, able to respond to language, and able to swallow.

6. Her condition of hypoxic emcephalopathy is a type of stroke. It is a condition I routinely treat with therapy, sometimes 50 and 60 years, after the injury. She is only 15 years past the injury. We routinely see major improvements within the first six months of treating such patients. Terri Schiavo deserves to have the benefit of further treatment.

7. There have been new advances in medical evaluation and treatment for patients like Terri Schiavo even in just the past few years. For example, in November of 2003. Judge Susan Kirkland of the Florida Department of Health validated the treament I have been providing victims of stroke by identifying me, during her ruling, ''the first physician to treat patients successfully to restore deficits caused by stroke.'' With my therapy, there is improvement of blood flow to the brain.

8. There are other therapies that could benefit Terri Schiavo, such as Hyperbaric Oxygen Therapy, and nutritional therapy, that all have high success rates, and these should be tried on Terri.

9. As a patient, Terri Schiavo is not in that bad of a condition to begin with. We treat many patients who are a lot worse. There are a lot of therapies out there that will very likely improve her condition, and they all compliment each other, so if you do them all in a series, she could get a lot better.

10. Without a doubt, I observed Terri swallow. At a previous hearing for Terri, all five physicians who examined her agreed and testified that she can swallow. We know that because the body makes approximately 2 liters of saliva and post-nasal drainage a day and if she can swallow that, which she can because she swallows her saliva, then she can swallow food.

11. I believe that it is wrong and medically unethical to remove Terri Schiavo's feeding tube and derive her of food and water. At the very least, further swallowing tests should be done, and swallowing therapy used, so that Terri can feed herself, without the use of the current feeding tube.

I declare under the penalty of perjury under the laws of the State of Florida that the foregoing is true and correct.

Executed this 06 day of March 2005, in Clearwater, Florida.

WILLIAM M. HAMMESFAHR, M.D.
Declarant.

DECLARATION OF WILLIAM MAXFIELD, M.D., FACNM

I, William Maxfield, M.D., FACNM, have personal knowledge of the facts stated in this declaration and, if called as a witness, I could and would testify competently thereto under oath. I declare as follows:

1. I am a medical doctor and licensed in Florida and several other states.

2. I have extensive experience in treatment of stroke, multiple sclerosis, brain trauma, cerebral palsy, other cognitive diseases and congenital problems such as ataxia-telangectasia as well as many other diseases that are treated with Hyperbaric Oxygen

Therapy (HBOT). My experience in imaging and hyperbaric medicine provide a unique background for my work in developing protocols to diagnose and treat conditions that may benefit from hyperbaric oxygen therapy, such as the current condition of Terri Schiavo.

3. A copy of my 20-page curriculum vitae is attached to this declaration.

4. In May of 2002, I previously evaluated Terri Schiavo. I reviewed supplied medical records, personally observed and evaluated Ms. Schiavo on two separate days at the request of attorney Pat Anderson, who was involved in the case at that time.

5. When I evaluated Ms. Schiavo I observed that she was able to swallow at that time. She swallowed her saliva. She didn't drool her saliva like a patient would if they could not swallow.

6. Based on my observation that Ms. Schiavo can swallow, I believe that she deserves the opportunity to see if she could sustain her life by swallowing food and water. I recommend that she receive further swallowing testing, and the right to sustain her life by eating and drinking on her own.

7. During my personal observation of Ms. Schiavo, I saw her respond to music and to her family by grimacing, moving and smiling, and turning her head. She could not move her body very much at that time, because of stiff joints, but she turned her head toward her family and looked at them. She would follow balloons around the room to a great degree. These behaviors, in my opinion, are not consistent with a Persistent Vegetative State (PVS), but are those of Minimally Conscious State (MCS).

8. There have been medical advances in the evaluation and treatment of patients like Ms. Schiavo even in just the past several years and since the last time that I examined her. For example, these advances include further documentation of the neurological response to HBOT and now the developing field of Hypoxia Imagining. Having just a normal MRI or CAT Scan is not enough for a patient like Ms. Schiavo. I would recommend Ms. Schiavo have a SPECT brain scan before and after HBOT. There is a data demonstrating an improved SPECT brain scan after one or a few HBOT sessions can provide a significant correlation as to response from a full course of HBOT. We can then determine if there is improvement in the pattern of her brain, and predict if additional hyperbaric treatment would produce improvement. Ms. Schiavo deserves to receive the benefit of this advance in medical evaluation and treatment. I have worked with many patients who have shown marked cognitive improvement with HBOT. Documentation is available upon request.

9. When I observed Ms. Schiavo, I noted that she did not interact with me, but she did interact with her mother and father. She does not respond to other strangers. She does respond to people she knows and this is not something a person in a PVS state would be able to do. I base this opinion on my 30 years of practice in radiation therapy, and as medical director for a hospice program, where I have dealt with many patients who are in a PVS state.

10. In my opinion Terri Schiavo is MCS, because if she was PVS, she would not respond to the stimuli around her, including the music. In my opinion, she is in a vegetative state.

11. Without out a doubt, Terri does respond and she does swallow her own saliva. If she can do that, then, in my opinion, she can swallow liquids.

I declare under the penalty or perjury under the laws of the State of Florida that the foregoing is true and correct.

Executed this 6 day of March 2005, in Odessa, Florida.

WILIAM MAXFIELD, M.D., PACNM,
Declarant.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the previous impassioned speech from a gentleman who legitimately and genuinely holds a very strong opinion here is exactly why we should not, as a Congress, be deciding this issue. He made a number of statements about her medical condition. None of us are in a position to know what her medical condition is. There are procedures in the State of Florida which have been gone through exhaustively to determine that. Doctors have testified one way or another. Doctors have examined her, some doctors have not examined her. That is precisely the point. The arguments the gentleman is making exemplify why this needs to be a case-by-case decision, not a legislative decision.

Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding me this time.

It is precisely what the gentleman from Wisconsin (Mr. SENSENBRENNER) has been saying all night. We want the venue to be a Federal district court in Florida to look at this critical matter from beginning to end to determine what has been missed. There is a benefit of the doubt here that goes to Terri. She ought to get it. We do not think she has gotten it. Let the court decide.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1 minute.

The caption tonight ought to be ''We are not doctors. We just play them on C–SPAN.'' The point is this: The gentleman is making specific medical arguments. He has said, in strong criticism of the entire judicial system of the State of Florida, that they did not give her a fair chance; that the entire judicial system, all of those appeals, all of those trials, all of that litigation, that that did not give her a fair chance and we will now vacate the judgment of Florida. And why? Not because any of us know one thing or another, but because many Members here genuinely have a strong ideological interest, and that is precisely why this ought to be a judicial decision and not a legislative decision.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

Mr. Speaker, the most traumatic moment of my life was when my mother died in my arms. She had chosen not to be dependent on a respirator in a hospital but to die at home with her family. These circumstances, or some variant of them, occur eventually within every family, and whether the Federal Government has the right to intervene in those private tragedies is the issue before us tonight.

I talked to Terri Schiavo's brother today, and then finding what he said convincing, I read through all of Mr. Schiavo's testimony and interviews. And now I do not know who is right and who is wrong. But that is the point. Neither do my colleagues. But 10 courts have heard from all sides, from every relevant witness, and all of them, 19 judges, many of them conservative Republicans, all have reached the same conclusion, that in fact Terri Schiavo's husband's wishes are consistent with his wife's, that the feeding tube should be removed.

□ 2215

I have never met, certainly not examined, Ms. Schiavo; but nor have any of the so-called medical experts in this body that have testified on the basis of edited videotapes ever examined her either. But every qualified doctor who has examined her has reached the same conclusion: she is in a perpetual vegetative state; she has no cerebral cortex.

The reason this issue is before us, I think, is that it is all about religion and politics. But does not every religion teach, first of all, that no human being has the right to play God? And is not one of the very first principles of politics is that we should not use individual human tragedies, people suffering in anguish, political pawns to appease the interest groups that keep us in power.

Mr. Speaker, the night that this was brought up last week, we also voted on a budget resolution, and we decided to cut tens of billions of dollars out of the program that enables the poorest and the sickest and the most dependent among us throughout this country to be able to live in a dignified, safe and sanitary nursing home. We decided to cut that money. I did not agree with cutting that money from Medicaid, but I do agree we have that right. We have the right to cut taxes for the wealthy, while we cut health care for the poor. But we have no legislative, constitutional authority to intervene in these very personal family matters, and most importantly, we have no moral right to be doing this tonight.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

(Mr. GINGREY asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. GINGREY. Mr. Speaker, in response to the remarks a few minutes ago from the gentleman from Massachusetts, I want to say that I am not sure whether or not I am on C–SPAN, but I am absolutely sure that I am not playing doctor, for indeed I am one.

Mr. Speaker, I want to thank my colleagues for returning to Washington on Palm Sunday to take up this very important issue. As my colleagues know, we are here today in an attempt to safe the life of Terry Schiavo. I particularly want to thank the gentleman from Illinois (Speaker HASTERT), the gentleman

from Texas (Mr. DELAY), the gentleman from Wisconsin (Chairman SENSENBRENNER), and the gentleman from Florida (Mr. WELDON) for their leadership on this issue. Although Congress cannot heal Terri, we do have the ability to save her from an inhumane death from forced starvation and dehydration.

Mr. Speaker, since Terri Schiavo's brain injury 15 years ago, she has been profoundly disabled. She is not, however, in a coma. She responds to the people around her; she smiles and she can feel. Terri is very much alive.

Mr. Speaker, listen to the words spoken just one year ago by Pope John Paul II to the International Congress of Catholic Physicians on life-sustaining treatments and the vegetative state: ''A man, even if seriously ill or disabled in the exercise of his highest functions, is and always will be a man, and he will never become a vegetable or a man animal. Even our brothers and sisters who find themselves in the clinical condition of a vegetative state retain their human dignity in all its fullness. The loving gaze of God the Father continues to fall upon them, acknowledging them as his sons and daughters, especially in need of help.''

The tragedy of this situation is that with proper treatment, now denied, Terri's condition can improve. Even though Terri's parents object to the removal of her feeding tube, the courts have rejected their pleas, and at this point it appears that all legal efforts to save her life have been exhausted, unless Congress acts swiftly.

Mr. Speaker, I believe we have a duty as Members of Congress to uphold a culture of life and compassion.

Terri has been incapable of making relevant decisions, particularly concerning her medical care, since she collapsed due to a potassium imbalance in 1990 at age 27, just a few years after her marriage to Michael Schiavo. Terri's parents want her to live. The governor of Florida, her state of residence, and many in the state legislature want her to live; however, the Florida Court system has ruled the husband's guardian rights should prevail. Unfortunately, his wishes have set his wife on a course of dehydration, starvation, and death.

It is important to note that Terri never had the opportunity to plead her own case in court and she never executed an advanced directive or living will in writing.

Terri responds to verbal, auditory, and visual stimuli, normally breathes on her own and can move her limbs on command. As a result of her parent's love, they have fought for years to prevent her court ordered death and have expressed their willingness to take care of her for the rest of her life.

Since the Florida state court has issued an order prohibiting Terri from even being given food or water by her mouth, once her tube is pulled she will not die from any disease, but from starvation and dehydration.

Florida law prohibits the starvation of dogs, yet will allow the starvation of Terri Schiavo. Florida law does not allow for physician assisted suicide or euthanasia, nor does my compassionate God fearing state of Georgia. Although I am not a neurologist by specialty, my basic courses in medical school taught me that dehydration is a horrific process.

It is a process that only the cruelest tyrants in history have used to ''cleanse'' populations. The patient's skin cracks, their nose bleeds, they vomit as the stomach lining dries out, and they have pangs of hunger and thirst. Starvation is a very painful death to which no one should be deliberately exposed.

The tragedy of this situation is that with proper treatment, now denied, Terri's condition can improve. Even though Terri's parents object to the removal of her feeding tube, the courts have rejected their pleas and, at this point, it appears that all legal efforts to save her life have been exhausted unless Congress acts swiftly.

Mr. Speaker, I believe we have a duty as Members of Congress to uphold a culture of life and compassion. It is important that we act today to save Terri Schiavo's life and uphold the moral and legal obligation of our nation, indeed this poor woman's Constitutional right to life.

In our nation of checks and balances, I believe it is time for Congress to check the Florida court's decision and pass this life saving measure.

I encourage bipartisan support of this legislation because we are here, at this ''11th hour,'' quite literally, to save Terri's life.

Mr. FRANK. Mr. Speaker, I reserve my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. FORTENBERRY).

Mr. FORTENBERRY. Mr. Speaker, while I was at home this weekend, my little 2-year-old girl wanted me to take her for a walk. I looked forward to having some ''daddy time'' with her. But before we could leave, she fell asleep on our stairway. I picked her up, cradled her, and brought her to her bed.

As I looked at her precious little face, I thought of Terri Schiavo's mother and father: how they must have cradled their little girl, loved her, watched her grow, given her hand in marriage.

But, Mr. Speaker, as we are all now familiar, Terri's life met with terrible tragedy. A debilitating illness left her incapacitated, a medical system has not protected her, and a judicial system has betrayed her. And through this all, Terri's mother and father are still there with their little girl, loving her, caring for her, asking only for one simple thing: do not starve her to death. Give her food, give her water, ordinary care for a living person.

Mr. Speaker, impoverished judicial reasoning has created the need for a new law, granting to Terri the same right given to Death Row inmates to appeal. Given the complexity of who should have final say over Terri's life, an estranged husband who is now in a common law marriage, or her loving parents, it is only reasonable that additional levels of appeal be given.

