SENATE—*Wednesday, March 8, 1995*

(Legislative day of Monday, March 6, 1995)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today we have a guest Chaplain, Dr. Neal T. Jones, pastor of Columbia Baptist Church of Falls Church, VA.

PRAYER

The guest Chaplain, the Reverend Dr. Neal T. Jones, Columbia Baptist Church, Falls Church, VA, offered the following prayer:

Let us pray:

Our Father in Heaven, we thank You that history is a human record of which You are the superintendent. We are the infinitesimal creatures of a few historical moments. We thank You for endowing these temporal moments with eternal significance. We, therefore, ask for wisdom and understanding of history in the ordering of our times.

By Your wisdom, transport us to that eternal expanse before the beginning. By Your wisdom, take us to the other side of the end. By Your wisdom, take us to the heart of reality where time and eternity merge. Finally, by Your wisdom, wrap us in the sufficiency of Your knowledge and love.

By grace, we promise to fill our lives with more than the momentary and more of the eternal—in order to praise the One who is everything and benefit our constituents in time.

In Jesus' name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader, the Senator from Mississippi [Mr. LOTT], is recognized.

SCHEDULE

Mr. LOTT. Thank you, Mr. President. This morning, the Senate will resume consideration of H.R. 889, the supplemental appropriations bill. Pending is the amendment offered last night by Senator HELMS regarding Cuba. Rollcall votes are expected throughout today's session, and it is the hope of the majority leader to complete action on the supplemental appropriations bill today.

I understand perhaps the Chair has some pending announcements. I yield the floor.

APPOINTMENT BY THE MAJORITY AND MINORITY LEADERS

The PRESIDING OFFICER (Mr. INHOFE). On behalf of the majority and minority leaders, pursuant to Public Law 102-166, the Chair appoints the Senator from Maine [Ms. SNOWE] as a member of the Glass Ceiling Commission, vice the Senator from Georgia [Mr. COVERDELL], resigned.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under a previous order the leadership time is reserved.

THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 889, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness for the Department of Defense for the fiscal year ending September 30, 1995 and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Helms (modified) amendment No. 326 (to committee amendment beginning on page 1, line 3), to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that Barbara Jean Scherb, a member of my staff, be given the privileges of the floor during consideration of this legislation

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that I proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELCOME REVEREND JONES

Mr. LOTT. Mr. President, I know we are ready to go momentarily to H.R. 889, the supplemental appropriations bill. I do expect the committee members to be here shortly so we can proceed.

In the interim, I would like to take a moment, Mr. President, to welcome the distinguished guest Chaplain to the Senate today, Dr. Neal Jones. I truly believe that some of the most meaningful lessons that could ever have been learned on the floor of the U.S. Senate have come from our Chaplains.

I also always remember the prayers of Peter Marshall, when he served as the Chaplain of the Senate, and his prayers were actually put in book form. I have one of those. Not many of them are around any more. They were very meaningful, and I am sure they sustained the Senators in the days that they were delivered as prayers in the Senate.

I know Dr. Neal Jones to be the same type of man. He is pastor of Columbia Baptist Church. I have known him in his role there at that very fine church for I guess close to 20 years. He has meant a great deal to this Senator personally. I just wanted to acknowledge the fine work he has done at Columbia Baptist Church and the work he has done, and it extends down to Texas.

It extends, as a matter of fact, in the international community. As a member of Columbia Baptist Church, I remember many occasions when Dr. Jones had the congregation and the church family there to reach out to international members of the Washington area community, members of the ambassadorial corps, and staff members from our embassies. They were always wonderful events, dinners and lunches, where we welcomed representatives from countries all over the world to Columbia Baptist Church.

I also would note that both of my children were baptized along with my wife by Dr. Neal Jones at Columbia Baptist Church. I really appreciate the fine work he does. I have been enjoying and appreciating his prayers this week and I look forward to hearing more of them. He is a perfect example of why the Senate has always had a Chaplain. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FALLOUT FROM BALANCED BUDGET AMENDMENT

Mr. SIMON. Mr. President, I would like to make an observation or two. Sometimes we do things in the U.S.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Senate that no one pays much attention to around the world. In the 4 days since we have turned down the balanced budget amendment, we have seen a precipitous fall in the dollar.

I heard on the radio as I came in this morning, and at a breakfast meeting where I heard the distinguished presiding officer speak, I heard a reference to the international markets being concerned about the action and our failure to face up to our deficit problems.

The Chicago Tribune, yesterday, front page subhead "Dollar's Role as the Top Currency of International Trade Is Threatened." And I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE WILL THE BUCK STOP?

(By Ronald E. Yates)

THE DOWNSIDE

Americans face higher prices for many imports and foreign trips, and the dollar's role as the top currency of international trade is threatened.

THE UPSIDE

A cheaper dollar makes American exports more competitive abroad, helping U.S. companies that sell overseas and combating trade imbalances.

A LOSING BATTLE WITH MARK, YEN

With the dollar continuing its free fall in currency markets around the world Monday, questions furrowed brows from London to Tokyo:

Does the buck stop here? Or will it fall further? And if it does fall further, what will the impact be?

The answers depend on who you are and what your agenda is.

If you are an American consumer thinking about buying a new Japanese or German car, the weaker dollar means you'll pay more because it takes more dollars to buy the vehicle. It's the same thing for those who are planning a trip to Europe or Asia. Hotels, meals and other costs associated with travel will cost more for those traveling with dollars.

On the other hand, if you are Federal Reserve Board Chairman Alan Greenspan, you aren't too concerned about the plummeting greenback because a weaker dollar helps drive domestic economic growth. How? A devalued dollar makes U.S. goods cheaper and more competitive overseas.

But if you are Japanese Finance Minister Masayoshi Takemura, the idea of the dollar weakening and the yen strengthening has no appeal.

At one point Monday, the Japanese yen was trading at a new post World War II high of 92.80 against the wobbly dollar. Takemura and the other leaders of the Japanese economy hate news like that.

Why? Because a strong yen makes Japanese products expensive in overseas markets, thereby decreasing their competitiveness. That, in turn, slows the Japanese economy, which is still struggling to come out of a 4-year-old recession.

While neither Greenspan nor Federal Reserve Board member Susan Phillips have said outright that they support a weaker dollar, that's the way it's being read around the world.

"Certainly the dollar is something we look at," Phillips told reporters Sunday. "But domestic considerations are in many ways primary [to a falling dollar]."

Traders and analysts were in general agreement Monday about what that statement meant.

"Not only doesn't the buck stop here, but the U.S. government apparently doesn't care if the dollar falls further," said currency trader Manfried Holliger in Zurich. "It's a strange attitude for a government to take about its currency."

While many currency nationalists might deplore the government's apparent lack of concern over the falling dollar, there is another, more practical reason to be concerned about the currency's plunge, some economists say. If the dollar continues to nose dive, its 50-year reign as the currency of choice for global business transactions may be over.

That's a much more serious matter than old-fashioned currency chauvinism, say some analysts. Worldwide confidence in the U.S. economy is already at one of its lowest points in recent memory.

The U.S. is already the world's biggest debtor nation, with liabilities at the end of 1994 of some $750 billion. Foreign economists say that Congress' refusal last week to pass a constitutional amendment that would have required a balance budget by 2002 showed that Washington is simply not serious about putting its economic house in order.

"The German mark is already replacing the dollar as the currency of choice in Europe, and it may do so in Asia, too," Holliger said. "That will undermine international faith in the U.S. economy and its government even further. I can't understand what benefit U.S. leaders see in allowing the dollar to fall even more than it already has."

From the perspective of Greenspan and the Federal Reserve, who, some economists say, continue to be obsessed by the fear of inflation, a weaker dollar may force another rise in interest rates.

The Fed already has raised interest rates seven times in 13 months. The fear in Washington is that when a weaker dollar spurs economic growth by making American goods more attractive in foreign markets, it will rekindle inflation.

"The Fed does care about the dollar's value," said Susan Hering, an economist with Salomon Brothers in New York. "A weaker dollar will intensify the Fed's concerns about inflation and make it more prone to raise [interest] rates."

Not all analysts agreed with that assessment, however. "We see no chance the Federal Reserve will hike U.S. short-term interest rates to defend the dollar, because they have never done so before," said Carl B. Weinberg, chief economist at High Frequency Economics in New York.

The dollar fell to 92.80 yen in late trading Monday in New York, down from a Friday record low of 94.05. It also declined against the German mark, dropping to 1.4042 marks, the lowest level in more than two years and down from Friday's close in New York of 1.4250 marks. The dollar was down against other major currencies as well.

The dollar's low against the mark is 1.387, reached in September 1992. In London, the dollar was quoted at 1.4013 marks, down from 1.4355 Friday.

In overnight trading in Asia, the dollar sank as low as 92.63 yen in Tokyo, the lowest it has been since modern exchange rates were established after World War II.

Against other currencies, the dollar sank to 4.9580 French francs from 5.0270; to 1.1735 Swiss francs from 1.2010; and to 1,661.00 Italian lire from 1,672.50.

"The dollar is being flawed by a huge U.S. current-account deficit," said Weinberg, referring to the trade measure that includes goods as well as services. He added that central-bank intervention in propping up the dollar last week failed to do anything other than create profit-taking opportunities for speculators, who continued to dump the currency by the billions.

"This means [central] banks either have to give up their support for the dollar—which is unlikely—or inflict more pain on speculators this week by propping it up with more dollar purchases," Weinberg said.

A poll of several analysts revealed that many feel the dollar will fall to 1.35 marks and 90 yen before beginning a slow climb back.

"Any return to its old glory days as the leading currency in the world will be slow," Holliger said. "It doesn't take much for a government to destroy the confidence people have in a currency, but it takes an awful lot of work to revive that confidence. That's where the dollar is today."

Mr. SIMON. Mr. President, this article mentions a currency trader that is apparently very prominent. I have to say I am not that knowledgeable in this field. A gentleman from Zurich, Switzerland, Manfried Holliger, says:

Foreign economists say that Congress' refusal last week to pass a constitutional amendment that would have required a balanced budget by 2002 showed that Washington is simply not serious about putting its economic House in order.

The German mark is already replacing the dollar as the currency of choice in Europe, and it may do so in Asia, too [Holliger said].

That will undermine international faith in the U.S. economy and its government even further. I cannot understand what benefit U.S. leaders see in allowing the dollar to fall even more than it already has.

When I served overseas in the Army—and I have to say that was a long time ago, 1951 to 1953—for $1, you got 4 German marks. That has changed dramatically.

Every once in a while, we do things here that are of monumental importance to the Nation. What happened last week is of such import. If we want to stop the slide of the dollar, the U.S. Senate can do it very, very quickly by adopting the balanced budget amendment.

I say to my 34 colleagues who voted against it, any one of you can do a great favor for this Government and for the future of world stability by changing that vote. I hope before too long we will have a changed vote. The news on the dollar should be a matter of concern to all of us.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I did not know my friend was going to speak on the subject of the falling dollar, but I fit right in with his discussion. I ask unanimous consent that I have up to 7 minutes as in morning business to discuss this issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

FALLING DOLLAR: IMPORTANT IMPACT ON AMERICAN PEOPLE

Mr. DOMENICI. Mr. President, first of all, let me suggest that the falling dollar seems like something out in the sky that does not have an impact on the American people. Let me suggest it has a very, very important impact on the American people.

I said to my staff this morning, "Let's not talk about Wall Street and the markets. Let's talk about a couple in their home, living in an apartment house with two children and are thinking about buying a new house." That is the kind of American who is going to get hurt, or the American who is thinking about buying a new car or a new refrigerator and is going to have to borrow money, because essentially as the dollar lowers in value and America's appetite for borrowed money grows because we do not have a balanced budget and we do not have any game plan to get our deficit under control, what happens is that those foreigners who invest in American debt will insist on higher interest rates. Because the dollar is worth less money, they want higher interest rates.

So what are we already seeing as a result of the falling price of the dollar? We are seeing higher interest rates, higher long-term interest rates. So I want to discuss for a few minutes with the U.S. Senate and those interested in this about things we ought to be doing that we are not doing to see if we cannot stop this and put America's dollar and America's economy back, from the standpoint of the world, in the proper light, in the light it should be and should have.

The currency markets might even be said to be in turmoil. Yesterday's news on that is not a disconnected Wall Street event. It is a critical comment on the U.S. economy and on the budget policy of this Nation, as I see it. Leadership in this country requires more than just saying a strong dollar is in our interest. Who would not say that today? And waiting around to see what happens is not an appropriate response.

It is backing that up with responsible fiscal policy that does not take a walk on the deficit. Half a year ago, I spoke to the Senate the last time America's currency was falling precipitously to new lows against foreign currencies. The yen per dollar exchange rate was flirting then with a historic floor of 100.

At that time, I warned that the dollar slide was a global vote of no confidence on the direction of U.S. policy, both foreign and domestic, and, in particular, fiscal policy. Now we are seeing the dollar hitting new record lows every day since the Senate's failure to pass the balanced budget amendment to the Constitution.

On Monday, our currency declined to a record low of 93 yen per dollar, down 4.5 percent. In a week, it fell a similar amount against the German mark and entered a record low territory against that currency as well.

Yesterday, the dollar slide accelerated. By afternoon, the dollar had fallen sizably further, 2 percent, since the previous day to a record of 90 yen to the dollar, setting a fourth consecutive record low in as many days. Against the mark, the dollar fell to 137, a new record low against that currency as well. As a result, long-term interest rates were pushed higher and stock values declined, just what I said in my opening remarks. Interest rates are pushed up.

This is not the work of the Federal Reserve Board, which has been adjusting short-term rates. Clearly, this is not that. This is the world currency market responding.

These are not random disconnected events. Here is how we got to this place:

First, Federal deficits are going up, not down, I say to my good friend from Illinois. Last July, the projected deficits were said to be $173 billion for 1996 and much was made of that decline.

In February, without any changes in policy, the administration upped its estimate to $196 billion and took a walk on controlling long-term deficits—that is the President's budget—took a walk on having any impact on long-term deficits, thus, avoiding involvement by our country in a meaningful way in getting long-term interest rates under control.

Second, and I regret to state this but it is absolutely true, we must borrow even more, I say to Senator SIMON, even more from abroad, rather than less. Higher Federal deficits and low national savings rates mean America's borrowing from abroad will have to grow tremendously in order to fund America's investment needs.

Over the last four quarters, America has increased its net borrowing from abroad by 50 percent, from $100 billion in 1993 to $150 billion in 1994. Last month, the administration projected borrowing needs from abroad to rise to $170 billion by 1996.

The administration's shaky leadership with reference to the peso also contributed somewhat to the crisis and is part of a connected web of American activities that have shaken the market. I believe that event on the Mexican peso contributed to some lack of confidence in the dollar and our abilities to get involved in an appropriate way.

Then last Thursday, the U.S. Senate sent a message to the world capital markets that the U.S. Government did not have the resolve to deal with these damaging trends. The balanced budget amendment failed in the Senate by one vote after passing overwhelmingly in the House. The dollar now stands 7 percent lower against the yen and 6 percent lower against the mark relative to 1 week ago.

The current 7.6-percent interest rate on 30-year Treasury bonds is 20 basis points higher than a week ago, and the Federal Reserve Board has done nothing to adjust interest rates, so it is something else causing it because they have not changed short-term interest rates, which many think has no impact on long-term rates anyway.

A weak dollar and higher interest rates is prima facie evidence that foreign investors lack confidence in dollar investments. Foreign central banks time and time again have had to pick up the slack through currency interventions, as they attempted to do last Friday, apparently without success.

What should we be doing? There are many factors that can affect the dollar. They include strengthening economies in Germany and elsewhere, Japan's earthquake, and the peso crisis, but there will always be events like that occurring outside our immediate control.

The question is, what are we doing to guide America's future in this sea of uncertainty? If we do not provide a firm currency, obviously our economic goals are put in jeopardy. That does not mean relying on the Federal Reserve Board to increase rates enough to entice foreign lenders to hold American-denominated securities, because obviously there are two sides to that coin. When you do that, you hurt America, although you might help the dollar overseas. When it comes to changing interest rates, the U.S. Federal Reserve Board should always place domestic interests first. A U.S. recession helps no one.

The only way to strengthen America's rate of return is to strengthen America's economy by reducing long-term deficits, improving our savings and investment climate, and getting the Government out of the way of workers and business. All of these are on the agenda for this year and next year, right on the table. Allowing confidence in the stability of U.S. currency to significantly erode is not just unfortunate, it reflects misguided and, I believe, irresponsible Government policies.

This is a very simple graph, easy to understand. It talks about the U.S. dollar and its decline to new lows. The green one is its decline against the yen. The red one is its decline against the other major currency, the mark. This is all in the period of time, I say to my friend from Illinois, from April 1, 1994, to March 7; that is yesterday. It is rather significant, not something that is esoteric and outside of impacting our people. It is very, very important to average Americans and to our continued success as a viable economy.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

A BALANCED BUDGET

Mr. EXON. Mr. President, I have been listening with interest to the remarks by the chairman of the Budget Committee, the distinguished Senator from New Mexico, who has served so well and so long here. I know the people back in his home State recognize and realize that New Mexico is well served here with my great friend and colleague.

I want to simply add my voice of concern, as I think has been so well articulated by himself, and I think before him by my friend and colleague from the State of Illinois, who has been with us in trying to focus attention on the dire consequences of the United States of America continuing its course of reckless spending.

I just cite a statistic or two that I think have been said so many times they may be old hat, but I am still not sure are fully understood.

The national debt is the accumulation, year after year after year, of budget deficits. Put another way, that means the Government, year after year after year, is spending more than it takes in. Then, whether that is in millions or billions, it is shifted over at the end of each fiscal year to the national debt. But in 1980, the national debt was below $1 trillion, the accumulation of all the deficits since this Nation started over 200 years ago. From 1980 until 1995, that debt has gone up about five times, from under $1 trillion to $4.8 trillion as of now. And everyone in this body who understands the budget knows it is going to go up over $5 trillion sometime in this calendar year. Then it is going to go on up from there, because I have not seen a single projection yet by anybody, Democrat, Republican, independent, or any of the think tanks, that does not show continual, as far as we can see into the future, year after year after year, including up to the magic year 2002 that we had outlined in the constitutional amendment to balance the budget—it is going to go up each year. That is another way of saying—with that kind of accumulation, it is an understatement—that the debt will be at least $6 trillion by the year 2000, which is another shattering statement. It may be part of the reason for the decline of the dollar and the concern for that the chairman of the Budget Committee has just outlined. I think it is well we understand that.

Having said that, there are many complicating factors in play right now. I am not an isolationist, either in military policy or in economic policy, but the more and more we internationalize the United States of America's economy—the more and more we talk about free trade, the more and more NAFTA's that we have, the more and more GATT's that we have—that is continually putting the economy of the United States of America in hands that are beyond our borders, so people in foreign countries have more and more to do with whether or not the economy of the United States of America is a sound one or a fragile one.

The Senator from New Mexico made quite a point that the earlier estimate by the Clinton administration for the budget deficit at the end of this year was about $172 billion and the chairman of the Budget Committee further said that has now been revised upward from $172 billion to $197 billion or $198 billion. Of course, the basic reason for that, among other things, was partially a shortfall in the amount of money coming into the Treasury, but primarily it was due to the Federal Reserve Board raising interest rates, so that hurt Americans. But it also hurts the taxpayers in America because they have to pay more interest, a higher interest rate on the national debt. So not only is the national debt continuing to rise from under $1 trillion in 1980 to $4.8 trillion now, going up over $6 trillion before we can have any hopes of beginning to get it under control through some mechanism, but at the same time the interest that the taxpayers pay on that is going up dramatically for two reasons. No. 1, the debt keeps going higher and, No. 2, interest rates keep inching up.

Now, we are seemingly getting ourselves into a situation that, after NAFTA and after GATT and after the bailout of the Mexican economy that some of us understood NAFTA was going to take care of—that was to take care of everything. That would smooth things out between those who live north and south of the border, which it obviously has not. But after all those concerns, we are still back to a situation where, among the other concerns of the budget, the fastest-growing, percentagewise, portion of the budget today is not national defense, it is not welfare, it is not Social Security benefits, it is not Medicare and Medicaid; the fastest growing percentage increase in the national debt is the interest, which is now approaching $300 billion a year.

Talk about the foreigners pulling their money out of the United States of America; that is the good news/bad news situation once again. The facts of the matter are that foreign investors in the United States, those buying T-bills in the United States of America, are now receiving somewhere between $50 and $60 billion a year interest that the American taxpayers are paying. That is what they get for buying our T-bills.

Another alarming thing, consider that about 25 percent of our debt, the excesses that we continue to spend, is being handled by foreigners. What kind of shape is the United States of America in today? What more reason do we need for some discipline to get our expenditures in line with our income on some kind of a reasonable, enforceable glidepath to a balanced budget?

What more reason do we need than the fact that now we are becoming nervous because of the collapse of the dollar? The foreign investors in the United States may be pulling their money out of the United States of America. That could increase our interest rates. I think the sum of this whole thing is that the United States of America finds itself in an additionally perilous situation today where actions of foreigners, foreign entities, could cause a major recession in the United States of America. I am not sure, if we could balance the budget tomorrow, it would stop that, but it would certainly be a step in the right direction.

Let me conclude, though, Mr. President, by saying let us not be pointing fingers at the President of the United States on this. I do not agree with the connotation made by the Senator from New Mexico with regard to the fact that he said the President of the United States had walked away from the deficit problem.

Mr. President, I submit the record shows that clearly is not correct. The President of the United States and the Democrats in 1993 passed, for the first time, the only significant decrease in the annual deficit that we have ever seen. We took a lot of heat for that. Whether you agree with everything that President Clinton does or whether you disagree with that, President Clinton is the first President since Harry Truman to establish a policy that has had a downward trend in the deficit for 3 consecutive years.

No, he has not licked the problem. There is more to do. And I, too, criticize the President's budget this year. Not only did the President not attack the deficit as I had hoped and wished that he would, but he also fell into line with the Contract With America that is supported by the Republicans on the House side and maybe some of the Republicans in the Senate to have a tax cut at a time we are screaming that we have to balance our budget.

You cannot have it both ways. Anyone who is out there preaching a tax cut today, if they have any basic understanding of the budget of the United States of America, is either dead wrong or they are trying to mislead the people of the United States of America.

So I simply say I am pleased that my colleague from New Mexico has outlined a very serious problem, another problem, something else that we had not anticipated that could have some rather dire circumstances on the United States of America. While I say I think it is important we press ahead even without the constitutional amendment to balance the budget, which I was for and strongly supported, the world has not come to an end because that did not pass, and we still

have the responsibility to work as best we can on a nonpartisan basis to move ahead with balancing the budget by the year 2002 or as soon thereafter as possible given the new realities of the situation.

SENATE COMITY

Mr. President, I wish to make some brief remarks on another subject that I think ties in with the reason that this Senate of ours gets itself tied up from time to time in gridlock. The events following the failure by one vote in this body last week to pass the constitutional amendment are something on which I wish to make a few remarks.

I appeal to all Members of this body, regardless of which side of the aisle they sit on and what their political affiliation is, to begin to recognize the lack of comity, the lack of understanding, the failure of those of us on both sides of this aisle to walk in other people's shoes on the other side of the aisle.

I have been here now for 17 years. I must say, Mr. President, I am very much concerned about the fact that this body is becoming more and more a body of vicious arguments, a body that does not play within its rules somehow that we do not falsely accuse each other, with the teamwork that is necessary in passing many good pieces of legislation; the fact that if someone on the other side of the aisle or someone on our side of the aisle does not go along with a key vote that one of us thinks is absolutely critical, then there are some recriminations taking place.

I need only cite the meeting that I understand from the press is going on today where the Republican majority in this body is meeting to see whether or not they are going to censure one of the most dedicated and talented Members on that side of the aisle, Senator HATFIELD from the State of Oregon. Senator HATFIELD had the unmitigated gall, in the opinion of some, to vote his conviction from that seat the other day and thereby, along with several other Senators that could be mentioned, caused the balanced budget amendment to fail.

Now, I think I have the credentials to talk about that, Mr. President, because I did not agree with Senator HATFIELD's vote. But I will defend to the end his right to vote his convictions. And if we are going to send a message throughout the land directed by the new majority that was elected in both the House and the Senate in the November elections, if that majority is going to be sending out the message that you march in lockstep with the contract, you march in lockstep with whatever we tell you to do or you are out as chairman of a committee or can be otherwise censured, then I think that points up and proves the point I am trying to make today, that this institution is beginning to break down and become a pit of rhetoric, not understanding that each one of us is pledged to do what he or she thinks is best for our State and best for our Nation.

The Democrats sure do not have all the answers. We have proven that. The Republicans do not have the answers either, and I think they are proving that even faster than I thought they could. I simply say it is about time the freshmen Members of this body come into it with a bit of humbleness. Just because they served over in the other body where they could not talk more than 1 minute at a time, time and time again I have seen them come over to this body and languish in their new found freedom of talk, talk, talk, talk, talk.

It does hurt, Mr. President, when Members on this side of the aisle or Members on that side of the aisle by statement, by implication, and by action indicate that we are going to punish our Members when they do not hew the line.

I would only hearken back for a moment, if I might, Mr. President, to that 1993 budget bill that was passed by 50 votes in this body. We had to have the Vice President in the chair to cast the vote to break the tie. Those were all Democratic votes. There were defections from what was the position of the President of the United States, a Democrat. There were defections from what most of the Democrats in this body, including this one, thought was the right thing to do. Some of those defections were some of my closest friends and associates in this body who I served with and considered their actions and their decision at that particular time. While I did not agree with it, there was never a murmur on this side. I have never heard even in Cloakroom talk or out on the street a thought of trying to punish the six over seven Democrats that did not follow the party line. And maybe in the end, Mr. President, that is a basic difference between the Democratic Party and the Republican Party in the United States of America. They choose to try and whip their people into lockstep.

I am proud to say—at least as far as I know—while we hope that there is discipline on this side to a degree when things which are fundamentally important are concerned, I have never heard of the Democrats ever considering censoring someone because they had the courage to vote their conviction.

MARK HATFIELD voted his conviction last week. While I thought it was a wrong vote, I admire him for that conviction. I hope that the cooler heads—and there are many of them on that side of the aisle—will not start on a warpath and not demean the standing and respect that I think this body should have in the public's eye by trying to whip or punish Senator HATFIELD for casting the vote that he thought was right.

Democrats and Republicans, it seems to me, can only expect us—and our constituents can only expect us—to trust our judgment to listen to them, but in the end vote our convictions and our consciences as to what is the right thing for our State and the right thing for our Nation. MARK HATFIELD did that last week.

I again say that I wish he had done otherwise. I wish he would have been the one vote that we needed to pass it. But I felt that I would not be stating my fondness for this institution and what it stands for without coming to the floor in defense of my friend MARK HATFIELD because I am convinced that, while he did what he thought was right, if we ever get to the place in this body where Democrats are going to dictate whether they are in the majority or the minority, the Republicans are going to dictate whether they are in the majority or the minority, how I and every one of the Members of the party vote, then we have destroyed, I think, the deliberative body that I think the people expect from this great institution that we call the U.S. Senate.

Mr. President, I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Florida.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1995

The Senate continued with the consideration of the bill.

AMENDMENT NO. 326, AS MODIFIED

Mr. MACK. Mr. President, is the pending business the Helms amendment?

The PRESIDING OFFICER. That is correct.

Mr. MACK. The Cuban Liberty and Democratic Solidarity Act?

The PRESIDING OFFICER. That is correct.

Mr. MACK. Thank you, Mr. President.

Mr. President, the Cuban Liberty and Democratic Solidarity Act is designed to once and for all bring about the end of the Castro regime in Cuba.

Senator DOLE and Senator HELMS and my colleagues were forced to act quickly to bring this measure to the Senate floor last night because word had seeped out of the Clinton administration that administration officials have recommended that the President move to lift certain sanctions on the Castro regime and hold out a list of steps leading to bilateral talks between the United States and Cuba.

The introduction of this bill in Congress is a message to the President: Just do not do it. Just do not do it.

In fact, people are saying that what has happened is there is a trial balloon that is being floated out there to see how it might sell, how it might fly.

Well, I would suggest that the President of the United States himself ought to pop that balloon. This is not the time to be talking about opening a discussion with Fidel Castro and entering into normal relations.

What possible justification could the administration have for removing even the slightest pressure from the Castro regime? How can anyone argue that the way to end repression in Cuba is to end the regime's isolation when Cuba will not even allow the visit of one man? That one man is an individual by the name of Carl-Johan Groth, the U.N. special rapporteur assigned to investigate Cuba's human rights records.

Let me put that in perspective. The United Nations has assigned an individual as a result of a series of resolutions that were passed in Geneva condemning Fidel Castro and Cuba for its human rights violations. For years they have been trying to get someone into Cuba to investigate these human rights violations and Cuba has denied entrance, access, to Cuba of this U.N. special rapporteur.

Groth, though denied an entry visa, has made a—I am quoting now from an editorial in the Miami Herald of 4 days ago—"harrowing compilation of violations of political and civil rights, arbitrary arrests, intimidation of the opposition and political prisoners kept in woeful conditions."