Mr. Speaker, I wish to thank our leadership for their exhaustive efforts on Terri's behalf, for their willingness to stand for a compassionate society that protects its most weak and vulnerable members.

Mr. Speaker, let us join Terri's mother and father and cradle Terri in the arms of a just and good decision.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Washington, D.C. (Ms. NORTON).

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

Mr. Speaker, it is hard to know how to approach this case. Should you approach it as a mother or a member of the family on the opposite side, should you approach it as a member of the House of Representatives, should you try to approach it as a lawyer?

One thing is clear: choosing up sides, where you or I stand on our particular values, clearly will not do. That is why matters of this kind involving families have for more than 200 years been committed to State courts, because we are all over the place, State By State, person by person, on this issue. We are hopelessly divided.

Countless Americans have already made decisions like this, over and over again. Countless more have a different view. There are some who, if they had to choose, would side with the husband as the next of kin, because he believes he knows what his wife desired based on what she said to him and believes he would betray her trust if he simply walked away. Who can fail to be sympathetic with him?

Who can fail to be sympathetic with the parents, who almost instinctively have adopted the role of parent? When the mother said today, ''Save my little girl,'' she is not even any more for her a grown woman, the wife of somebody. She is her little girl, and always will be; and I understand that.

There are 50 different States, 51 including the District of Columbia, with wholly different approaches to the same matter. How shall we choose? Which is best in a Federal Republic? To give it to the Congress? To then instruct the Federal courts to violate every rule we have had for 215 years? I hardly think so.

Until today, there was no doubt how finality should be reached in a case like this. My only hope is that somehow this will finally be settled without a three-part constitutional crisis of the kind we are creating here, the crisis at the heart of federalism and the Federal Republic for which we stand, the bedrock of who we are, the State-Federal system, where State issues with State courts are final and our issues are final, except in very narrow circumstances given the limited vision of the Federal Government, of the Founders, or the crisis of separation of powers, which we were barely circuiting here, or the crisis of the constitutional right of privacy. Choose your crisis.

The victims here are real people, however, caught in a dispute of Shakespearean dimensions. The other side thinks that is right, it is life and death. That is what makes it different.

But my friends, never before in countless cases in Federal and State

courts in 215 years, life and death has not made a difference in my own lifetime and in the history of my country as I have read it. I wish that the fact that life and death were at issue had meant that we could go into Federal court every time we disagreed.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, in America we do not let people starve an animal to death. We do not let them starve prisoners to death. But that is what some would do to Terri Schiavo.

This is about the rights of a disabled person. Terri Schiavo is not brain dead or comatose or unconscious. She is not terminally ill, she is not dying, she is not on artificial life support. All she needs is a feeding tube to eat. But so do many disabled people.

Terri has a brain injury, but otherwise she is healthy. Seven years after the injury, her husband suddenly remembered Terri's wishes about life and death. Her estranged husband has not allowed her any therapy or treatments or rehabilitation in more than a decade since he won the malpractice award, even though many doctors believe that they would help her condition. In fact, she was speaking some words before her treatment stopped. She may not even need the help of a feeding tube if given therapy. Doctors who have seen her certify that she can swallow.

Mr. Speaker, this woman needs help, not a death sentence. She needs the warmth of a family that cares for her. She needs the help of doctors who want to treat her, instead of recommending that she die. But her family is not even allowed to help her because of a judge's ruling, a judge who in 5 years has not even bothered to visit her once to see for himself that Terri is not comatose, that she is not unconscious, that she is not in a vegetative state.

If prisoners on Death Row are guaranteed Federal review of their cases, Terri Schiavo deserves at least as much consideration. The 14th amendment of the Constitution says: ''No State shall deprive any person of life, liberty or property without due process of law.'' This means Florida may not starve Terri to death unless every legal recourse to prevent it has been taken.

This is a constitutional right. Terri's life is valuable. She deserves a right to live. The disability community is horrified at what is happening to Terri, and so are millions of Americans. I urge every one of my colleagues to have compassion on this disabled woman and allow a Federal court to review the facts and her constitutional rights.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 1¼ minutes to deal with two arguments that have been presented here as precedents.

This is an unprecedented piece of individual case decision. One, we are told, well, we did this previously with civil rights. After years of determining and establishing that there was a discriminatory pattern, we made an exception. The rule remains that States decide these kinds of decisions; but because there was an overwhelming showing of a pattern of discrimination based on race, outlawed specifically by an amendment to the Constitution, we made an exception. There is no showing here of any such pattern of discrimination.

Secondly, we are told this is just a general principle like habeas corpus. I have to ask people on the side who are pushing this, if this is such a good idea, why is it limited to this case and why do you say it is not to be a precedent? If, in fact, it is to be the rule that people should have this appeal, why do you limit it to only one individual?

That suggests that this is a response to a particular dispute. You are responding to a particular dispute because it did not come out ideologically and for whatever reason you say you wanted. But if it is a principle, why is it written as a bill applying only to these individuals, and it specifically says it cannot be a precedent?

Clearly, this is an individualized response to a controversy that attracted attention, and if you believed in the principle, you would have made it uniform.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, it is Sunday evening, a time when those of us in the House of Representatives are usually not in session. But tonight is an unusual night and the circumstances before us are unusual.

□ 2230

It goes without saying that we of course are discussing the life and death of Terri Schiavo. The situation that Terri is in has been discussed here on this floor tonight already, and you only have to turn on the news or pick up a newspaper to learn about it. However, as I have watched, as I have listened, as I have read the news, I have been shocked at some of the inaccurate statements that have been made about Terri's condition.

The bottom line is that once Terri is dead, it will be too late to reconsider what else we will do. The truth is Terri is not brain dead. She is awake. She is aware of her surroundings. Terri is not on artificial life support. No extraordinary measures are being taken. She does need assistance in being fed, but that is not unusual. I have a perfectly healthy 1-year-old little boy, and he needs assistance in being fed, perhaps not through a feeding tube, but nonetheless he needs help.

As I said, this is an unusual situation. Usually Congress writes laws with a broad brush, but every once in a while an unusual situation will require special legislative action. That is a situation for us tonight, Mr. Speaker.

Tonight, the possible life or death of Terri Schiavo is before us. I ask my colleagues to support this legislation, and may we as a Nation continue to protect the most innocent and most vulnerable among us so that the United States of America will continue to be that light on the hill, that beacon of hope for all mankind.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, we are considering today what is the life of Terri Schiavo, and it is not just about who we are as Americans. It is about a lifestyle. It gives us the opportunity to affirm constitutional protections apply to all Americans, particularly the most vulnerable among us.

As a disabled person, Terri Schiavo deserves the same right as any American, and for Terri time is quickly running out. I believe it is extremely important that Congress step in to protect the life of Terri before it is too late.

In looking at the evidence in this case, I believe the courts have acted irresponsibly. Terri Schiavo does not need the assistance of any machine to keep her alive. She is responsive to the sound, touch, and sight of those caring for her. She has parents and siblings who desperately want to take care of her. Yet the courts have even denied the ability of the relatives to offer food and water to her lips. In fact, Noble Prize Nominee Dr. William Hammesfahr recently issued a statement saying he has examined Terri and he believes her injury is the type of stroke that he treats every day with success. In fact, he said there are many approaches that would help Terri. I know because I have had the opportunity to personally examine her and her medical record and her x-rays.

It is time to help Terri instead of just warehousing her. She would have benefited from treatment years ago, but it is not too late now. Terri's parents along with her brother and sister have begged her husband, Michael, to let them take care of Terri. He has not only refused this request, he has denied Terri the rehabilitative care they might have offered her to help with her condition. Now he has had her feeding tube removed and sentenced her to a most excruciating death, citing Terri's own wishes as the rationale.

Yet Terri did not express this to her parents or siblings or reduce her wishes on paper, and Michael did not remember the supposed request until years after Terri's initial injuries when a cash settlement was awarded to her, a settlement he would stand to inherit.

If we as a Congress allow this to happen without guaranteeing her 14th amendment rights to due process, Terri's blood is on our hands. If we do not act now, our inaction is completely irreversible.

I urge my colleagues to support this bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEWIS), someone who knows something about Federal intervention when it is called for.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Massachusetts (Mr. FRANK) for yielding me time.

Mr. Speaker, why are we here tonight? We have not been ordained or called by some all-powerful force to play God or play doctor.

Every day American families make life-and-death decisions governed by their own faith and led by their own hearts. This Congress does not interfere with most personal decisions of these American citizens. Why then, Mr. Speaker, why have we come here tonight?

Where is the respect for individual responsibility that is waved like a banner in this Chamber? Where is the respect tonight for States' rights that we said we hold so dear? If we really believe in those values, we will stay out of Terri Schiavo's life today and let the decision of her husband and the ruling of the Federal court stand.

Leadership must lead. Tonight this leadership is a taillight. It is not the headlight for democracy and for a citizen's right to privacy that it should be.

This is demagoguery. This is a step in where we have no business. This is walking where the angels fear to tread. We are playing with a young woman's life for the sake of politics. This is not about values. This is not about religion. It is pandering for political gain with the next election in mind.

Mr. Speaker, how much further can we slide down this slippery slope of hypocrisy? How much lower can we sink? How much more unprincipled can we be?

In a democracy, sometimes we disagree with individual decisions. Sometimes it is hard to bear judgment that we do not understand. But if we truly believe in individual freedom and the right to privacy, then we must get out of the way and let people be free.

This is a matter that should rest with the family, their consciences, and their God. The Florida courts have spoken, and we should not intervene.

This is a very, very sad night for the House of Representatives. Mr. Speaker, is it possible for us to let this young woman take her leave in peace?

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, we all know that there are deep emotions that are involved in this debate tonight. And earlier many of us met with Terri Schiavo's brother, and I do not think that anyone can truly convey what that family is going through. And as a mother, a tragedy of this type is my worst nightmare.

But, Mr. Speaker, we, this Congress, we are not here simply because we believe in our hearts that a great mistake is about to be made. We are here because all of us, each and every one of us, Americans, Members of Congress, we all know and we understand that the most basic, most fundamental right guaranteed by our Constitution, that is the right to life. And it is our responsibility to protect that right.

Now, I interpret and a lot of people have looked at the decision by the Florida judiciary and they interpret this as something that says our society, our country should be willing to accept and facilitate the murder of an adult human being, a human being who has not committed any crime at all whatsoever.

I do not think the Founders of our country or our Constitution would agree with that decision, Mr. Speaker.

I think it is entirely appropriate that the Federal courts consider this matter, a matter that so clearly speaks to the core of our belief, the belief that every human being has worth, every human being has a value, and every human being has a right to live.

Our hearts are with Terri Schiavo and her family. Our reason and our intellect are with the Constitution.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time, and I commend him for the work he has put in over the last 4 days to try to bring this bill to the floor.

This is not the original version of the bill that I introduced about 2 weeks ago, but I think it will have the intended result.

For many people listening and watching, you may get the impression this is a dispute between the Democrats and the Republicans; but there were 30, approximately 30 Democrats on the bill and I know that many Democrats do support this.

I practiced medicine for 15 years, internal medicine, before I came to the House of Representatives. I took care of a lot of these kinds of cases. And there were basically three features of this case that compelled me to feel that a Federal review of the case was warranted. And by the way, I think it has been pointed out by some of the people that preceded me, Scott Peterson's case is going to get a Federal review, John Couey, the man who confessed to killing that young girl in Florida not far from where Terri Schiavo lives, he will get a Federal review; but there were several features of it.

Number one, by my medical definition she was not in a vegetative state based on my review of the videos, my talking to the family, and my discussing the case with one of the neurologists who examined her. And, yes, I asked to get into the room and was unable to do so.

The other thing was this very lengthy pause, and that has also been pointed out by some of the people who have spoken, of 7 years between her original injury and when it was stated that she had prior voiced sentiments of not wanting heroic life-sustaining measures.

My clinical experience has always been that immediately family brings that up. They do not wait 7 years.

There were other features of this case that I thought were highly unusual that warranted a Federal review. I think this is a good bill. I encourage all of my colleagues to vote in support of it.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 45 seconds.

The gentleman's remarks again emphasize that this is a judicial and not a legislative case. He says there are aspects of this case that call for judicial review. That is why we have courts.

Yes, other people can get other Federal review by general statutes. None of the other cases he mentioned are in Federal courts because a particular bill was passed in a particular situation to send them there based on a review of those facts.

The gentleman is entitled to his view of the facts as he said. There are aspects of this case that lead him to think that it should go back into court. That is what courts are for. He has just described the antithesis of a legislative decision, particularly since almost none of the Members have either as much information as he does.

Mr. Speaker, I yield 2½ minutes to the gentleman from Washington (Mr. BAIRD).

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

I do not know what to do tonight. I honestly do not. If Terri Schiavo were here, she could tell us what she would like her fate to be under this circumstance. Those who say that we are condemning her to death by starvation, that may be so if action is not taken tonight. But it may also be so that you may be condemning her to a life that she might not choose were she here to choose that.

Some of us have spoken on both sides of the aisle of holding our loved one in our hands as they died, having made the decision not to have heroic measures. For 23 years before working in this body, I served as a clinical neuropsychologist. I have been with many patients in persistent vegetative state.

I wish life were different. I really wish it were. I will tell Members the stories like the gentleman from Arizona (Mr. FRANKS) and others about sudden recoveries, where people almost miraculously or magically are better and return to their former state are apocryphal for the most part.

After years of coma, people do not return to who they were before. What happens is we have a brain stem that is miraculously robust at protecting breathing and heart rate, but it is our

cortex that makes us who we are and that cortex dies when it is deprived of oxygen and we effectively die with it.