His report describes the July sinking of a tugboat full of refugees fleeing Cuba. The tug, attacked off the Cuban coast, sank. Most aboard, including men, women, and children drowned.

I think my colleagues will remember that we discussed this issue on the floor of the Senate last year.

Fidel Castro puts his faith in the tirelessness of some policymakers who, not living in the hell Castro has created, search for new avenues for negotiation, dialog, and compromise with a dictator who has outlasted administration after administration. I say to those who want to find those new avenues, when will they ever learn?

I put my faith in the Cuban people who continue to struggle and hope that we here in the United States will not forget them.

On a personal note, I want to build on that last comment. I have the opportunity from time to time to speak with refugees or defectors from Cuba. And one of the questions that I always ask them is, "Should the United States maintain this embargo? Should the United States still attempt to isolate Fidel Castro because some people say there is a hardship that we are creating on the people of Cuba?"

Every single one that I have spoken to says, you cannot back away. You cannot lift that embargo because, if you do, the message you are sending to us is you have abandoned us. And in fact, it is the message that comes with the result of the embargo that is beginning to embolden us that gives us hope that maybe there is an opportunity that we can change things.

So the worst possible thing that we could do would be what is being suggested by those in the administration that now it is time to lift some of the embargo, that now is the time to begin to open a dialog, a terrible, terrible mistake.

I also remind my colleagues that last year—in fact, I believe it was the last day of the last Congress—there was a hearing in the Senate Foreign Relations Committee, a hearing that was designed to deliver the message that now is the time to lift the embargo, open up dialog, move to normalization.

The amazing thing, as I sat there at that hearing and I testified, was that it was the day after President Mandela had addressed a joint session of the Congress of the United States and told us if it had not been for the commitment of the United States, and specifically, he said, the United States Congress, to the isolation of the regime in South Africa, his people and he would not be free. And for the people who supported that to turn around today and say, "Oh, we can't follow the same approach with Cuba and Fidel Castro," makes absolutely, positively no sense.

So as I say, in my opinion, the President of the United States ought to embrace the Cuban Liberty and Democratic Solidarity Act and he ought to pop the balloon that has been floated by those in the administration.

This is not the time for us to weaken our resolve. We need to continue to send that message to the people of Cuba—that we have not forgotten them, that we will not forget them, and that this country is united behind the idea of freedom and democracy returning to that tiny little island south of Florida.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first I want to commend my colleague from Florida, who has perhaps more personal knowledge regarding Cuba and its effect on our country than many of the other Members here in this body. I appreciate his remarks.

I would like to elaborate on the comments that he has made as they relate to certain suggestions from the administration that we should enter into a new era with Cuba, one in which we ease and/or normalize relations.

I would like to read from the Washington Post, March 7. It says:

> President Clinton's foreign policy advisers are recommending he take steps toward easing relations with Cuba by revoking some economic sanctions adopted against the nation in August.
>
> The time has come, some U.S. officials believe, to test whether Castro is willing to make deep economic and political reforms, a senior administration official said.

Mr. President, my colleague from Florida has, I think, made a very good case that indeed this is not the time—not the time—to ease sanctions.

In Fidel Castro, we have a dictator; in Fidel Castro, we have empirical evidence of continued human rights violations, torture, murder, extended imprisonment.

Mr. President, in Fidel Castro, we have an avowed enemy of the United States of America, a man who has proliferated hostility throughout the hemisphere to the country, a man who has made no suggestion to us that, given new resources, they, too, would not be turned against the United States of America, a man whose history is riddled with attacks on this country and whose history, in contemporary terms, has been avowed hostility to the United States.

Mr. President, there has to be some sense of linkage or continuity in the way in which we engage this hemisphere.

If we could just step back for a moment, in very recent terms, we have just imposed the harshest of sanctions possible on a little country in the same region that offered no threat to the United States—Haiti; massive sanctions on the little country of Haiti. Now, Cuba is a threat. We could never argue that Haiti was. But the sanctions were harsh and strict and with effect.

Mr. President, in addition, we had an alleged dictatorship in Haiti, and so we sent an invasion to Haiti. We have landed on Haiti's soil with United States troops and personnel to remove the dictatorship and to impose or reimpose a democracy.

I may be missing something here, but I cannot get the connection with sanctions on Haiti, an invasion in Haiti, the expenditure of millions on preserving a new democracy and, in the same breath, I am reading in the Washington Post that, with Cuba, we should relieve the sanctions and engage in a dialog, as if we had a partner off our shores.

You know, we are the only world power. We are the dominant figure in this hemisphere. There has to be a logic and a connection about the way we communicate to our own hemisphere and the world. There is no logic at this time to follow the suggestions that have been floated by this administration to alleviate the sanctions on Cuba.

Mr. President, I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me join in the remarks of the distinguished Senator from Georgia and the distinguished Senator from Florida, and commend my colleague from North Carolina, Senator HELMS.

I have heard, I do not know where, stated that "The sands of history bleach the bones of countless thousands who, on the eve of victory, hesitated and, having hesitated, died."

Such is the case with Cuba. The sanctions are working.

Now is not the time to get fanciful ideas of world policy and peace on Earth. Now is the time to look at the realities of this particular situation.

If Castro would renounce communism and replace it with perestroika in Cuba, as Gorbachev did in Russia, it would be a different thing. But instead, Castro says, "Oh, no; I have let tourists in, let the farmers sell to keep the Communist system afloat."

Mr. President, I just do not believe in financing the opposition. I almost am tempted to digress on the subject of Mexico, but I will attest to that tomorrow before the distinguished Banking Committee.

Enough on that particular point, Mr. President. I see the distinguished chairman of the Appropriations Committee is ready to move along on this subject.

BUDGET CRISIS

Mr. HOLLINGS. Mr. President, before yielding the floor, I cannot let pass two particular items that occurred here this morning.

One was made by my friend, the distinguished chairman of the Budget Committee. He claimed that the President had "taken a walk" with respect to budgetary matters.

Now, Mr. President, let's set the record straight. In the last 12 years, we have seen the ills of our reckless fiscal policies manifested in exorbitant, extravagant, obsessive budget deficits. But, when Members talk about who it was who "took a walk," certainly it was not President Clinton. He was not even here.

Talk about taking a walk, when the current President came to town and inherited a financial basket case of a nation, it was he who had the courage and willingness—not walking, but working—to put in a $500 billion deficit reduction package that included taxes.

It was not unfair. It was really making things more fair by proposing the cuts and revenues needed to reduce the deficit. As part of that plan, he put in motion a program that is over half complete of reducing 272,000 employees from the Federal work force. When complete, we will have the smallest Federal work force since the Kennedy administration, and for what? To balance the budget, not walk.

Mr. President, I remember to December 18, 1994, when the distinguished Senator from New Mexico and his House counterpart, Congressman KASICH were on "Meet the Press." At that time they were crowing. They were going to have three budgets in January, ready, willing, and able to go with the understanding that we would put the spending cuts in the bank to pay for tax cuts. But we did not get those spending cuts in January. We did not get those spending cuts in February. And March is marching by.

Mr. President, before they talk about the wonderful record that President Clinton made year before last without a single Republican vote in the Senate or the House of Representatives, we should straighten the history about who is walking and who is talking. Where is the budget?

I remember my friend, former Senator Hart from Colorado, wanting to know, "where's the beef?" It's high time we asked, "Where's the budget?" I outlined one in January to show the hard task ahead.

Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 1995 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Nondefense discretionary spending cuts	1996	1997
Space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	0.1
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4

Nondefense discretionary spending cuts	1996	1997
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce export-import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance SCORE, small business interstate and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023

Nondefense discretionary spending cuts	1996	1997
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the United Nations	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.208	0.140
Reduce Coast Guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate coastal zone management	0.03	0.06
Eliminate national marine sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate State weather modification grant	0.002	0.003
Cut weather service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate Public Telecommunications Facilities Program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate national information infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8

Nondefense discretionary spending cuts	1996	1997
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Eliminate chapter 1 20 percent	0.173	1.16
Reduce special education 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate Agricultural Research Service	0.546	0.656
Reduce WIC 50 percent	1.579	1.735
Eliminate TEFAP:		
Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce cooperative State research service 20 percent	0.044	0.070
Reduce Animal Plant Health Inspection Service 10 percent	0.036	0.044
Reduce food safety inspection service 10 percent	0.047	0.052
Total	36.942	58.407

Mr. HOLLINGS. Mr. President, when Members talk of taking walks and waving white flags, what they are really angry about is that a large part of their budget plan has disappeared. I will ask unanimous consent at this time that the GOP alternative deficit reduction and tax relief plan of the year before last be included in the RECORD.

There being no objection, the plan was ordered to be printed in the RECORD, as follows:

GOP ALTERNATIVE: DEFICIT REDUCTION AND TAX RELIEF—SLASHING THE DEFICIT, CUTTING MIDDLE CLASS TAXES

The Republican alternative budget will reduce the deficit $318 billion over the next five years—$287 billion in policy savings and $31 billion from interest savings. This is $322 billion more in deficit reduction than the President proposes and $303 billion more in deficit reduction than the House-passed resolution contains.

Moreover, the GOP alternative budget helps President Clinton achieve two of his most important campaign promises—to cut the deficit in half in four years and provide a middle-class tax cut. The GOP plan:

Reduces the deficit to $99 billion in 1999. This is $106 billion less than the 1999 deficit projected under the Clinton budget.

Even under this budget federal spending will continue to grow.

Total spending would increase from $1.48 trillion in FY 1995 to more than $1.7 trillion in FY 1999.

Medicare would grow by 7.8-percent a year rather than the projected 10.6-percent. Medicaid's growth would slow to 8.1-percent annually rather than the projected 12-percent a year growth.

It increases funding for President Clinton's defense request by the $20 billion shortfall acknowledged by the Pentagon.

Provides promised tax relief to American families and small business.

Provides tax relief to middle-class families by providing a $500 tax credit for each child in the household. The provision grants needed tax relief to the families of 52 million American children. The tax credit provides a typical family of four $80 every month for family expenses and savings.

Restores deductibility for interest on student loans.

Indexes capital gains for inflation and allows for capital loss on principal residence.

Creates new incentives for family savings and investments through new IRA proposals that would allow penalty free withdrawals for first time homebuyers, educational and medical expenses.

Establishes new Individual Retirement Account for homemakers.

Extends R&E tax credit for one-year and provides for a one-year exclusion of employer provided educational assistance.

Adjusts depreciation schedules for inflation (neutral cost recovery).

Tax provisions result in total tax cut of $88 billion over five years.

Fully funds the Senate Crime Bill Trust Fund, providing $22 billion for anti-crime measures over the next five years. The Clinton budget does not. The House-passed budget does not. The Chairman's mark does not.

Accepts the President's proposed $113 billion level in nondefense discretionary spending reductions and then secures additional savings by freezing aggregate nondefense spending for five years.

Accepts the President's proposed reductions in the medicare program and indexes the current $100 annual Part "B" deductible for inflation. Total medicare savings would reach $80 billion over the next five years.

Achieves $64 billion in medicaid savings over the next five years, by capping medicaid payments, reducing and freezing Disproportionate Share Hospital payments at their 1994 level.

Achieves additional savings through reform of our welfare system totaling $33 billion over the next five years.

Repeals Davis-Bacon, reduces the number of political appointees, reduces overhead expenditures for university research, and achieves savings from a cap on civilian FTE's.

Mr. HOLLINGS. Mr. President, I read:

Accepts the President's proposed reductions in the Medicare program and indexes the current $100 billion part "B" deductible for inflation. Total Medicare savings would reach $80 billion over the next 5 years.

Now, with respect to that $80 billion, the President struggled to find budget savings within the context of health care reform. For that effort, he and the First Lady got ridiculed. If I was his lawyer, this year I would say, for Heaven's sake, do not do it this year. Let them come up with it. You tried and lost Democratic seats in November as a result. Let them try. You did it. So let's not talk about taking a walk.

Mr. President, it is clear to me that Republicans want to come back and accept the President's cut so that they can run around with demonstrations in front of the Capitol and say that it was the President that cut Medicare. Do they think we were born yesterday? They talk about walking all they like, but where is the budget?

During the debate on the constitutional amendment I asked, "Where is the budget?" I said rather than showing us 7 years, just give me 1 year. That is my request this morning. Where's the budget? It is the middle of March, and under the rules we are suppose to complete the hearings and complete conference by April 15.

Are we just going to come in with a fixed vote and say, "All right, no use offering amendments; we have to report it out now. No use to hear from you, you can be heard on the floor." That is not the way to run things; that is terrible government.

Now, with respect to the other matter, that the balanced budget constitutional amendment failed by one vote. Mr. President, in the next 10 minutes, they could get five votes. The five votes were offered to them time and time again if only they would do what they said they wanted done—namely, protect Social Security.

I notice my friend, James Glassman, on the front of the business page of the Washington Post, wrote an article which was the truth, but it was not the whole truth. Section 13301 of the Congressional Budget Act, signed by President George Bush on November 5, 1990, says that Social Security shall be protected. Unless we honor that law, we will continue to move the deficit, not eliminate it.

That is the game, not to eliminate the deficit, but to move it from the Federal Government to the Social Security trust fund. If they violate section 13301, Mr. President, they can move $636 billion in the next 7 years from the deficit over to the trust fund.

And who flip-flopped? It is really at best ironic to see Senators meet in front of a placard, and I laugh because I got calls on it, that says I am in a rogues' gallery for keeping my word. They claimed that there were six Senators who flip-flopped. Could it be that I could cast the same stone at those who voted in 1990 for section 13301, and then for the balanced budget amendment to repeal section 13301?

Should I get the pictures of all those Senators and go in the front of the Capitol and holler, "Flip-flop, flip-flop, they broke the trust with Social Security"?

Under the rules, as the distinguished former President pro tempore knows, we are supposed to have the courtesy and decency to call each other distinguished. But 10 minutes later, they have me in a rogue's gallery. It is wonderful serving up here now. The devil take the hindmost and forget about the truth.

The truth is that the majority leader wanted to protect his troops. The truth is that while saying that they were going to protect Social Security, the Republicans were running around saying: "We cannot do it without Social Security funds." I can tell you—you cannot do it with Social Security funds, because all you do is you move the deficit over from the Government over to the trust funds. You are not paying anything. You are taking credit and misleading the people. And with that, the creativity is just starting.

Those who say all they need is $1.2 trillion in the 7 years are acknowledging that they are going to use Social Security trust funds. If we take Social

Security out, it should be $1.7 trillion. Today's creativity is to get rid of the Department of Commerce, get rid of the Department of Education, get rid of the Department of Energy. Send welfare, send food stamps, send everybody else back to the States; give them the deficit. Give it to Social Security to the tune of $636 billion. In addition, they say, "We will not raise taxes and we will not cut Social Security benefits, but we are going to recompute the CPI." But check the fine print. Changing the CPI will force many Americans to pay higher taxes and will cut Social Security COLA's for retirees. They are meeting themselves coming around the corner.

But with a lower CPI, they can pick up another $150 billion. Next, they can go to dynamic scorekeeping and pick up another $150 billion. If they need more money, they can start selling assets, like the electric power grid, or move to a capital budget.

Oh, we know all the tricks. We ought to get our friend Stockman, who wrote about Dunkirk, and let him come and write about duplicity. There is no discipline coming to this tricky crowd who will not take five votes, or more. All they have to do to get my vote is to let me keep my word, keep section 13301, and keep it there for the next generation.

My crowd—Senator THURMOND and I—are getting our money. It amazes me, but at 72 years of age, you have to take it. But be that as it may, the next generation is going to pay more. When it comes their time to retire, Mr. Parliamentarian, they are going to raise your taxes.

Now, that is what is happening. That is what is happening, and it ought to stop. They ought to quit running around making these silly statements. The distinguished majority leader was on "Face the Nation" Sunday, and I saw him categorically say we are going to protect Social Security. If he really means it, accept this little amendment. You accepted an amendment on the courts. You accepted an exception for borrowed funds. Just except Social Security trust funds rather than repeal section 13301. That is all you have to do to pass a balanced budget to the Constitution.

But do not go around moaning and groaning all over Washington that all we need is to get one vote, get one vote, get one vote. He can walk out here this afternoon and pick up five.

I yield the floor.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. HATFIELD. Mr. President, parliamentary inquiry. What is the status of our parliamentary situation?

The PRESIDING OFFICER. The pending amendment is amendment No. 326, as modified. That is to strengthen international sanctions against the Castro government in Cuba.

Mr. HATFIELD. I thank the Chair. At this time, I urge any Members who wish to be heard on this amendment by the Senator from North Carolina [Mr. HELMS] relating to Cuba, to come to the floor and express their views and, hopefully, we may bring this amendment to a conclusion shortly. We have been on this now for a number of hours, and it seems to me that we should bring it to that culmination and get on with other amendments.

So I urge Members to come to the floor if they wish to be heard on this.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to just speak for a very brief time about this amendment that is pending by the Senator from North Carolina. I have just been trying to read through it. It is a 37-page amendment, which is essentially a bill which I gather he introduced earlier, called the Cuban Liberty and Democratic Solidarity Act of 1995.

To my knowledge, there have been no hearings on this bill, and the Senator from North Carolina is the chairman of the committee before which hearings would be held. I have great difficulty understanding why the chairman of the committee with jurisdiction would want to have the issue dealt with without hearings.

It seems to me it is a very important issue, a very important issue of public policy for our country, and one that needs to be thoroughly debated and discussed. Clearly, that cannot be done as an amendment to a supplemental appropriations bill pending before the Senate today.

So I hope very much that we will not proceed to actually enact something like this without having the wisdom to go back and subject it to scrutiny in the hearing process in the committee, in the committee of jurisdiction, which the Senator from North Carolina now chairs. I think that would be the appropriate course to follow.

I have not had a chance to do a detailed analysis of this legislation, but I do think that it would be foolhardy in the extreme for us to proceed and try to adopt it as an amendment at this point.

I did want to make a couple of other points on the general subject of our relations with Cuba, because I know it has been in the news this week. I have been noticing that there are suggestions in the news that the President is considering going back on a couple of things that he did by Executive order this last August. Let me just recount for the Senate what I understand the history of that to be.

We had a very major problem that occurred this last August where the Cuban Government stopped preventing Cubans from fleeing to the United States by boat. This change in Cuban policy on about the 15th of August caused a surge of migration to the United States. It was the largest since the Mariel boat lift of 1980.

With this situation occurring, 5 days later the President acted to try essentially, as I understood it, to build some leverage for more negotiations with the Cuban Government, and he put in place four measures against the Cuban regime.

First, cash remittances to Cuba would no longer be permitted. Previously, United States citizens could provide up to $300 each quarter to their relatives in Cuba, which is not, as the President would understand, an excessive amount to send. That works out to about $100 a month. And I do not think that is an excessive amount to be sending. But we stopped that. The President stopped it by Executive order.

Second, chartered flights between Havana and Miami were to be restricted for those designed "to accommodate legal migrants and travel consistent with the Cuban Democracy Act."

Third, the United States would use all appropriate means to increase and amplify its broadcasts to Cuba.

And, fourth, the United States would continue to bring before the nations and other international organizations evidence of human rights abuses.

Now, the recent news accounts indicate that the President is considering advice from some of his advisers that the first two of those, the prohibition against cash remittances to relatives in Cuba and the prohibition against travel to Cuba, be relaxed again.

I believe the thinking there is that on September 9 of last year the United States and Cuba signed a migration agreement that stemmed the flow of Cubans flowing to the United States by boat. So the immediate crisis, the crisis which had caused the President to put in place those Executive orders, has gone and is now no longer facing us, and the President was considering, or at least his advisers were urging him to consider, a change in that policy back to what it had been before.

Mr. President, I for one hope the President will take the advice that evidently he is receiving from his advisers. I can honestly say to my colleagues here in the Senate that it strikes me as contrary to our own interests to have in place, to continue in place, the policies that are now being discussed in the White House. To say that Cuban-Americans cannot send, cannot remit to their relatives in Cuba up to $300 per quarter strikes me as unduly onerous and is hurting the very people who we proclaim we are trying to help with all of these sanctions against Cuba.

The distinction which needs to be kept in mind, Mr. President, is how can we help the people of Cuba without giving assistance to the government there? And I would say, if there is one way we can help the people of Cuba without giving assistance to the government, it would be to allow their relatives in this country to remit to them very small amounts as they see fit up to $300 per quarter.

This is not going to threaten the future of our Republic. I think this is an eminently responsible course for the President to take, to go ahead and repeal or rescind that portion of the Executive order and go on with allowing remittances to relatives in Cuba.

The other issue, Mr. President, also strikes me as one that should be clearly changed by this President, and that is the prohibitions against travel to Cuba. One of the great constitutional rights which I think has been recognized since the beginning of our Republic is the right to travel, the right of Americans to travel.

Now, I understand that there are exceptions. There are occasions where we are in hostility with another government and it is not appropriate for U.S. citizens to travel to that country, or where those citizens are in danger and we do not want to see them travel to another country because of the risk of international incident that that would create. But I do not believe either of those circumstances adequately prevail at the present in this situation to justify prohibiting travel to Cuba.

I would also point out, Mr. President, that the present law which is on the books prohibiting travel to Cuba is not enforced. I picked up the New York Times Sunday Magazine 3 days ago and was reading through it, and there was a big advertisement: "10-day excursion to Cuba."

That is not something which is being advertised for Canadians or for Germans. That is for Americans who want to go to Cuba for 10 days and view downtown Havana and old town Havana and all the other things that are available there. I know Members of this body have traveled to Cuba.

This is a law which is not being enforced. In my view, it is a law which does not make sense at this time in our history, and it is a law which causes all who look at it to wonder about our resolve in enforcing any of our laws relative to Cuba.

So I think that for the President to rescind that portion of his Executive decree would make good sense. I for one believe that is the proper course to follow. At a later time I hope we can have an extended debate about this whole embargo issue. I know it is of great concern on all sides to a lot of people in this country whether we should retain an embargo of Cuba.

However, today I at least want to go on record as indicating that remittances of small amounts of cash to relatives in Cuba should be permitted, in my opinion; travel to Cuba by American citizens should generally be permitted. In fact, it is being permitted today, since everyone seems to be winking at it or looking the other way or finding ways not get your passport stamped or some other subterfuge so that the penalties which are in the law are in fact not applied. This is a law that does not make sense. We should recognize that the President should rescind those portions of his Executive decree.

Again, getting back to that which I guess is the specific issue pending before the Senate, that is, the proposed amendment by the Senator from North Carolina, again I hope very much we do not take it upon ourselves to legislate a whole new regime of sanctions and embargoes and onerous provisions at this time as an amendment to an appropriations bill. It strikes me as an act which would not be responsible, and I very much hope colleagues would see it that way as well and that the amendment, if it is brought to a vote, would be defeated.

I thank the Chair. I yield the floor.

Mr. SMITH. Mr. President, I am going to follow the Presiding Officer in the chair, and I will be very brief.

Mr. President, I rise in very strong support of the amendment offered by the Senator from North Carolina. I am deeply troubled by some of the comments that I have seen in the press yesterday and today in that apparently President Clinton was considering easing the sanctions on the Castro regime. Either the President has been misled or has misread the will of the American people or he continues to get the wrong advice from advisers such as Morton Halperin because in either case this is a grave mistake.

The attempts to oust Fidel Castro go back many, many years to the Eisenhower administration. It transcends party, for sure; a number of Presidents in both political parties have been steadfast in their attempts to at least bring this blemish on our hemisphere to an end.

Now, when we are just about to cross the finish line, to do anything that would keep that from happening is just a serious mistake. It is not the time to relax our pressure on Fidel Castro. It is time to turn up the heat, not turn it down.

The Castro regime as we all know it is morally and economically bankrupt. It has been for over 40 years. Decades of corruption and communism have left the Cuban people disillusioned, left them in poverty, left them yearning, almost begging, crying out for new leadership on that island nation. For those who are struggling for this freedom and democracy in Cuba, at this very time when we have the chance to win that for them, to move away from that is a serious, serious foreign policy mistake. Those people, the people who suffer at the hands of Fidel Castro, do not want us to coddle him. They do not want us to ease the pressure on this corrupt regime. They do not want us to give him the economic benefits of investment or tourism. They do not want it, and they are the people who are suffering at the hands of Fidel Castro.

On the contrary, they would like us to do everything possible to hasten this Communist leader's demise, that is what they want, to accelerate his removal from power and to help bring about this transition to democracy.

This is exactly what the amendment of the Senator from North Carolina does. It keeps the pressure on Cuba and it accelerates the planning for a transition to democracy in Cuba and the humanitarian and economic assistance programs that will ensue in a democratic Cuba, which we all are waiting for.

So, I urge my colleagues to reject this effort on the part of the administration to coddle Fidel Castro, maybe not intentionally, but the result is to promote this Communist regime which is now on the ropes, finally. The Cuban people not only need our support, they deserve our support. They deserve it. They have suffered long enough. They need us to turn the pressure up. We are on the threshold, now, of removing Fidel Castro. Many people have said that on this floor and in Presidential offices for many, many years. "One more year, a few more months, Castro will be gone." But we are on the verge right now. This amendment will hasten Fidel Castro's demise. More important, it keeps faith with the Cuban people.

I congratulate the Senator from North Carolina for his amendment, and I am proud to be a cosponsor of it. I urge my colleagues to vote in favor of it and to think very carefully about what this policy, the President's policy, will do to the Cuban people who live under this dictator, No. 1, and, No. 2, the people who await—not only here in the United States but in other nations around the world—who await the opportunity to go back to a democratic Cuba and build that island nation into the country it can and should be in the Western Hemisphere.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the chairman's amendment on Cuba is a very serious one. Cuba is a country of significance to the United States and our policy toward it should be very carefully considered, measured, and open to a wide range of dynamics which necessarily come up between virtual neighbors.

I have been one, like the chairman, who has supported an aggressive policy toward Cuba which will promote democracy and respect human rights.

Like the chairman, I believe that was, in large part, why we fought the cold war. It was part of the effort.

But I advocate a different approach.

To my mind, further isolating Cuba is just not an effective approach. In a world where we are trying to establish multifaceted, global post-cold-war relationships, it makes little sense to ignore that your neighbor exists, or to try to build regional coalitions around a major island, as if there is a black hole in the Caribbean. We cannot do much to push democracy and respect for human rights if we will not even talk to the Cubans. Indeed, we only hurt ourselves if we pretend that a country—particularly if it is objectionable or threatening—does not exist. That is what I am afraid is the direction of this amendment.

I also think that pushing our friends and allies to also impose embargoes on Cuba is a waste of diplomatic chits. It is a waste of time. We have much higher priorities with countries like Canada and Great Britain, and most of Latin America than to try to ask them as a high priority to further isolate Fidel Castro. It would be far more constructive to work with our regional partners to develop a post-Castro policy—a policy which will help rebuild Cuba economically, establish democratic institutions, and strengthen regional relationships, including trade and investment opportunities when the time is appropriate.

Finally, I am a little amused that anyone could even advocate increased funding for TV Marti. This program is a proven failure both technically and substantively.

Among its programming highlights have been baseball—a popular sport in Cuba—and sitcoms such as "Kate and Allie," "Fame," and "Que Pasa, USA?," a show about a Cuban-American family adapting to Miami.

I am told technically, it is almost inoperable. I have had occasion to refer to it as a "balloondoggle." Its signal is jammed by the regime—that is, when the signal reaches Cuba. Transmission is faulty at best most of the time.

The programs are produced each day in Maryland. They are then uplinked—beamed up—from Washington and relayed to an aerostat balloon—a blimp known as "Fat Albert"—which hangs on a tether 10,000 feet above Cudjoe Key. From there it is projected to Havana.

However, because of inclement weather, the blimp can only be flown sometimes. Often volatile weather conditions knock Fat Albert off its tethered cable. In 1991, the blimp was found in the Florida Everglades, after a $35,000 search, where it laid damaged for months.

TV Marti is even more useless when you think that we have an effective program in Radio Marti. Radio Marti is not jammed, and I am told, unlike TV Marti, it enjoys a large Cuban audience.

To recommend more funding for TV Marti—to single it out for increases in a year when we are slashing so many other worthwhile accounts—is just ludicrous. It's hardly the way to balance the budget.

It is just the opposite.

These are just some of the varying views on Cuba. Some of my other colleagues on the Senate Foreign Relations Committee, including the ranking member of the full committee, Senator PELL, and the ranking member of the subcommittee, Senator DODD, favor lifting the U.S. trade embargo. I may want to link such a proposal to human rights reforms in Cuba, which apparently are quite needed.

Therefore, instead of conducting an ad hoc, seat-of-the-pants debate here today, I would respectfully request that the chairman of the Senate Foreign Relations Committee hold hearings in the committee on this topic. I know that the ranking members of both the full committee and the subcommittee would work closely with you to make that happen.

A full examination of all the options, proposals, and ramifications is long overdue, but quite necessary. There are serious implications to what we do: The refugee flow we witnessed this summer is but one example. That shows this has great implications, not just for Cuba but for us.