□ 2245

And I am sorry about that. It is so tragic.

I honestly do not know what to do. But for anybody to try to imply that people on one side or the other do not care about this woman is not right or fair, on either side. This is an American tragedy but, more importantly, it is a personal tragedy. And people on both sides are pro life in the richness and complexity and difficulty of it.

Some are trying to do their best to honor what they believe are this woman's wishes to not live condemned to a bed where she cannot speak or enjoy the higher virtues of life she might choose. And if she did indeed say I would not choose the fate of being condemned to this bed, then we are denying her that right to make the choice. That is the challenge here tonight, my friends.

But let no one who leaves this body somehow imply that whichever the vote is taken, one side or the other does not respect life in its richness. We are all pro life. We all feel for this family. And also let no one believe that we are somehow saving this woman from a horrific fate whichever route we choose.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. KINGSTON).

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

Mr. Speaker, I am a cosponsors of the Weldon legislation. I respect his opinion as a Floridian and as a doctor, but I am also a cosponsor of the Sensenbrenner legislation, as I respect his lead and opinion as a jurist, a lawyer, and as someone who knows the 14th amendment. And I do believe there is a question about the 14th amendment, due process, being followed or not.

Here is what we do know. Terri is not a PVS, someone in a permanent vegetative state. Florida has a legal definition of this and it states that one has to be permanent or irreversibly unconscious, with no voluntary or cognitive behavior of any kind, and without ability to communicate. Terri is able to laugh, she is able to cry, and she, apparently, can hear. She responds to stimuli, such as voices, touch, and people.

Six neurologists and eight medical professionals have testified that she is not PVS, even though her husband has discontinued valuable therapy now for nearly 10 years. Terri is not terminally ill. She is not in the process of dying. She is not on a respirator, she is not on dialysis, she is not on a pacemaker or any other 24-hour medical equipment. She is not in a coma. And although parts of her brain are permanently damaged, she is not brain dead.

Removing the feeding tube simply kills her by starvation and dehydration. Terri did not have a living will. Even though her husband has now stated that she would have wanted to die, he withheld this information for 9 years and never came forth with it until the State law in Florida said they would now allow hearsay evidence for living wills. But up until then, there was nothing from her husband.

After the heart attack and chemical reaction in 1990, she was taking therapy. And, in fact, she was able to speak and communicate to some degree until 1993, when he discontinued the therapy. Mr. Speaker, if there is a split decision, we should go with the 14th amendment and the desire of the parents.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there have been a lot of charges talked about tonight and a lot of emotion. This is a painful process. As a physician, I have dealt with end-of-life decisions in families as they struggle countless times. Why is this one different? First and foremost, there is no living will in place; and, second, there is a fundamental disagreement between Terri's husband and her parents, two who normally would agree. There is also a disagreement among medical experts.

Now, where do we make disagreements when there are disagreements with irreversible life-changing decisions? A court of law. What court? Depends on the case. Does Congress have the authority? Absolutely. Article I, Section 8 and Article III, section 1 give Congress the authority to determine the jurisdiction of Federal courts, and that is what we are doing here tonight.

Ideally, decisions are made among families. When loved ones disagree, our society strongly, strongly believes in individual rights and that they must be preserved. That is why all State death penalty cases get a final review in Federal court, and that is all that is being asked here.

As I sat in church this morning, I struggled with this and I prayed. I prayed for a lowering of the rhetoric. I prayed for a decrease in the emotion. This is not a clear-cut case. This is an extremely difficult case, and I ask my colleagues for caution. It is right and just that we have a final set of eyes, objective, nascent and responsible eyes, review the case and provide that final cautious review. It is our responsibility to ensure that right.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 30 seconds.

It is true that the Constitution gives Congress the right to provide the jurisdiction of the courts. This bill does that for one individual, which, as the gentleman from Georgia's comments make clear, it is based on the facts of the one case.

This is not an act of legislation, this is a case-by-case adjudication because Members here genuinely dislike the outcome of the Florida court system.

Mr. Speaker, I yield 6 minutes to the gentleman from New York (Mr. NADLER).

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

Mr. Speaker, this bill is a dangerously reckless way to deal with one of the most serious issues we will ever confront. There is no way to make these judgments easy, even when the express desires of the patients are clear and unambiguous. Where there is disagreement on the medical facts or on the wishes of the patient, these cases can be heartrending and sometimes bitter, beyond the comprehension of those who have been fortunate not to have to make these decisions.

So what does this bill do? This bill would place a Federal judge in the middle of this case after the State courts have adjudicated it, after doctors and family members and counsel and clergy and the courts in Florida have struggled with it for years. After everything is over, after all the facts have been established to the satisfaction of the courts, all the appeals exhausted, the writ of certiary denied by the Supreme Court of the United States, now we start all over again.

My colleagues wish to put one of those unelected Federal judges they always denounce right in the middle of this and say the trial starts de novo. Ignore everything the Florida courts have done. This expresses contempt for the Florida courts, contempt for the Florida legislature. Nothing is to be considered res judicata. No facts are to be considered established.

This is not establishing a Federal appeal from the Florida courts on the grounds that the Florida courts have violated some constitutional rights we are familiar with; those kinds of procedures. No, this does not do that. This simply says the Florida courts are incompetent. The Florida legislature is incompetent. The Florida people are not to be trusted in electing their judges and their legislators.

Instead, we are going to put this case, and only this case, in the Federal courts from the very beginning and we instruct the Federal courts to ignore the evidence in the Florida courts; to ignore the procedures in the Florida courts; to ignore the testimony in the Florida courts and to start all over, because we have contempt, because we do not like the judgments of the Florida courts.

We have never, ever done such a thing in the history of this country, and we should not start now. The Constitution of the United States says there should be no ex poste facto law because it is fundamentally unfair. This is not ex poste facto, it is not a criminal court, but it is the same kind of legislation. It is a bill of attainder, in effect. There is a reason why the

Constitution prohibits bills of attainder and ex post fact laws, and although this is not technically an ex poste facto law or a bill of attainder, it violates all those reasons, and we should respect the spirit of the Constitution of the United States.

Mr. Speaker, it is an uncontradicted fact, uncontradicted except for the speculations of some orators in this Chamber, that Terri Schiavo told her husband, told her sister-in-law, told her brother-in-law, told various of her friends when attending funerals of close family members who had been on life support, that she would ''not want to live like that.'' The Florida court found that to be the case, to be the fact. The guardian ad litem appointed by the court, in his report to the court, found that.

This is not the case of a perhaps self-interested, conflict of interested husband testifying to that. It is the case of the husband saying that she told him that, the friends, the brothers-in-law, the sisters-in-law. They all said the same thing. And the court found that, as a matter of fact, that is what Terri Schiavo said that was her wish.

The doctors' testimony. The doctors testified, doctors who examined her, not doctors standing up on the floor here who say, well, from the video tape we can infer. Doctors can be deprived of their license for making diagnoses from afar. But doctors who have actually examined this patient have testified her cerebral cortex is liquefied; that it is destroyed. Without a cerebral cortex there is no sensations, there is no consciousness, there is no feeling, there is no pain, there is no possibility of recovery.

That is what a persistent vegetative state is. There is no possibility of recovery, despite the wishes, despite the fervent hopes, despite the illusions of desperate relatives. We should not feed those illusions.

And what has happened to family values that we talk about here? This bill would invade the sanctity of the family, would invade the decision of the husband. George Will, a noted conservative comentator and philosopher, conservative enough so that he famously helped coach Ronald Reagan for his debates in the Presidential debates in 1980, said on television this morning, and I quote, ''Unless we are prepared to overturn centuries of common law and more than two centuries of constitutional law that says that husband and wife are one, therefore clearly this is a decision to be made by the husband.''

Now, this is not just a decision made by the husband. This is a decision made by Terri Schiavo, according to the testimony of the husband and the brothers-in-law and the sisters-in-law. This is a decision made by the husband and Terri Schiavo, according to all the testimony. So we have no respect for the carefully established procedures our States have set up to wrestle with these difficult cases; no respect for the elected representatives of the Florida State legislature or their judges.

Who are we to say they are wrong? Who are we to say Terri Schiavo and her husband are wrong? Who are we to say that Terri Schiavo's husband is self-interested? And who are we to say this is any different from the thousands of cases of do-not-resuscitate orders that are given effect in our courts and in our hospitals every day, other than the fact that this case has gotten a lot of publicity and a lot of public official intervention? This is hypocrisy at its greatest, and we ought not to pass this bill.

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

Mr. Speaker, I am a little bit puzzled, listening to my friend from New York. At 151 CONGRESSIONAL RECORD, page H1599, the gentleman from New York (Mr. NADLER) said, ''If a person thinks a court in a State is depriving someone of civil rights, they can go into Federal Court.'' And at volume 150 CONGRESSIONAL RECORD at page H6580, the gentleman from New York noted that without Federal courts, ''Obviously, the progress we have witnessed in the area of civil rights would have been, at the very least, stymied, and most likely prevented altogether.''

Now, all this bill does is to allow the parents of Terri Schiavo to go into Federal Court to adjudicate her Federal constitutional and legal rights. No more, no less.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. SCHWARZ).

Mr. SCHWARZ of Michigan. Mr. Speaker, I shall not try to influence the opinion of anyone on this issue. I will simply share with you my opinion, the opinion of a physician of almost 41 years duration.

I am a head and neck surgeon. I have done cancer surgery almost all of those years. I have done much maxillofacial trauma all of those years and dealt with situations like this on numerous occasions.

Terri Schiavo has spontaneous respiratory activities and respontaneous cardiac activity. She is not on life support, as we routinely define it. She is not intubated and she is not on a respirator.

And I give the gentleman from the State of Washington credit for his knowledge of the physiology of the brain stem. He is right, it is very robust, and that certainly is one of the things that is driving her now. But she does have some cognition and some cortical activity.

□ 2300

Removing her gastrostomy tube will ultimately cause her demise, a commissive act that will cause the death of a human being.

How many others in this country are now in long-term care facilities with feeding tubes, but able to breathe on their own, their hearts beating strongly? Should their feeding tubes be removed as well? I think not.

I believe it is wrong to remove a feeding tube from an individual whose cardiopulmonary function is stable and who has some remaining cognitive abilities. It is unfortunate in many ways that this venue is where this issue will be decided, but removal of this feeding tube under these very public circumstances is a slippery slope down which we and the United States should not tread.

This bill deserves our support.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. I thank the gentleman from Wisconsin for his work.

Mr. Speaker, there are doctors in this Chamber, there are lawyers in this Chamber, there are judges in this Chamber. I am none of those, but I am an elected Member of Congress. I am also a mother. Tonight in this gallery my daughter sits. I think of my daughter, I think of my other three children, and I think of the day they were born. I think of the milestones in their lives and the love that I have for them. I think of the lengths that I would go to protect my children as adults even if they had an injury. I think of the lengths that I would go to, to care for my children. I would die for my children. I would do anything for them.

My heart is raw when I hear the things about Terri Schiavo and her mother and her father and her siblings, because I just lost my brother in November. I think of how my life changed in an instant and all the lives of those who cared for him. We talk about a family decision. What about Terri's mom and dad? What about her siblings? What about the people who cared for her and nurtured her as she was growing up? Do you not think they know what Terri wants?

When we talk about a permanent vegetative state, I am offended by that. Terri smiles and acknowledges the people that love her when they come to see her. She cries when they leave. How heartless are we to call somebody like Terri Schiavo a vegetable? What are we thinking?

When we think about this case, we need to think about the message that we are sending to our children and our grandchildren. What we do in this Chamber tonight is as important as anything we have done in defending our Nation, in doing the things that we do as Members of Congress. When we react to the Terri Schiavo case, when we think about this legislation tonight, we need to think about the future and the message we are sending to our children and our grandchildren.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I did indeed say that there can be Federal court review of due process, obviously.

That has happened here. And the Federal court said, ''Not only has Ms. Schiavo's case been given due process in State court, but few if any similar cases have ever been afforded this heightened level of process.''

The difference in this bill is not that it is a review of State court, but it orders a de novo proceeding to ignore everything that happened in State court as if the State courts did not exist. That is unprecedented, that is contemptuous, that is different; and that should not be done.

She got the appellate review already. The appellate courts and Federal court did not agree with the distinguished chairman. That is not an indication for a new bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3½ minutes to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Speaker, this case, what we are doing here tonight, is not about Terri Schiavo. The evidence for that begins in the way this was brought to this body, being brought in on St. Patrick's Day at 11:30 at night, with no hearings, no notice to the body, nothing. It was going to be rammed through here without discussion.

And what troubles me, and I have heard my colleagues here, as a psychiatrist, I cannot make diagnoses of people that I have not examined. That is contrary to my profession, and I can be disciplined for doing that. The rest of you can be doctors. You can come out here and tell us anything you want. But a doctor cannot come out here and say anything really about somebody they have not examined.

So what you are now doing with this, and you want it both ways. This is what troubles me about this. On the one hand, you say this is not precedent. This is only one case. This is only one case. What am I supposed to do as a physician like the gentleman from Michigan (Mr. SCHWARZ)? As a psychiatrist, I dealt over and over and over again with family members facing this exact problem. It is gut-wrenching. You do not get any planning process here. You do not get any, well, this is going to happen in a month, why don't you get ready for it. It happens and then you have got to make a decision. And there you are as a family group. Everyone here is going to have this happen to them sometime.

When my father was 95 years old, he had had a couple of strokes. On his first stroke, we talked to him. He was 93 before we ever talked about a living will, okay? That is the way it is in America. That is why we do not have Terri's words in a will. You do not think about dying when you are young.