It would be to the credit of the committee to hold such hearings and shape the public debate on United States-Cuba relations in a deliberative and constructive way.

I am sure we all agree that United States policy toward Cuba is too important and too complicated to offer statements today with full confidence that we are doing the right thing.

I will very much appreciate it if the chairman will consider that possibility.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Rhode Island.

Mr. PELL. Mr. President, I commend the Senator from Wisconsin on his words, which I agree with and endorse.

Mr. President, with all due respect to my esteemed colleague, the senior Senator from North Carolina and chairman of the Committee on Foreign Relations, I add that I, too, strongly oppose the amendment he has offered to the pending DOD supplemental appropriations bill.

First, this amendment is virtually identical to legislation the Senator introduced earlier which was referred to the Committee on Foreign Relations. Clearly, the committee should have hearings on this legislation, so that the full impact of these proposed changes in U.S. policy can be publicly discussed prior to Senate action. Although I oppose the policy direction set forth in the amendment, as the ranking minority member of the Committee on Foreign Relations I will work with the distinguished chairman of the committee to facilitate committee consideration after full public hearings. The Senate should have the views and recommendations of our committee prior to voting on legislation as important and significant as this.

Second, the distinguished chairman and I both want to see a free and democratic Cuba, but we disagree on the policy our country should adopt to achieve our common goal. I have long spoken to the need for a serious reexamination of our country's policy toward Cuba. However, the chairman's amendment clearly does not reflect the direction I had in mind.

Yesterday I was encouraged to read that President Clinton is considering taking some modest steps toward altering the existing sanctions policy in favor of more communication and contact between the Cuban and American people—and I must say I applauded that initiative.

Existing United States policy, consisting of a rigidly enforced embargo and an aversion to any significant dialog with Cuba, has, as best I understand them, three goals: To promote a peaceful transition to democracy; to support economic liberalization; and to foster greater respect for human rights while controlling immigration from Cuba.

These three goals have guided our national policy toward Cuba for 30 years, Mr. President, yet there has been scant progress toward achieving any of them. There is still a government in Cuba which is not freely elected, which is only just beginning tentative steps toward a market economy, and which continues to fall short of international standards in the area of respect for human rights.

Therefore, I can only conclude that this policy is not only outdated and ineffective, but, far worse, it is counterproductive. We should be ratcheting up and not down. It seems to me that the time has come to admit the obvious. The policy is a failure and will never achieve its stated objectives.

Consequently, it would be a serious mistake, in my view, to intensify the embargo and impose even more stringent measures on the people of Cuba as proposed in the pending amendment.

I believe that, rather than tightening the embargo and further isolating Cuba, the United States should expand contact with the Cuban people and enter into negotiations on all issues of mutual concern to our two countries, including the lifting of the economic embargo.

For example, I believe the President will find a great deal of support within the Cuban-American community to a rolling back of last August's sanctions that were imposed during the Cuban migrant crises—sanctions that have

prohibited Cuban-Americans from sending money to family members in Cuba or visiting them, except in cases of dire emergency. This would be a small first step in the direction I support, but we must go much further.

I say this not because of any regard for the government in Havana, a one-party state with a record of intolerance toward dissident voices within the society. Rather, I say this because, if our country and Cuba are to break the impasse that has existed in our relations for more than three decades, someone must take the first step in that direction. We are large enough and strong enough, and we can afford to do so.

I believe, and have said many times, it is in the U.S. national interest to take that first step—to agree to sit down at a negotiating table, where all issues can be discussed.

In the meantime, there should be greater contact between our own citizens and the Cuban people. Such contact will serve to plant the seeds of change and advance the cause of democracy on that island. Just as greater exchange with the West helped hasten the fall of communism in Eastern Europe and the former Soviet Union, so, too, it can achieve the same results much closer to our shores.

I well remember when I was living in Czechoslovakia. The people would come to visit America and then came back. They came back much less convinced of communism than when they went. The more exchange of people and ideas the more likely communism is to erode. To erode means contacts, and this is what is necessary.

Liberal Democrats are not alone in holding this view. Former President Richard Nixon wrote shortly before his death last year that, "we should drop the economic embargo and open the way to trade, investment and economic interaction." Learned people across the political spectrum have made similar comments and observations about the policy.

Why? Because they have all observed across the globe that policies which foster greater commerce and communication between countries work and those which engender isolation and enforced misery do not work. We have a choice. Let's take the one which works. It has been impossible for those who would seek to defend the status quo to cite an instance in modern history where a policy of forced isolation has successfully transformed a totalitarian state into a democracy.

United States travel restrictions to and from Cuba are among the most prohibitive in the world—this to an island that is only 90 miles from our shores. At this point, only United States Government officials and journalists have unrestricted access to Cuba and only a small percentage of Cubans who apply are allowed to travel to the United States each year. The pending amendment would restrict binational contacts even further.

Mr. President, do we as a nation not have enough faith in the power of our democratic system and the strength of our ideas to let contact between our citizens and other peoples flourish? I would hope so.

In my view, the strongest advocate for democracy and a free market economy would be a Cuban student or family member who had recently visited the United States and seen the sharp contrast between our way of life and that in Cuba.

Current policy not only denies the United States the opportunity to promote positive change in Cuba, but it increases the likelihood of widespread political violence and another mass exodus of refugees to Florida. The Cuban Government, which is vigorously pursuing expanding political and economic ties with the rest of the world, is unlikely to give in to unilateral United States demands. Nor is there much indication that a viable opposition currently exists within Cuba strong enough to wrest power from existing authorities.

We have made it very easy for Cuban authorities to justify the lack of political freedom in Havana. They simply point to the external threat posed by a hostile U.S. policy.

I am concerned that adoption of the pending amendment would add further justification to the Cuban Government's repression—quite the opposite effect from that intended by the sponsors of this amendment. That justification would lose all credibility were we to adopt a more reasoned U.S. policy. Cuban authorities would then be hard pressed to justify the denial of political rights and economic opportunities that the Cuban people readily observe elsewhere.

Mr. President, I have urged the administration to take the first step toward a new and enlightened policy—a policy that can once again unite Americans and Cubans. Consequently, I urge my colleagues to join me in sending a message that it is time to open up a new and constructive dialogue with Cuba by voting against the pending amendment.

The best reason for doing that—as we see what has happened in the past few years as the Iron Curtain has dissolved—is the fact, as exposure is being increased between the East and West, that communism has been eroded as seen by its present disappearing act and what then follows in Europe today.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I again urge any colleagues who wish to be heard on this pending amendment on Cuba to present themselves on the floor. We have a number of other amendments pending, that we are at least aware of, that Senators will ask to be considered.

We do not want to lose a lot of the time waiting for that to happen. So let all Members be on notice that we are prepared to dispose of this amendment in an orderly way at some point soon and/or take up any other amendment and set this one aside.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. What is the pending business, Mr. President?

The PRESIDING OFFICER. Amendment No. 326, as modified.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I am sorry that I missed my friend and colleague from North Carolina. He was on the floor here. I gather he has gone to a conference lunch.

I was unable to talk to him, and I am unclear whether or not this amendment will be withdrawn or voted on. I will work on the assumption it will be voted on. If it is not, then these remarks can be used in the context of when it comes up at some future date. I am unclear as to whether or not we will actually have a vote on the amendment.

Let me address, if I could, Mr. President, the amendment that the Senator from North Carolina has proposed and, at the very outset, urge that all of our colleagues read this amendment very, very carefully.

This is an amendment that does not deal with the present situation in Cuba. There is nothing that I know of in this amendment, with the possible exception of changing the frequency of TV Marti to ultra-high frequency to deal with the present situation. The amendment is geared to deal with the post-Castro situation in Cuba.

For that reason, knowing full well how a strong majority of my colleagues feel about boycotts and embargoes and so forth on the present regime, I

strongly urge them to look at the amendment because it does not deal with primarily what exists now, but rather what comes afterward.

My concern is that this could have a very, very negative impact on our ability to deal in the post-Castro period, whenever that comes, hopefully sooner rather than later. It seems to me this amendment will complicate our ability to assist any post-Castro regime as it grapples with the difficult period of transition to democracy. We do not even know what that government may look like. It may be a carbon copy of what exists now. It may be a flourishing Jeffersonian democracy.

We have been asked to take a position, if we adopt this amendment, that would predetermine in many ways what kind of government would follow Castro and, I think, tie the hands of not only our own Government but of United States industry and business from doing business in Cuba by making them subject to potential civil lawsuits by persons who may later claim to have owned property at some point in Cuba.

United States companies are clearly not going to set themselves up for such lawsuits, and they will stay away from Cuba until all property claims are resolved. What I mean by this is the amendment says no assistance can occur in Cuba, no businesses can do business in Cuba in a post-Castro regime until all property claims dating back to 1959 are resolved. I do not know of anyone who would go down and want to make investments in Cuba with the possibility that at some future point a claim may arise which would prohibit them from engaging in a business practice to assist this new government, whatever it may be, in Cuba.

That will not be the case, obviously, with foreign interests who want to do business in Cuba. They will not be constrained by such limitations.

So I urge my colleagues to look carefully at this amendment because, again, I understand the intent. Senator HELMS cares deeply about expropriation of property, and he is right to do so. We have had a number of cases in El Salvador and, I think, in Nicaragua where there have been some pending. I have been supportive of them in those efforts to see to it that American citizens who own property that was expropriated get the property back. But I do not think we have ever taken the position that nothing ought to happen in these countries until all the matters are resolved.

From time to time, we exerted pressure on those governments. We held back foreign aid, we provided aid, we held it back—we used the levers to try and achieve the desired results. Here we are now about to take a position in a post-Castro Cuba in which we are saying no matter what government emerges, no matter what the circumstances may be, that you are not going to be able to do business there until all the claims, which potentially, I guess, go back to 1959 when Castro took over, have been resolved.

So I think, in a sense, it gets way beyond what we ought to be doing. Even if there are those who see merit in this approach, this is a complicated matter. It is not a simple matter. It really not ought to be the subject of an amendment on the floor. This ought to be the kind of legislation that is at least subject to a couple hours of discussion and hearing as to what the implications are in terms of the Claims Settlement Act of 1949—how does it work; could we apply this internationally, as the amendment would seem to suggest?

The distinguished Senator from North Carolina is now the chairman of the Foreign Relations Committee. I could almost understand if someone in the minority were offering this amendment on the floor because they are unable to get a hearing or there was no ability to conduct some analysis of what the amendment might be. But here the chairman of the committee is offering a floor amendment without the full Foreign Relations Committee or even a subcommittee thereof having an opportunity to analyze what the implications might be.

So I know that any amendment that has "Cuba" on it, we have a tendency automatically to vote for it. I just urge in this short amount of time that my colleagues take a look at this. I think this goes a lot further than anything that has ever been suggested in any other place, that I know of, in the world.

I suspect it may have been motivated in part by a story that appeared in the Washington Post about lessening some of the sanctions that were imposed, I think, last August during the deluge of humanity that poured out of Cuba and how we were going to work with that. That situation having been resolved, as I understand it, some of the sanctions we put in place then, in light of what was happening, we now may be lifting, although, frankly, I do not have any specific personal knowledge as to the genesis of that particular story myself.

But that aside, it seems to me that we are breaking some significant new ground as to who would be eligible to be compensated under the International Claims Act of 1949 which, by the way, Mr. President, is the primary mechanism for settling U.S. persons' property claims, to make eligible individuals who are not citizens of the United States at the time of expropriation and who may not even be citizens today. This is not international law, international law standard, I point out, and may seriously complicate efforts to resolve claims of individuals who are U.S. citizens at the time of expropriation, which is where our prime interest ought to be. Not that we are unsympathetic to non-U.S. citizens' claims. But, it seems to me, our thrust in this body ought to be focused on what happens to U.S. citizens where expropriation has occurred.

To invoke the International Claims Settlement Act, it seems to me, is going to complicate this situation dramatically at the expense of our own people. That is what I am really trying to emphasize.

I said at the outset that there is a piece of this that one might argue does have some immediate effect on the Castro government. The bill would require the President to convert TV Marti to ultra-high frequency UHF broadcasting but fails, I point out, to provide the necessary funding to accomplish this effort.

I think we have been through a pretty significant debate with overwhelming support in this body for unfunded mandates. Here we have a mandate that requires the change of frequency and no allocation of resources to do it. I just raise that as a further point.

Mr. President, I will not raise a point of order at this point, but I do believe this is legislation on an appropriations bill. I want to make sure everyone has an opportunity to discuss the amendment, and certainly I would not do it without informing my colleague from North Carolina ahead of time that I intended to do that so that he would have an opportunity to exhaust whatever remarks he wanted to make about his amendment. But at an appropriate time, Mr. President, if the amendment is not withdrawn—and maybe it will be withdrawn. I gather there is some discussion about offering this at a later time. I urge we have a hearing on it.

Senator COVERDELL—I have not had a chance to talk with him—who is now chairman of the Western Hemisphere Subcommittee, I suspect would be willing to have a subcommittee hearing if the full membership was not interested in examining this issue. I certainly would take the time to do it with him. If not that, then the full committee.

I am a little surprised in a way that we have the chairman offering an amendment on an appropriations bill that he has the power on his notice to call a hearing on this issue so we really understand what the issues are.

Again, my emphasis is primarily that this could be very, very deleterious to U.S. business interests. I do not know of any business which is going to want to make investments knowing at some date there may be a cloud on titles of property that have not been resolved. This will not be the case with the Spanish and other Latin American countries, the European Community, the Canadians, our friends to the north who are already involved there. They will be going gung ho in the post-Castro period. Our business interests, which may see some real value in being involved in Cuba, I suspect would be

very reluctant to get involved if this amendment is adopted.

Again, I urge my colleagues who may be listening, or their staffs, please take a good look at this amendment. Again, anything that has "Castro Cuba" on it has almost an immediate Pavlovian response to the amendment. This is all post-Castro regime. So you are not doing anything to Fidel Castro with this amendment, except the UHF issue, and that one you ought to take a look at.

But the other issues are all after Castro and what the implications are for us. I am not sure Members of this body necessarily want to be in a position without knowing what that government looks likes. We prohibit all assistance to that new government in this amendment, except just the most dire humanitarian kind of assistance. Maybe that is what we want to do when that new government emerges. I do not know if anyone can say with any certainty today—and I have studied the issue for a long time—I cannot tell you how that issue is going to resolve itself when Castro leaves, dies, or whatever else happens. To say today no matter what happens we are going to put in law a prohibition of doing anything, it seems to me to go far beyond where we ought to be going in the consideration of an appropriate foreign policy program.

So I urge, Mr. President, last again—just to emphasize—please take a look at this amendment. I urge my colleague from North Carolina not to proceed with the amendment. That will be the best course of action so we do not have to have a vote on this. But if he does proceed, I will raise the point of order about it as legislation on an appropriations bill, and if I fail at that, then obviously urge my colleagues to defeat the amendment.

Again, take a good hard look at this before you walk in here and just hear the words "Castro Cuba" and decide it is OK. I think a lot of people, particularly the majority here, would have some strong concerns about the implications for U.S. interests.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I concur completely with my colleague from Connecticut.

Foreign policy should reflect the national interest, not the national passion. Our policy in Cuba reflects the national passion, not the national interest. If the old leaders of the Soviet Union and Cuba had gotten together and said let us try and figure out a United States policy that will keep Castro in power, they could not have figured out a better policy than the policy we have followed that made Castro a hero to his own people, that isolated him.

I think we need, if there is such a word, to de-isolate Cuba. I think, for example, we ought to at a minimum sell food and medicine to Cuba. What harm comes to the United States if we sell food and medicine to the people of Cuba? And as I read this amendment, all of a sudden we are saying to countries all over the world, if you do not follow the policy that we and we alone are following—no other country in the world has this policy toward Cuba—if you do not follow our policy, then you are going to have economic reprisal against you.

That is not the way. It may have been, immediately after World War II, when we had better than 50 percent of the world's economy, we could muscle our way around like that even though it would not have been good public relations for the cause of freedom and democracy. Today, we are one-fifth of the world's economy. Yes, we are the only superpower that is left, but it just is not rational to follow this kind of policy.

I think we ought to be sitting back and asking ourselves, No. 1, is Castro a threat to the United States? I think the answer to that clearly is he is not a threat to the United States. No. 2, is he violating basic civil liberties, human rights, in Cuba? Yes. He is, in fact, probably the worst violator of human rights throughout this hemisphere.

Then the question is, How do we get them to change their policy? That is what we ought to be asking ourselves, not how we can pick up a few votes back home from people who want us just to corner him. You corner a dog, you corner a snake, and they lash out.

I think we ought to be taking another look at this. I think the Helms amendment is well intentioned. It will not serve the national interest, not serve our national policy at this point.

AMENDMENT NO. 327

(Purpose: To delete the rescission of funds for the National Security Education Trust Fund)

Mr. SIMON. Mr. President, I have an amendment, but I do not see either of the floor managers present.

I think it would not violate anything if I asked unanimous consent to set the Helms amendment aside so that I can offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMON. Mr. President, I offer an amendment.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 327.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, strike out line 16 and all that follows through page 23, line 2.

On page 22, line 2, strike out "65,000,000", and insert "81,000,000" in lieu thereof.

Mr. SIMON. Mr. President, this is an amendment that restores the National Security Education Act. This was introduced by our former colleague, Senator David Boren, and was cosponsored by Senators NUNN and WARNER. It was signed into law by President Bush.

Before he leaves, I say to my colleague, the former chairman of the Senate Foreign Relations Committee, because I know of his interest in this field, this is our former colleague, David Boren's bill. It sets up studies in foreign languages, in these isolated foreign languages where we have very little knowledge, and it is extremely important. I just mention it to Senator PELL because I know of his interest in this area.

Mr. PELL. I thank the Senator very much and share the Senator's admiration for Senator Boren. I think some of his ideas about how we get more bipartisanship should be followed.

Mr. SIMON. I thank my colleague from Rhode Island.

In Desert Storm, we sent 500,000 American troops over there, and we found we had only 5 people who could translate Iraqi military documents. The need for having knowledge in these areas is extremely important. I called David Boren, who is now president of the University of Oklahoma, and I say to my colleague from Mississippi, he indicated not only were Senators WARNER and NUNN cosponsors of this, but Senator MURKOWSKI and Senator COHEN, and he also indicated that Senator LIEBERMAN and Senator FEINGOLD had been of help to him in this.

The other day, I asked the Secretary of Defense about this, and he said this is a small item but extremely important. He said it really is important that we have people who learn these isolated languages.

My reason for being involved in this is back when I was a member of the House Education and Labor Committee, the then Secretary of Education, Ted Bell, asked to zero out our foreign language program, and Cap Weinberger, who was then Secretary of Defense, and Bill Casey, who was then head of the CIA, contacted me and said this is extremely important for us. This is an area where we have serious deficiencies.

My hope is that the managers will be willing to accept my amendment. But if they are not, then I would want to press forward to have a vote on the amendment.

I will yield the floor at this point, and the floor managers can have a chance to look at this. But, again, this is the measure, the chief sponsor of which was Senator David Boren, and Senators NUNN and WARNER were cosponsors. President Bush signed the

legislation. The Secretary of Defense says this is very important for the Defense Department. It is a relatively small amount we are talking about, $6 million. The offset is more than the $6 million because to handle the outlay portion of that, we need to do better than that.

Mr. President, I yield the floor.

Mr. LOTT. Mr. President, if I could at this point just observe the absence of a quorum momentarily so we can discuss this matter with the distinguished subcommittee chairman.

The PRESIDING OFFICER (Mr. BROWN). The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I understand full well the amendment of the Senator from Illinois. It is one directed toward preserving the Boren fund concept, that provided for education, particularly educational opportunities in foreign cultures and languages. The House had totally eliminated this program. Our committee tried to fund the ongoing grants and those that had already been approved under the Boren plan. We provided for the elimination of the fund at the end of the settlement of the obligations that have been made to date.

I think there is a serious question about the redundancy in the defense bill of moneys for research and activities of this type. The university grants under the current bill, this year, amounted to $1.6 billion. We are looking now at, really, a difference of some $16.5 million, as far as the amendment of the Senator from Illinois is concerned, and our position as represented by the Senate report.

My advice—and I have conferred with my good friend from Hawaii—my advice to the Senate is we accept the amendment of the Senator from Illinois, knowing full well that the full spectrum of the House's recommendations will still be in conference. We are going to battle the whole subject. We might as well battle it from the point of view of the Senator from Illinois as from the point of view of our proposal to the Senate. In the way the Senator from Illinois presented it to us, it does not affect the outlays or does not affect the basic authorizations under the bill available to the Department of Defense for this current fiscal year.

Under these circumstances, unless the Senator from Hawaii wants to comment, I am prepared to accept the amendment of the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I have conferred with the chairman of the committee and I am prepared to accept his recommendation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 327) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, I thank my colleagues. I thank them not only on my behalf but on behalf of our former colleague, Senator David Boren. I will call him and tell him the news. And I believe I am safe, after my conversation with the Secretary of Defense, in saying the Secretary of Defense also thanks you.

Mr. STEVENS. The ghost of Boren is alive and well on the floor of the Senate, Mr. President. However I am not sure that will be the case in the conference. We will do our best.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to continue as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE REPUBLIC OF IRELAND

Mr. LEAHY. Mr. President, I assure my colleagues, the distinguished managers of the bill and my good friends, that I will not hold the floor long. I noted that nobody else was speaking just at the moment.

Mr. President, a couple of weeks ago I went on Senate business to the Republic of Ireland in Northern Ireland and the United Kingdom over a 3- or 4-day weekend as one who has been involved in the international fund for Ireland. It was at a time just prior to the publication of the framework Document of Peace between the Republic of Ireland and the United Kingdom. Our distinguished former colleague, Senator George Mitchell, was also there representing the President of the United States. He and I had various meetings in Dublin and elsewhere. I have discussed those before.

But I thought of this earlier this week. I picked up the New York Times and saw under a heading "Belfast Journal" a very, very moving article by James F. Clarity. I will speak to that in just a moment.

What I noticed were rather hopeful signs as I drove from Dublin to Belfast and went into Northern Ireland leaving the Republic of Ireland. The gates and barriers and bomb detectors, police and military that you normally see across the border were absent. In fact, you could see the marks on the ground where the speed bumps had been removed. And you did not see the all-pervasive military patrols, at least in the daylight hours throughout Belfast.

In Belfast, I met with both Protestant and Catholic groups. They talked of their fears, their concerns, and their hopes. Then on Sunday I met with some mothers who spoke to me—it really makes no difference which faith is involved here because I heard the same thing from all mothers I spoke with—that for the first time since the troubles began they were able to walk with their children on the streets and not have to worry about car bombs. For the first time they did not have to worry about the knock in the middle of the night of somebody telling them their husband will be killed or witness such a killing in front of the rest of the family.

The presence of armed authorities on the streets of Belfast were greatly diminished, in contrast with the Republic of Ireland where the occasional police officer you might see goes unarmed. These were the hopeful signs. The "War Widow's" journal is so moving.

I ask unanimous consent that I might put the whole article in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A WAR WIDOW'S THOUGHTS AT PEACE'S DAWNING

(By James F. Clarity)

BELFAST, NORTHERN IRELAND.—Pauline Hegney, the mother of four young children whose husband was slain three and a half years ago by Protestant paramilitaries on a Belfast street, prays every day that the Government peace effort will work and that there will be no more killings here in the name of patriotism.

She is among the tens of thousands of survivors of the 3,172 Protestants and Roman Catholics who have been killed in sectarian warfare here since 1969. She speaks with a soft Ulster lilt and there is passion in her voice, but no hatred.

Her husband, Karl, an unemployed house painter, was gunned down in the street on his way home from a pub. Both his widow and the police say he had no involvement in the Irish Republican Army. The police told her they had an idea who the killers were, but no proof, she said. No one has been arrested.

She was left with their four young children and a job at the Europa Hotel in the city center, as head of the banquet dining room staff. But the I.R.A. viewed the hotel as a

major economic target and bombed it frequently. The bombings often shut it down, putting her out of work, sometimes for months.

The I.R.A. declares that it is fighting for Northern Ireland's Catholics. Mrs. Hegney, who is Catholic, said she prays for them, and for the Protestant guerrillas too.

She told her children that "a sick man" had killed their father and that he was now in heaven with Granny, his mother. Her daughter, Julie-Anne, said that at first she hated Granny for taking him away and that she saw her father return to her room one night. She said she wanted to die and go to heaven with him. Lately Julie-Anne, who is not 8, says only, "I wish I could see him, mummy, for one wee minute."

Mrs. Hegney joined a group of Catholic and Protestant widows of guerrilla war victims, and they exchange their feelings and problems.

But the cease-fires that have raised the hopes for peace and for a normal life for most people in Northern Ireland also left her and the other widows feeling depressed, she said.

"During the trouble, we were all in it together," she said. "Everyone in Belfast was affected. But when the peace came, I felt isolated. Other people can get on with their lives. We can't."

Last October, as reports spread that the Protestant guerrillas, following the lead of the I.R.A., were going to call their own cease-fire, she hoped it would not be on Oct. 13, the third anniversary of her husband's killing, but it was announced on that day.

"It didn't feel right," she said. "I was praying for peace, but I didn't want it on that day." Now, she said, she faces the prospect of seeing representatives of the guerrillas become celebrated personalities as they approach formal negotiations with the British and Irish Governments and the other political parties in the North.

"I don't like the idea that after they've killed so many people, they'll be sitting down to say what the future will be, when people like these destroyed my children's future. But if it stops people being murdered, I've no objection."

Her children still miss their father. Karl Jr., who is 14, wants to be a lawyer. She said she asked him if he would defend someone he knew to be guilty of a "terrible crime." Karl said: "Would you serve him if he came into the Europa. You do what you're paid to do." She shrugged.

"I'll get through it," she said. "I'm a struggler. I've begun to write about it."

In her account of the night her husband was killed, she wrote: "We never know what's to come for us, though, do we? I put the boys to bed when their daddy went out. I went into the kitchen and had a little laugh to myself when I saw the saucepans sitting on the cooker. One was full of potatoes and the other one had sprouts in it all ready for the Sunday. He also had the roast cooked. I thought how organized my Karl is.

"A very curt male voice came on the phone saying he was a police officer and asked if I could make my way to the police station as my husband was in the hospital seriously ill. I lost my mind at that moment and I don't think I have actually found it all again.

"The nightmare for me had only just begun. I went to see Karl lying in that operating theater where he had died with the doctors fighting to save his life. He lay there still and cold, no life left in the body of the man who had taken the core of me, loved me and made my life worth living. I thought how could he leave me? What would I do without him? How was I going to live without him?

"I held Karl's hand and it was like holding the hand of a wax dummy. It felt so strange. I didn't cry. I just asked him to give me strength to get through the next few hours. I went and sat at the top of the stairs waiting for the first of the children to waken. I knew this would be our 5-year-old daughter, Julie-Anne. She was wearing her little pink and green pajamas and she still had her hair in pigtails from the day before. She was just so beautiful.

"What I was going to tell her was going to rob her of her little innocent childhood. She came over to me with her wee arms out and said, 'Where's my daddy?' I sat her down on my knee and told her that her daddy had gone up to heaven to see his own mummy, her granny Nancy. 'When's he coming back?' she said. I explained to her that some sick man had shot her daddy and that he had died and would not be coming back. She had to blame somebody, God love her, so she started crying and said she hated her granny.

"I told our three little boys what had happened to their lovely daddy. None of them spoke. Karl and Michael began to cry. Mario just sat there. I think he was in deep shock. I put my arms around all four of them and all but Mario cried sorely for what we had lost."

Mr. LEAHY. Mr. President, let me read something from the journal of a mother who lost her husband 3½ years ago. She wrote in her account:

We never know what's to come for us, though, do we? I put the boys to bed when their daddy went out. I went into the kitchen and had a little laugh to myself when I saw the saucepans sitting on the cooker. One was full of potatoes and the other one had sprouts in it all ready for the Sunday. He also had the roast cooked. I thought how organized my Karl is.

A very curt male voice came on the phone saying he was a police officer and asked if I could make my way to the police station as my husband was in the hospital seriously ill. I lost my mind at that moment and I don't think I have actually found it all again.

She went on to say how when she arrived her husband was there but no longer alive, and speaks of her 5-year-old daughter awakening in the morning. She said:

What I was going to tell her was going to rob her of her little innocent childhood. She came over to me with her wee arms out and said, "Where's my daddy?"

Mr. President, there is more to it, of course, and it will be in the RECORD. But it is a tale that I have heard from mothers and widows throughout Northern Ireland.

And really to that 5-year-old daughter, and those other children, it makes no difference whether the killer was Protestant or Catholic, whether they were unionists or loyalists in their allegiances, the fact is, of course, the children have lost their father. Those who are left in the family find their lives unalterably altered, their hopes and dreams are dashed.

I only hope, Mr. President, the peace we now see—a still somewhat tenuous peace—in Northern Ireland might hold and that all the parties involved, all the parties involved, might make an effort to make the peace lasting; that those who feel that they have to hold to past prejudices or to some rigors of diplomacy that may have made sense in a different age will now come together and start showing the kind of flexibility and willingness to talk to all parties, and all parties can sit down and talk together.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 328

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 328.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 4 and 5, insert the following:

SEC. 110. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for assistance to or programs in the Democratic People's Republic of Korea, or for implementation of the October 21, 1994, Agreed Framework between the United States and the Democratic People's Republic of Korea, unless specifically appropriated for that purpose.

Mr. MURKOWSKI. Mr. President, the amendment that I offer today is attached to H.R. 889, Department of Defense supplemental appropriations bill.

Specifically, the amendment, which I offer on behalf of myself and the majority leader, Senator DOLE, requires

that funds to be used under this act for implementation of the framework agreement, which was dated October 21, between the United States and the Democratic People's Republic of Korea—that is North Korea—must be specifically appropriated for that purpose.

What the amendment would prohibit in the future is the following: It would prohibit using emergency provisions to implement provisions of the agreed framework with North Korea; second, it would prohibit using reprogrammed funds to implement the provisions of the agreed framework with North Korea.

Mr. President, I feel the amendment is necessary because as my colleagues will recall a number of Members joined Senator DOLE and myself in adding similar restrictive language in the last Congress to the foreign aid appropriations bill and defense appropriations bill. Although both of those measures passed overwhelmingly, they were stripped at the conference on assurances from the administration that the United States was not preparing to give aid to North Korea.

However, since signing of the agreed framework, the administration has already seen fit to use $4.7 million in emergency Department of Defense funds to pay for the provision of heavy oil for the benefit of the Democratic People's Republic of Korea.

Further, the administration has asked for $10 million in reprogrammed Department of Energy funds to pay for the treatment of spent fuel in North Korea associated with their existing nuclear reactors. I have recently learned that the administration is prepared to ask for an additional $5.4 million of State Department funds to pay for startup costs of an international consortium known as KEDO.

Many of us were dismayed that the administration chose to use emergency funds to pay for the provision of heavy oil—essentially giving foreign aid to North Korea without congressional authorization, and despite all the restrictions in law prohibiting any assistance to the DPRK. The administration lawyers downtown found the only provision they could to get around congressional approval.

This amendment would prohibit such actions in the future. The amendment prevents the administration from going around Congress again to find additional funds to assist North Korea. If the administration is firmly convinced that such expenditures are in the national security interests of the United States, then the administration should first come up and ask for specific appropriations for that purpose.

The overall cost of the provision of the two light-water reactors and hundreds of thousands of tons of interim energy to the North Koreans is going to cost billions of dollars. The light-water reactors alone are estimated to cost over $4 billion.

The administration has testified to committees of jurisdiction that the U.S. portion of the costs of implementing the agreed framework will be in the "tens of millions of dollars." The President's fiscal year 1996 budget requests $22 million specifically for the Korean Energy Development Organization, which is KEDO. I am informed that the Department of Energy will seek to use fiscal year 1996 funds to support spent fuel related activities in North Korea.

Mr. President, I intend to offer this amendment to all subsequent appropriations bills, if necessary.

Mr. President, at this time, I would also like to call my colleagues' attention to an event scheduled for tonight that will likely have far reaching implications for whether the agreed framework with North Korea will be successful.

Tonight, something called KEDO is supposed to kick off with a cocktail party in New York. Some of my colleagues might be wondering what KEDO is and why is the administration seeking $27 million for its activities. KEDO, the Korean Energy Development Organization, is the international consortium the administration pledged to put together under the agreed framework. The agreed framework calls on the United States "to organize under its leadership an international consortium to finance and supply" the light water reactor project in North Korea. As I mentioned, this light water project is expected to cost at least $4 billion. Further, the United States "representing the consortium, will make arrangements to offset the energy foregone due to the freeze" of the existing North Korean nuclear power program. In other words, we are expected to arrange to give North Korea free oil. Fifty thousand tons were delivered on January 21. One hundred thousand tons are scheduled to be delivered by October 21, 1995. Every year thereafter North Korea is expected to receive 500,000 tons until the light water reactor project is complete.

In addition to these substantial commitments, North Korea is demanding that the United States pay for about $1 billion worth of projects to upgrade the electrical grid to make the light water reactor project worthwhile. It is still unclear whether North Korean demands will be met.

If the United States agreed to put together the international consortium, who agreed to pick up all the bills? That is where the accountability gets cloudy. So far, only the United States has actually signed any checks. First, the Department of Defense used nearly $5 million in Defense Department emergency funds to purchase the first trench of oil. Then, the Department of Energy successfully sought $10 million in reprogrammed funds for treatment of spent fuel from the graphite moderated reactors in North Korea. Now, additional funds are being sought from the Department of State—and none of the really expensive projects has even started.

The South Korean Government has repeatedly said it will play the central role in the international consortium in financing the light water reactor project. But, the South Koreans have wisely added that this can only occur if North Korea agrees to accept South Korean reactors and if North Korea engages in substantive dialog with the South.

The Japanese Government has also said it will play an appropriate role. But, the Japanese have been quick to add that their role is dependent on having widespread participation in KEDO, including a United States financial role. I often remind my friends in Japan that we spend $2 billion per year to keep 37,000 American troops on the Korean Peninsula. To this Senator that is a big contribution.

Ambassador Robert Gallucci, the lead U.S. negotiator of the agreed framework, has indicated that 20 nations are expected to attend the inauguration of KEDO, but he admitted that not all of the countries will actually join KEDO. In fact, the only additional contributions announced thus far are from New Zealand and Australia.

The test for KEDO—and the State Department—is whether KEDO is anything more than a convenient multinational cover for what could become a costly and dangerous U.S. obligation. The North Korea nuclear situation should certainly be a multilateral and a regional issue. I have always felt that South Korea and Japan should have been original signatories to the agreed framework. I believe that the ASEAN nations should all contribute. I firmly believe that China should be playing a significant financial role given China's historical role in aiding North Korea. Has the United States simply taken over that aid role from China?

But the most disturbing aspect of KEDO for this Senator is that if KEDO fails to solicit the necessary funds, President Clinton has already committed the United States to fulfilling the terms of the agreed framework. On October 20, President Clinton sent a letter to Kim Jong Il, the new leader of North Korea, pledging to use the full powers of his office to provide the light water reactor project and interim fuel from the United States if other means fail. I ask that a copy of President Clinton's letter of assurance be submitted for the record. The President acknowledged that his pledge was subject to "the approval of the U.S. Congress," but no Member of Congress that I know was briefed on the contents of this letter before it was sent.

This Senator continues to believe that if the President must come to Congress to seek funds for this multi-billion-dollar deal, after having ignored Congress in agreeing to the terms and conditions of the agreed framework, then Congress has the right to reexamine the conditions attached to that appropriation. I will continue to insist that North Korea allow immediate inspection of the two suspected nuclear waste sites that they have kept hidden from IAEA inspectors.

In addition, other issues should be addressed. I strongly believe that North Korea must agree to joint recovery teams to search for the 8,177 service personnel still listed as MIA from the Korean war. Second, North Korea must agree to stop exporting ballistic missiles. Finally, North Korea must engage in meaningful dialog with South Korea. But these are issues to take up at another day.

The purpose of my statement today is to urge my colleagues to remind the administration of the congressional role in implementing the agreed framework and to call your attention to the inauguration of KEDO.

Thank you, and I wish the Chair a good day.

I have no further statement, Mr. President. I believe that both sides have looked at this, and I defer to my colleague, the senior Senator from Alaska [Mr. STEVENS].

The PRESIDING OFFICER. Is there further debate on the Murkowski amendment? The senior Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am informed that the amendment offered by my colleague has been discussed and is in a position now where it can be accepted as an amendment to this bill.

I ask my friend from Hawaii if he agrees. I believe it applies to funds in this act and, under that limitation, we are prepared to accept it.

Mr. INOUYE. Mr. President, I am personally prepared to accept the amendment, but I just received a request from the Senator from Rhode Island [Mr. PELL] that he would like to look over the amendment, and he will be here shortly. So may I request that the acceptance be held up for, say, 5 minutes?

Mr. STEVENS. Mr. President, there is no objection on my part and, I am sure, that of my colleague.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. MURKOWSKI. Will the Senator just yield? I wonder if the senior Senator will be on the floor and can proceed on my behalf because I have a hearing.

Mr. STEVENS. Mr. President, I shall be glad to do that. I think the Senator from Iowa and the Senator from Illinois want time. Does the Senator from Iowa seek the floor to offer an amendment?

Mr. GRASSLEY. No, to speak on the bill.

Mr. STEVENS. Will the Senator from Iowa pardon me and allow me to interrupt?

I am now informed that the amendment offered by my colleague from Alaska can be adopted at this point. There is no further objection, as I understand it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the junior Senator from Alaska.

The amendment (No. 328) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I rise to discuss my reasons for voting for the bill, but also to state some concerns I have about the direction that the Department of Defense is taking.

I want to commend, first of all, the Appropriations Committee and, of course, its chairman, Senator HATFIELD, for doing what I think is a very responsible thing, and that is to offset the cost of the readiness through rescissions, not from other Departments of Government, but from Defense Department programs.

I recently requested both the CBO and the General Accounting Office, GAO, to review the defense budget to determine whether there were programs being funded that were not directly related to a strong military and our national security operations and responsibilities.

CBO identified $64 billion falling into that category, and the GAO identified $70 billion. Those are figures that cover the next 5 years. They suggested that these programs were absolutely clearly not related to our national security, but they identified these programs for review to determine whether these programs should be continued in the defense budget.

I am pleased to note that some of the programs contained in the reports that I requested have been used by the Appropriations Committee as offsets in this bill.

My view, in general, is that we should not only scrutinize nondefense spending in the defense budget but many defense-related items as well. So along that line, I commend specifically Senators MCCAIN and WARNER, both of them very respected members of the Senate Armed Services Committee, for their work in identifying defense programs that should be cut or reduced, such as the B-2 bomber and the M-1 tank upgrade.

Because I firmly believe that we must closely scrutinize both military programs, as Senator MCCAIN and Senator WARNER have suggested, but also I go beyond that to other so-called nondefense spending, which is in the defense budget, before we consider increasing defense spending above this administration's proposed levels. And I hope you remember that for the 5 years in this year's budget, the President's proposing $25 billion above what it was in his first budget.

Now, I think that scrutinizing these programs is exactly what the Appropriations Committee has done in this bill. The committee found it unnecessary to increase defense spending to meet the readiness needs because it found alternative options to new spending.

Mr. President, last year I supported what we call in this body defense firewalls so spending cannot be taken out of defense and spent some place else. Many of my colleagues were concerned then that we might rob the defense budget to pay for domestic programs. Rather, we believe that if defense spending is reduced, it should be used to cut the deficit, not to increase domestic spending.

I also believe there is another corollary, because I believe that defense firewalls should work both ways. We should not rob funding for domestic programs to pay for defense spending either. There is clearly sufficient funding within the defense budget to meet readiness concerns. It is simply a matter of the Pentagon prioritizing its funding and improving its management. Because the Appropriations Committee has not robbed the domestic spending accounts to pay for defense readiness, I am willing to support this supplemental appropriations bill, and I commend the committee's work. I strongly urge the committee, however, to continue its good work and to resist in conference any efforts by the other body to pay for defense programs from domestic offsets.

Now, having said that, Mr. President, I wish to address briefly the issue of the obligations and expenditures of public money that has not been appropriated by the Congress and specifically to alert my colleagues to some pending requests from the Department of Defense to amend authorizing language, present statute, which I think gives them the capability of spending money not appropriated by the Congress.

The bill before us, if approved, would provide $126.3 million to bail out two Army fiscal year 1994 appropriations accounts. They would do it this way: $3.3 million for the military personnel account and $123 million for the operation and maintenance account. These two accounts are overobligated. They are overdrawn. They are in the red.

When the Army was ordered to deploy troops to Haiti, its financial accounts contained insufficient funds to

cover the cost of the operation but we know that the Army deployed anyway. The Army spent money that it did not have. As a result of that operation, those accounts have negative balances. They are in the red to the tune of $126.3 million. If the $126.3 million is needed to meet legitimate obligations, then we in this Congress have no choice. We have to pony up the money because we have to pay our bills.

Well, under the Constitution, as we know, that is not the way the spending process of the Federal Government, including the Defense Department, is supposed to work because under our Constitution Congress has the sole authority to decide when and to what extent public moneys are committed.

Now, Mr. President, I am not suggesting that the bill before us contains unauthorized appropriations. Quite the contrary. The Department of Defense is authorized under the law to spend money in excess of available appropriations. That authority is contained in the Feed and Forage Act that dates back to the Civil War.

The authority was justified in those days. Troops often went on long periods without pay and had to forage to survive. Government chits were issued to exchange for food and redeemed later on for cash. The Feed and Forage Act is embodied in section 11 of title 41 of the United States Code. The Feed and Forage Act was last invoked by the Department of Defense on September 19, 1994. That decision generated the request for these $126.3 million that are in this bill. The authorizing documents were signed by Mr. Deutch, Deputy Secretary of Defense, and Mr. Hamre, the Comptroller.

I ask unanimous consent that those be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 19, 1994.

Memorandum for Secretaries of the Military Departments, Chairman of the Joint Chiefs of Staff, Commander in Chief, U.S. Special Operations Command.

Subject: Obligations in Excess of Appropriations for Restoration of Democracy in Haiti.

The Department of Defense is likely to incur, in accordance with applicable law, obligations in excess of available appropriations to ensure the necessary funding to support units of the U.S. Armed Forces conducting military operations in connection with the restoration of democracy in Haiti.

I authorize the incurring of deficiencies for clothing, subsistence, forage, fuel, quarters, transportation, and medical and hospital supplies, not in excess of the necessities of the current year, under the authority of Section 3732 of the Revised Statutes (41 U.S.C. 11), known as the Feed and Forage Act. On my behalf, the Comptroller of the Department of Defense shall make the reports to Congress required by law with respect to the use of this authority.

Also, pursuant to Section 2201(c) of Title 10 of the United States Code and the necessity based on Presidential determination to increase the number of members of the Armed Forces on active duty beyond the number for which funds were provided in Appropriations acts for the Department of Defense, I authorize the incurring of deficiencies for costs of such personnel under Section 3732(a) of the Revised Statutes.

The Comptroller of the Department of Defense shall issue such instructions as may be necessary to implement this memorandum, including prescription of the dollar levels for deficiencies by appropriations account.

JOHN DEUTCH.

COMPTROLLER OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, September 20, 1994.

Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: On behalf of the Secretary of Defense, this is to advise that the Secretary of Defense has invoked the authority granted by Section 3732 of the Revised Statutes (41 U.S.C. 11) to authorize the Military Departments to incur obligations in excess of available appropriations for clothing, subsistence, forage, fuel, quarters, transportation, and medical and hospital supplies, not in excess of the necessities of the current year in support of U.S. military. He has also invoked the authority granted by Section 2201(c) of Title 10 U.S.C. to authorize incurring deficiencies for the costs of additional members of the Armed Forces. This action will ensure that the Department of Defense can support U.S. military operations in connection with the restoration of democracy in Haiti.

Sincerely,

JOHN J. HAMRE.

Mr. GRASSLEY. The Feed and Forage Act allows military services to make contracts and to purchase in advance of appropriations for clothing, subsistence, forage, fuel, quarters, transportation, and medical supplies. The Feed and Forage Act gives the Department of Defense an open-ended authority to spend money almost without limits. The Department of Defense can invoke the authority whenever it sees fit. No special condition or no special circumstances must be met before that law can be invoked. We need not be at war. We need not be engaged in military combat overseas for the Department of Defense to tap the Treasury without an appropriation. And there is essentially no limit on the amount of money that can be spent. It is like, you might say, Mr. President, an open line of credit.

Now, thank God, no other agency of the Federal Government has this kind of authority. Admittedly, in wartime, when our national security is threatened, this kind of authority may be essential. But, Mr. President, I am concerned about the use of this authority in peacetime, like today. My concerns are fueled by a Pentagon proposal to expand the authority beyond existing law. And remember, I just said that I wish to tell you what I am concerned about what the Department of Defense is thinking about doing.

The original fiscal year 1995 defense supplemental bill as submitted to Congress included a request for special legislative authority. It would be numbered section 1863. Secretary of Defense Perry has referred to section 1863, and these are his words, as his "readiness preservation authority." Readiness preservation authority. I ask unanimous consent to print that language in the RECORD, too, for my colleagues to study.

There being no obligation, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM THE 1995 SUPPLEMENTAL BUDGET

(Supplemental language now requested, existing legislation)

SEC. 1863. During the last two quarters of the current fiscal year, upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, incur necessary obligations to preserve the readiness of the Armed Forces in excess of contract authority and amounts available in appropriations of the Department of Defense during the current fiscal year: Provided, That obligations incurred shall be limited to those which are required for essential readiness functions and activities of the Armed Forces, including activities associated with mission critical proficiency training, scheduled unit exercises, the acquisition of spare parts that are critical to the missions of the Armed Forces and such other activities that the Secretary of Defense determines cannot be postponed without a major impact on the readiness of the Armed Forces: Provided further, That obligations incurred under the foregoing authority shall not be more than 50 percent of the total amount appropriated to the Department of Defense for Operation and Maintenance, Budget Activity 1: Provided further, That any proposal transmitted by the President to the Congress to liquidate costs incurred under the provisions of this section shall be accompanied by offsetting rescission proposals, unless the President determines that emergency conditions exist which preclude such rescissions: Provided further, That the Congress shall be notified when funds are made available for obligations under this authority.

This provision would allow the Department of Defense, with OMB approval and Congressional notification, to make obligations in excess of its total budget authority during the last two quarters of 1995 to fund essential readiness activities and functions. Excess obligations incurred under this provision are limited to 50 percent of Budget Activity 1 under the Operation and Maintenance title. Any proposal to liquidate excess obligations incurred under this provision must be accompanied by offsetting rescission proposals unless the President determines that emergency conditions exist which preclude rescissions.

Mr. GRASSLEY. Section 1863 is intended to build on and to expand the authority granted in the Feed and Forage Act. The Department of Defense would be authorized to obligate and authorized to spend money, in advance of and in excess of congressional appropriations, in a great big, broad area well beyond anything that the Feed and Forage Act has ever done. That area is defined then in 1863 as follows, and I quote.

Essential readiness functions and activities of the Armed Forces.

"Essential readiness functions and activities of the Armed Forces" obviously covers a lot of territory. That conceivably covers just about anything and everything that the Department of Defense wants. I am thankful to report that section 1863 is not included in either version of the fiscal year 1995 supplemental bill, the bill that is before us now in this body, the bill that passed the House of Representatives.

But I understand the issue will be revisited during consideration of the fiscal year 1996 defense authorization bill. That is why I want my colleagues to study this issue, and if it is in there you can assume that I am going to bring it to your attention and to highlight it and to make sure we are responsible as we consider that.

The practice of spending public money before it is appropriated by Congress in peacetime—I want to emphasize in peacetime as opposed to wartime—that practice needs to be reexamined. It needs scrutiny.

First, the practice is inconsistent with the Constitution. Section 9 of article I of the Constitution says, "No money shall be drawn from the Treasury, but in Consequence of Appropriation made by law." That ought to be crystal clear to everyone.

Second, the practice of doing this is inconsistent with the Anti-Deficiency Act, section 1341, title 31. This law, the Anti-Deficiency Act, causes it to be a felony to obligate or expend money before an appropriation is made, or in excess of amounts available in an appropriation account.

When Congress discovered, as we did in the late 1980's, that the Pentagon was using $50 billion—what was called M accounts, nothing but a slush fund—to circumvent the law and to hide the Anti-Deficiency Act violations, the Congress shut down those M accounts. That year was 1990.

The Department of Defense is always going to find some way to give just a little bit more freedom on the shuffling around of money. So I am afraid, with this new 1863, that DOD may try to use the Feed and Forage Act and the proposed Readiness Preservation Authority, that is 1863, for another end run around the Constitution and around the law. I am afraid the Pentagon may use this authority to hide deficient accounts that they are very qualified at doing.

In order to better understand this whole issue, for the benefit of my colleagues, I am taking three specific steps. I have already started this process.

First, I have asked the American Law Division at CRS for an opinion on all pertinent legal points involved.

Second, I have asked the General Accounting Office to follow the audit trail on the $126.3 million in this bill to make sure the disbursements are properly recorded in the books.

Third, I have asked the Department of Defense to tell me how much money has been spent under the Feed and Forage Act over the last 25 years.

Once I have all this information, I should be in a better position to make a final judgment about this matter, about 1863, and the intent of the Secretary of Defense.

I will say this. He has tried to assure me that he is not trying to reestablish an M account sort of approach. That may be his sincere motive, but I question whether or not the language of 1863 is specifically tight enough so that will not happen. It might not happen under his watch, but once it is on the books, there will be some Secretary of Defense who will find a way of doing it, because we had these M accounts evolve over a period of the 1950's to 1990.

The idea of spending money before it is appropriated ought to bother every one of us. It surely bothers me. It seems to undermine our control of the purse strings and our system of checks and balances. With a simple stroke of the pen, a Pentagon bureaucrat can write checks with public money which has not been appropriated and then, thereafter, practically extort the funds from Congress to pay the bills.

Bureaucrats demand the money, and Congress coughs it up. That is just not right. If we are ever to balance the budget—and that debate was last week but the problem is still ahead of us—we need to put a tight lid on this kind of behavior, whether it is in the Department of Defense that I have spoken about or any agency of the Federal Government.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to address the Senate as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BALANCED BUDGET AMENDMENT

Mr. SIMON. Mr. President, I spoke earlier today about the falling dollar. I quoted the Chicago Tribune. I ask unanimous consent to have printed in the RECORD some more items.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 6, 1995]

CURRENCY'S SLIDE MAY MARK END OF RESERVE ROLE

(By Michael R. Sesit)

LONDON.—Undercut by years of U.S. deficits, the dollar's days as the world's reserve currency may be drawing to a close.

On Friday, eighteen central banks spent a half-billion dollars in a futile attempt to resist that notion, following a similar $250 million effort by the Federal Reserve the day before. In Germany and Japan, finance ministries scolded dollar bears as wrongheaded. In the U.S., Treasury Secretary Robert Rubin tried talking up a strong dollar as "in our national interests."

Traders, unperturbed by the fuss, continued to dump dollars by the billions. As the greenback fell to another post-World War II low against the yen and continued sliding against major European currencies, foreign-exchange dealers and money managers predicted more to come.

In trading Monday in Tokyo, the dollar hit a new postwar low of 92.75 yen and skidded to 1.3875 marks, just short of its historical low of 1.3870 marks. About noon Monday, the dollar was trading at 93.25 yen, and at 1.4030 marks; sterling was at $1.6473.

At its lowest point Friday, the U.S. currency touched a postwar low of 93.75 yen, and a 29-month low against the mark. By late trading in New York, the dollar stood at 94.05 yen and 1.4240 marks, compared with 95.25 yen and 1.4415 marks late Thursday. The pound, meanwhile, rose to $1.6295 from $1.6135 a day earlier.

"There is a firm belief that the dollar doesn't have the reserve-currency status it once had," says Jeremy Hodges, head of global foreign-exchange sales for Lehman Brothers Inc. "Globalization and diversification" are progressively eroding the dollars's mystique, he explains. "More and more people are adjusting their portfolios to include other currencies—yen, deutsche marks, French francs, Canadian dollars."

Meanwhile, weaker currencies continue to lose out. Early this morning, after an emergency meeting of the European Union's monetary committee, the Spanish peseta and Portuguese escudo were devalued, by 7% and 3.5% respectively, following weeks of difficult trading.

Within the next three months, Mr. Hodges predicts the dollar could tumble another 5%, to 1.35 marks, and another 4%, to 90 yen, although he cautions not to expect a freefall. So far this year, the dollar has fallen 6% against the yen and 8% against the mark.

The basic problem for the dollar is that there are just too many of them sloshing around, says George Magnus, chief economists at S.G. Warburg & Co. in London. The U.S. current account deficit—a broad measure of trade in goods and services plus certain financial transfers—is huge and growing. In addition, "there is still an underlying outflow of investment capital" as U.S. companies continue to invest in plants and equipment overseas, he says.

"And don't forget that the U.S. is the world's biggest debtor nation, with external liabilities of $750 billion at the end of 1994," he adds. Last week's defeat of a constitutional amendment that would have required a balanced budget by 2002 only underscored the country's lack of will to reform its way.

What's more, Mr. Magnus argues, Fed policy isn't as tight as many people suspect. The evidence: strong growth in U.S. loan demand, increasing bank borrowing from the Fed and the modest pickup in bank reserves since October. And, he added, "the Mexican bailout is going to result in the creation of additional dollar reserves, either by the Fed, the Treasury or both."

Based on 10-year government-bond yields, U.S. inflation-adjusted interest rates are 4.35%, compared with 5.4% in Germany and 4.4% in Japan. While stronger fundamentals could propel the dollar to 110–120 yen and 1.60–1.65 marks in a year or so, for now, * * *

[From the Washington Post, Mar. 7, 1995]

DOLLAR KEEPS FALLING AGAINST YEN AND MARK—ANALYSTS CALL DECLINE A LONG-TERM TREND

(By John M. Berry)

The dollar continued to fall on international currency markets yesterday, hitting a new low against the Japanese yen for the third day in a row and weakening further against the German mark.

Many foreign exchange experts said the dollar's weakness is not just a temporary problem, but rather part of a long-term downward trend against the mark and yen, although the dollar is likely to rally from time to time.

There was broad agreement among experts that there is little President Clinton, the Treasury Department or the Federal Reserve can do to give the dollar a boost. Coordinated purchases of dollars on Friday by the Fed and other central banks around the world had almost no impact on the currency's value.

In late New York trading yesterday, it took just 92.80 yen to buy a dollar, down from 94.05 on Friday. Against the mark, it took 1.4048 marks to buy a dollar, the lowest level in more than two years, down from 1.4250 on Friday.

The reasons for the dollar's downward trend, the analysts said, are complex and varied. Some are real, some are psychological; some are as new as the financial crisis in Mexico and some are as old as the tendency of Americans not to save money.

First and foremost is the fact that the United States is running a deficit with the rest of the world of more than $150 billion a year in trade, tourism and similar transactions, said economist L. Douglas Lee of NatWest Washington Analysis.

That means that each year foreigners end up with $150 billion that they may not wish to hold and so exchange for another currency, driving down the dollar's value. In the view of Lee and many other analysts, as long as the United States keeps pushing that many dollars into foreign hands every year, the currency has little chance of strengthening in a fundamental way.

A second key reason for the recent weakness of the dollar that many analysts cited is an abrupt shift in expectations about the level of U.S. interest rates compared with those in other countries, especially Germany.

"The dollar's decline this year has coincided with the evaporation of earlier expectations of future sharp increases in U.S. short-term rates," said John Lipsky, chief economist at Salomon Brothers Inc. in New York.

The level of interest rates is important for a currency because higher rates can encourage investors to move their money from one country to another. Until a few weeks ago, many analysts and investors had expected that the Fed would continue to raise interest rates as it did all last year to cool off the U.S. economy and prevent a surge of inflation. However, recent statistics suggest that U.S. economic growth is slowing and many analysts are no longer looking for higher rates.

A third major reason the dollar is being hammered is that its value has been declining for many years compared with German and Japanese currencies, and some foreign central banks are switching their foreign exchange reserves out of dollars.

"The track record of the dollar in recent years has been poor, and that's what these investors look at, the record," said Scott E. Pardee, special adviser at Yamaichi International (America) in New York. "The U.S. economy is doing fine, but dollars that have been in other hands for many years are being converted into marks and yen."

A fourth key development hurting the dollar, the analysts said, is the political and financial crisis in Mexico, which led the Clinton administration to forge a huge international rescue package, with the United States putting up $20 billion in loans and loan guarantees.

There is a widespread perception that the United States will suffer in a variety of ways because of its close links to Mexico, including a likely large decline in U.S. exports that will make the U.S. trade deficit worse.

Yet another reason mentioned by the analysts is the currency turmoil within Europe that led to a devaluation yesterday of the Spanish peseta and Portuguese escudo relative to the mark, which is seen by investors and speculators as a "safe haven."

Meanwhile, many Japanese firms are selling the dollars they are earning from exports to the United States in exchange for yen. They are using that yen to cover losses or operating expenses at a time when Japanese banks are reluctant to make new loans.

Analysts such as Lee noted that so long as Americans save such a small portion of total national income that they cannot finance the nation's investment costs—plus the combined deficits of federal, state and local governments—foreign investors must make up the difference. In an accounting sense, the gap between saving and investment is equal to the U.S. deficit in trade, tourism and other transactions.

"The way to address the problem is to do something to bring savings and investment closer together—such as reduce the federal [budget] deficit", Lee said. And that pointed to yet another reason for the dollar's weakness—last week's Senate defeat of a constitutional amendment to require a balanced budget, which "was read as a negative by the currency market," Lee said.

[From the Wall Street Journal, Mar. 7, 1995]

DOLLAR FALLS AGAINST YEN AND MARK, BUT UNITED STATES DECLINES TO INTERVENE IN MARKET

(By David Wessel)

WASHINGTON.—The dollar fell again yesterday against the yen and mark, but U.S. officials kept their mouths shut in public and didn't intervene in currency markets to support the struggling currency.