All right. So my father has had a stroke. We said to him, Dad, what do you want us to do in terms of extending your life? He said, Well, I don't want any of those paddles that they use on ER. They can do artificial resuscitation, but I don't want that paddle thing.

Okay. The doctor came to me and said to me, Jim, the paddles are much more humane than doing artificial resuscitation. If you press on an old man's chest to try and start his heart from the external massage, you break the ribs. Then he has got pain from broken ribs. Actually, the paddle is much more humane.

So I went back to my father, and my brothers and I, we had a talk with him, and he said, well, I want it done the way it should be done. Then came the day when he had his third stroke and he could no longer swallow, and he was on IVs. And so there were two brothers, a sister, and me and my mother, and we had to stand around and decide whether or not we were going to put in a stomach tube, a feeding tube. Anybody who stands out here and says that is not an extraordinary process is absolutely wrong. It is no different than being on a ventilator, forcing air into someone's lungs, than it is forcing food into them. That is exactly what it is.

You are throwing all that up in the air and leaving families and doctors with nowhere to go because this is not setting precedent; this is something to hide something else, some diversion of what is going on in this House.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, tonight I stand with Terri's father, a man who raised up his little girl and gave his daughter's hand in marriage with the understanding that she would be protected in sickness and in health, for better or for worse; with Terri's mother who brought her into this world and gave her life, and to unite myself with Terri's brother who continues to struggle for his sister. Together, each of them is simply begging for her life.

None of my colleagues on the other side are kin to Terri. None of them are related or are family. The only family she has left wants only to provide her with water and nourishment.

Out of Florida, there is no justice. Justice requires her judges to exercise prudence. Where is the legal analysis that weighs the issue of Terri not being allowed a CAT scan and further medical diagnostic evaluation? Where is the balance of the scales of justice that weighs Terri's family's parental rights with those of her estranged husband? Tonight's vote says we want a second look at this unique case. We want mercy.

Be merciful and find true bravery and justice in preserving the life of Terri Schiavo.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, as a prolifer, I have supported the efforts of the gentleman from Florida (Mr. WELDON) to save Terri Schiavo's life from the beginning, but as I have learned more about this case it is not just a case about traditional life debates. Normally those issues are hard, but what is happening in this case is a moral outrage. Terri Schiavo is not dependent upon life supports. She is dependent upon being fed, only she cannot feed herself.

Years ago, my wife, Diane, when she worked at the Fort Wayne State hospital and training center set up a feeding training program for disabled people who could not feed themselves. Should they now die, too? Terri swallows, shows eye movement, and seems to respond. She is a living human being although with limited competency. Those who would let her die can overplay her handicaps, but they cannot change the fact that she is a living human being who is responsive.

Also, her guardian is supposed to protect the person they are guarding, not take the money intended for life support, divert it and offer no rehabilitation efforts. Many others who can swallow their saliva and who can barely do anything beyond that have received help for years. She did not get it because most of it was spent on attorneys by her guardian who wanted to kill her. This is a moral outrage. Her true guardian is her parents at this point. Her husband is in a compromised position. With his fiancee and two children by that fiancee, it would be very inconvenient if she recovered. It is an outrage what is happening.

Furthermore, there are those who would say that States rights here should prevail over the right of handicapped people to be killed. Whether it be the Americans with Disabilities Act or the Medicaid that has funded her because her husband's money that was supposed to be for her rehabilitation was going to lawsuits to kill her or whether it is a simple basic constitutional right to life, they all prevail over States rights.

Let us not let Easter week 2005 become the week America let a helpless, mentally disabled woman starve to death while the whole Nation watched.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 15 seconds.

We just heard what would have made an excellent summary in the legal case in this matter, but not a legislative argument. We heard very specific allegations and arguments which are hotly contested about the individual case. The Americans with Disabilities Act was a general law. It has nothing to do with this individual case here.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, on December 3, 1963, Theresa Marie Schindler was born in Pennsylvania. At the time, I was pregnant with my first child and my beautiful daughter, Danene, was born 5 days later on December 8. She is my best friend and today she, too, is a mom.

I certainly can relate to Mr. and Mrs. Schindler's love for their daughter and

their passionate fight to keep her alive. Mothers have a precious bond with their daughters. The issues that we are discussing tonight are not because those who may speak on one side or the other are right or wrong or pro-life or pro-choice. The issue here is what Terri would have wanted. It is not what we would want for ourselves or even our loved ones. We should not be second-guessing a patient's wishes. That is not what we were elected to Congress to do, nor do I believe that our forefathers would have ever wanted us to be involved. Terri Schiavo's constitutional right to make the decision she felt comfortable with is being usurped by her parents and now this Congress by means of this private bill.

Jay Wolfson was appointed guardian ad litem for Theresa Marie Schiavo. I know Jay Wolfson and often called upon him when I was a State senator chairing the health care committee, because I knew that he could always give me an impartial review of controversial matters relating to health care. Jay Wolfson's report to Governor Bush and the Sixth Judicial Circuit dated December 1, 2003, reviewed the court testimony and statements made by all family members. It is important to know that the Schindler family members stated that even if Theresa had told them of her intention to have artificial nutrition withdrawn, they would not do it. Throughout this painful and difficult time, these same family members acknowledged that Terri was in an irreversible, persistent vegetative state.

Today, I burned up the phone calling health care professionals that I know back in Florida. These are people who make life-and-death decisions and realize that the 5-year-old video we see on TV of the eye blinking and apparent movements are an involuntary reflexive action known as part of the autonomic nervous system.

□ 2315

Almost everybody in the health care profession that I spoke to are avid pro-life people, but they know the sad facts. Their comments were almost to a person, something to the effect of 15 years of being in a persistent vegetative state is far too long to suffer. To second guess the Florida legislature, Florida courts, and Terri's choice is just plain wrong. We should not be engaged in second guessing many neurologists and on-site health care profession always who have seen the patient, performed tests, and attested to the courts that Terri is not going to recover.

This is a very difficult decision that I know does not come easily for any Member of this body. It is gut wrenching and reaches deep into our hearts. My daughter, who was born 5 days after Terri Schiavo, is a health care professional, who, when I asked if she would want me to battle to keep a feeding tube in if she had not signed a living will, said to me, and I want the Members to bear in mind that she is a health care professional who deals day in and day out with patients with feeding tubes, but the difference is that they are not in a vegetative state, her response to me was sufficient to help me make up my mind. She said to me, No, Mom. If you really loved me, you would want me to have rest and meet the Lord.''

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

Mr. CONAWAY. Mr. Speaker, I rise in support of this bill tonight with a heavy heart, as is everybody in this Chamber.

I would, though, like to address an important issue that we have not talked much about, and that is the conflict of interest that I believe her husband has with respect to his decisions that are supposedly in her best interest. I have spent a professional career as a CPA working under a code of conduct that requires me to function without conflicts of interest. I have to disqualify myself as an auditor if I have got a conflict of interest that is in appearance or in fact. This body has heard much about the importance of conflicts of interest, whether in the Sarbanes-Oxley bill that talks about the relationship of auditors and their clients, or campaign finance laws where it talks about the impact that money has on these conflicts of interest.

Terri's husband has, in my mind, a significant and apparent conflict of interest in this matter. Her husband is her guardian, and he is duty bound, in my mind, to make decisions that are in Terri's best interest.

Even the most casual observer would conclude that he is conflicted. He lives with another woman. He has fathered two children with this other woman. This is a conflict of interest between what is in his personal best interest and his wife and children's best interests and those of Terri's.

We have heard much about Terri's condition tonight, but what we have not heard, though, is much evidence of her current condition, evidence such as tests and MRIs and brain scans and swallowing tests that we could objectively evaluate her condition through these tests. Her husband has categorically prevented this from happening throughout the last 7 years. I do not believe the issue of Terri's husband's conflict of interest and its impact on her condition have been given a proper review. I have heard her brother tell us this evening about the lack of care that has been insisted upon by her husband throughout the last 7 years, simple tests, trips outside into the sunshine.

I support this bill that would allow a review of Terri's case, including the role of her husband's decision and his conflicts of interest.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, my heart goes out to Terri Schiavo, her parents, and family, and, yes, even to her husband. My heart goes out to everyone who may have found themselves in a similar situation in the past or might find themselves in a similar situation in the future.

I wanted to stay back in Connecticut and avoid having to cast a vote because I do not want to play God, and either way I vote I feel I am. We all know this is a time for real thoughtfulness and wisdom and inspiration, and I believe that is what we are all trying to do. On both sides of the aisle we ask ''Let the words of my mouth and the meditation of my heart be acceptable in thy sight, O Lord, my Strength and my Redeemer.''

Sanctity of life, sanctity of marriage, sanctity of an individual to decide for themselves what should happen to their own life, I find myself wondering why is there so much focus on this life when we ignore the countless lives throughout the world who die minute by minute, hour by hour, day by day from hunger and disease that this Congress could address and this Congress could prevent? Why only Terri when there are others like her in our country?

The only way this bill has any legitimacy is if it applies to all cases, not just Terri's, and that is what concerns me. How deep is this Congress going to reach? How deep is this Congress going to reach into the personal lives of each and every one of us?

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), the distinguished whip.

Mr. BLUNT. Mr. Speaker, I thank the chairman for yielding me this time.

I also want to thank the Speaker for the difficult decision to call the Members back, though the difficult decision maybe was made less difficult by the circumstances. The hard work of the gentleman from Wisconsin (Mr. SENSENBRENNER) over the last few days; of the gentleman from Texas (Mr. DELAY), majority leader; the work of the gentleman from Maryland (Mr. HOYER), who may not be on the same side as I am when we take the vote tonight, but who has certainly worked hard to see what we could do to make this work in the best possible way for the Members, who were called back.

Terri Schiavo is in a terrible situation tonight. She has been in a terrible situation for a long time, a situation none of us would want to be in, a situation we would not want our loved ones in, a situation we would not have to decide about, but when this happens we do have to decide. And there is clearly a conflict between members of Terri's family about what she would want to happen.

Someone observed earlier that when one is her age they probably have not written that down yet, and of course that is right. When one is my age they

probably should have written that down, and sometime in the next few days I am going to check to see what I wrote 10 years ago and if I still agree with what I wrote 10 years ago, as I suspect many of us will. But she had not written it down.

Some people seem to think she would feel much differently about this than others. And what this legislation would do is let a judge come in and look at all the facts one more time and determine if what is happening should continue to happen.

I know others have said there is no real difference in just giving someone food and water and putting someone on incredible life support systems. I see a difference. I think most Americans see a difference. We will see if a judge sees a difference, if in fact we are able to give a judge that opportunity.

We are not deciding tonight anything that a family should be deciding. We are asking a judge to come in and decide what a family among themselves could not decide. I have heard other people here talk about family members getting together and making this tough decision. But nobody has talked about family members getting together and fighting over that decision and what they would want to happen if that fight happened in their family.

The vote tonight will be a bipartisan vote. This is not about Democrats or Republicans. I hope this is not about politics. I hope this is about Terri Schiavo. This bill also has a study that would require us to look at other circumstances and see if we should have the broader legislation that the gentleman from Florida (Mr. WELDON) and others, Democrats and Republicans, introduced last week.

Mr. Speaker, I urge that this legislation pass, that we get this done as quickly as possible.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. BEAUPREZ).

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

I thank the Speaker, as has already been acknowledged. It is his leadership that has brought this issue to the floor tonight, and again I commend him for that leadership.

Mr. Speaker, there has been much said tonight, much eloquence on both sides, about this issue. I fear sometimes that in our effort to try to come to some sort of conclusion that we actually overthink an issue once in a while. We think just enough to get in the way of our common sense. I hope that is not the case here tonight.

I believe fairly deeply that life does have a purpose. I lost my father 6 months and 6 days ago tonight. And in his very final days, he too needed to be fed by a tube. He needed help with his basic bodily functions, could not get out of his bed, could not take care of himself. But in the 56 years of life I have been granted, Mr. Speaker, I shared the most intimate, the most profound moment I ever had with my father about 36 hours before he passed away, after he could no longer speak, after he could no longer feed himself or care for himself in almost any manner at all. He communicated with his eyes, and he communicated with a hand on my forehead in the most profound way imaginable. I would have regretted deeply had I been denied that moment, and I am absolutely convinced, Mr. Speaker, that my father would have regretted having been denied that moment as well.

Outside this Chamber there is a statue of Thomas Jefferson. Thomas Jefferson was the one, of course, who told us about those inalienable rights, those rights that cannot be taken away from us by anyone, those rights that come from our Creator. Those rights, of course, include life, liberty, and the pursuit of happiness.

I think if we are going to make mistakes, and God knows certainly that we make mistakes, we are human, but if we are going to make mistakes let us err on the side of life, not denying life but granting life and giving every opportunity to that.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 5½ minutes to the gentleman from Michigan (Mr. CONYERS), ranking member of the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from Massachusetts for his leadership tonight.

Mr. Speaker, if we pass this bill, we will be intruding in the most sensitive possible family decision at the most ill-opportune time. It will be hard to envision a case or circumstance that Congress will not be willing to involve itself from now on if this precedent is approved this evening. By passing legislation which takes sides in an ongoing legal dispute, we will be casting aside the principle of the separation of powers. We will be abandoning our role as a serious legislative branch, and we will be taking on the role, as we have done during this debate, of judge, of doctor, of priest, of parent, or spouse.

By passing legislation which wrests jurisdiction away from a State judge and sends it to a single preselected Federal court, we will forego any pretense of federalism. The concept of a Jeffersonian democracy as envisioned by the Founders and the States as ''laboratories of democracy,'' as articulated by Justice Brandeis, will lie in tatters.