The dollar set another post-World War II low against the yen yesterday, touching 92.70 yen in Asia before rebounding to 92.90 late yesterday, down from 94.05 late Friday. The dollar, flirting with its postwar low against the mark of 1.3870 set in September 1992, was trading at 1.4048 marks yesterday, down from 1.4240 Friday.

Having failed to stop the dollar's slide with rhetoric and money, the U.S. government simply watched nervously yesterday. At earlier moments of market turmoil, Treasury Secretary Robert Rubin, once a currency trader himself, has advised: "Stay calm and focus on the fundamentals." Apparently he was doing just that yesterday. Neither he nor his aides would talk about the currency.

While Mr. Rubin was consulting with his German and Japanese counterparts, U.S. officials are holding off on further dollar-buying efforts until the officials sense such intervention is likely to work. Having demonstrated that the U.S. is unhappy about the sliding dollar and convinced the market has gone too far, the officials may now just wait for the market to bring the dollar back up.

TWO OPTIONS

If words and intervention won't work, then the government has only a couple of other options should it decide to try to strengthen the dollar: The Federal Reserve could raise short-term interest rates to try to attract global investors, or President Clinton and Congress could reduce the federal budget deficit to shore up confidence in U.S. macroeconomic management. Neither policy change appears imminent.

Economists' list of explanations for the dollar's decline is growing longer every day. Rudiger Dornbusch, a Massachusetts Institute of Technology economist, figures that expectations about interest-rate trends in the U.S. and Germany account for 70% of the dollar's woes. Based on comments by Fed Chairman Alan Greenspan and other Fed officials, the markets have decided that the Fed isn't going to raise short-term rates anytime soon—and might even cut them. That tends to draw investors to the mark.

The failure of the U.S. to reduce further its government budget deficit accounts for 30%, he estimates. The recent slump in the dollar coincides with the Senate's rejection of a constitutional amendment that would have required a balanced budget. "Germany is balancing the budget without big talk over the next four years. We are widening the deficit with big talk," Mr. Dornbusch said. "They are concerned about inflation at 2½%. We declare it dead at 3½%." Global investors, not surprising, prefer marks to dollars, he reasons.

"If you need a third [reason for the weak dollar]," he said, referring to Mexico's economic crisis, "the mess in our backyard gives you one more reason."

Other economists and traders, however, aren't so confident that they can discern the causes of the dollar's fall. "I'm puzzled. I didn't expect it. I don't claim to know [the reasons] after the event," said Deutschebank economist Norbert Walter. "Wall Street doesn't like Washington. Everything that happens is considered to be negative for the dollar."

GLOBAL LACK OF CONFIDENCE

The U.S., as Mr. Rubin made clear last week, sees "a strong dollar" to be in "its national interest." A falling dollar does help U.S. exporters by making their goods more attractive overseas, but it tends to push up import prices. It also tends to push up long-term interest rates in the bond market even if the Fed doesn't move the short-term rates it controls. A weaker dollar also suggests a global lack of confidence in the U.S. and its government, hardly a welcome development for Mr. Clinton or Mr. Greenspan. In Germany and particularly in Japan, strong currencies could hurt exports at a time when both nations are counting on them to buoy economic growth.

While the dollar is sinking against the mark and yen, it has strengthened against two of its major trading partners. The Canadian dollar closed at 1.4168 Canadian dollars to the U.S. dollar yesterday, compared with 1.3557 Canadian dollars to the U.S. dollar a year ago. The Mexico peso closed at 6.575 pesos to the dollar, compared with 3.25 pesos to the dollar a year ago. As a result, the value of the dollar against all its trading partners hasn't fallen much, reducing the risks of imported inflation and making it easier for the Fed to ignore the weakness against the yen and mark.

Until the dollar plunged last week, the Fed had been widely expected to hold short-term interest rates steady when officials hold their next scheduled meeting on March 28.

And if signs of a slowing pace of growth continue to emerge, the Fed isn't likely to raise rates at that meeting. Just yesterday, Fed Vice Chairman Alan Blinder, speaking to bankers here, tentatively predicted the sort of "soft landing"—an economy that slows, but not too much—that central bankers are always trying to engineer. "There are indications, but certainly not definitive sort of indications, that makes me think we have a fighting chance of achieving this sort of soft landing."

With the dollar weak, strong evidence that the U.S. economy hasn't cooled off—which could come as soon as this Friday's Labor Department report on employment in February—could tilt the Fed toward higher rates. Mr. Blinder wouldn't talk about the dollar, but House Banking Chairman Jim Leach (R., Iowa) did: "Obviously a weak dollar enhances prospects of [interest rates] going up again," he said. "No one likes that. But no one likes a weak dollar either."

Economists who are adherents to the monetarist school, gathered in Washington yesterday, cautioned the Fed against raising rates to defend the dollar. "Why is the dollar going down? We don't know. But it isn't a monetary phenomenon," said Lee Hoskins, chairman of Huntington National Bank and former Cleveland Federal Reserve Bank president. "What should the Fed do? Nothing."

But David Hale, economist at Chicago's Kemper Corp., said the Fed could help the dollar by making clear it doesn't intend to *cut* rates soon.

Mr. Leach also said that the dollar "underscores the absolutely mandatory need to get the fiscal house in order so that the monetary side doesn't have to do everything." Economists reason that a move to shrink the U.S. budget deficit would increase overall savings in the U.S. and that, in turn, should reduce what is known as the current-account deficit, the broadest measure of international financial and trade flows. That big and growing deficit is, economists say, a major long-run factor in the dollar's weakness.

Although the defeat of the balanced budget amendment was seen in Washington as a sign that Congress is less likely to attack the deficit this year, traders and economists disagree about its impact on the dollar. "You can point to that as a trigger," said Virginia Parker of Ferrell Capital Management, Greenwich, Conn. "But the dollar has been in a pretty significant downturn since the end of 1994."

Mr. Hale suggested the defeat "played a role at the margin," but called other factors more important. Most are beyond the Clinton administration's control. Among them: the likelihood that U.S. exports to Mexico will be hurt by the economic crisis there, the side effects on the dollar of internal European currency tensions, the evaporation of the Soviet threat (which makes investors more confident about the mark) and Japanese investors' seasonal urge to repatriate capital in advance of the March 31 end of their fiscal year.

[From the Washington Times]

DOLLAR AGAIN PLUNGES, SETTING OFF STOCK SELLOFF—ECONOMY: RECORD LOWS AGAINST MARK, YEN STIRS DOUBTS ABOUT CURRENCY'S PREMIER STATUS—DOW LOSES 34.9 POINTS

(By Jonathan Peterson)

The U.S. dollar continued its extraordinary slide Tuesday, plunging to record lows against the German mark and Japanese yen, as currency worries slammed the stock market and eroded the greenback's once-lofty status throughout the world.

For the second straight day, U.S. Government officials choose not to resist the anti-dollar mania, fueling speculation that the currency could hurtle even lower in the coming days.

And unlike recent dollar-selling stampedes, high-rolling speculators were joined Tuesday by corporations, banks and mutual funds in the selloff, traders said.

"Right now it's a panic situation—we're in uncharted territory," declared Frank Conte, a currency dealer at Royal Bank of Canada in New York. "There's no sign from the Federal Reserve. There's no talk from the Administration. So traders are wondering: 'Where's the bottom for the dollar?'"

Such questions spread to the stock market * * *.

The punishing treatment of America's long-trusted currency, combined with investors' decided preference for German marks and Japanese yen Tuesday, startled veteran traders who wondered aloud how the episode would unfold.

"It's pandemonium, isn't it?" said Robert A. White, senior vice president at Standard Chartered Bank in New York. "It's shocking to a lot of us old-timers in the market to see the dollar ostensibly removed as the reserve currency of the world."

The dollar hasn't suffered alone. In what has become a massive, global shuffling of money, currencies of Canada, Mexico, Italy, Sweden, Belgium and other nations have all been walloped. Germany's surging mark, meanwhile, has reached post-World War II highs against the British pound, French franc, Spanish peseta, Portuguese escudo and Swedish krona.

In New York trading Tuesday, the dollar closed at 1.3702 marks, down from 1.4048 late Monday. It closed at 90.05 yen after falling as low as 89.05, down sharply from 92.80, the previous post-World War II low.

The buck has slipped 6% against the mark and yen this month alone, compared to an 11% loss against both currencies for all of last year.

"What can we do to stabilize the dollar or cause it to go up without doing long-term economic damage?" asked Monica Williams, vice president and foreign exchange manager at Sanwa Bank California.

While that answer seemed elusive Tuesday, economists cited several reasons for the problem that has erupted in recent days. German interest rates are expected to rise this year, benefiting lenders. By contrast, Fed Chairman Alan Greenspan recently hinted that U.S. rates were at or near their peak levels.

The prospect of a "soft landing" for the U.S. economy—slower growth but no recession—suggests that U.S. consumers will continue to gobble up imports, keeping the nation's trade balance deep in the red this year.

What is more, highly visible news from Washington seems to have convinced speculators that the dollar is a less attractive haven than in the past. Traders have repeatedly mentioned the rescue plan for Mexico and the defeat of the balanced-budget amendment in Congress in recent days as reasons to abandon the dollar.

"There's a complete lack of faith in the Fed, the Administration and in Congress to get the budget in order, to get the trade balance in order," White contended.

The controversy spread on Capitol Hill Tuesday, as members of Congress worried about the dollar and also complained about the rescue plan for Mexico, entailing $20 billion of U.S. loans and loan guarantees for the peso.

"It appears that the currency speculators, the vultures of the world, are beginning to circle around the U.S. currency because they seem to sense that our currency is vulnerable," Rep. Dana Rohrabacher (R—Huntington Beach) said during a hearing of the House International Relations Committee. * * *

Mr. SIMON. Yesterday's Washington Post, in an article by John Berry, "Dollar Keeps Falling Against Yen and Mark," quotes a Washington economist, L. Douglas Lee:

"The way to address the problem is to do something to bring savings and investment closer together—such as reduce the federal [budget] deficit," Lee said. And that pointed to yet another reason for the dollar's weakness—last week's Senate defeat of a constitutional amendment to require a balanced budget, which "was read as a negative by the currency market," Lee said.

The Wall Street Journal, the day before yesterday, in an article by Michael Sesit, "Currency's Slide May Mark End of Reserve Role."

The basic problem for the dollar is that there are just too many of them sloshing around, says George Magnus, chief economist at S.G. Warburg & Co. in London. The U.S. current account deficit—a broad measure of trade in goods and services plus certain financial transfers—is huge and growing. In addition, "there is still an underlying outflow of investment capital" as U.S. companies continue to invest in plants and equipment overseas, he says.

Here I might add what encourages that outflow is when you do not have a decline in interest here and when it is more productive, when you get more for your capital, to invest in other countries. The balanced budget amendment, every projection said, would send interest rates in this country down.

Then the article continues, quoting this London economist:

"And don't forget that the U.S. is the world's biggest debtor nation, with external liabilities of $750 billion at the end of 1994," he adds. Last week's defeat of a constitutional amendment that would have required a balanced budget by 2002 only underscored the country's lack of will to reform its ways.

Here is another one, an article from yesterday's Wall Street Journal, quoting Rudiger Dornbusch, a Massachusetts Institute of Technology economist, listing the budget deficit accounts as one of the two major reasons for the drop in the dollar.

The recent slump in the dollar coincides with the Senate's rejection of a constitutional amendment that would have required a balanced budget. "Germany is balancing the budget without big talk over the next four years. We are widening the deficit with big talk," Mr. Dornbusch said.

And today's Los Angeles Times, "Dollar Again Plunges, Setting Off Stock Selloff."

In the middle it says,

"It's pandemonium, isn't it?" said Robert A. White, senior vice president at Standard

Chartered Bank in New York. "It's shocking to a lot of us old-timers in the market, to see the dollar ostensibly removed as the reserve currency of the world."

* * * * *

* * * highly visible news from Washington seems to have convinced speculators that the dollar is a less attractive haven than in the past. Traders have repeatedly mentioned the rescue plan for Mexico and the defeat of the balanced-budget amendment in Congress in recent days as reasons to abandon the dollar.

"There's a complete lack of faith in the Fed, the Administration and in Congress to get the budget in order, to get the trade balance in order," White contended.

The reality is, if we had our fiscal house in order the $20 billion loan guarantee for Mexico would just be a blip out there. It just would not have any kind of an impact. In a $6 trillion economy that is not a big thing.

But when you compound it with our failure to address our fiscal deficit, then the little things become big things.

I hope we learn the lesson. My hope is that 1 of the 34 who voted against the balanced budget amendment will recognize that a great mistake has been made, and that we are harming our country right now. We are now talking about calling on the Federal Reserve and many other nations to come to the rescue of the dollar, and that is going to cost us a great deal. There is a much less expensive way to do it—pass the balanced budget amendment.

Mr. President, if no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. HELMS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 329

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I ask that it be read in full.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 329.

At the appropriate place in the bill, insert the following new section:

SEC. . LIMITATION ON EMERGENCY AND EXTRAORDINARY EXPENSES

(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense may not be obligated under section 127 of title 10, United States Code, for the provision of assistance, including the donation, sale, or financing for sale, of any time, to a foreign country that is ineligible under the Foreign Assistance Act of 1961 or the Arms Export Control Act to receive any category of assistance.

(b) EFFECTIVE DATE.—The limitations in subsection (a) shall apply to obligations made on or after the date of enactment of this Act.

Mr. HELMS. Mr. President, the amendment speaks for itself.

Mr. President, the pending amendment to funds appropriated for title 10, section 127 of the United States Code makes the point that if and when a country is not allowed to receive foreign aid from the United States, then, under the provision, that country would not be allowed to benefit from any of the funds provided by the authority of section 127.

Section 127 authorizes the Department of Defense to provide for "any emergency or extraordinary expense which cannot be anticipated or classified." It is a slush fund for unanticipated expenses; the Department does not have to ask for congressional approval to expend any of the money.

Let me add that I might not even have known about this little authority had the State Department not abused it so clearly in January of this year. At the Department of State's insistence, the Secretary of Defense authorized an almost $5 million expenditure from this account to purchase fuel oil for our enemy of 40 years, North Korea. Not once, since 1938 when the Department was first allowed to spend money for emergencies, has this fund ever been used for anything like this.

So why did they use it this time? To get around Congress. According to a senior U.S. defense official who spoke to the Washington Post on January 6 of this year, the United States had to use this authority because the Department of Defense "had the funds on hand and no U.S. allies agreed to contribute money for the oil * * *" It was not an emergency. It was simply one of the few accounts the State Department could raid to support its buy out of North Korea without having to come to Congress for approval.

Congress has voted time and again that North Korea should not be eligible to receive aid because it is a known sponsor of international terrorism, it is a Communist country, and it is a country known to trample the human rights of its own citizens. Just last year, Congress voted to prohibit all direct and indirect assistance for North Korea. And yet, the administration found some way to get around all of this. And they abused DOD authorities in the process. My amendment aims to ensure that will not happen in the future.

It is hard for me to imagine how there could be opposition to this one. If we are all in agreement that terrorists and drug traffickers should not get foreign aid from AID, then why should they be able to get foreign aid from the Department of Defense? My amendment is not retroactive and it would not prevent the Secretary of Defense from using emergency moneys the way they have been used since 1938. What it does is shore up one of the gaping loopholes in the way we provide foreign aid to other countries.

Mr. President, I hope to move my amendment expeditiously.

Mr. President, I think the amendment has been cleared on both sides.

Mr. INOUYE. Mr. President, speaking in behalf of the chairman of the Appropriations Subcommittee on Defense, I am happy to report that we have studied this amendment. We find it proper. We accept it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 329) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent that I be allowed to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REALITY-BASED BROADCASTING

Mr. PRESSLER. Mr. President, I want to call the Senate's attention to an article in this morning's Washington Post that I shall place in the RECORD. It is an op-ed written by myself. It involves the subject of how public broadcasting could become self-sufficient.

I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, March 8, 1995]

REALITY-BASED BROADCASTING

(By Larry Pressler)

"Public broadcasting is under attack!" "Congress wants to kill Big Bird!" These and

other alarmist cries have been common in recent weeks. The problem is they are lies. That's right, lies. I tried to conceive of a more polite way to say it. I could not. With rare exceptions the press largely has ignored the specifics of the position taken by members of Congress seeking to reinvent public broadcasting.

I have struggled to make my position clear. Yet the misrepresentations continue. I am convinced many simply do not care to report the facts—facts they do not find as interesting as the scenarios they create. That is too bad. The average American taxpayer would find the facts extremely interesting.

As chairman of the Senate Committee on Commerce, Science, and Transportation. I am not seeking to destroy public televisions and radio. I am a strong supporter of public broadcasting, both in my home state of South Dakota and nationally. Pull the plug? Absolutely not. Rather, my plan would expand opportunities and save taxpayer dollars.

Why do I seek change? Because times have changed. Today's electronic media are vastly different from those of the 1960s, when the current system of federal subsidies for public broadcasting was established. The old theory of "market failure" for educational programming is completely untenable in today's environment. Educational and cultural programs can and do make profits when their quality is good and marketing astute. The only money losers in today's arrangement are the taxpayers.

A Feb. 24 Post editorial stated it is time for the public broadcasting industry to face reality. The issue no longer should be whether federal subsidies for public broadcasting will be cut. I could not agree more. Congress now is debating when and how much. The House Appropriations subcommittee on labor, health and human services already has cut the public broadcasting budget. The House leadership promises more to come. I fully expect the Senate to follow suit.

Instead of crying over public cash, it would be more prudent for public broadcasting executives to use their talents and resources developing the numerous potential sources of revenue available to replace the federal subsidy rather than continuing to fan the flames of fear and exaggeration. As captains of a major corporation, their responsibilities should be clear. The Corporation for Public Broadcasting (CPB), National Public Radio (NPR) and the Public Broadcasting System (PBS) need to learn to stand on their own feet.

To help in that effort, I recently provided the chairman of the board of CPB with a plan to end its dependency on federal welfare in three years. Ideas to end CPB's addiction to taxpayer dollars include:

PROFITS FROM SALES

CPB should renegotiate sales agreements and improve future agreements to get a larger share of the sales of toys, books, clothing and other products based on its programming. In 1990, Barney-related products retailed at $1 billion! Steps have been taken by the CPB board to improve its share of such sales. More should be done.

MAKE THE MOST OF NEW TECHNOLOGY

Use of new compressed digitization technology would permit existing noncommercial licensees to expand to four or five channels where once they had only one. Public broadcasting stations could rent, sell or make use of the additional channels for other telecommunications and information services.

END REDUNDANCY

At least one-quarter of public television stations overlap other public television stations' signal areas. Public radio also suffers from the inefficiencies of redundancy. Ending this overlap and selling the excess broadcast spectrum would provide substantial revenues to public broadcasting.

SWITCH CHANNELS

Moving public television stations from costly VHF channels to less costly UHF channels in certain markets would provide a substantial source of new revenue.

TEAM WITH OTHER INFORMATION SERVICES

CPB could increase commercial arrangements in the computer software markets and with on-line services.

These are only a few of the ways in which the CPB could reinvent itself into a self-sufficient corporation for the '90s and, indeed, for the next century. Ending federal dependency does not end public broadcasting. Today's subsidy amounts to only 14 percent of the industry's spending! Indeed, my current plan asks the Corporation for Public Broadcasting to end its dependency on federal welfare in three years—that's one year more than what current proposals would give welfare recipients to get off federal assistance.

It would be tragic if the public broadcasting industry ignores its responsibilities when the federal budget is in crisis. It also would be tragic if the industry spurns exciting opportunities in new markets and technologies. Perhaps most tragic of all, however, would be continued retrenchment from public broadcasting executives crying, "It can't be done." It can be done. It should be done.

Mr. PRESSLER. Mr. President, I have felt strongly that the Corporation for Public Broadcasting does not need Federal dollars. I serve as chairman of the committee that oversees the Corporation for Public Broadcasting. The public broadcasting sits on a treasure trove of opportunities that will enable it to become self-sufficient.

I have had some disagreements with the Washington Post over the reporting on this issue, and I thank them for running my article this morning. My article explains five ways public broadcasting on a national level can be funded without taxpayers' dollars.

Now, remember that most State public radio and TV organizations are funded by State legislatures and by contributors. My concerns are about inside-the-beltway operations here, where a system has sprung up that I feel is self-serving. A significant amount of Federal funds does not get out to the States. Federal money that is sent out ends up coming right back to Washington.

In my op-ed, I point out that there are a number of ways that national public broadcasting can make money. No. 1, they can get a higher percentage of ancillary sales of products based on programs that appear on taxpayer-funded public broadcasting. They can also market much of their product through digital compression, and making programming available for sale through other parts of the information superhighway.

They can also sell or rent some of their spectrum in signal areas where there is redundancy and overlap. Indeed, digital compression also frees up spectrum that could be rented or sold for other telecommunications and information services. They already have what they call enhancements—others might call them advertisements—and they have fundraisers.

Mr. President, I support public broadcasting. I have been a contributor to public broadcasting in the past. My colleague in the House, NEWT GINGRICH, also has assisted a public broadcasting station in his home State of Georgia during a recent fundraising drive. But what this Senator is concerned about—and I speak only for myself—is the inside-the-beltway system that has grown up.

That money is not getting out to the States' public broadcast radio and TV. It is sent out, but much of it gets sent right back to Washington to pay for PBS or NPR programming. I would rather they have more options. Some might want to buy programming from the Learning channel or Arts and Entertainment or the Disney channel or the History channel. There is a lot of this kind of programming being made for profit, and I commend them.

In conclusion, Mr. President, I hope that my colleagues will take note of this article. Because regardless of my position on this issue, even the Washington Post has also pointed out in another editorial that the days when public broadcasting is funded by the Federal Government are coming to an end. I have suggested five ways they can fund themselves without Federal assistance.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is amendment No. 326 offered by the Senator from North Carolina, to the first committee amendment.

Mr. HELMS. Is it correct that the yeas and nays have been ordered on that amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Mr. President, I am advised that a Senator on the other side who does not wish this amendment to

pass, despite the clamor for it by Cuban people everywhere—and we have millions of Cubans in this country—I understand that the distinguished Senator is going to raise a point of order claiming that this amendment is legislation on an appropriations bill.

Well, la-di-da. We legislate regularly on every appropriations bill. The Appropriations Committee itself reports out legislation on just about every appropriations bill. But let it be known, if such a point of order is raised, it is a ruse to do nothing about Fidel Castro in Cuba. Anybody voting to support that point of order will be voting to do nothing about Fidel Castro.

True enough, sooner or later, we will get to it in the normal process of the Foreign Relations Committee, of which I am the Chairman. But I do not want to delay one more day for the removal of Fidel Castro from Cuba. He is a tyrant, a Communist tyrant who has been so cruel in his treatment of his own people.

So I wish to forewarn Senators that any point of order based on this amendment being legislation on an appropriations bill is nothing but a ruse. You cannot get to it any other way, so you are going to try to get it defeated on a point of order. I hope that the Senate will not buy that turkey because it is not justified. I reiterate, again and again as Franklin Roosevelt used to say, every appropriations bill that comes through this Chamber has legislation in it, often put there by the Appropriations Committee itself.

So do not be deceived. A point of order is just a ruse to defeat this amendment when no other avenue of defeat is available to any Senator raising such a point of order.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 2:52 p.m., recessed subject to the call of the Chair.

The Senate reassembled at 4:28 p.m., when called to order by the Presiding Officer (Mr. KEMPTHORNE).

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. KEMPTHORNE. The pending question before us is amendment No. 326 of the Senator from North Carolina in the second degree to the first committee amendment.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEXICAN PESO CRISIS AND BAILOUT

Mr. D'AMATO. Mr. President, it does not take a great economic wizard or professor to know that some deeply troubling things are taking place with the American economy. So I am going to address myself to a couple of points, because when we see a 10-percent drop in the value of the dollar against some foreign currencies, the dollar going from close to 100 yen per dollar to below 90, and now so-called stabilizing at or about 90, this should be very, very troubling to people.

Mr. President, the time has come for Congress to stand up and fight for the American taxpayers—the men and women who must work harder and harder just to make ends meet.

Last month, President Clinton ignored the will of the American people to bail out a mismanaged Mexican Government and global currency speculators. That was wrong.

Now that the dollar is in a free fall, Congress must closely examine the administration's raid on our Exchange Stabilization Fund to bail out Mexico. That fund, known as ESF, is supposed to be used to strengthen the dollar. It was never intended to prop up either the Mexican peso or foreign currency.

The American taxpayers and the American dollar have taken a double hit. First, the failure of the balanced budget amendment has sent a clear signal to the economic markets that we do not have the courage to cut the deficit and strengthen our economy.

And then, add to that, the President of the United States out campaigning against the balanced budget amendment, telling the world's economic markets that we are not serious about reducing our deficit. If we do not get the Federal deficits under control, we are going to be Mexico II.

It is ironic, Mr. President, that here we are fighting to stabilize Mexico's peso and our dollar is just in free fall. Oh, we have propped it up for a while. But what the marketplace is telling us is, if you continue this, if you do not have the courage to get your house in order, you will be Mexico II.

It is ironic that we spend as much time as we have with Mexico, the President lobbying Members of this Congress to support loan guarantees, first $40 billion, now we have $20 billion, and campaigning against a balanced budget amendment that would do something that would have an impact to strengthen the American dollar, to cut the deficits, to bring interest rates down. And now we are faced with just the opposite.

The second tough hit we took was the administration's blatant disregard of the will of the governed when they opened up our Treasury to $20 billion of our taxpayers' money.

Now, who does that money go to? Where is it being spent? There is not one Member of this Congress who can tell us how that money is being spent. There is not one Member of this Congress who can say that the Mexican Government is not still continuing to print pesos.

Why are we doing this? Who is getting paid off? Who is getting the money down there?

We just read where we have the man who was murdered, the No. 2 man in the Mexican Government, his brother-in-law ran away and they found he has $6.5 million in the bank, American dollars.

Is that what we are doing? We are not talking about a democracy. That is a corrupt, dictatorial government. Those elections are a farce. It is about time we ponied up and told the people the truth.

Never before has a President sent $20 billion from our Exchange Stabilization Fund to bail out a foreign country. This is not the President's personal piggy bank.

Mr. President, Congress must not stand on the sidelines while the administration allows the dollar to fall in a failed attempt to save the peso and a failed administration policy toward Mexico. Congress has an obligation to insist that the administration account for its actions.

The Banking Committee will hold hearings tomorrow and Friday on Mexico and on the administration's use of the funds to bail out Mexico and the impact of Mexico on the dollar. We have an obligation to determine what the administration knew about Mexico and when did the administration know it. We have an obligation to investigate whether the administration's inaction or silence caused the crisis or exacerbated it. We have an obligation to find out if this administration advised Mexico to devalue the peso.

The vast majority of Mexicans, Mr. President, deeply resent the Clinton administration's meddling in their affairs. There is a grave risk that the Mexican people will blame the United States for Mexico's economic meltdown.

Could you imagine if your interest rates on your home went from 20 percent on the mortgage to 85 percent and you were told that is because the

Americans have insisted on these new austere measures? Is that designed to gain us respect and confidence from the Mexican people?

The Mexican economic policy should be set in Mexico and not in Washington, DC.

The President has set a terrible precedent. What happens next time the peso collapses? What happens when some other country hits an economic currency collapse? Does the American taxpayer come forward and bail them out? What happens if our neighbors to the north have serious economic problems? We gave $20 billion or made it available to Mexico. Certainly Canada is every bit as important, and historically has been very close to this country.

Can we afford to bail out the global currency speculators every time a foreign currency collapses? Who will bail out the United States if we collapse under a mountain of debt? The Japanese? The Germans? I doubt it.

Make no mistake about it. The time for Congress to act has come. I understand that, as of March 3, the Mexican Government has already drawn down $3 billion of the first $20 billion and it will draw down another $7 billion by the end of June.

Before Mexico draws down further funds, and particularly in view of the deteriorating situation in Mexico, I think Congress must reassert its right and its prerogatives with regard to this matter. Congress must consider whether or not we should amend the ESF statute.

The President was wrong to go around Congress to bail out Mexico, and although I recognize that the Secretary of the Treasury must have some discretion in administering these funds, Congress must have the final say on the spending of $20 billion of taxpayers' money on what amounts to foreign aid.

The Constitution says we have to appropriate. This was just a mechanism and a vehicle to get around this, a loophole. Never intended for these purposes. Now that the dollar is under assault, the American people have a right to know the full facts. More of our money is being shipped to Mexico, and before it is being shipped, what is going to be taking place with that money? Mr. President, we must fight for the American taxpayers, not for mismanaged foreign governments and global currency speculators.

Mr. President, to conclude, let me say again that what we have seen is a misuse of this fund. Mr. President, that fund was never set up to be a guarantor or guarantee for foreign currencies. There was no prohibition, but it certainly was not set up for that purpose.