By passing this legislation in a complete absence of hearings, committee markups, no amendments, in complete violation of what we once called ''regular order,'' we will send a signal that the usual rules of conduct and procedure no longer apply when they are inconvenient to the majority party.

My friends on the other side of the aisle will declare that this legislation is about principle and morals and values. But if this legislation was only about principle, why would the majority party be distributing talking points in the other body declaring that ''this is a great political issue'' and that by passing this bill ''the pro-life base will be excited''?

If the President of the United States really cared about the issue of the removal of feeding tubes, then why did he sign a bill as Governor in Texas that allows hospitals to save money by removing feeding tubes over a family's objection?

□ 2330

If we really cared about saving lives, why would the Congress sit idly by while more than 40 million Americans have no health insurance, or while the President tries to cut billions of dollars from Medicaid, a virtual lifeline for health care for millions of our citizens?

When all is said and done, this bill is about taking sides in a legal dispute, which we should not be doing. Last year, the majority passed two bills stripping the Federal courts of their power to review cases involving the Defense of Marriage Act and the Pledge of Allegiance because they feared they would read the Constitution too broadly. Last month, the majority passed a class action bill that took jurisdiction away from State courts because they feared they would treat corporate wrongdoers too harshly. Today, we are sending a case from State courts to the Federal courts, even though it is already the most extensively litigated right-to-die case in the history of the United States.

There is only one principle at stake here: manipulating the court system to achieve predetermined, substantive outcomes. By passing this bill, it should be obvious to many that we are no longer a Nation of laws, but have been reduced to a Nation of men. By passing this law, we will be telling our friends abroad that even though we expect them to live by the rule of law, Congress can ignore it when it does not suit our needs. By passing this law, we diminish our Nation as a democracy and ourselves as legislators.

Do not let this bill pass.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute to correct the record.

There have been statements made on the actions of then-Governor George W. Bush of Texas. I would like to correct the record on this.

In 1997, then-Governor Bush vetoed an advanced directives bill precisely because it would have given specific legal sanction to such involuntary denial of lifesaving treatment. An effort in the Texas legislature to amend the bill to require treatment pending transfer to a health care provider willing to provide the lifesaving treatment had been defeated.

With no legal protections at all under Texas law, and ongoing programs in Texas hospitals denying treatment with no opportunity to even seek

transfer, pro-life groups entered into negotiations with medical groups that finally resulted in the bill that, one, formalized more protections for in-hospital review; two, gave patients 10 days of treatment while seeking transfer; and, three, authorized court proceedings to extend the 10 days for reasonable additional periods of time to accomplish transfer. That is what the Governor signed.

Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. COLE).

Mr. COLE of Oklahoma. Mr. Speaker, when I came here tonight, I had no intention to speak on this issue for, frankly, the most personal of reasons: a year ago my brother and I were involved in making precisely this same kind of decision where my mother was concerned. We were fortunate. We had been empowered by her to make that decision, we were in agreement on the decision, and the medical professionals and her minister agreed with us about that decision. So we got to make that decision in the privacy and with the dignity that one would want for every family in that situation.

As I listen to the debate tonight, I think the opponents of this measure have made many good and interesting points. They have talked about States' rights, they have talked about precedent, they have discussed separation of powers, and they discussed the importance of the legislative process. All of those are important and legitimate points, and they merit discussion.

But while we discuss them, a life is in the balance, and that is really the only immediate and compelling issue before us tonight.

What do we know about that life and about the conditions of that life? We know that the family disagrees about the condition, about the fate, and about the appropriate course of action where Terri Schiavo is concerned. We know that she is not on artificial life support, only receiving hydration and nutrition. We know that there is split medical testimony about her condition and her quality of life. We know that there are issues of conflict of interest and motivation about those making the final decision. And we know that if we do not act, Terri Schiavo will die.

Great questions often are raised by individual cases, inconvenient cases, cases that break precedent, cases that confront us when we prefer not to be confronted.

Mr. Speaker, life and individual rights trump all else. Where there is doubt, we should err, if err we do, on the side of protecting the rights of any individual, especially when it is the right to life. We should make sure that Terri Schiavo has her day in Federal court. It is the right thing to do, it is the decent thing to do, it is the only thing to do.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, you have heard all the legal arguments, all the moral arguments. We see these things differently, and I understand that. I am here to speak for myself.

I have a living will that I wrote years ago, and I will check it myself as many Americans will. The bottom line is, I do not want you interfering with my wife and me. Leave us alone. Let us make our own decisions. It is not up to you. That has always been the way it has been in this country, and that is the way it should be.

For 6 years I have been hearing how the nuclear family is all we care about. Now we do not. Stay out of my family. If you can do it here, you can do it to me. You can do it to every one of my constituents.

Leave us alone. Let my nuclear family make my decisions and my wife's decisions without your input.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, I come to the floor to just speak about the issue of being here in the first place. When I was home for a couple of days, several friends asked questions about this case. My mother even called to inquire.

Like the gentlewoman from Colorado, I am just an earnest layman, not a lawyer or a physician, even though I have been very impressed from both sides with the input from the distinguished lawyers and physicians that are in these Chambers, and I think we should come often now as technology develops exponentially and just ask questions of ourselves about medical ethics and where we really are.

I reject the notion that this is about politics. I do know something about politics, and I would say this is not good politics for either side. This is about life and death.

I do believe that this is somewhat about ideology, though. The gentleman from Massachusetts said so, and I believe there is a culture of life that many conservatives are willing to stand for.

I frankly think that many liberals for a long time used every tool at their disposal to push their perspective, and I am glad conservatives are finally figuring out that that needs to be done from time to time. I think this is a thoughtful process; I think it is a necessary process. I think the Federal representatives, when we face these issues, should not hide or shirk the responsibility. We should come here.

Now, I am concerned about the separation of powers and the tenth amendment, and I have a record for a decade of standing on almost a libertarian platform on some of these issues. But I do not think we are going too far here. This is a review. It is simply a review. It is a reasonable step.

To the gentleman from Massachusetts, you have a living will. To the whole country, if you do not want your family in this dilemma, and you should not, get a living will, so that it is clear, so it is not questioned, so that you will not have a case come to the floor of the House with you. The lesson here is everyone in this country should have a living will, so it is cut and dried, so we know, and the legislative bodies in Florida or Montana or Washington, D.C. will not have to be involved.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, 15 years ago or so I worked with colleagues in the Senate on the difficult issues relating to the wishes of people who were going to receive medical care if they were incapacitated. We required that State laws be told to patients about living wills and advance directives.

The Florida judicial system has worked hard to follow its laws and to try to discern what was or would have been the wishes of Mrs. Schiavo. Section 1 of the bill says: ''The U.S. District Court for the Middle District of Florida shall have jurisdiction to hear, determine and render judgment on a suit or claim by or on behalf of Mrs. Schiavo for the alleged violation of any of her rights under the Constitution or Federal laws.''

That court has already addressed that issue, it did so just a few days ago, and here is what it decided: ''The court finds there is not a substantial likelihood the petitioners will prevail on their Federal constitutional claim.'' That is the same court to whom you are sending this case. And the Supreme Court of our country denied review.

So essentially what you are doing now for one case is changing the Federal rules, for one case, and saying there shall be a de novo hearing, disregarding everything that has happened through the State courts and Federal courts until now. In a word, what you are doing is allowing the rule of law of this country to be twisted in the winds. It is a mistake.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. MCHENRY).

Mr. MCHENRY. Mr. Speaker, tonight we are taking on one of the great moral issues of our day, our basic sanctity of life, our right to life; and what you hear tonight is a lot of emotion.

We have all had experiences with situations similar to this, or we know those that have dealt with these tough issues. We know family members that have dealt with these tough issues of end-of-life decisions. And tonight we as a body are wrestling with this issue. Just like America is, we are wrestling with this great issue.

But I submit to you, tonight, we are not talking simply about Terri Schiavo. We are not talking simply about Terri Schiavo's family. We are talking about a greater issue: How shall we be judged as a civil society? And I submit to you that we will be judged by how we treat the least

among us, those that may not defend themselves, the young, the mentally disabled, the physically disabled.

How shall we be judged as a civil society? What kind of government shall we have? As a Federal Government, I believe we have an obligation to step forward and say that we shall protect life. Even when it is tough, we shall protect life, and a woman's right to live. And tonight, Mr. Speaker, there is a woman in Florida that is being starved, and we are acting tonight to preserve her right to live and give her the opportunity of a tomorrow.

I say to you, tonight, Mr. Speaker, this is not about Terri Schiavo; it is about every one of us in this room. It is about millions of Americans across this Nation. We are all potentially Terri Schiavos.

Mr. Speaker, I urge support for this bill.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, a lot has been said about the details of this case. I just want to say a word about the process, because we should honor and respect the rule of law, and laws should be applied equally to all.

This is a special bill, special treatment to just one case. This bill does not grant a Federal right of review to cases like this. This bill applies just to this one case.

□ 2345

The majority in Congress apparently has already decided the proper outcome of the case, a decision different from the next of kin and State court judges who have heard evidence from both sides.

Present law has a process to ascertain whether or not a patient is in a persistent vegetative state, and it should not matter what politicians think. There is a process. But this case will be given special treatment because Members of Congress have made a different diagnosis. Present law also places the decisions in the hands of the next of kin, the husband. But Congress apparently does not agree with the next of kin; and this bill, therefore, gives special legal standing to other relatives.

This is not the only recent example of special treatment. A few years ago, a child custody case in the Washington, D.C. area was decided by special legislative language in a transportation appropriations bill. The Committee on Education and the Workforce considering a case on appeal between the Department of Labor and a bank retroactively changed the law to fix the result on behalf of the bank. The House passed legislation to fix a result in firearms liability legislation so that the National Rifle Association got to try the issue in the legislative branch after they had made contributions to legislators who will decide the result, rather than being relegated to the impartial judge and jury where ordinary citizens have to try their cases.

Mr. Speaker, we should honor the rule of law and apply that law in all cases. There are cases like this all over the country, but this bill applies only to this case because the relatives were able to get the attention of the United States Congress.

If Congress wants to establish a Federal right of review in cases like this, a new rule of law, so be it; but that law should apply to all whether or not they have a Member of Congress to introduce a special bill. Let us honor and respect the rule of law to be applied equally to all and reject this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Mr. Speaker, since I was a child and to this very day on the floor of the House I have been guided by a fundamental principle that we as men and women, indeed, we as a society will be judged according to how we treat the most vulnerable amongst us. That is the issue we face today. I believe Terri Schiavo's case must be judged in that context.

For me the following points are the most important: Terri left no living will or written instructions; Terri's mom and dad, the people that have loved her the longest and have fought so valiantly for her, want responsibility for their daughter. I spoke with her brother who wants his parents to be able to protect his sister.

Terri's life has value and worth, and we must do everything we can to protect her rights and those of other disabled people here in America. The law ought not to provide, should not provide, more protection for murderers guilty of terrible crimes than for an innocent woman lying in a Florida hospital bed. So today we must act on behalf of Terri Schiavo. Congress must act on behalf of all of those who cannot speak for themselves and defend themselves.

Americans believe in a culture of life, not a culture that tells the weak and vulnerable there is no place for them at the table. There must be a place for them at our table. We make progress towards that culture of life, one life at a time, one heart at a time. Today let us start by helping Terri Schiavo live.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I just came in on the plane from North Carolina, and I found myself thinking a lot about what we are doing here this evening. Wondering, first of all, what this vote is going to cost the American people, making a mental calculation that probably 4, $5 million we are spending on this one vote this evening, and wondering how many children are going to go to bed hungry tonight and how many we could feed with that amount of money; how many feeding tubes we have withdrawn by our own indifference in this body, by the decisions that we have made in this body that pit one group against another.

I found myself wondering where the compassion was last week when we tried to rally the Members of this body behind the Congressional Black Caucus' agenda and budget and pointed out to them that 886,000 more people died over the last 10 years, African Americans, because they did not get the same kind of quality of medical care that white Americans got, just the difference in the qualities.

Where was your compassion when we tried to get you to address that issue?

The compassion comes out in this one case, but where is the compassion when we point out to you every single day that people are starving and dying and seeking justice and you will not hear it?

How do we define compassion here? We have got to look at a bigger global picture, I think. You cannot just react to one person's situation. Where is your compassion when we need you?

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I have listened to this debate intently; and the complaints that I have heard from people who are opposed to this bill, feelings that are sincerely held and emotions that are sincerely held is why are we picking on this one case, the case of Terri Schiavo?

That was not my desire in the beginning, and it was not the desire of the entire House of Representatives either.

Wednesday night the House passed H.R. 1332, which was a bill which I introduced that applied to everybody who is in an incapacitated state, a major protection for people who are disabled. Everybody who is disabled could get a Federal review of their Federal constitutional and legal rights, including that under the Americans With Disability Act.

We had a debate on the floor, and it passed unanimously. And there was a move in the other body to bring it up, and it was objected to; and that is why this issue was not resolved with a general law of general application. I hope we revisit that issue some time in the future so that we do not have to deal with a specific case again. But we are here because we could not get H.R. 1332 passed in the other body.

I also think this is an issue of priorities, priorities of what we put a higher priority on in terms of how we provide food and nourishment to living human beings. In Florida they have a statute number 828.12 that says if you do not feed an animal you can go to jail for a year and be fined $5,000. So in Florida an animal has a higher right than this woman, and that is a wrong priority, and this bill attempts to correct it.

No Federal court has agreed to hear Terri Schiavo's Federal claims while her State court remedies were not yet exhausted. Now that her State courts remedies are exhausted, she has only two means of obtaining Federal court review under current law.

The first means is in the lower Federal court through the habeas corpus statute, and the second is by petitioning the Supreme Court directly. First she can try to obtain habeas relief under the current Federal law. On Friday she was denied that relief by the Florida Federal District Court. That denial has been appealed to the 11th Circuit Court of Appeals which requested the briefs of her husband's lawyers by seven o'clock tonight. No one knows when the 11th circuit will make a final decision, and they may yet deny her habeas relief. So time is of the essence.

In any case, even if she is granted a habeas review of her case, she faces a major obstacle in that the Federal habeas corpus statute essentially requires the Federal court to defer to the State court's determination regarding the facts of this case. So even if the habeas petition is granted, the deck is stacked against her.

Second, Terri Schiavo's lawyers can try to obtain relief in the Supreme Court. So far her lawyers have petitioned for and been denied an emergency hearing. Her lawyers are currently pursuing an ordinary appeal directly to the Supreme Court, but that appeal process will extend for weeks at least; and in any case, her appeal will likely be denied because the Supreme Court will generally not take a case without a lower Federal court's first establishing a record.

The bottom line is that first, the 11th circuit may yet deny Terri Schiavo her habeas petition. Second, even if they granted it, she would likely lose her case under the very difficult procedural hurdles any habeas petitioner faces. Third, she has already been denied an emergency review by the Supreme Court. And, fourth, the ordinary review process in the Supreme Court will take far too long. She will probably die in the interim.

Consequently, Terri Schiavo's only hope is the current bill which will guarantee a fresh review of her case in the lower Federal court immediately, without any deference to State court determination and with the lower Federal court issuing a stay of the State court order until it can determine the Federal claims the court is required to hear under this bill on its merits.

That is what Terri Schiavo needs, and that is what this bill will get her, and that is why it should pass.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 20 seconds.

The gentleman from Wisconsin (Mr. SENSENBRENNER) earlier implied that I was being inconsistent because I said I was for habeas corpus. He quoted something. He has just cited the inadequacy of habeas corpus in this case. Yes, I am for habeas corpus. This goes, as he just acknowledged, far beyond it.

Secondly, he acknowledged our objections to this individual private bill on one case by blaming the Senate. In other words, he has acknowledged that this is an inappropriate bill and that is all we have said.

Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Mr. Speaker, I have served as the senior pastor of St. James United Methodist Church for 30 years, for 30 years. And over those 30 years, I have had countless men and women who have come to me in situations of decisions that had to be made regarding family members; and in the privacy of a home or in a waiting room, we have dealt with those decisions.

Tonight, I want to talk about the shame of this debate. The shame of this debate is that in spite of the fact that we are a great legislative body, we are a body that determines peace and war, but we are not a hallowed body. And the fact that we are engaged in this debate is proof positive of the fact that we are a fractured body. And what we need to also understand is that we live in a world of echoes, a world of echoes. And a thoughtless word falling from the lips of Members here can travel around this country and do even more damage to the divisions that we have in this Nation.

We are doing that. We have even used the inflammatory word ''kill.'' We were doing damage to this country, and it is shameful that we would do this.

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

Mr. FRANK of Massachusetts. Mr. Speaker, I yield for purposes of a unanimous-consent request to the gentleman from Maryland (Mr. CARDIN).

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

Mr. CARDIN. Mr. Speaker, I rise in opposition to the legislation.

Mr. Speaker, I rise first to extend my thoughts and prayers to the loved ones of Teresa Marie Schiavo at this extraordinarily difficult time.

America has seen the anguish in the faces of Ms. Schiavo's family members. The legislation we are considering will determine whether we will send to federal court one case that has been adjudicated in Florida's state courts for nearly a decade.

For the past seven years, this particular case has traveled through Florida's state court system. The Florida courts determined through a review of testimony that, as her husband has testified, Terri Schiavo would not have wanted her life continued by artificial means. This Congress has chosen to disregard the ruling of the state court, the appeals court and Florida's Supreme Court. This bill stands in stark contrast to the principles of federalism, and it is the wrong direction for this Congress to take.

But as this debate is carried out before the entire world, it is clear that the issue is far more fundamental than state versus federal jurisdiction. The issue before us involves one of the most personal and controversial matters we face as humans: how do we deal with end-of-life care decisions for patients who cannot speak for themselves? Certainly not through this unprecedented act of intrusion into a personal family matter.

I believe the authors of this bill know that this is not the correct approach. Section 9 of this bill includes a ''Sense of Congress that the 109th Congress should consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding or withdrawal of foods, fluids, or medical care.''

When to stop life support when a person has no chance of recovery is an arduous decision. It is for that reason that Congress passed in 1990 the Patient Self-Determination Act as part of OBRA '90, which requires all hospitals, long term care facilities, home health agencies, hospice programs and HMOs that receive Medicare and Medicaid dollars to recognize a patient's living will and power of attorney for health care as advance directives. Health care organizations must provide patients with written information about establishing an advance directive and document if the patient has an advance directive that is placed in the patient's medical record. Patients are then able to decide in advance what medical treatment they want to receive if they become physically or mentally unable to communicate their wishes.

This piece of legislation gives patients the right to make choices and decisions about the types and extent of medical care they wish for themselves. With this act, patients can specify if they want to accept or refuse specific medical care. They can also identify a legal representative for urgent health care decision purposes. Then if they become unable to make decisions due to illness, the patients' wishes have been clearly documented at an earlier point of time.

Unfortunately, Ms. Schiavo did not execute an advance directive. There is conflicting information as to her wishes as expressed by her husband and parents. That conflict was resolved by the appropriate Florida court. It is not appropriate for Congress to pass special legislation for this one case.

Fifteen years after the passage of the Patient Self-Determination Act, the vast majority of Americans have not completed an advance directive. My colleague in the Senate, Bill Nelson, has introduced legislation that would improve compliance with the 1990 legislation and provide a benefit under Medicare for end-of-life consultation. That is the bill Congress should move as we debate this complex issue, not the bill that's currently before us.

If we enact this bill, it could very well result in an avalanche of cases in federal court. According to medical experts, as many as 35,000 Americans—nearly one-third of them children—are in a condition similar to that of Terri Schiavo. Their families face the same difficult decision-making process that Ms. Schiavo's parents and husband are contending with. I believe most Americans would agree that the last thing we want to do is encourage more divisive court cases and bills of this nature.

Regardless of the outcome of this vote, there will be no clear winners at the conclusion of this debate. Our judicial system and the rights of patients and their next-of-kin to make end-of-life decisions with their providers will be clear losers. Congress should never have considered this legislation.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Mr. Speaker, I thank the gentleman for yielding me this time, a girl from Indianapolis, Indiana. For the life of me, I cannot understand why we are here. We were all snatched out of our houses of worship to run to Washington to violate the trial of the judicial, the legislative, and the administrative. But I guess the leadership understands what it is. They are calling it a wedge between Democrats and Republicans, I am calling it what is right and what is wrong.

We have no business being here. There are families across this country who are losing their Medicare right now because of the policy we set, and they cannot get any more. The doctors are screaming. I am sure a lot of people have heard them. They are screaming to their Congress people saying give our Medicare and our Medicaid back or else we cannot treat these patients. Yet we are going to make one single case in Florida get all the Medicare they want.

My heart goes out to this family. I know this is a very dark season for them. I know justice will prevail and God will have the last answer. But Congress should not have the last answer because it is none of our business. This is called meddling.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding me this time. I want to speak from love and compassion, not just the law, and embrace the strongest pro-family position as we move in this debate.

The Schiavo and Schindler families need our prayers to do for Terry what not a single one of us wishes to imagine, to make a decision on the life of a beloved as they traverse the jagged edge of being.

Terri's family, all of them, love her. She is not alone. But her being belongs not to us but to God and to them. All of us are mere bystanders, the Speaker, ABC News, Jeb Bush, and every single one of us. Only Terri's family has walked the profound journey of accompaniment with her for the last 15 years, and it has been a long suffering one.

Of one thing I am certain. This decision on Terri does not belong in this Congress. In fact, it does not even belong in the courts. It lies with the family, those closest to her, even when that family is divided, bitter, exhausted, and unable to reconcile.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, our colleagues have spent this evening reiterating factually inaccurate information, and I want to make sure we clear it up.

The independent guardian ad litem appointed to represent Terri Schiavo has said in his report that, despite the facts cited by my colleagues on the other side of the aisle who have said that Terri felt pain and laughs and cries, that that is factually inaccurate; that her cerebral cortex has been liquefied, and that is the area of the brain that responds to emotion and reason. So that is impossible what they have detailed here tonight.

Additionally, they talk about six neurologists and eight physicians that have said that she is not in a persistent vegetative state. Also factually inaccurate. Those physicians to which they refer have only viewed Terri via videotape. The five court-appointed physicians that have examined Terri, two appointed on Michael Schiavo's side, two on the Schindlers' side, and one court-appointed physician, who have all examined her, the board certified neurologists who had scientifically-based academically-researched testimony, their testimony was deemed to be clear and convincing by the court that she was and is in a persistent vegetative state. The other physicians' testimony was discounted as anecdotal only.

In addition to that, I want to just close with the commentary from the guardian ad litem. He spent 20 of 30 days with her. He put his face up close to hers and tried to make eye contact, pleading desperately, trying to will her into giving him any kind of sign. He said, I would beg her, please, Terri, help me. You want to believe there is some connection. You hope she is going to sit up in bed and say, ''Hey, I'm really here, but don't tell anybody.'' Or, ''I'm really here, tell everybody.''

But Schiavo never made eye contact. When Wolfson visited her when her parents were there, she never made eye contact with them either, he said. And for all of Wolfson's pleadings and coaxings, he never got what he most wanted: A sign. He said, I felt like there was something distinctive about whoever Terri is, but I was not clear it was there, inside the vessel.

During those 30 days, Wolfson was plagued by nightmares. He concluded that the medical and legal evidence behind Schiavo's diagnosis of being in a persistent vegetative state was credible, but he still felt that for all their expertise, those medical experts would never truly know where Schiavo was.

He was dismayed to learn Friday that Barbara Weller, an attorney for the Schindlers, claimed Schiavo tried to speak. He said, Terri does not speak. To claim otherwise reduces her to a fiction.''

Mr. FRANK of Massachusetts. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland (Mr. HOYER), our whip, the ranking member on our side who is here tonight, to close on our side. The minority leader, who is traveling overseas, is unable, obviously, to be here.

Mr. HOYER. Mr. Speaker, this has been an extraordinarily serious debate. It has been in many ways a real debate, with each Member rising and understanding the seriousness of the issues which we consider. On the one hand, we consider the life of one young woman, a young woman struck by tragedy, shared by her family and by her friends and by her country.

One of the striking facts of American life and American culture is the great importance that America puts on the individual: One life, one swallow that God cares for and plans for. We are here as colleagues who have almost to a person experienced the same kind of pain and trauma that the Schiavo family now faces.

The gentlewoman from Ohio correctly stated that Terri is loved by her husband, by her parents, by her brother, by others in her family. Those of us who have been in that place know how difficult it is.

I had not expected, as my colleagues had not expected, to be back in this House to consider this legislation. When we were called back by the Speaker, and the leader and I discussed the circumstances under which the call would come, trying to accommodate Members as best as possible, I did what I presumed many of you did. I referred to the facts that I could find.

On the one hand, my reaction was that I am concerned that we appear to be a Congress that is flexible on the jurisdiction of courts. When we agree with the decisions that courts make, we leave them jurisdiction. When we think they may make a decision that we want, we try to give them additional jurisdiction. But when we disagree with the courts, we have had legislation on this floor in recent months to take from them jurisdiction. If we pursue that course as a country, I suggest to you that we will become a Nation of men and of politicians, not a Nation of laws.

The fact that we are a Nation of laws has distinguished us very greatly from many other nations of the world, and we have held up that distinction as a critically important one. We now have troops arrayed in Iraq to support that principle, of the individual, of freedom, and of law.

So I believe tonight, Mr. Speaker, that every Member will vote on behalf of Terri Schiavo tonight, but they will see their responsibility in that act differently. I believe, Mr. Speaker, they will see it honestly and sincerely, and realizing the duty they have by lifting their hand and swearing an oath to our constitution and to our country.

So, Mr. Speaker, I did, as I said what I suppose many have done, I went to the proceedings that have occurred in the Terri Schiavo case, caused by the absence of a written directive. I have three daughters, Mr. Speaker. They are all adults. They do not live with me now, but I see them regularly and I love them dearly. And since the loss of their mother, we have become even more close. And I heard the gentlewoman from Florida (Ms. GINNY BROWN-WAITE) speak, and as I heard her speak I felt a tear when she referred to Mr. Wolfson, whom I do not know, but whose report I have read.

Mr. Wolfson was asked not by the mother and father, not by the husband, but by the State to try to determine as best he could what the medical evidence led him to conclude. He was not an advocate of the parents or of the husband. He perceived himself correctly as the advocate of Terri Schiavo. His report is a compelling one.

The gentlewoman from Florida (Ms. GINNY BROWN-WAITE) said that she knows Mr. Wolfson, and knows him to be a man of wisdom and deep compassion and with a sense of responsibility. Then she spoke of her own daughter and such a condition, and the discussion she had with her daughter, and I hope many of you heard her say this, that her daughter said to her that if she was in that state she would not want to be left in that state by her mother, and she said, ''No, Mom, if you really loved me, you would let me go to my rest and be with God.''