It seems to me that Congress has an absolute obligation, at the very least, to see how those moneys are being utilized and that the administration cannot hide behind a shield of some kind of executive immunity; that certainly at the very least we should know what conditions are being imposed as it relates to the money being drawn down, whether or not Mexico is complying, whether or not it was practical for those conditions that are being set out to be implemented.

Is it practical to raise interest rates to a height where we may have a revolution in the country? What about the stability of the Mexican Government? All of these are questions that are absolutely mandatory. We have a responsibility. The Government may have used this loophole—the President and the administration—but we have an absolute obligation to see how these funds are spent, at the very least, if not amend the statute, to see that this kind of invasion of the Treasury without congressional authority is never undertaken again. We intend to pursue that.

Mr. President, I think this should be very disturbing to all Members of Congress—Democrats and Republicans. There is no accountability. We are fighting to cut the budget. Yet here is $20 billion, and I daresay, $3 billion at least has been spent. We have not been notified how it has been utilized, nor whether this is just more money going to more corrupt officials, to more speculators.

Whether or not the American people have had a say in this, seems to me to be of some consequence and some importance. We, as their representatives, have had little if anything to say. We have little in the way of ability to give an accounting of how these taxpayers' dollars are being utilized.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, Senator DOLE and myself, and I estimate about 30 to 35 Senators who met at lunch today, had a purpose yesterday in my offering the pending amendment. We wanted to send a clear and unmistakable message to the administration that any proposal to make life easier for Fidel Castro will be vigorously opposed on a bipartisan basis by a majority of the U.S. Senators. The presence of Senator DODD on the floor illustrates that.

I believe that the point has been made. I believe it has been heard on Pennsylvania Avenue. If it has not, perhaps they should order some hearing aids.

Let me make a confession or two. First of all, I do not like to break the Senate rules, or bend them. When I offered the amendment yesterday, I knew that it was legislation on an appropriations bill.

The distinguished Senator from Hawaii and I have a little joke about sanctimony, about when an amendment is legislation on an appropriations bill. This is done all the time. But that does not make it right, really.

So my intent yesterday was just to make a point—and I had discussed with Senator DOLE my intention to make a few remarks, which I did, and then to withdraw the amendment. But there was so much excitement about the amendment and so much support for it that I had to back up and see what I had to do.

The pending amendment, the Helms amendment, as the television is referring to it, is in fact the exact text of S. 381, "The Cuban Liberty and Democratic Solidarity Act," which I introduced on February 9, with 21 cosponsors. There is a companion bill in the House with a number of cosponsors—I do not know the exact number.

Let me say this: As chairman of the Senate Foreign Relations Committee, and the distinguished Senator from Connecticut is an able member of that committee, I guarantee—and I think Senator DODD will help me—that S. 381 will be the subject of a hearing, as early as about the 1st of May, before we get to it because of various schedules in the Senate.

I say again that the pending amendment is legislation on an appropriations bill. While every appropriations bill does have legislation in it, at least everyone which I have seen, I do not enjoy testing the working rules of the Senate.

Mr. President, I ask unanimous consent to vitiate the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. GORTON). Is there objection?

Mr. DODD. Mr. President, reserving the right to object, and I will not object, first, I thank my colleague from North Carolina for his courtesy.

Also, something that should come as no great surprise to people who have been around here any length of time, the Senator from North Carolina, I suppose next to our distinguished colleague from West Virginia—I think he would agree with that—is about as good a master of rules as there is in the U.S. Senate, but also one who respects the rules. He knows how to use them effectively, but also respects them. I am not surprised in any way that he would take the position he has on the procedural issue here at all. I commend him for that.

This is a complicated piece of legislation. There are a lot of sections to it. I am delighted that there will be a hearing. I look forward to it and will participate in it.

Let me also say, Mr. President, if I can, that I picked up yesterday's morning paper and read the headline of the

paper and had no prior awareness or knowledge that something was changing with regard to our policy in Cuba. Whether or not I agreed with the sanctions being in place, the fact they were there, the fact that something may be done, came as somewhat of a surprise.

I have suggested to my colleague, Mr. President, the Senator from North Carolina, that we might request in the next few days a meeting with the appropriate personnel from the State Department or the White House to have a private briefing with Members as to exactly what is being considered, what actions may be taken.

I think that may be an appropriate way to find out whether this is exactly just a news story or there is something more to it. We can find that out. I certainly support the Senator in that request that we get a briefing.

Again, I look forward to the hearing. I appreciate immensely the decision of the Senator from North Carolina, the chairman of the committee, not to proceed with this particular amendment at this time.

The PRESIDING OFFICER. The Senator from North Carolina has asked unanimous consent to withdraw the yeas and nays.

Without objection, it is so ordered.

Mr. HELMS. Mr. President, I now withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right.

The amendment (No. 326), as modified, was withdrawn.

Mr. HELMS. Mr. President, I thank the Chair. I thank my friend from Connecticut. It is always a pleasure to work with him.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may speak for up to 10 minutes, as if in morning business.

The PRESIDING OFFICER. The first committee amendment is pending.

Mr. MURKOWSKI. Mr. President, I ask that the pending amendment be set aside until I complete my speech.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, reserving the right to object, and I shall not object, I would like the unanimous-consent order to also agree that upon the completion of the remarks of the Senator from Alaska, I be recognized for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Alaska need not ask that the committee amendment be set aside. He has asked unanimous consent to speak as if in morning business.

Does the Senator from Alaska modify his request, to be followed by the Senator from Arkansas?

Mr. MURKOWSKI. The Senator from Alaska is pleased to modify.

The PRESIDING OFFICER. Is there objection to the request as modified?

Without objection, it is so ordered.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, yesterday, Senator CRAIG and I, and a number of our colleagues introduced the 1995 mining law reform bill.

Mr. President, during the last several years, members and staff of the Committee on Energy and Natural Resources have spent thousands of hours debating, staffing, and pontificating reform of the 1872 mining law.

During the 101st, 102d, and 103d Congresses, legislation to reform the 1872 mining law has been introduced, debated, and actively pursued. Last year, Congress came within striking distance of enacting comprehensive legislation. Unfortunately, negotiations on a final bill broke down during conference consideration and Senate and House leadership made the decision to pull the plug on reform in the 103d.

Mr. President, I rise today to join with Senator CRAIG and others to begin the debate on mining law reform in the 104th Congress. I've thought long and hard about reforming the 1872 mining law. What effect will reform have on the mining industry? Will the legislation cost jobs? What impact will reform have on exploration and development in the United States? Will the environmental community support mining law reform? The bottom line is this: The voters sent a clear message to Congress in the November elections. No more delay, no more gridlock; get on with the Nation's business.

The debate over mining law reform has been around longer than many of us in the Senate. Everyone agrees there should be reform, the question is what kind of reform?

We need to protect the environment, but we also have a responsibility to protect and create jobs in the United States. We should encourage exploration and development in the United States, not only for the hardrock mining industry, but for all of our natural resource based industries. We should not drive these industries off shore.

During the last 12 years we've seen the oil and gas industry lose approximately 500,000 jobs in the United States. I do not want to see this happen to the hardrock mining industry.

The legislation we are introducing today is real reform. It is comprehensive reform that addresses every substantive issue raised during the past several years of debate.

PATENTS

Critics argue that patenting must be eliminated because individuals can patent/purchase land for $2.50 per acre and that some of these patented lands can be used for nonmining uses—ski cabins or fishing lodges.

The Craig-Murkowski bill specifically requires miners to pay fair market value for the surface of mineral-bearing lands and includes a provision requiring all patented land to be used for good faith mining purposes.

If the Secretary of the Interior discovers patented land being used for any purpose other than conducting good faith mineral activities, the Secretary is required to serve notice to the owner of the patent to stop nonmining activities. If the owner does not comply with the Secretary's notice, the State in which the patented land is located will have the opportunity to take title to the patented estate. If the State does not want the land, title and interest in the estate will revert to the Federal Government.

ROYALTY

Critics argue that individuals are allowed to extract minerals from the Federal estate without paying a royalty to the Federal Government.

The Craig-Murkowski bill requires miners to pay a 3-percent net proceeds royalty. The royalty is modeled on the Nevada net proceeds on mines tax, a well-established program which—like the mining taxes of many of the Western States—collects substantial revenues at a very modest administrative cost.

In 1993 Nevada collected $34 million in net proceeds taxes at an administrative cost of less than two-tenths of 1 percent.

The bill shares royalty revenues with the States. One-third of the royalties will be distributed to the States from which production comes, one-third to individual State abandoned mine funds, and one-third to the U.S. Treasury.

Why a net royalty for hardrock mining and a gross royalty for oil and gas?

It's simple, oil and gas come out of the ground in a condition almost ready for market.

Impurities are then extracted from the oil and gas.

Gold, silver, copper, and other hardrock minerals come out of the ground as raw ore in the form of rock-like material.

Before a gold bar can be produced, several steps must be taken that add value to the product.

Crushing; separating rock from the mineral; beneficiating to remove foreign materials; producing a concentrate; and smelting.

In short, an operator must take several steps to get hardrock minerals ready for the market. The theory that the oil and gas industry is similar to the hardrock mining industry is just not true.

RECLAMATION

Critics argue that the hardrock mining industry needs Federal reclamation standards.

In 1979, in a study authorized by the Surface Mine Control and Reclamation Act [SMCRA]—the COSMAR study—the National Academy of Sciences concluded that uniform Federal reclamation standards—like those in SMCRA—were not appropriate for hardrock mining.

Furthermore, in January 1995, the Western Governors' Association [WGA] released a position paper on mining law reform in the 104th Congress. The WGA specifically requested that "Reclamation on federal and non-federal lands should be conducted at the state level, through existing state abandoned mine programs where possible, rather than creating new duplicative federal reclamation programs."

In other words, please don't create uniform Federal reclamation standards.

In 1995, every State with substantial areas of Federal lands open to mineral location under the general mining laws has adopted substantive reclamation standards for hardrock mining. State standards are tailored to the environment of the States where the mining will occur. Disturbances created by mining on Federal lands must be reclaimed, but the standards found in State reclamation law should provide the substantive requirements of every reclamation program. The Craig-Murkowski bill recognizes that State reclamation standards, along with applicable Federal and State environmental requirements, are adequate to prevent unnecessary and undue degradation.

RECLAMATION

During last year's House-Senate conference, over my objection, language was included in the chairman's mark which gave the Secretary of the Interior authority to regulate control over western water resources.

The Craig-Murkowski bill does not. I repeat, this bill does not include any provisions which threaten to upset the historical vesting control over western water resources in the Western States.

The Western Governors' Association has made it clear that they don't want the Federal Government involved in the regulation of western water rights.

SUITABILITY

Critics argue that the Secretary of the Interior should be allowed to make a suitability determination related to each mining proposal on Federal lands.

The Craig-Murkowski bill does not include a suitability provision because the provision is unnecessary and redundant.

Federal lands are already required to go through a suitability test. Lands open to mineral entry have gone or will go through the Department of the Interior resource management process. If people are not satisfied with the Bureau of Land Management's Land Management Program, Congress should change BLM, not insert suitability language in a mining law bill.

In addition, all mining plans of operation on Federal land undergo analysis under the National Environmental Policy Act [NEPA] either in the form of an environmental assessment or a full environmental impact statement.

Finally, any lands with special characteristics can be withdrawn from entry under the mining law pursuant to section 204 of the Federal Land Policy and Management Act of 1976 [FLPMA].

Mr. President, again, as I stated earlier, this legislation is comprehensive reform.

I say to the environmental community and the mining industry, if you truly want reform, this is the year.

If we fail to enact reform this year it will not be through lack of effort. I will pursue comprehensive reform starting with a hearing this month to consider the legislation we introduce today.

I urge my colleagues to support the bill.

REBUTTAL OF BABBITT CRITICISM OF MINING LAW BILL

Mr. MURKOWSKI. Finally, Mr. President, I would like to enter into the RECORD a response to the Secretary of the Interior with regard to his comments regarding the Craig-Murkowski bill.

He indicates a criticism, stating:

> This law would do nothing to resolve the most glaring shortcomings of existing 1872 mining law.

As a rebuttal, I say the Secretary's position is either based on lack of knowledge or it is simply a falsehood, because the Secretary ignores the fact that the bill requires paying a fair market value for the surface estate of patented lands and using patented lands for good faith mining purposes. If a miner uses the patented land for nonmining purposes the land transfers to the State in which the patented land is located or reverts to the Federal Government. In addition, the bill imposes a 3-percent net proceeds royalty on minerals produced and prevents unnecessary or undue degradation of surface lands. This is not a do-nothing approach, Mr. President.

Further criticism, he states:

> It continues the giveaway of valuable public-owned hardrock minerals like gold, silver and platinum for peanuts.

Again, the Secretary is wrong, Mr. President. The bill requires a payment of fair market value determined by the Bureau of Land Management appraisal methods for the surface of estate patented land. The bill requires a payment of 3-percent net proceeds royalty on the production of minerals from public lands. The bill also requires a one-time payment fee of $25 per claim and a $100 annual maintenance fee per claim. The amount of money generated by the fair market value net royalty and location and maintenance fees is not peanuts.

Mr. President, another criticism from the Secretary:

> It is actually a step backward from existing law on a number of points such as the level of environmental protection that is now possible, and the amount of holding fee claimants would pay per acre.

That is absolutely incorrect, Mr. President. The Craig-Murkowski bill does not diminish environmental protection in any respect whatever. In fact, the legislation assures compliance with all major Federal environmental laws—including those governing air, water, solid and hazardous waste, endangered species, historic preservation, safety and health, toxic substances and others—and applicable State reclamation laws.

The environmental standard set by the Federal Land Policy and Management Act of 1976—prevention of unnecessary or undue degradation of public lands—is the standard adopted to the Craig-Murkowski bill, and the one against which mining performance will be measured under our bill.

The bill also contains $100 per claim maintenance fee for the first 5 years following enactment, but thereafter requires the payment of $100 fee for assessment work.

The last criticism, Mr. President:

> It has a royalty that is likely to be a net loser to the taxpayers. Given the low royalty rate and the fact it is on net rather than gross proceeds, we believe it will cost more to administer than the Federal Treasury will receive.

Another falsehood. It is totally absurd. A 3-percent net royalty, which is patterned after Nevada net proceeds on mine tax, is likely to generate more revenue to the Federal Treasury in the long run than a gross royalty of the same amount. Why? Because a gross royalty forces companies to mine the high-grade, low-production cost mineral ores first to recover the costs of mining. Once the reserves are mined the companies would be forced to prematurely abandon low-grade, high-cost reserves. Is this what we want?

Second, the criticism of cost to administer the 3-percent net royalty is more of an indictment of Secretary Babbitt's own department than it is of the legislation. In 1993, the State of Nevada generated approximately $34 million in revenues from the net proceeds tax, at administrative cost of less than two-tenths of 1 percent. A study by Secretary Babbitt's own department indicates an 8-percent gross royalty would cost $11 million to administer in the first year alone, and result in a loss of 1,100 jobs in 3 years.

The problem is not with the Craig-Murkowski bill. The problem is with Secretary Babbitt's bloated bean-counting bureaucracy at the Department of the Interior.

Finally in conclusion, there is not one criticism of our bill levied by the Secretary that has any merit. The

facts contradict all the charges made by Secretary Babbitt and his supporters in the House, and for me to even have to respond to these half truths, absurdities and distortions in order to ensure that the mining law reform process begins properly is simply an outrage. I resent having to take the time of my colleagues to set the record straight, but it is necessary to set the record straight.

Finally, Mr. President, we have a criticism from our good friend, GEORGE MILLER, on the House side. His criticism is that the mining industry will become rich, the taxpayers will receive virtually nothing for their riches, and the environment will be desecrated. This is the type of the-sky-is-falling exaggeration we have heard from the House under the leadership of GEORGE MILLER for so long and it is absolutely an exaggeration.

What MILLER forgets is this: The mining companies will pay fair market value, royalties, maintenance fees and location fees and they also pay corporate income tax, and their employees will pay State and Federal income taxes. Materials, supplies, and equipment that their mines will use will cost millions of dollars and have to be made payable as a consequence of the prosperity of the people here in the United States. All this means is more economic activity.

Second, the entire Nation will benefit from mineral production and from the stimulation mining gives the economy, and finally the environment will remain protected by every single conceivable environmental law that Mr. MILLER and his colleagues could think to impose on an industry to make public land use more difficult and put the U.S. mining industry more at disadvantage in competing in global markets.

As a consequence, Mr. President, I think it is fair to let my colleagues reflect on not only is this administration critical of the mining industry as it exists in this Nation today, they are critical of the timber industry as it exists today, critical of the oil and gas industry, the grazing industry. It is hard to find one single natural resource industry that this administration supports.

As a consequence, we are exporting our dollars and losing our jobs. As chairman of the Energy Committee, I intend to hold hearings on these matters to try and reduce our dependence on imports by stimulating our own resource industry. I thank the President for the time allocated to me.

THE MINING LAW REFORM ACT OF 1995

Mr. DOMENICI. Mr. President, I rise today to join Senators CRAIG and MURKOWSKI by cosponsoring reasonable and responsible legislation to reform the mining law of 1872. Our goal in revising this act is twofold, to maintain mining and mining jobs, and to provide for a healthy environment.

First, I would like to deal with the environmental components of this legislation. This legislation affirms that mining activities are subject to at least 15 Federal laws designed to protect the environment, as well as any State regulations that have been adopted since the original mining law was passed in 1872. A partial list of Federal laws includes: the Clean Water Act, the Clean Air Act, the Endangered Species Act, the Federal Mine Safety and Health Act of 1977, the Solid Waste Disposal Act, the Federal Land Policy and Management Act, the National Historic Preservation Act, the Forest and Rangeland Renewable Resources Planning Act of 1974, and the Toxic Substances Control Act of 1990. Although this list is not complete, I believe that it illustrates that modern miners operate far differently than the old image of the prospectors from the unregulated days of the industry. This legislation will ensure that this is the case.

The reclamation of mining sites is an important part of this legislative proposal, as well as the provision for requiring financial assurance that the work will be accomplished. The filing and approval of the plan of operation with the land management agency has been an important component in mining of public lands. This legislation promotes its importance and requires that environmentally sensitive reclamation is included in the plan.

It is important that mining be planned through the entire operation until reclamation is completed. With the highly speculative nature of the industry, even well intentioned operations may falter before completion. With this bill, financial assurance will be provided in advance of operations to assure the mined lands will be reclaimed.

Providing a reclamation program for abandoned mine sites is another feature of this legislation. The program will greatly improve those sites that have been long overdue for restoration. The costs of environmental repair will be derived from funds generated through royalty payments by the mining industry.

While several fees are set in the body of this bill, let me focus on the major new economic item, the royalty. I am concerned about the imposition of a royalty on hardrock mining, knowing that it will be an added cost in jobs to an industry that often faces difficult economic times.

Consequently, I support the imposition of a royalty allowing for some specific costs of production to be deducted prior to the royalty being assessed. This has been demonstrated in several studies to be the most reasonable method of assuring that the taxpayers will receive a return from the production of minerals on Federal lands. In addition, a similar provision adopted by the State of Nevada has proved to be relatively simple to administer, and it provides a substantial return to the taxpayers of that State, while allowing for the continuation of mining jobs that are vitally important to the economy of that State.

One-third of the revenues from the royalties will be distributed to the States from which the mining was conducted to assist these States in offsetting the costs of infrastructure that support the mining industry. These funds will also be available to the States to offset the costs of enforcement of both State and Federal regulations.

The second third of royalty revenues will be held on deposit and dedicated to programs for the reclamation and restoration of abandoned mine, mill, and processing areas. Not all States have reclamation funds established to assure financing for such activities. It is unquestioned that we are faced with abandoned sites throughout the Nation that need attention. With this legislation, we will provide a source of funding for the reclamation programs on lands where the mining practices of the distant past have resulted in well publicized environmental problems.

The final third of revenues collected from the royalty established in this legislation will go directly into the Federal Treasury for deficit reduction.

The Mining Law Reform Act of 1995 is a sensible and significant reform of the general mining laws. It provides the needed assurances to allow mining to continue to provide needed jobs and resources in this country, as well as requirements that the environment will be protected. The provisions for access and patenting are included in this legislation because of the importance for these to make mining viable and workable. Added to the law are adequate bonding to assure that the reclamation envisioned will actually occur on every operation, a royalty that provides support for abandoned mine reclamation and a return to the Federal Treasury, and assurances that lands patented for mineral activities will be used for that purpose, and that purpose only.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, is there a pending amendment at the desk?

The PRESIDING OFFICER. The first committee amendment is the pending amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent the pending amendment may be laid aside so I may offer an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 330

(Purpose: To restrict the obligation or expenditure of funds on the NASA/Russian Cooperative MIR program)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 330.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . Notwithstanding any other provision of law, effective 30 days after the date of enactment of this Act, none of the funds made available for the National Aeronautics and Space Administration by any previously enacted Act shall be obligated or expended for the NASA/Russian Cooperative MIR program, unless the President certifies to Congress that Russia has agreed not to sell nuclear reactor components to Iran.

Mr. BUMPERS. Mr. President, I will be very brief, and I think that the floor managers might be in a position to accept this. It goes right to the heart of something that is near and dear to me, and I think all Senators and, indeed, the country share my sentiments. This simply says that the funds which have been allocated to NASA in 1995, $251.9 million, for cooperation with the United States-Russian MIR space station will be suspended effective 30 days after the adoption of this amendment until the President certifies to us that the Russians will not sell nuclear reactors to Iran.

Now, Mr. President, as you know, opposing cooperation with Russia is not normally my cup of tea. I have been a strong supporter of the Nunn-Lugar initiative to help the Russians dismantle their bombers and their nuclear weapons. That is in our interest. That is the reason we do it. But for the Russians to cavalierly sell nuclear reactors to the number one terrorist regime in the world is not in their interest; it certainly is not in our interest—indeed, Mr. President, it is not in the world's interest—until there are significant changes in the governing body of Iran.

It is a militant regime. To the State Department and everybody else who assesses the nations most culpable in shielding terrorism, Iran is always at the top of the list.

Now, Mr. President, this does not need to be debated. What I have just said is absolute, and I believe that everybody in this country agrees with the principle. I wish to help Russia. I want them to become a real democracy. I want them to become viable economically. But I do not want to be sending all this money to Russia if they are going to demonstrate a callous, total indifference to the safety of this world from nuclear weapons by selling nuclear technology to renegade governments such as Iran.

Until this very day, Mr. President, until this very day, whenever there is a demonstration in Tehran, Uncle Sam and the American flag are invariably the subject of all the venom that the speakers and the marchers can muster.

I am not trying to destroy the cooperation between the United States and Russia in space. But we are funding almost one-third of the entire Russian space program, and it is on the ropes. Thus the Russians need space cooperation with us more than we need space cooperation with them. I do not want to kill the Russian space program. But I do not want them selling reactors to Iran either.

Mr. President, I yield the floor.

Mr. President, I ask unanimous consent that Senator LAUTENBERG be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, today the Senate is considering H.R. 889, the Defense emergency supplemental appropriations. This bill provides $1.96 billion to the Department of Defense for readiness by rescinding funds from other DOD programs. I will support H.R. 889 because it replenishes defense funds which were depleted to support unbudgeted operations in Haiti, Somalia, Rwanda, Bosnia, Korea, and refugee support in the Caribbean. Without these reimbursements, defense readiness will certainly suffer.

The Chief of Staff of the Army, Gen. Gordon Sullivan, testified before the House National Security Committee that "readiness will drop off the table" if the supplemental appropriations is not passed. He further stated that all Army training will cease May 31 if the funds are not provided. The Navy reports that 4 carrier airwings would be forced to stand down and 500 aircraft would be grounded. The Air Force has indicated that its flight time would be cut in half if the supplemental fails.

The readiness crisis faced by the Armed Forces is not, unfortunately, a recent phenomenon. Defense Secretary William Perry admitted last year that in 1994, 3 of the Army's 12 divisions were far below peak readiness standards, and that 2 of the Army's main quick-reaction units would have been unable to fulfill some of their missions if they were ordered into combat. It was further revealed that, due to funding shortfalls, some platoon leaders had never taken their soldiers into the field for training exercises, tank crews had not completed their drill evaluations, and platoons had not been evaluated with live fire exercise.

The Armed Forces have found themselves in a readiness crisis for a variety of reasons, such as the new, unplanned deployments mentioned above. But, increased spending on nondefense items in the defense bill is another reason that funds are being syphoned off readiness accounts. For example, nondefense expenditures imposed by Congress in last year's bill include funding for community roads, ponds, sewers, and a plethora of other development projects. The Department of Defense, for instance, is paying for security at the World Cup Games and the Olympics. DOD is even paying for the roundup of wild horses in New Mexico. Nondefense programs are growing, gobbling up larger portions of the defense budget. The Congressional Research Service estimates that nondefense spending by DOD has nearly quadrupled from $3.5 billion in fiscal year 1990 to $13 billion in fiscal year 1994.

This is not to say that all R&D programs are unjustifiable. Some technology reinvestment programs [TRP], for example, are properly funded through the Department of Defense, because the program demonstrates a direct linkage back to defense. Other programs, such as some of the projects identified above, have no linkage to defense. This Nation simply cannot afford to allow the defense budget to become the cash cow for nondefense-related programs. In my view, the general rescission identified by the Appropriations Committee is justifiable provided the funds come from the nondefense programs.

I do disagree with the committee on one notable program recommended for rescission—the $77 million for the Apache AH64 attack helicopter. Last year, the Congress provided $77.6 million to procure 6 AH-64A aircraft because, as I recall, we were concerned that a break in production between the AH-64A and AH-64D could cause the program to escalate the costs of the low-rate procurement. At the same time, the Army requested $117.7 for advance procurement of Longbow radar, a key modernization feature, but only received $80 million. Faced with a difficult choice, the Army elected to submit a reprogramming request in order to proceed with full funding of the Longbow radar at the expense of the procurement of the six helicopters. The committee rejected the reprogramming request and rescinded the $77 million.

I believe this action is a mistake since the Longbow program is clearly an essential Army helicopter modernization effort and certainly a justifiable defense program. For this reason, I intend to work with the chairmen of the House and Senate Appropriations Committees to restore the funds for the Apache-Longbow procurement.

Mr. INOUYE. Mr. President, may I suggest the absence of a quorum?

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, if during this period the managers do not mind, I would ask unanimous consent to be able to speak for 10 minutes as if in morning business and to set aside the pending amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from North Dakota is recognized for not to exceed 10 minutes.

THE U.S. WORLD TRADE DEFICIT

Mr. DORGAN. Mr. President, today there has been discussion in Congress about the problems of the dollar on the international currency exchanges and the collapse of the dollar in the last week or two and especially the collapse of the dollar in recent months.

I noted that one of the leaders of the other body said, well, that dollar problem relates all to the constitutional amendment to balance the budget. Mr. Greenspan, the head of the Federal Reserve Board, testified before a congressional committee today, and he said that there were several reasons for the collapse of the dollar.

I would like to add my opinion today to what is happening. I think people need to know that the collapse of the dollar on the currency exchanges is not something that should be unexpected, given the current circumstances in this country.

We received about 3 or 4 weeks ago the trade data for December, which means that we have trade information for all of last year to try to evaluate how did America do in international trade.

The chart that I brought to the floor shows how our country has done in international trade in the past year. This chart shows a history full of red ink. It shows that in the last calendar year we suffered the largest merchandise trade deficit in the history of this country—in fact, the largest trade deficit in the history of humankind. This trade policy, yes, belongs to this administration, but it belongs also to the previous administrations because it is a continuation of the same trade policy we have been conducting and following in this country for nearly 40 years. The deficits are staggering in international trade.

Most importantly, you will see what is happening to our manufacturing base in this country. This is a chart that shows foreign imports taking over now one-half of the manufacturing gross domestic product in our country. In 1970, manufacturing imports as a percent of U.S. manufacturing GDP was 10 percent. Last year, it was nearly 50 percent. You can see what is happening to manufacturing in this country by virtue of what we are importing in manufactured goods.

"U.S. faces historic losses in manufacturing trade." In other words, the trade on goods that are manufactured, that is a trade process in which we lose. The fact is in international trade, there are winners and there are losers. The winners have the jobs and the opportunities, and the losers suffer economic decline. This trade picture in this country shows a picture, a bleak picture, of decline, and it is something that we must change.

The last chart is an illuminating one. It shows what has happened in recent years to the major economic powers, the net exports of the major economic powers in the world. And you will see what has happened to Japan, to Germany, and then take a look at what has happened to the United States in terms of net exports. It has collapsed. It weakens and injures this country.

This trade policy does not work. This trade policy flows from the post-Second World War era, when our country decided that our trade policy was also going to be our foreign policy and we were going to have trade policies that helped a lot of other countries get back on their feet. These days the continuation of that policy weakens our country. Our country suffers very stiff, steep deficits in international trade balances, and the fact is it means lost jobs and lost opportunity here in the United States.

We hear this chant about free trade. Well, the suggestion is that we should compete anywhere around the world and win. That is free trade. If it is free, if it is open competition, we should compete and we should win.