If I thought the Florida courts had dealt with this in a superficial and uncareful way, perhaps, perhaps I would feel that we ought to interpose our view. But no fair reading of the court's decision at the lower court, no fair reading of the disposition by the District Court of the United States, in which they said in quoting Judge Altobrand of the Supreme Court of Florida, ''Not only has Mrs. Schiavo's case been given due process, but few, if any similar cases, have ever been afforded this heightened level of process.''

This report is approximately 50 pages long that was issued by Mr. Wolfson. I urge my friend, the gentleman from Missouri (Mr. BLUNT) to read this. He said he had not. All of us ought to read it. This case, tragically, is not alone in the circumstances that have occurred. The report says that the Schindler family members stated that even if Theresa's family had been told of her intention, the family members, mom and dad, had been told of her intention to have artificial nutrition withdrawn, they would not do it.

All of us can understand that, hopefully. The wrenching decision that it would be for a parent to take an action which would inevitably lead to the loss of life of their daughter. Throughout this painful and difficult trial, Mr. Wolfson went on, the family acknowledged that Teresa was in a diagnosed persistent vegetative state.

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The report seems to indicate to me that any fair reading of it would say that very careful consideration had been given. I know that there are some doctors among us who have looked at reports and perhaps looked at tapes and concluded, contrary to the doctors who have examined her, that this was not the case.

The court, however, in an evidentiary hearing and after due consideration said clear and convincing evidence at the time of trial supported a determination that Mrs. Schiavo would have chosen in February 2000 to withdraw the life-prolonging procedures, so that it has been concluded by all of the fact finders in the court systems of the United States, in the State of Florida, under the statutes, as the chairman has pointed out, established by the State of Florida to deal with this extraordinarily difficult human issue because, like birth, death will come to us all.

To some of us it will come in a way that will not raise such wrenching questions, but some few of us will individually and with our families have to face this decision; and properly the system should be followed to protect us so that neither a husband nor a mother nor a father nor anybody else can make that decision in a manner that is not fair, that does not have due process and does not protect us as individuals.

In reading the record, Mr. Speaker, I have concluded that the State of Florida in its wisdom provided for that process and accomplished that end. Because of that and because I care about our Federal system and because I care about our Constitution and, yes, because I care not knowing her individually but because I care for her as a child of God, I believe that this legislation should not pass.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman from Maryland's words, but I look at it a little differently. After reading all the records and everything, what I do know is that there is a mother, a father, a brother, and a sister that want Terri Schiavo to live, and they want to take care of her.

I want to thank everybody that has worked on this bill, particularly those in the Senate, the Democrats in the Senate, the Republicans in the Senate. They passed this bill unanimously. I want to thank the Democrats in this House that worked on this bill, the Republicans that worked on this bill. Some have tried to make it a partisan issue.

Mr. Speaker, after 4 days of words, the best of them uttered in prayer, now comes the time for action. I say again, the legal and political issues may be complicated, but the moral ones are not. A young woman in Florida is being dehydrated and starved to death. For 58 long hours, her mouth has been parched and her hunger pangs have been throbbing. If we do not act, she will die of thirst. However helpless, Mr. Speaker, she is alive. She is still one of us. And this cannot stand.

Terri Schiavo has survived her Passion weekend, and she has not been forsaken. No more words, Mr. Speaker. She is waiting. The Members are here. The hour has come.

Mr. Speaker, call the vote.

Mr. VAN HOLLEN. Mr. Speaker, our goal must be to honor the wishes of Theresa Schiavo regarding this difficult end-of-life decision.

We are a nation of laws. That is what distinguishes our country from so many others. In this case, the courts of the State of Florida have thoroughly reviewed the facts of this case and weighed the evidence about what Theresa Schiavo would want. They have concluded that Theresa Schiavo, through her words and deeds before her accident, would not want to be kept artificially alive in a persistent vegetative state.

The Congress should not now substitute its judgment for that of Theresa Schiavo and the Florida courts. Who are we to impose our own personal preferences in this case? We should not be playing doctor, judge, and jury.

Mr. AKIN. Mr. Speaker, today Members of Congress have come from all over the Country, WTA to uphold the most essential right that any of us posses the right to life.

As we stand here today, a woman is dying. She dies not as the result of an underlying disease or illness, but because a judge has decided that her life is not one worth living. This despite evidence that she makes attempts to respond to her parents, cries, follows movement with her eyes. With such evidence and her parents crying out in her defense, how can we not intervene?

As we stand here in Washington, Terri is being starved to death. We refer to the ''removal of feeding tubes,'' but let's talk about what is really happening. Not only has a tube delivering food and water been removed, but her parents have been barred from even putting ice chips on her tongue. Yesterday, advocates were arrested for attempting to bring water to Terri. To bar parents and relatives from offering the most basic of comforts to a dying loved one is not only an egregious overreach of judicial powers it is cruel and morally wrong. I ask, is this about removing a tube or about starving a disabled woman?

Some will argue that this is about Terri's right to die. Yet, Terri has no living will, no Do Not Resuscitate order and her husband's claim that she would not want to be kept alive only surfaced years after she became disabled.

Last week this body passed legislation that would protect all Americans in cases similar to this one, but Senate democrats stood in the way of that valuable measure. Now for nearly sixty hours, Terri has been denied sustenance while Republican leadership in both Houses have negotiated the legislation before us today. Though I regret that certain members of this body and the Senate, stood in the way of passing the legislation. approved last week, I am pleased that we now have an opportunity to vote on this measure.

This bill does not ensure Terri's survival, but it does give her and her parents an opportunity similar to that which we make available to murderers sentenced to death row. Under this legislation Terri's case will be reassessed in a federal court and we expect that she will be fed once again. It is my hope that the federal court will handle this case better than the egregious dereliction of judicial duty exhibited in the Florida Court.

Mr. Speaker, regardless of the motives of those who would remove Terri's link to life, their judgment would violate the most cherished right endowed to all persons: the right to life. We stand today not for political purposes, but consistent with our constitutional duty to sustain that right for every citizen.

Mr. THORNBERRY. Mr. Speaker, many families have had to make incredibly difficult

decisions regarding medical support for their loved ones. As technology continues to advance, there will be even more heart-wrenching decisions ahead, and any of us could be involved in one.

The proper role of the federal government in such decisions is not self-evident to me. Certainly, we should not have Congress debate, case-by-case, what action is or is not appropriate for a particular patient.

Government at some level may have a role to ensure that the patient is not the victim of a spouse or family members who find the patient's medical disability inconvenient. My view is that when in doubt, society should err on the side of life.

I am concerned that in this case most Members of Congress have not had the opportunity for careful study and consideration of the issues raised. It has come before us late, when time is short and the consequences of various steps are unclear.

Here, I will vote for the bill before us. My understanding is that the measure is narrowly drawn and will set no precedent. It essentially provides for another look at the unusual facts of this case without dictating a result.

It is very distressing that anyone would look at these matters from a political viewpoint. Core beliefs about when life begins and ends are far too important for any such calculations. In fact, I hope each citizen will spend time thinking about how our country can best deal with such cases and praying that we get it right.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise this evening in support of S. 686. This legislation would allow either of Terri's parents to bring suit in federal court for the violation of any right under the constitution or laws of the United States relating to "the withholding or withdrawal of food, fluids, or medical treatment necessary to sustain Ms. Schiavo's life.

What we are doing is providing Terri Schiavo the same legal protections that we afford a convicted criminal who has been sentenced to death. A Florida judge has issued an order that will have the effect of ending Ms. Schiavo's life, so the *least* we can do is allow a federal court to review the matter. If we ensure murderers and rapists the benefit of a federal review, we should do it for this helpless woman.

This is a terribly difficult issue for all those involved—not just Ms. Schiavo's parents and siblings, but also her husband. I realize he would prefer Congress stay out of the matter entirely. However, the 14th Amendment states that "no state shall deprive any person of life . . . without due process of law." In this case I believe it is entirely appropriate that we err on the side of caution—all we're doing is seeking a federal review of what has happened in the state courts to ensure that all constitutional rights, all of the basic protections that we afford a criminal, have been afforded to Terri Schiavo as well.

As medical technology continues to improve, we are left with many difficult questions—"right to die issues," therapeutic cloning and stem cell research issues. These are questions I sometimes doubt we as men and women are truly capable of answering. In these cases the only thing we can do is follow the law, and the law provides for the opportunity for federal review in cases where a person will be put to death. Thus, I believe Terri Schiavo too deserves this opportunity.

This entire case hinges on what Terri Schiavo herself would have wanted. I am aware of the cases in Florida state courts and the findings they have reached, both in terms of what they believe Ms. Schiavo would have chosen and the likelihood that new treatments could improve her condition. But in this instance I believe we should be as thorough as possible, which is why I support this legislation.

Ms. HART. Mr. Speaker, I submit this article for the RECORD. This bill must be passed. This Congress is right to stand up for a woman who is incapacitated to some extent yes, but does not require extraordinary measures to live. We must allow a thorough review of her case. The love of her family is so great we should honor it.

[From the Pittsburg Post-Gazette, Mar. 20, 2005]

STARVING FOR THE TRUTH

(By Dennis Roddy)

When Mary Jane Owen thinks of Terri Schiavo, she remembers a day in 1986 and the hospital in Washington. Pneumonia was filling Owen's lungs. Owen cannot walk and is half deaf. At the time she was also blind. The doctor leaned into her good ear and said, "Don't ask for antibiotics. Pneumonia is a friend of the elderly. It's a great way to die."

Without enough breath to shriek, Owen, in her early 60s at the time, had to speak clearly enough to let this doctor know he was fired.

"Get out of my room," she told him. "Get out of my life." Pneumonia might be a great friend to those who want to die. Owen, who took antibiotics, was later cured of her blindness and currently works as a disabled rights advocate in Washington, D.C., wasn't in the mood to chumbuddy with death. Possibly, because she arrived in a wheelchair, doctors assumed she'd prefer to leave on a gurney.

That's why she wonders about Terri Schiavo, whose husband wants her out of not only his life, but her own, too. Described alternately as in a "persistent vegetative state" and "a locked-in" condition, Schiavo, who has lived with brain damage since 1990, either does or does not understand what is going on around her. Her husband, Michael, says she is an empty vessel who would not have wanted to remain present in body only. Her parents and some former caregivers say she reacts to their voices, seems to recognize them. On Friday, a Senate committee, trying to forestall the withdrawal of feeding, subpoenaed her, though unsuccessfully. The action is not as silly as it sounds. At one point, after she presumably became vegetative, Terri Schiavo was taken to a shopping mall.

When it comes to the disabled, or at least those too disabled to advocate for themselves, deliberation about their fates resembles property law. Michael Schiavo, as Terri's husband—who has started a new family with a fiancee—holds the powers of guardianship over his wife. He has persuaded a Florida judge to allow hospital workers to withhold nourishment and allow Terri to die. Judge George Greer has declined a request by the family to allow Terri to be fed and given water orally. That is to say, Terri Schiavo's parents think she can be fed by mouth and the judge in the case declines to find out if this is so. On Friday, Judge Greer reinstated an earlier order and Schiavo's feeding tube was removed.

One former caregiver, Heidi Law, has said under oath that "on three or four occasions I personally fed Terri small mouthfuls of Jell-O, which she was able to swallow and enjoyed immensely."

It is one thing to withdraw a feeding tube; another entirely to withhold that day's meal tray.

That is why debating Terri Schiavo as a right-to-die argument misses the point.

"Would it seem inappropriate at some point to emphasize that people with disabilities feel threatened by the idea that a 'flawed' life can be judicially eliminated?" Owen asked. It only seems inappropriate because the arguments being made about the "right" of the brain dead to die are being framed around a woman whose brain death is far from proven.

The facts are these: Terri Schiavo collapsed in 1990. She has been in hospitals and nursing homes since then. Videotapes depict a young woman who seems to respond to some voice stimuli, but does not communicate. At least three affidavits are on file from former nursing home attendants who insist Terri showed some hope of making progress, but that her husband insisted she be given no rehabilitation.

One nurse, Carla Sauer Iyer, said Terri "spoke on a regular basis, saying such things as 'Mommy' and 'help me.' " Iyer said that when she put a washcloth in Terri's hands to keep her fingers from curling together, "Michael saw it and made me take it out, saying that was therapy."

Michael Schiavo's reticence could well have been an unwillingness to open himself to the cruelties of false hope. Terri's family is convinced he wants rid of her so he can marry his live-in girlfriend and use up the $50,000 or so that remains of a $1 million medical malpractice settlement.

The underlying argument for protecting Terri Schiavo is predicated on the idea that life, at its core, is sacrosanct, something with which we interfere at peril to our own places in the universal order. The problem with Terri's most prominent defenders is that they seem to find it easiest to defend someone who cannot interfere with the debate by expressing her own views. Televangelist D. James Kennedy wants a law passed. Christian Defense Coalition head Patrick Mahoney warns of a "rescue" attempt at the nursing home. Militia extremist Bo Gritz said he is going to Florida to perform a citizens arrest of Michael Schiavo and Judge Greer.

None of them has pledged money to a trust fund to care for Terri Schiavo and, more saliently, the many more just like her. They are in this because of their politics, which appears to be indistinguishable from their theology, which appears to be self-promotional.

Owen worries that the sanctity of life issue misses the point that Terri Schiavo is not vegetative and not a fetus. She falls nowhere into the realm of what medical ethicist James J. Hughes described as "socially dead."

"Most of the people in the disability community certainly are not 'pro-life' in the classical meaning of that, but we sure as hell are against killing people with disabilities," Owen said. "Terri was certainly, I think, rehabilitatable in the early months and years of her travail. How far she can come back now is a question. But I think she should certainly be given a couple months trial before Michael's allowed to kill her."