The difficulty, of course, is in free trade this chart shows the average manufacturing wages in various countries. The United States is here, $16.79 an hour. Germany is up here at $25, and you can see who we are going to compete with. We compete with countries around the world where they pay 12 cents an hour to 12-year-olds who work 12 hours a day to manufacture products and say that is free trade; there are no tariffs on that commodity trade, so you go ahead and compete, Mr. and Mrs. America.

The problem is American workers cannot and should not have to expect to compete against 12-cents-an-hour wages, and yet that is where we are in that kind of trade scheme in this country.

I want to put the first chart back up because this is what I want to talk about, the historic trade deficits in this country today and the need for us to fundamentally revisit trade strategy and decide that we need to reinvent our trade strategy in this country.

The post-Second-World-War trade strategy of 50 years is failing this country and it is injuring this country. These trade deficits cannot be compiled in a country like ours without threatening the dollar, weakening the dollar, and causing the collapse of the dollar we have seen over a period of a dozen years on the international currency exchanges.

I have talked about the numbers, but the specifics are even more devastating. If you take a look at the specifics on the 1994 trade deficit what you find is that our trade deficit in autos and auto parts total $50 billion; our trade deficit in data processing equipment and parts totals $21 billion; telecommunications equipment, $17 billion; electrical equipment, $13 billion. These are the high-technology items in which manufacturing pays good wages. These are good jobs. These are the very items we ought to be winning in and instead we are losing. It is where our jobs are being exported in wholesale quantity to other parts of the world.

In fact, if you take a look at this trade deficit you will see, though I have not annotated the countries on here, we have a nearly $65 billion trade deficit with Japan at a time when the dollar is at a nearly record low against the yen. That is a time when you would expect we would be making progress in reducing our trade deficit with Japan. In fact it grew. Our trade deficit with China is $30 billion and growing astronomically; again, shipping American jobs outside of this country and weakening America's currency and causing others around the world to look at this mess and say, "We do not have confidence. We do not have the kind of confidence we should because the fact is this country, the United States of America, is running an enormous trade deficit which it cannot continue to do."

At least with respect to the budget deficit you can make a case that it is money owed, one to other. With respect to the trade deficit, the trade deficit must be repaid by a lower standard of living in the United States. It is inevitable and it is true. This bleeds the American work force, bleeds American opportunity, and bleeds away American jobs.

I must say the Mexican example—largely I raise that because of the deterioration of the dollar—the Mexican example in my judgment is an example of the kind of policy we should not follow. When we link the American dollar to the peso—as we did when we formed an economic union with Mexico and as we did when we decided on a bailout strategy as a result of the collapse of the peso—it seems to me inevitable that we diminish confidence in the dollar, linked to an economic circumstance like they have in Mexico.

It is interesting, I did not support NAFTA but we were told, with NAFTA, if we can negotiate lower tariffs across the United States-Mexican border we will see a massive new trade coming across the border that will strengthen

and help both countries. Of course what happened then was the peso was devalued and the fact is to sell American goods now in Mexico means the American goods are 40-percent higher priced than they were when NAFTA was passed and Mexican goods to be sold in this country now sell at a 40-percent discount vis-a-vis when we passed NAFTA.

What has happened? We had a very significant trade surplus with Mexico, about $4 billion. That shrunk last year to over a billion, and in recent months we even have a trade deficit with Mexico. Of course that threatens to grow.

My feeling is that as we look at the collapse of the dollar on the international currency exchanges and wonder why, we ought not wonder too long without understanding that a country cannot continue this kind of trade policy. Yes, I want open markets. Yes, I want free trade. But this country ought to take the lead in this world to say, "We also expect fair trade. There is an admission price to the American marketplace and the admission price to sell your products in the American marketplace is, yes, you must pay living wages. And you must have a safe workplace, and you cannot hire 12-year-old kids for 12 cents an hour."

We must, it seems to me, stand for our own economic interest and stop this kind of policy. That is the sort of thing that ultimately will strengthen confidence in the dollar on the international currency exchanges.

I hope this President and others who care about this issue—including Members of Congress—will decide that it is time for us to have a new Bretton Woods conference, a new type of Bretton Woods strategy in which we take a new analysis of trade strategy 50 years after the end of the Second World War and decide what is right for this country. What will set us on a course where we will not see these kinds of staggering trade deficits that weaken our country? What will promote new jobs, good jobs, with good income in this country?

I hear about everybody being upset in our country, and I understand that. At least one of the reasons the American people are upset is no matter what the economic indicators say, no matter what the dials and indicators say in the engine room with respect to this ship of state, most American families having dinner tonight understand they are working harder for less money. Mr. President, 60 percent of the American families earn less money today, if you adjust it for inflation, than they did 15 years ago. One can tell those American families, "Things are better for you." But if they are earning less money on a real income basis than they were 15 years ago, it is awfully hard to convince them that they are doing better. You do better when you have good jobs and good opportunity.

I might say, all the other issues that are going to come before this Senate in the coming months—almost all of those issues can also be addressed by good jobs with good incomes. You can talk about welfare reform, you can talk about crime, you can talk about 100 different issues—you can address most of them in this country with a good job and opportunity for Americans who are skilled and want to work.

So, as we discuss the collapse of the dollar and all of the macroeconomic reasons and we hear the economists give us their notions of what is at work in the world, at least I would like to contribute, from this Senator, my notion that these staggering trade deficits, the worst in history last year, contribute to a weakening of the confidence in the American dollar and I think call out—virtually call out for a new trade strategy, a summit on international trade in this country, to wonder: What on Earth are we doing, bleeding away good American jobs and good income for the American people with a trade strategy that does this?

Let me finish by saying we have a Trade Ambassador, Mickey Kantor, who is the best I have seen since I have been in Washington. He gives me hope. He has been tough with other countries. He stood up to the Japanese and the Chinese and others to say this cannot continue.

I appreciate that. I want to offer him strength to whatever extent I can. But I also say we are dealing with a trade regime that is fundamentally flawed and we need to build a new foundation and a new understanding of the various obligations that we and our trading partners have for and with each other as we conduct commerce in the years ahead.

Our interests must in this country be interests in promoting and creating stronger means to promote jobs and opportunity and hope for the American people. Frankly, this kind of trade picture, not just with Democrats—yes, this is under a Democratic administration—but Republicans and Democrats together have embraced a trade regime that in my judgment is fundamentally flawed and cries out for reinvention and cries out for reform.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Hawaii.

Mr. INOUYE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. HATFIELD. Madam President, I ask unanimous consent to temporarily lay aside the Bumpers amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Madam President, I now ask unanimous consent to temporarily lay aside the committee amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas [Mrs. KASSEBAUM] is recognized.

Mrs. KASSEBAUM. Madam President, if I may ask a parliamentary question, Is the Bumpers amendment the pending business? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Madam President, if the Senator will yield, I may have gone too far in setting aside the committee amendments because I knew the Senator from Kansas wished to amend one of the committee amendments. Therefore, I ask to withdraw that unanimous-consent request of laying aside both committee amendments.

Will the Chair please instruct us which committee amendment we would lay aside in order to make it clear for the Senator from Kansas?

The PRESIDING OFFICER. Without objection, it is so ordered.

The first excepted committee amendment is pending.

AMENDMENT NO. 331 TO THE FIRST EXCEPTED COMMITTEE AMENDMENT

(Purpose: To limit funding of an executive order that would prohibit Federal contractors from hiring permanent replacements for striking workers)

Mrs. KASSEBAUM. Madam President, I send an amendment to the desk which is a second degree to the first committee amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM] proposes an amendment numbered 331.

Mrs. KASSEBAUM. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the first excepted committee amendment insert the following:

SEC. 110. (a) Congress finds that (1) it is the role of Congress, as the representative body of the people, to decide the policy of the United States with respect to relations between management and labor; and (2) the executive branch should not use the Federal procurement process to initiate major

changes in the labor-management relations of the United States.

(b) The purpose of this Act is to ensure that the Congress decides important labor-management relations policy by prohibiting the executive branch from spending any appropriated funds for the purpose of implementing an executive order that would debar or in any way limit the right of Federal contractors under common law to use permanent replacements for workers engaged in a strike.

(c) None of the funds made available under any appropriations Act for fiscal year 1995 may be used to implement, administer, or enforce any executive order, or other rule, regulation, or order, that limits, restricts, or otherwise affects the ability of any existing or potential Federal contractor, subcontractor, or vendor to hire permanent replacements for lawfully striking employees.

Mrs. KASSEBAUM. Madam President, if I may just explain for a moment. I believe it is going to be the expressed wish of the chairman and the managers on the floor to bring this amendment up again tomorrow, but I would like to briefly talk about it yet this evening.

I am offering an amendment which would prohibit the executive branch from spending any money to implement the Executive order limiting Federal contractors from hiring permanent striker replacements. This legislation assures that the Congress, rather than the executive branch, decides major labor-management relations policy.

Federal labor law permits workers to strike. It also permits employers to continue to operate during a strike, if necessary, by hiring permanent replacements for striking workers. This has been the law of the land for 60 years.

Madam President, as my colleagues may recall, during both the 102d and the 103d Congress, the Senate rejected legislation that would have amended our Federal labor laws to prohibit employers from hiring permanent striker replacements. In fact, more Senators voted against the measure in 1994 than in 1992.

In an attempt to make an end-run around the Congress, the administration today has issued an Executive order that would debar Federal contractors that hire permanent striker replacements. I view this as a direct challenge to congressional authority.

Congress makes the laws, not the administration. We have the responsibility, as the representative body of the people, to decide labor-management policy through legislation. The executive branch should not attempt to use the Federal procurement process to make major changes in our labor laws.

The amendment I am offering today prohibits the administration from spending any appropriated funds during the 1995 fiscal year to implement or enforce any Executive order that would limit Federal contractors or subcontractors in their use of permanent striker replacements. This amendment assures that the Congress, rather than the administration, establishes Federal labor policy.

Madam President, I understand that the administration contends that the striker replacement Executive order is no different than previous Executive orders issued by past Republican Presidents. This argument has no merit.

If I may just for a moment comment on those previous Executive orders. The Reagan and Bush administrations issued Executive orders requiring Federal contractors to post a notice informing workers of their rights under Federal labor law, prohibiting Federal contractors from signing agreements that they would hire only unionized work forces, and prohibiting the illegally striking air traffic controllers from being rehired into Federal jobs.

None of these Executive orders that I mentioned—and there were three—dealt with a subject that the Senate had debated and rejected. None of these Executive orders was an attempt to make wholesale changes in the balance of labor-management relations. Clearly, these previous Executive orders differed significantly from the striker replacement Executive order.

Madam President, I suggest this action is without precedent. I urge my colleagues to give support to this amendment.

Madam President, if there is no further debate at the moment on this amendment, I ask unanimous consent to speak as if in morning business for a few moments.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING SENATOR JACOB JAVITS

Mrs. KASSEBAUM. Madam President, I would like to speak for just a moment in memory of Senator Jacob Javits, the distinguished New York Republican who served in this Chamber for 24 years. I think it does us all good to reflect on his career.

I was honored to serve with Senator Javits for 2 years. In that time, I came to admire and respect him as a man who always scrupulously prepared for any legislation, who worked hard out of the spotlight, and who voted his conscience. And what a conscience it was.

He did not have his name attached to very many bills—he was a Republican, after all, back when Republicans were not in the majority. Senator Javits served from 1958, just missing the years that the Republicans were in a majority at the time of President Eisenhower, to 1980, just again missing the time the Republicans had a majority.

But Jack Javits had his hand in more landmark legislation than most. The War Powers Act, the ERISA Act protecting private pensions, and the establishment of the National Endowment for the Arts and Humanities are often cited. But he also played important roles in civil rights and housing legislation, and late in his career, as the ranking member of the Foreign Relations Committee, he helped set the stage for the historic Middle East peace settlement.

Nine years ago yesterday, Senator Javits died. His daughter, now the director of a housing program for disabled homeless, wrote a tribute to her father for yesterday's New York Newsday. She carries on his legacy well. I ask unanimous consent that her article be printed in the RECORD. It is a fitting homage to her father, a man of public service and conscience. We miss his presence, but we remember his example.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From New York Newsday, Mar. 7, 1995]

ABOUT REPUBLICANS—MY FATHER WAS CUT FROM A DIFFERENT CLOTH

(By Carla Javits)

Today is the ninth anniversary of my father's death. My sense of loss has been acute at times, and now is one of them. Jacob Javits served as a proud Republican in public office, entering the U.S. Senate the year after I was born and staying there until 1980. His achievements included sponsoring the legislation that established the now controversial National Endowments for the Arts and the Humanities; the Employee Retirement Income Security Act (ERISA), which for the first time established standards to protect the private pensions of working people from bankruptcy; and the War Powers Act, requiring the president to consult with Congress before committing America to war. But the legislative battle I remember most clearly was passage of the 1964 Civil Rights Act. When my father returned from the vote on that historic bill, he lifted me and threw me up into the air.

Throughout my life, I turned to my father to illuminate the reasons for our country's political decisions. Despite our differences of opinion, I could always rely for insight on his balance, thoughtfulness and genuine love of debate. I have recently felt his absence not only because of this March anniversary, but also because I am so curious about what he'd think of his party, which has taken control of Congress for the first time since the 1950s. Because he is not here I've been reading his books, and I find myself amazed by how relevant they are to today's debate about the role of government.

In 1964, following the defeat of Barry Goldwater by Lyndon Johnson in the presidential election, my father wrote "Order of Battle: A Republican's Call to Reason," an attempt to redefine Republicanism. He maintained that the American people had rejected Goldwater on the basis of his stance that the federal government should shed its responsibility for America's poor and working people, and had opted instead for Johnson's War on Poverty. Personally, he withheld his support from Goldwater "as a matter of conscience. I could not support a ticket which proposed to reverse the policies of Arthur Vandenberg and Dwight D. Eisenhower in respect to foreign policy; the policies of Abraham Lincoln and Dwight D. Eisenhower in civil rights and the policies of Robert A. Taft in education and housing."

Even though the 1994 elections have pushed the pendulum in the opposite direction, my

father's insights in 1964, still strike me as stunningly on target: "The main issue is this: Under modern conditions how can we strike the right balance between the need to decentralize the power of decision in matters affecting our individual preferences, and the need for a unity of direction in matters affecting all of us as members of the American state and society?"

While he was viewed as a liberal, I think my father saw himself more as a patriot and proponent of free markets, with a strong interest in how democracy could balance the just claims of a diverse populace. He suggested that instead of dividing ourselves into camps of liberalism and conservatism, we focus on concrete proposals, testing them in light of three questions: "Will the specific terms of the proposal enlarge the area of freedom and opportunity for the individual while serving the common good? Given the aim of the proposal, is it beyond the reach of private resources, and therefore, must it be made a government matter? If a government matter, is it beyond the reach of local and state resources, and must it, therefore, be entrusted to the central government?"

My father's Republicanism found its roots in Alexander Hamilton, Abraham Lincoln and Theodore Roosevelt, and combined a strong belief in free enterprise with firm convictions about the role of federalism and government activism. His politics were also informed by his personal history—growing up poor on New York's Lower East Side. One of his favorite stories was about a boxing match in which he was knocked to the ground. The lesson he drew from it? Always get back up swinging.

Buried deep in his book I found several pages dedicated to his activism in the development of housing programs. While he favored programs that strongly encouraged private-sector, federal and local cooperation, he stated, ". . . to get done what the people needed done by government was good, orthodox Republicanism—if the private sector could not do it alone," and that "federal activity in housing should be expanded in those directions where it has a proven record and should strike out in new directions with imaginative programs that show promise."

Those pages spoke directly to me. My father died before I took my current job with an organization that helps non-profit, nongovernmental agencies provide housing, combined with health and social services, to homeless people with disabilities. I can't help but think that my father who worked so hard to eliminate poverty, would have been a leader in efforts to end homelessness, which exploded in the years after his death. I imagine that he might have especially advocated the public/private partnership that drives the successful development of supportive housing. It remains to be seen whether his congressional successors will feel as he did, that federal support of effective, cost-efficient and humane housing for our most vulnerable citizens is "good, orthodox Republicanism."

One afternoon toward the end of my father's life, when he was already ill, I was talking to him and crying over how much I would miss him when he was gone. He said, "You will not miss me, you will remember me." On the second point he was right.

Mrs. KASSEBAUM. Madam President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRAMM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

The Senate continued with the consideration of the bill.

Mr. GRAMM. Madam President, I ask unanimous consent to add my name as a cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, I know we are going to debate this issue tomorrow, but I wanted to come down and make a very short statement on it tonight.

I believe that the President, through Executive order, is trying to accomplish something that he has been unable to accomplish through Congress and the legislative process. I think it is very important that we not allow the President to use an Executive order to limit the freedom of our people.

The issue of whether or not an employer can hire someone to replace a worker who refuses to work is not a matter of labor rights. It is a matter of freedom. If I do not want to work for you, I have the right to quit or to strike, but I do not have the right to prevent someone else from working for you. I think this is a very important issue.

I wish to commend the Senator from Kansas for providing leadership on this issue. I think it is very important that we pass this amendment, and I intend to vigorously support it.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Madam President, I appreciate the Senator's statement. I, too, think it is a very important issue.

I ask unanimous consent that the following Senators be listed as original cosponsors: Senators DOLE, WARNER, HATCH, THURMOND, GRAMM, and GREGG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I want to congratulate my colleague, Senator KASSEBAUM. I am pleased to be a cosponsor of her amendment.

I believe that President Clinton started the 1996 reelection campaign when he signed the Executive order sent special delivery to his friends in organized labor.

The President may say his directive is designed to foster fairness in the Federal workplace. Its real purpose, of course, is to help shore up a political base the President currently believes is critical to his own political future.

The issue here is simple:

Just as an employer's demands are moderated by the knowledge that his employees are legally entitled to strike, so too are the demands of workers moderated by the knowledge that a strike over wages and other economic conditions may result in the hiring of permanent replacements.

This uncertainty is an essential element of collective bargaining. It forces both labor and management to negotiate in good faith and resolve their differences through compromise.

With today's power grab, the President has upset the careful balance that has been the hallmark of our system of collective bargaining for more than 60 years.

The President has also set a dangerous precedent forgetting that it is the responsibility of Congress, not the administration, to write the laws governing labor-management relations in this country.

Unfortunately, the President has chosen to do an end run around Congress. Congress has repeatedly rejected the so-called striker replacement bill. The President is making a big, big mistake if he believes he can revive the defeated legislation by issuing an Executive order. The President may enjoy thumbing his nose at Congress but his enjoyment will be short-lived at best.

I certainly urge my colleagues to support the amendment offered by my colleague from Kansas, Senator KASSEBAUM. It is Congress who should set labor policy in the United States, not the President.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO JOHN WHITE

Mr. DOLE. Madam President, this past January, America lost a patriot, and many in the Senate lost a friend with the passing of John White.

Several Members of Congress joined me attending memorial services for John on January 31, here in Washington, DC.

It was a very moving ceremony, filled with stories of John's life in and out of politics.

White House Counselor Mack McLarty obtained a transcript of the services, and I believe that all those who knew John will enjoy the memories it provides, and those who did not know John will learn more about a remarkable public servant.

Mr. President, I ask unanimous consent that the transcript be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SERVICES FOR JOHN C. WHITE, TUESDAY, JANUARY 31, 1995, FIRST BAPTIST CHURCH OF THE CITY OF WASHINGTON, DC

Reverend Dr. Gladstone. We welcome you to this memorial service for Mr. John C. White, and I welcome you on behalf of this Church, of which they were members, and on behalf of Mrs. White, his dear wife, and the members of the family.

Let us worship God. God is our refuge and strength, a very present help in trouble. Though the earth change and the mountains be removed, God will be with us and will not leave us. Jesus said, "I am the resurrection and the life. He who believes in Me, though he dies yet shall he live, and whoever lives and believes in Me shall never die."

Let us pray. Great and marvelous are Your works, Lord God almighty, just and true are Your ways, oh King of Saints. Who shall not fear You, oh Lord, and glorify Your Name for You only are holy, wherefore with your whole church both in Heaven and on Earth. We worship and adore You, Father, Son, and Holy Spirit. Ever one God, world without end. Oh Lord, Jesus Christ, we do not ask for Your presence with us in this service of remembrance, and gratitude and love. For you have promised that where two or three are gathered together in Your name, there You are in the midst. But we do ask You that You would help us to recognize Your presence. Open our eyes that we may know You. Melt our coldness so that we may love You. Loosen our tongues that we may praise You. Take our wills that we may commit them afresh to Your service. And may go through this journey of life without fear and in great confidence. And this we pray for Your love's sake. You taught us when we pray to say together. Our Father, who art in Heaven, hallowed be Thy name. Thy Kingdom come, Thy will be done on Earth as it is in Heaven. Give us this day our daily bread and forgive us our trespasses as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, the Power, and the Glory for ever and ever. Amen.

I want us now to listen to the Word of God as it comes to us in the Scripture and in writings based on the Scripture. We pray that this word may be a source of comfort and inspiration as we face the future.

We begin with a writing from the book of Ecclesiastics. Let us now sing the praises of famous men, the heroes of our nation's history through whom the Lord established His renown and revealed His majesty in each succeeding age. Some held sway over kingdoms and made themselves a name by their exploits. Others were sage counselors who spoke out with prophetic power. Some led the people by their councils and by their knowledge of the nation's law. Out of their fund of wisdom they gave instruction. Some were composers of music or writers of poetry. Others were endowed with wealth and strength, living peacefully in their homes. All these won fame in their own generation and were the pride of their times. Some there are who had left their names behind them, to be commemorated in story. There are others who are unremembered. They are dead, and it is as though they had never existed, as though they had never been born or left children to succeed them. Not so our forefathers. They were men of loyalty whose good deeds had never been forgotten. Their prosperity is handed onto their descendants and their inheritance to future generations. Thanks to them their children are within the covenant. The whole race of their descendants. Their line will endure for all time and their fame will never be blotted out. Their bodies are buried in peace, but their name lives forever. Nations will recount their wisdom, and God's people will sing their praises.

Psalm number 23: The Lord is my shepherd. I shall not want. He makes me lie down in green pastures. He leads me beside still waters. He restores my soul. He leads me in paths of righteousness for His name's sake. Even though I walk through the Valley of the Shadow of Death, I fear no evil, for Thou art with me. Thy rod and Thy staff they comfort me. Thou prepares a table for me in the presence of my enemies. Thou anoints my head with oil, my cup overflows. Surely goodness and mercy shall follow me all the days of my life. And I will dwell in the house of the Lord for ever.

John. Chapter XIV. The Words of our Lord Jesus Christ. Let not your hearts be troubled. Believe in God, believe also in Me. In my Father's house there are many rooms. If it were not so, would I have told you that I go to prepare a place for you? And when I go to prepare a place for you, I will come again and will take you to Myself, that where I am, you may be also. "And you know the way where I'm going," Thomas said to Him, "Lord, we do not know where You are going. How can we know the way?" Jesus said to him, "I am the Way, and the Truth, and the Life.

And finally, I want to read a passage from a book, which to so many people is next to The Bible, John Bunyon's "Pilgrims Progress." And I think that you'll agree that, as you listen to it, it describes this good man, this servant of this nation whom we remember today. It is the passing of Mr. Valiant for truth. After this it was known abroad that Mr. Valiant for truth was taken with a summons by the same post as the other and had this for a token that the summons was true. That his pitcher was broken at the fountain. When he understood it, he called for his friends and told them of it. Then said he, "I am going to my father's. And though with great difficulty I got hither yet how I do not repent me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage. And courage and skill to him that can get it. My marks and scars I carry with me to be a witness for me that I have fought his battles who now will be my rewarder. When the day that he must go hence must come, many accompanied him to the riverside into which as he went into he said, "Death, where is thy sting?" And as he went down deeper, he said, "Grave, where is thy victory?" So he passed over, and all the trumpets sounded for him on the other side. Thanks be to God.

Thomas F. (Mack) McLarty III. As a young state legislator well over twenty five years ago now, I had my first occasion to meet John White when a group of us from a neighboring state to that rather large state to our west traveled to Austin, Texas. I was struck with Commissioner White's understanding of his job, the depth of his thinking, the commitment to public service. But as a young legislator at 23 I was even more struck by his thoughtfulness, his ability. Despite great pride and love for his state, he didn't brag on it too much in our presence, and even said a few nice things about Arkansas. We stayed in touch and some years later serving under another distinguished chairman, Bob Strauss, I had the occasion to spend considerable time with Commissioner White. I benefited again from his wisdom and his counsel, but continued to be influenced by his thoughtfulness, his ability and his example.

When Donna and I moved to Washington, just over two years now, no one was more gracious than Nellie and John White to us. I continued to be influenced by his example and his thoughtfulness. As has been written, politics and party are both poorer for his passing. Commissioner, Secretary, Chairman John White leaves a rich legacy and an enduring example.

Another young man from Arkansas met Commissioner White about two or three years after I had. He also was struck by those qualities and characteristics that I noted, but was in a little bit more of a hectic time in a national campaign working with Bob Armstrong for Senator George McGovern. He, too, stayed in close touch with John White over the years and was influenced by his wisdom, his counsel, by his ability, and by his example. He writes to the family and friends of John C. White:

"A patriot, a wise counselor, a truly honorable man, John White consistently displayed the best of the American spirit. His decency, determination, and humor are models for all of us who are working to move our Nation forward and to improve our people's lives. I was lucky to know John and benefit from his advice for many years, and I will miss him. His life's work is an inspiration to all of us in public life and we will always be grateful for his extraordinary efforts to help make our government and our country better. His legacy of leadership and compassion will serve as a guiding force for generations to come. Hillary and I extend our deepest sympathy to you. You are in our thoughts and in our prayers." Signed, Bill Clinton.

John White leaves a rich legacy and an enduring example.

Honorable Robert Strauss. Most of you, friends of John White's, are also friends of mine and well aware of the fact that I enjoy speaking, but this is one time remarks don't come very easy. I suspect that John knows we're here. I suspect he's looking on, and I further suspect that, if he could communicate, he would say, "Strauss, would you ever have believed that a distinguished group like this would gather in a memorial service for me?" And in keeping with our typical conversation I suspect that I would reply, "No, White, you know I carried you a long way for no more talent than you have." And that would be in keeping with most of our conversations. So much has been written and so much has been said about John in such a good taste, so marvelously done that I certainly don't want to try to say much for fear of being too repetitive. But John would have loved to know that you were all here. He had tremendous personal pride and, like all of us, vain. He had his share of vanity. Not too much, just about right. And he would be very pleased if he were here today. John and I, as most of you know, had lunch a couple of times a week. Had lunch at Duke Zeibert's, who I see here today. I used to say to White every now and then, "You know this food at

Duke's is gonna kill you, John." And sure enough, it did.

John White was an old fashioned fellow with old fashioned values, and we liked to talk about them. He had values that don't show up too often in the political marketplace, particularly here in this community. But he never varied from them, and no matter what his troubles were, he was never self-indulgent, and he never felt sorry for himself. He enjoyed living every day. He had pride in himself. He had tremendous pride in Nellie and all the rest of his family.

I remember planning the 1976 Convention. John called me from Austin and said, "Strauss, Nellie wants to be on the platform committee." And said, "Can you put her on there?" And he said, "You said you know you have a vote there." And I said, "Well, that's what I'm looking for." All of you remember the Democratic Party in the 1970's. You needed votes if you were trying to get anywhere, and so we put Nellie on the platform committee, and I'll never forget the platform committee had deliberated quite a few days, maybe a few weeks, and I called White or I saw him in town, I don't remember which, and I said, "Damn, White, that Nellie's tough." He said, "What do you mean?" I said, "Well, she wants to prove everyday that I don't own her and you don't own her." And he told me of the guaranteed vote I had; "Well, she's never voted against you, has she?" I said, "No, but why she makes me work for every one of them so hard?"

Well, and so it is that we are here today. It was just a couple of months ago that Vera Marie who is also here today called John and said, "John, we're having a birthday party for Bob. It's his birthday, last October 19, and I hope you can make it." He said, "Well, I have a date, but I'll break it. I'll break it." And then he said, "You know, Vera, we may not get to go to many more of these." I know John was thinking that he would be here and I wouldn't and it worked the other way.

Last Friday we were in Austin for John's funeral service, and it was a lovely service, and a mob of people were there, and they had such a pride in John and in his life, and the Reverend Jesse Jackson spoke. And he spoke eloquently, and beautifully, and tastefully, and the crowd was moved by every word he said. And as he finished, he did something that startled me, something that I had never seen done before. But I enjoyed that. I enjoyed it. And I know Nellie did, so I'll do what the Reverend Jackson did. I'll ask each of you: Join me in a round of applause for John White. He earned it. Thank you.

Senator Robert Dole. Nellie and members of the family. When Tip O'Neill looked back at his political career, he said one of the best pieces of advice he ever received was from the legendary Boston mayor, James Curley. Curley once told him, he said, "Son, it's nice to be important. But remember, it's more important to be nice." And I suppose that anyone looking to life of John C. White, he would say that he was important. And the news stories about John's passing listed the official and unofficial positions in which he served during a very remarkable career. But I believe the lasting legacy of John White is he knew that important titles and spacious offices are only temporary. He knew, as Mayor Curley said when it's said and done, it's more important to be nice. And I think during each and every day of John's sixteen years in this city, he proved that Harry Truman was wrong when he said, "if you want a friend in Washington, buy a dog." And I am just one of the countless men and women who learned over the years—as a Republican I might say—"Just needed a friend? Call John White."