After 15 years of despair, a few months of hope might tell us something about ourselves.

Mr. NEUGEBAUER. Mr. Speaker, I rise today in strong support of S. 686.

As many before me and many still to come have indicated, this is not an easy situation. If it were, we would not be here at this late hour, on this day. What makes this situation difficult is that there are so many unresolved questions.

What are Terri's wishes? Terri Schiavo never prepared a living will to express definitively what her wishes would be. So we are left with conflicting accounts of what course of action Terri would want her doctors to take.

What has the family decided? Opponents of this legislation say this should be a family issue. I agree. However, we have a family that disagrees on the fate of Terri's life. While her husband wants to end her life, we have a set of parents who are willing to do everything it takes medically, emotionally, and financially to save the life of their child.

We have some doctors saying that Terri will not recover. Yet we also have other neurologists saying that with the proper medical care, there is a chance that she could improve considerably. And let us be clear: Terri is not on life support she is not brain-dead, and no heroic measures are needed to keep her alive, she simply needs the assistance of a feeding tube for food and water.

If we knew beyond a shadow of a doubt the answers to these questions, we would likely not need to be here tonight. However, because these questions remain disputed, the responsible course of action is to err on the side of life.

Some may ask why Congress is getting involved. The answer to that is simple. One of the primary duties of the Federal Government and Members of Congress is to uphold and defend the Constitution and the individual rights it sets forth. So we are acting to allow that every possible legal process has been exhausted to ensure that Terri's federal rights have been properly defended.

One of those federal rights is the right to life. The Fourteenth Amendment establishes that no ''State shall deprive any person of life, liberty, and property, without due process of law.'' Everyday, in cases where the action of the state will result in the death of an individual, that individual is provided the opportunity to have their case heard in both the state and federal court systems. That is all we are asking to be done today.

My thoughts and prayers, as well of those of my constituents in 19th district of Texas, are with Terri and her family during these difficult times.

Mr. BACA. Mr. Speaker, on this Sunday, I have looked into my heart and listened to my God in prayer, and spoken to my pastor and other parishioners in church. My decision this evening is an intensely personal one, in terms of life. As a father, husband, grandfather, and son in law, I have searched my soul about what the family must be going through.

As a Member of Congress, I know it is in our hands to offer what is the ultimate hope for this young woman. We cannot guarantee how the courts will rule, but we must offer all avenues for review and hope. We would ask nothing less for any case involving the rights of a person. We must be compassionate about life, the life of all individuals.

This is a tragic situation, but this young woman is not on life support, she is not on a respirator, she is not terminally ill, and she has been deprived of the physical therapy that might allow her to swallow and eat without a feeding tube. To look at her eyes is to see an individual who seems to be experiencing joy and awareness of others.

As a parent, if she were my daughter, I would want her to live, and give her a chance. She has demonstrated the will and the spirit to live. It is right and just that we have a final set of eyes to review the case. The Constitution gives Congress the right to set the jurisdiction of the courts.

Mr. BOUSTANY. Mr. Speaker, tonight Congress is meeting in a special session to ensure that the most valuable right the Constitution grants us, the right to life, is not violated. Unfortunately, I am unable to appear in person tonight because my flight was delayed by bad weather, but please be assured that I consider the bill before the House, S. 686, to be of the utmost importance.

This debate is about life and the protection of life that the Constitution grants each of us. We are gathered, not as Republicans or Democrats, but as men and women trying to save a woman's life. We must ensure that Terri Schiavo, disabled by illness, is not unfairly deprived of her life. When the courts refuse to hear such a case, Congress must act to protect life.

As a physician, I have been faced with many families in situations similar to that of Terri Schiavo's family. It is a delicate situation, one that pushes the boundaries of ethics, and we must therefore proceed with caution. But fortunately, advances in medical technology have made recovery possible when before it was not possible. I have seen people recover from illnesses to lead fulfilling lives when most thought all hope was lost.

But Terri Schiavo's parents have not lost hope. They believe that their daughter can and will recover. Terri is not brain-dead, nor is she in the process of dying. She has survived for 15 years with very little treatment. Her parents only ask that they be allowed to care for her. How can we deny her parents that possibility?

We are in this situation today because the law is not clear. The federal court has discretion to refuse to hear certain cases, but when it does so at the cost of a disabled woman's life, one who is unable to protect herself, we as Americans must take action. Tonight, I urge Congress to pass S. 686 and ensure a federal court reviews Terri Schiavo's case.

In the coming months, Congress will have to consider these issues again, in a broader context. As medical technology advances, ethical and moral boundaries are inevitably pushed into new territory. I look forward to working with my colleagues to ensure that as we move forward, the sanctity of life is always protected.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the U.S. Constitution, the principle of states' rights, and democracy. This private relief measure, as I asserted last Wednesday, March 16, 2005, while is a flat rejection of a state's right to adjudicate these private matters, is a better vehicle than H.R. 1332 to allow interested parties to have full opportunity to address the dilemma that surrounds the case of Ms. Schiavo while at the same time preserving the right of Congress to fully debate the very important issues that lie beneath the special facts of this case.

Last Wednesday on the House Floor I expressed my reservations about H.R. 1332, the Protection of Incapacitated Persons Act of 2005. I indicated that the scope of H.R. 1332 requires, at the very least, hearings before the committees of jurisdiction. This legislation was introduced a few hours prior to its passage—that is incomprehensible for a public measure.

H.R. 1332 contains operative provisions that would amend the existing law of removal to allow parties to remove to federal court cases that involve the withdrawal of nutrition or hydration from an incapacitated person where the person did not leave a written advance directive as to treatment. That bill, as I suggested on the floor, is the wrong bill to fit the current situation because it does not sweep widely as a public bill should. Rather, it creates legal precedent while bringing relief to a private matter. A recent report by the Congressional Research Service states that ''[a] question does arise, however, whether this bill would have application to situations where an individual is not in a government facility and is not challenging a state law.''

Before legislation of this weight is passed so hastily, all areas of ambiguity or speculation require fixes by way of the committee markup process. First, the provision found in Section 2, page 3, lines 2–3 and 5–7 that limits the consideration of the federal court to federal questions, or whether authorizing the withdrawal of food or fluids or medical treatment to an incapacitated person constitutes ''a deprivation of any right, privilege, or immunity secured by the U.S. Constitution'' should be vetted by members of the House Judiciary Committee for consideration of the implications of limiting federal purview in this fashion.

Second, in Section 2, page 3, line 15, the drafters' reference to a ''born individual'' is ambiguous and merits committee scrutiny. While an ''unborn'' individual certainly cannot conceivably execute a ''written advance directive,'' as found on page 2, line 22, this reference is limiting and again, merits serious scrutiny in order to prevent floods of litigation over the interpretation of this term.

Thirdly, ''significant relationship'' as found on page 3, line 20 can mean virtually anything and simply invites voluminous litigation over semantics that can be clarified in legislative history by way of the proper legislative process—and hearings before committees of jurisdiction.

If the House Majority Leadership had worked with the other body last Thursday to find an agreement as to the private measure that passed, neither Ms. Schiavo nor the parties interested in her case would have endured the stress that surrounded the removal of feeding tubes that occurred on Friday.

My colleague, the Chairman of the House Judiciary Committee, responded to my words on the House Floor last Wednesday that ''[i]f the Private Relief Bill were introduced or came over from the [other body], Terri Schiavo would be dead before we could consider it.'' To the contrary, neither Ms. Schiavo is dead nor is the ability of the House to consider the private measure dead. The measure passed in the other body, S. 653, a private bill, is more appropriate, and the bill that we now consider is nearly identical to it. The only difference between the two bills is that the final House version contains a ''sense of Congress'' provision as to the need to ''consider policies regarding the status and legal rights of incapacitated individuals who are incapable of making decisions concerning the provision, withholding, or withdrawal of food, fluids, or medical care.'' The ''sense of Congress'' provision rather than an entire stand-alone bill, as suggested by the distinguished Chairman, is a more prudent way of stressing the need to consider these issues.

While I believe that the Private Bill is a better vehicle than the public bill in controversial

matters, I believe that this bill threatens the sanctity of democracy and the concept of the separation of powers. Eighteen state judges have already adjudicated this matter, so passage of this bill would amount to an appeal granted by the legislative branch of government—in clear contravention of the U.S. Constitution. The will of 536 elected officials should not affect the final disposition of a personal family matter. What is most important in this situation is the wish of Terri Schiavo, and Congress cannot properly dispense of this question without being politically motivated. As is the case with many measures that the Republican Congress has slid past this body that purport to expand rights, this measure will contract the States' rights to be the final arbiter in private matters.

For the reasons stated above, Mr. Speaker, I reject this legislation.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 686.

The question was taken.

The SPEAKER. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 203, nays 58, not voting 174, as follows:

[Roll No. 90]

YEAS—203

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Blackburn
Blunt
Boehner
Bonner
Boren
Brady (PA)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chandler
Chocola
Cole (OK)
Conaway
Costello
Cox
Cramer
Crenshaw
Cuellar
Culberson
Cummings
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Etheridge
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Garrett (NJ)
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Graves
Green (WI)
Green, Al
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Higgins
Hobson
Holden
Hulshof
Inglis (SC)
Istook
Jackson (IL)
Jenkins
Jindal
Johnson (IL)
Jones (NC)
Kanjorski
Kelly
Kennedy (MN)
Kildee
King (IA)
Kingston
Kirk
Kline
Kuhl (NY)
LaHood
Langevin
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McHenry
McHugh
McIntyre
McNulty
Meek (FL)
Melancon
Michaud
Miller (FL)
Miller (MI)
Mollohan
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nussle
Oberstar
Otter
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Portman
Price (GA)
Pryce (OH)
Putnam
Ramstad
Regula
Rehberg
Renzi
Rogers (AL)
Ros-Lehtinen
Ross
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sherwood
Simpson
Skelton
Smith (NJ)
Smith (TX)
Snyder
Sodrel
Souder
Stupak
Sullivan
Tancredo
Tanner
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Westmoreland
Whitfield
Wilson (SC)
Wynn

NAYS—58

Baldwin
Berkley
Bishop (NY)
Brown-Waite, Ginny
Butterfield
Capuano
Cardin
Carnahan
Carson
Castle
Clay
Cleaver
Clyburn
Conyers
Davis (FL)
Dent
Dicks
Doyle
Evans
Frank (MA)
Gutierrez
Hastings (FL)
Holt
Hoyer
Israel
Kaptur
Kennedy (RI)
Larson (CT)
Levin
Lewis (GA)
Matsui
McDermott
McKinney
Miller (NC)
Moran (VA)
Murtha
Nadler
Olver
Pallone
Pascrell
Payne
Price (NC)
Reichert
Rothman
Schiff
Schwartz (PA)
Scott (VA)
Shays
Spratt
Strickland
Thompson (MS)
Van Hollen
Visclosky
Wasserman Schultz
Watt
Weiner
Wexler
Wu

NOT VOTING—174

Abercrombie
Ackerman
Allen
Andrews
Barton (TX)
Becerra
Berman
Bishop (UT)
Blumenauer
Boehlert
Bonilla
Bono
Boozman
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Capps
Cardoza
Case
Coble
Cooper
Costa
Crowley
Cubin
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Doggett
Emanuel
Eshoo
Everett
Farr
Filner
Flake
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gonzalez
Gordon
Granger
Green, Gene
Grijalva
Gutknecht
Harman
Herger
Hinchey
Hinojosa
Hoekstra
Honda
Hooley
Hostettler
Hunter
Hyde
Inslee
Issa
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Keller
Kilpatrick (MI)
Kind
King (NY)
Knollenberg
Kolbe
Kucinich
Lantos
Larsen (WA)
LaTourette
Lee
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Maloney
Markey
McCarthy
McCollum (MN)
McCrery
McGovern
McKeon
McMorris
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Napolitano
Neal (MA)
Norwood
Nunes
Obey
Ortiz
Osborne
Owens
Oxley
Pastor
Paul
Pelosi
Peterson (MN)
Petri
Pombo
Radanovich
Rahall
Rangel
Reyes
Reynolds
Rogers (KY)
Rogers (MI)
Rohrabacher
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Sessions
Shadegg
Shaw
Sherman
Shimkus
Shuster
Simmons
Slaughter
Smith (WA)
Solis
Stark
Stearns
Sweeney
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Tierney
Towns
Udall (CO)
Udall (NM)
Velázquez
Walden (OR)
Waters
Watson
Waxman
Weller
Wicker
Wilson (NM)
Wolf
Woolsey
Young (AK)
Young (FL)

□ 0045

So (two thirds voting in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BRADY of Texas. Mr. Speaker, on rollcall No. 90, my flight from Texas brought me to the Capitol one minute after the vote was closed. I intended to vote "yes."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 90, on S. 686, I did not attend in protest of the politicization of a profound medical and family tragedy. Had I been present, I would have voted "nay."

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–27) on the resolution (H. Res. 181) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 686, FOR THE RELIEF OF THE PARENTS OF THERESA MARIE SCHIAVO

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109–28) on the resolution (H. Res. 182) providing for consideration of the Senate bill (S. 686) for the relief of the parents of Theresa Marie Schiavo, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE TWO HOUSES

The SPEAKER laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 23) providing for a conditional adjournment or recess of the Senate, and a conditional adjournment of the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 23

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Sunday, March 20, 2005, through Sunday, April 3, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 4, 2005, or until such other time as may be specified by the Majority Leader or his designee