I remember my first meeting with John White. It was in 1977. Senate Agriculture Committee. Senator McGovern was there. It was a rather raucous hearing—we used to have those in the Senate. But I was very impressed with Commissioner White, who was about to become Deputy Secretary of Agriculture, and I remember seconding his nomination, which I think surprised him and surprised maybe some of my colleagues, because it didn't take me long to learn that, realize that America would be well served with John's decency, and honesty, and integrity, and above all, just a lot of good common sense. A few days after John passed away I saw a survey that said, "one of the things that makes Americans most angry is people in positions of power who say one thing and do another." And I thought that probably John would agree with that statement, for in his life he was a man of his word, regardless of politics. He was a man of his word. And if you read Washington's Sunday Post, an excellent piece by Mark Shields, in which he wrote, "John White didn't bob or weave or hedge or trim. If he was with you, you always knew it." And when it came to politics, John didn't bob or weave. He was a Democrat through and through. But he always knew that being a partisan was far less important than being a patriot. And no doubt about it, John was a patriot. He loved Texas. He loved America. He loved his family. And few served them better.

At the beginning of his first inaugural address in 1953, my political hero, Dwight Eisenhower, led America in prayer. And while the words may be Ike's, the sentiments expressed are also undeniably those of John White, and I quote, "May cooperation be the mutual aim of those who, under the concepts of our Constitution, hold a different political face. So it all may work for the good of our beloved country and Thy Glory. Amen." End of quote. Thank you.

Honorable Bob Armstrong. When I talked to Nellie, she said, "I'd like to have somebody up there that just knew him as a friend." And John C. and I were friends. Over a long period of time, we were thrown together because we did politics together. We were thrown together because we liked to do a lot of the same things. We had an office arrangement where he happened to be above my office in a building and we could see each other every day and I really loved this man. You know, he came from an interesting part of Texas. It was a part where rain was important, and people's lives and their fortunes were governed in the old days by how much it rained. It was a strip of Texas that produced products like Sam Rayburn, and Lyndon Johnson, and John Nance Garner, and Ann Richards, and Bob Strauss, and Webb, and Bedacek and Dobie, and John C. White.

And as John C. said in one of these quotes in the program, he couldn't wait to get out. But it still had a profound effect on him and the kind of person that he was. He always had fun. One of the poems that he liked, kind of harked back to his upbringing. It was by Carlos Ashley, who when they moved the inauguration into the House chamber, because it had started a cloud burst, stood there and looked out and wrote, "Oh the glamour and the clamor that attend affairs of state seem to fascinate the rabble and to some folks seem just great. But when the final scale is balanced in the field of loss and gain there's not one inauguration's worth a good, slow, two-inch rain." And those were John's sentiments about pomp and circumstance and what real values were. He always had fun, his advice was always sound, and he was always an unflagging and an unequivocal friend. First example of advice he gave to me: I was two years elected in a state which was pretty topsy-turvy and he'd been there for eight or ten years and George McGovern became our nominee, not the most popular person to be a nominee for the Democratic Party in Texas.

I went to John's house one afternoon and, as was always the case there was the New York Times and The Washington Post on the coffee table, because he loved to find out and know what was going on, and he said, "Armstrong, they need us. We really need to help them." I said, "Well, it's probably gonna be political suicide, but if you say that's what we need to do, John, let's do it." And so he and I started on that endeavor. Never always pleasant. Not with much chance. Again as Mark Shields pointed out, but you knew it had to be done, and he told you, "let's do it," and so we did. His advice turned out to be pretty good. I never had an opponent for the next ten years. But you couldn't have convinced me of that when I started that out with him that day. And he also told me that it didn't make much difference whether it was popular or not as long as it was the right thing to do.

You know, Nellie said, "I want you to tell them the story about the limo, because you always had a good time." And I said, "Nellie, in church?" And she said, "Yeah, in church." But I'm going to get to that in a minute. I think that most of what we did that was fun had to do with campaigning, but the times that I remember the most were the things that we just did together. We'd leave the office and go over to Memorial Stadium and we would run, because we thought that was good for us. And frequently there would be coeds on that running track, and some of them just lying out there in the sun. And John White developed what he called "the slow run." And he was still running, but it was awful slow when we went by and watched them.

Bruce Babbitt told me the other day that he thought that I was the product of a misspent adulthood. And I want to tell you that John White was a major contributor to that condition. I remember after he'd been there for about fifteen years, he said, "You know, I've got this office where I can just do it with my eyes closed." And he said, "One thing I started doing there for a little while was I'd get to the office about 7:00 or 7:30," (and he was just the proper amount of devious about this), "and at 10:00 o'clock I was on the golf course, I was back at 4:00 and I would stay and make calls until about 7:00 at night, and people would think I was the hardest working public employee they'd ever seen; in at 7:30 and out at 7:00." And he always enjoyed those kinds of times when we would get out. When he got up here and I'd come to see him he introduced me to golf at Congressional in the leaves, in the fall. And we never did have partners. We'd just ride together and he talked to me about his dad and I talked to him about mine and how we hated them, because they made us do chores and made us be disciplined when we didn't want to be. But they also taught us what was right and what was wrong, and they also got real smart, our dads did, when we went away to college. And when we came back they were a lot smarter than they were when we went. But I guess the things that I remember the most was that he always bragged on Nellie, and he always said, "You know, it's just amazing to me how Linda and Nellie put up

with us." And that they do. And he always talked about his kids, and he talked about how wonderful they were. If I had one wish right now, I wish that you could have heard what his children had to say about him in Austin, because John R. and Ed were just absolutely perfect; (that) was the term I used about their dad and their relationship.

Well, I'll tell you about the limo. We weren't used to riding in them, but we were in Houston and we went down to some kind of a meeting and on our way back on the road. It was very hot in Houston, as it can be, and we were riding along there, kind of embarrassed that we were in a limo, and it was air-conditioned, and there came along a '57 Chevrolet with about five to six kids in it, and they pulled up alongside and looked over there at these guys riding in that air-conditioned limo, and they gave what I would call the "Texas hot weather hand signal," that people give to people in a limo. And John was sort of appalled by this and I said, "Just think about it as them giving us a hand, one finger at a time." And he always liked that and used that. Sometimes, good things come out of bad ones.

I guess he understood about money and how important it was in politics, and his favorite story was about the time that Speaker Rayburn woke up one day and found out that the money from cotton had not come to Washington, and Roosevelt was in his fourth election. He had a new guy named Harry Truman replacing John Nance Garner and the cotton money hadn't gotten in, but, as they did in those days, they sent a fellow up with a satchel with the money in cash, and he got to Union Station and the money was burning a hole in his pocket, and he didn't know what to do, but what he did was he went over and said, "Where's the Democratic headquarters?" And they said, "It is over right next to the Senate." And sure enough, there was a small headquarters over there that they had set up for Senator Truman, because he could just go there and kind of do what he needed to do and nobody ever came to it. And so, Mr. Jackson, who had the money, walked in and he said, "Here's the cotton money." And Harry Truman looked at it and it was a lot of money, and nobody had ever done that. And he got back on the train. He went back to Austin. They said, "What did you do with the money?" He said, "I gave it to the headquarters." They said, "Which one?" He said, "Harry Truman's." They said, "You, fool. That's not the right headquarters. You gave it to the wrong person." One year later, Mr. Jackson had his own desk in the White House, in the Truman White House, where he could do all the business that he wanted to do. And John White thought that was simple justice, and he loved to tell that story.

He gave me one other piece of advice. He said, "You really ought to come up here." He said, "You'll love it," and, "They need you." The last thing was superfluous. He always had that ability to flatter you, just a little bit. They didn't need me, but he'd say "They need you." But you could always kind of believe in it if John C. told you that. But he loved this city, and he loved the people, and he loved the power, and he loved the system. But he didn't love the power as an end in itself. He loved the fact that people could use that power for good if they were the right kind of office holders and if they used it wisely.

I used to ask him when he was going back. And he wouldn't ever answer me directly. He just kind of looked off in the distance maybe and say that he really had a lot of friends here in Washington. And in a way, that was an answer. And so, I had a great time knowing him. I always said that a conversation with John White was like a drink of cold water from a hill country spring on a hot day. He was always refreshing and he was always sustaining.

Let us pray. John C. is with You now, God. Thanks from all of us for letting us have him for a while. Amend.

Mr. Jack Nelson. Bob Strauss said that, uh, John White would have loved to have seen you all here today and I know he would have looking out over this crowd. You know what John White would've really loved? He would've loved the Reverend Jesse Jackson preaching his funeral in the rotunda of the Texas State capital and Bob Dole eulogizing him at a memorial at the First Baptist Church here. He would have really loved that.

Most of you were not at John's funeral, but as one of many of his reporter friends, I want to report just briefly on what a moving and extraordinarily unusual funeral service it was. It was a sad—but I must say a magic—moment. Jesse Jackson, in a flowing, white robe, conducted the service in a packed rotunda. The first funeral service ever held there.

The Texas Democratic establishment turned out in force: Ann Richards, Jim Wright, Bob Strauss, Lloyd Bentsen, and many others—and they came from all over Texas and from all over the country. His family and friends spoke movingly of John as father, grandfather, business associate, politician and friend, and in his eulogy, Jesse Jackson made a point that's central of John's life: He was one of the few white men who had the courage to take the political risk to bring equal justice to Texas and the South. "Look around you," said Jackson, "Look around you at the black and the brown faces among all the white faces. Thirty years ago you wouldn't have seen that, and you can see it now because of John C. White." And then Jesse did what Bob Strauss said startled him, and then I must say sort of surprised me. He said, "Everyone should express themselves," and calls for the applause and it rang out throughout the capital. And I gotta tell you, it made us all feel a lot better. Jesse said, "When we go to the state cemetery for the burial you'll see '1924 dash 1995' on John's tombstone." He said, "Well the year he was born, 1924, means nothing. We don't have anything to do with when we are born and come into this world. And 1995 doesn't mean anything either. We don't have anything to do with when we leave. It's the dash that counts." And Jesse touched on a long and impressive list of what John did with that dash.

You know, John told me more than once—and like Robert Strauss, I went out to lunch frequently with John White; maybe not twice a week, but an awful lot of times. John told me more than once, "God, I love this town, but I wish it hadn't gotten so mean." And I thought that said a lot about John. He did love Washington, and he did love the political game, and he played a key role in it. But Washington never changed him. He was never mean, and he despised the kind of personal attacks aimed at destroying political careers that has become so commonplace here. He always said the way he saw Washington was that it wasn't so much made up of Democrats and Republicans as it was of real people and jackasses. John had a lot of friends on both sides. Real people, of course.

He did have an extraordinary relationship with the press. And I thought it was appropriate that you got two reporters here among the political figures who are eulogizing him. He was a source for many reporters, and some of them are in the audience here. For me it was like having another reporter in the bureau. I could call him up and say, "John, have you heard so and so?," and he then might, say, either, "Give me some information," or he'd say, "Well, I don't know a lot about that, but let me make a few calls." Reporters saw him as much more than a news source. He was our friend. In most cases, he was a close friend, and certainly in my case, he was first and foremost.

Men sometimes have a hard time sharing their innermost thoughts and feelings, but I could do that with John. He could do that with me. And when John asked, "How you doing?," it wasn't a routine greeting. He really wanted to know how you were doing. He was concerned if you had a problem. He always wanted to know if he could help. He was reassuring, too. He would tell you that he had similar problems. "Not to worry, things will work out alright." He used to say that people he liked most were those who would stand by their friends and their commitments and who never forgot where they came from. John certainly never forgot where he came from. He took pride in his humble beginnings and he stood by his friends through thick and thin, even when that caused him more than a little trouble. When a Republican friend most of us knows was hit by a criminal charge, John concluded that the criminal charge was unfair, and he not only stood by his friend, but he helped raise funds for his defense. And he made a point of being seen at lunch with him at popular Washington restaurants such as Duke's. Later, of course, the friend was exonerated. John didn't tear down people. He built them up. He was proud of his friends and his family. He talked with pride of Nellie and her work in Romania. He was proud of his children and grandchildren, and he often talked of them.

Nellie has asked me to share with John's friends the letter she received, a personal letter. It says, "I'm glad we had a chance to talk. I'll never forget the first time I met John back in 1972. He had such a great balance of common sense and compassion with an energy, and I was elated when he became the DNC chair, and I am grateful for all he has given to our party and our country since. All of us who know John are better for the experience and all of us will miss him. I know you will miss him most of all, and I hope the memory of your great years together and the love and support of your friends will help to sustain you. Hillary and I send you our thoughts and prayers. Sincerely, Bill"

You know, it's hard to avoid all the clichés when remembering John, because in his case they're all so true. His word was his bond. He would give you the shirt off his back. He did light up a room when he walked in. And I'm proud to call him a friend. He's a friend we'll all miss, but we'll remember, I think, with deep affection.

Mr. Jim Wooten. Here's a good rule for reporters: Don't be pals with pols. It doesn't mean that you can't enjoy their company, once in a while. It doesn't mean you can't have lunch with them, once in a while. It doesn't mean you can't like them, once in a while. It just means there needs to be some proper distance in space between us and them. Between those of us who cover the news and those who make it. Because the closer you get, the less you see. So if you want to see clearly, don't get too close.

Don't be pals with pols. This is a very good rule for all reporters.

Sometimes, though, he was a pol, wasn't he? You could tell that, because of the pure pleasure he derived from telling the political story. And not only that, from listening to them. To yours. To Strauss's (now there's a real test). And to mine, too. I don't think I ever told my political stories to better listeners that John C. Even if he knew they weren't exactly true (and what political story ever is). Even if he heard them before, he'd sit there and listen and help you along, and encourage you, and chuckle you, and then give a big rip of a laugh, and then he'd say, "I knew some old boys like that." And off he'd ride on some wonderful jaunt down the trails of his remarkable life. For John C., a good story was like a pair of boots: the more you worn them, the more comfortable they were. I loved his story about how much he grew in the eyes of Lyndon once he'd introduced him to Nellie. I loved listening to him. His voice for me was like the distant bell of a country church, always reminding me of home. And he said once, "Well, pal, they have fewer voters in Alabama, but I expect we come out about even on mules and fools."

He was a pol, wasn't he? You could tell that because he made it look so easy. Whether he was managing an unmanageable national convention or untying some devilish knot in the party, or settling some bloody internecine squabble or just working the tables at Duke's—he made it look easy. And politics never is. Not in this town, and not in Texas. And especially not for a man who felt about his party the way most men feel about their mothers. It was where he came from, and who he was. He was his party's son, and he would, by God, wear its name as proudly as he wore his own. White, John C., Democrat, Yellow-Dog. And in five separate decades, in the stormy politics of Texas and America, those were John C.'s unimpeachable credentials. When governor Shivers defected to Ike, John C. backed Adlai. When the preacher said, "Catholics oughtn't be president," John C. was a Kennedy man. When herds of Texas democrats stampeded over to Goldwater and Nixon, John C. stood straight up for L.B.J. and Humphrey. "Hubert Umphrey" as he called him—and McGovern, too. Over the years in campaign after campaign, from Carter through Clinton, through the sunshine and the rain, he rode that same old horse. And he was as tall in the saddle when he finally got off as when he first got on.

This is important to remember about John C. Not that he was blind to his party's warts or deaf to its bologna, but rather that he loved it for its promise. Not that he was indifferent to its foolishness or insensitive to its folly, but rather that he was committed to its possibilities.

John C. was the most hard-headed, down-to-earth, practical, realistic, commonsense dreamer I ever knew. That was his strength and the source of his stamina. This fierce embrace of an imperfect party as the perfect political expression of the ideas and ideals that he cherished. Others might stray or waffle or wander or waiver; John C. always danced with the girl who brung him. He was a pol wasn't he? You can see that in the respect that other pols had for him; even if he wouldn't give a dime to their party. You can see that here today, look around. And you can hear it too, in the unspoken affirmations of everybody who ever knew him or worked with him or worked against him, that here was one politician who gave politics a good name.

Years ago over lunch at Duke's, he was scolding me for my appearance; "Listen pal," he said, "you ain't a newspaper man no more—you've got to get yourself some clothes. You need more than one suit and tie. Hell, I'll loan you the money!" And that progressed into us listing the real friends we had, the genuine pals, people who might even lend us money, folks in whom we could place our complete trust. John C. had too many to count, he said, which was true, look around, and I had too few to mention and now one less. He was a pol and he was a pal.

We argued about a lot of things over the years, but there was one thing we agreed on and that was that we were both literary critics. And that we had found and read and reread the great American novel. A rough and tumble saga about two Texas rangers who went off up to Montana, far far away from Lonesome Dove. How he loved that book, how I did too and we'd recite from it over lunch. Especially, its last few pages: "mortally wounded and down to his last, few breaths, Augustus McCray looked up at his long time pal and partner Captain Caw and he whispered, 'My God, Woodrow, it was quite a party.'" My God, chairman, it was quite a party.

Reverend Dr. Gladstone. We have listened with gratitude, with admiration, and with hope. Charles Haddon Spurgeon, the Victorian Baptist preacher said of William Ewart Gladstone, four times Prime Minister of Britain, he said, "We believe in no man's infallibility, but it is restful to believe in one man's integrity. Let us pray. Eternal God before who's face the generations rise and fall. Beneath who's will and within who's patience the story of our lives is told. In this memorial service, for your servant John, we lift up our hearts in gratitude, we thank you for his character. We know that this is the true wealth of life. We may be festooned with the whole haberdashery of success and yet go to our graves castaways. We thank you that we heard Senator Dole say that while it is nice to be important, it is more important to be nice. And so we thank you for the decency, the integrity, and the loyalty of your servant John. We thank you his commitment to the political affairs of this nation. We thank you for all those who are ready to walk the lonely places of leadership, to become vulnerable to criticism, abuse, misrepresentation and public failure and yet who believes they are called to do this for love of country and party. For his commitment to his president, his party, and to the whole nation we give you thanks. And we thank you for his enjoyment of his family. For his dear wife, Nellie, for his children, whom he admired so much, for his sister and for his grandchildren. We remember them all now tenderly and commit them to your loving care. And we pray that as they sigh for the touch of a vanished hand and the sound of a voice that is still, they may know your living presence. And we thank you for our Lord Jesus Christ who has defeated death and brought life and immortality to light. We thank you that we can say he is not here but he is risen again until we meet in your presence. So bless each one of us here members of the family friends and colleagues and keep us at it and with it and for it until our work is done our course is run and on your kind arms we fall. And this we pray through Jesus Christ our Lord. Amen.

Will the congregation stand for the blessing and the benediction and remain standing while the family and speakers leave.

Go forth on your journey, Christian soul. Go in the strengths of God and may He bring you at last to the land of Promise, the Country of the Great King. The grace of our Lord Jesus Christ and the love of God and the fellowship of the Holy Spirit be with us all ever more. Amen.

NATIONAL AND COMMUNITY SERVICE ACT

Mr. PELL. Mr. President, one of the more exciting and innovative programs enacted during the 103d Congress was the National and Community Service Act proposed by President Clinton. Under the AmeriCorps program established as a result of that act, young men and women are now able, through community service, to earn an education benefit to help defray the costs of a higher education.

I am concerned, however, that this program may now be the target of severe cutbacks. Because of this, I wanted to bring to my colleagues' attention the correspondence I recently received from Mr. George Graboys of Barrington, RI, where he is a distinguished and widely respected business leader. Having retired as the chief executive officer of Citizens Bank, Mr. Graboys, nevertheless, remains very active in civic affairs. Among many activities, he serves presently as the vice chairman of the Rhode Island Children's Crusade for Higher Education.

Mr. Graboys' view on the operation of AmeriCorps in Rhode Island merit careful and thoughtful consideration. I ask unanimous consent, therefore, that the text of his January 31, 1995, letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BARRINGTON, RI, *January 31, 1995.*

Hon. CLAIBORNE DEB. PELL,
Washington, DC.

DEAR SENATOR PELL: I am writing to express my strong support for the AmeriCorps national service program and to enlist your assistance in light of the recent call by House Speaker Newt Gingrich to eliminate the program.

From my perspective, AmeriCorps is a refreshing new government initiative. I am impressed, particularly, by its grassroots nature and its ability to place 20,000 dedicated individuals directly into community agencies in its first year of operation.

As Vice Chairman of the Rhode Island Children's Crusade for Higher Education, I have had the opportunity to see the merits of the program first hand. The Crusade's 51 AmeriCorps participants—13 full-time and 38 part-time—have provided an infusion of new energy to the organization. In less than two months, they have built relationships with over 40 schools and community agencies and have created 23 new Crusade mentoring programs in the seven Rhode Island communities with the greatest numbers of low-income children. At the same time, they have been busy phoning parents whose children may need services and going door to door to recruit new Crusaders. Presently, 324 children are being served through these AmeriCorps programs. Crusade Corps members are well on their way to reaching their goal of creating 26 programs that will serve 780 children.

Newt Gingrich has called the program "coerced voluntarism." Based upon what I have seen, nothing could be further from the truth. Our AmericCorps participants represent a racially diverse group of people from ages 16–55, including 10 parents of Crusaders. Within this diversity, all of them share an intense desire to serve the community and to better themselves in the process. AmeriCorps and the Crusade provide a structure and direction that meshes with their sense of altruism. The modest living stipends they receive make it possible for them to dedicate a full year to community service—rather than a few hours a week. This substantive volunteer experience is something that is likely to effect many participants' choice of careers and to foster a commitment to community service that will endure as their careers advance.

Speaker Gingrich has also indicated that it is a "waste of money to give limited benefits to college students." Again, I think he has missed the mark. The Crusade's AmeriCorps participants cover a broad range of educational attainment. Approximately 30% do not have an undergraduate degree, 53% have earned or are in the process of earning a Bachelors degree, and 17% have or are working towards their Masters or Ph.D. Each of the Crusade's participants has indicated, however, that they have a desire to further their education. For them, the educational benefits of AmeriCorps—$4,725 for full-time participants and $2,363 for part-time participants—will be of substantive help along the way. Moreover, the leadership and community building skills they are acquiring through their experience with AmeriCorps will complement their formal education and enable them to become more productive citizens.

I think the AmeriCorps program has produced remarkable results in a very short period of time. It has tremendous potential for strengthening the nation's service ethic while impacting community needs in a cost of effective manner. I hope that I can count on your support in ensuring that the program nurtured and protected.

Sincerely,

GEORGE GRABOYS.

PEACE IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, as we approach St. Patrick's Day 1995, Irish eyes are smiling as perhaps never before in the quarter century of violence that has wracked Northern Ireland. In celebrating the remarkable progress made toward peace during the past year, we are also mindful of the responsibility that all of us who care about Northern Ireland have to the people there who have suffered so much from the violence. We must do all we can to make certain that a lasting peace is achieved.

Last Monday, the New York Times carried an eloquent and very poignant article by James Clarity about Pauline Hegney, a Catholic mother in Belfast. Her husband, the father of her four children, was killed by Protestant paramilitaries more than 3 years ago. She is one of the countless survivors of the violence who, rather than harboring hatred, feverently hopes that no one else—Protestant or Catholic—will suffer her fate.

Clearly the people of Northern Ireland want the current cease-fire to continue and peace talks to begin. All of us share that hope as well.

Mrs. Hegney wrote an extremely moving account of the death of her husband, and Mr. Clarity quotes at length from her words in his article.I believe that his story and her words will be of interest to all of us, and I ask unanimous consent that the article by James Clarity may be printed in the RECORD. I also ask unanimous consent that a poem by W.H. Auden, which speaks to all such loss, may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 6, 1995]

A WAR WIDOW'S THOUGHTS AT PEACE'S DOWNING

(By James F. Clarity)

BELFAST, NORTHERN IRELAND.—Pauline Hegney, the mother of four young children whose husband was slain three and a half years ago by Protestant paramilitaries on a Belfast street, prays every day that the Government peace effort will work and that there will be no more killings here in the name of patriotism.

She is among the tens of thousands of survivors of the 3,172 Protestants and Roman Catholics who have been killed in sectarian warfare here since 1969. She speaks with a soft Ulster lilt and there is passion in her voice, but no hatred.

Her husband, Karl, an unemployed house painter, was gunned down in the street on his way home from a pub. Both his widow and the police say he had no involvement in the Irish Republican Army. The police told her they had an idea who the killers were, but no proof, she said. No one has been arrested.

She was left with their four young children and a job at the Europa Hotel in the city center, as head of the banquet dining room staff. But the I.R.A. viewed the hotel as a major economic target and bombed it frequently. The bombings often shut it down, putting her out of work, sometimes for months.

The I.R.A. declares that it is fighting for Northern Ireland's Catholics. Mrs. Hegney, who is Catholic, said she prays for them, and for the Protestant guerrillas too.

She told her children that "a sick man" had killed their father and that he was now in heaven with Granny, his mother. Her daughter, Julie-Anne, said that at first she hated Granny for taking him away and that she saw her father return to her room one night. She said she wanted to die and go to heaven with him. Lately Julie-Anne, who is now 8, says only, "I wish I could see him, mummy, for one wee minute."

Mrs. Hegney joined a group of Catholic and Protestant widows of guerrilla war victims, and they exchange their feelings and problems.

But the cease-fires that have raised the hopes for peace and for a normal life for most people in Northern Ireland also left her and the other widows feeling depressed, she said.

"During the trouble, we were all in it together," she said. "Everyone in Belfast was affected. But when the peace came, I felt isolated. Other people can get on with their lives. We can't."

Last October, as reports spread that the Protestant guerrillas, following the lead of the I.R.A., were going to call their own cease-fire, she hoped it would not be on Oct. 13, the third anniversary of her husband's killing, but it was announced on that day.

"It didn't feel right," she said. "I was praying for peace, but I didn't want it on that day." Now, she said, she faces the prospect of seeing representatives of the guerrillas become celebrated personalities as they approach formal negotiations with the British and Irish Governments and the other political parties in the North.

"I don't like the idea that after they've killed so many people, they'll be sitting down to say what the future will be, when people like these destroyed my children's future. But if it stops people being murdered, I've no objection."

Her children still miss their father. Karl Jr., who is 14, wants to be a lawyer. She said she asked him if he would defend someone he knew to be guilty of a "terrible crime." Karl said: "Would you serve him if he came into the Europa. You do what you're paid to do." She shrugged.

"I'll get through it," she said. "I'm a struggler. I've begun to write about it."

In her account of the night her husband was killed, she wrote: "We never know what's to come for us, though, do we? I put the boys to bed when their daddy went out. I went into the kitchen and had a little laugh to myself when I saw the saucepans sitting on the cooker. One was full of potatoes and the other one had sprouts in it all ready for the Sunday. He also had the roast cooked. I thought how organized my Karl is.

"A very curt male voice came on the phone saying he was a police officer and asked if I could make my way to the police station as my husband was in hospital seriously ill. I lost my mind at that moment and I don't think I have actually found it all again.

"The nightmare for me had only just begun. I went to see Karl lying in that operating theater where he had died with the doctors fighting to save his life. He lay there still and cold, no life left in the body of the man who had taken the core of me, loved me and made my life worth living. I thought how could he leave me? What would I do without him? How was I going to live without him?

"I held Karl's hand and it was like holding the hand of a wax dummy. It felt so strange. I didn't cry. I just asked him to give me strength to get through the next few hours. I went and sat at the top of the stairs waiting for the first of the children to waken. I knew this would be our 5-year-old daughter, Julie-Anne. She was wearing her little pink and green pajamas and she still had her hair in pigtails from the day before. She was just so beautiful.

"What I was going to tell her was going to rob her of her little innocent childhood. She came over to me with her wee arms out and said, 'Where's my daddy?' I sat her down on my knee and told her that her daddy had gone up to heaven to see his own mummy, her granny Nancy. 'When's he coming back?' she said. I explained to her that some sick man had shot her daddy and that he had died and would not be coming back. She had to blame somebody, God love her, so she started crying and said she hated her granny.

"I told our three little boys what had happened to their lovely daddy. None of them spoke. Karl and Michael began to cry. Mario just sat there. I think he was in deep shock. I put my arms around all four of them and all but Mario cried sorely for what we had lost."

FUNERAL BLUES
(By W.H. Auden)

Stop all the clocks, cut off the telephone,
Prevent the dog from barking with a juicy bone,
Silence the pianos and with muffled drum,
Bring out the coffin, let the mourners come.

Let aeroplanes circle moaning overhead
Scribbling on the sky the message He Is Dead,
Put crêpe bows round the white necks of the public doves,
Let the traffic policemen wear black cotton gloves.

He was my North, my South, my East and West,
My working week and my Sunday rest,
My noon, my midnight, my talk, my song;
I thought that love would last for ever: I was wrong.

The stars are not wanted now; put out every one,
Pack up the moon and dismantle the sun,
Pour away the ocean and sweep up the woods;
For nothing now can ever come to any good.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, let us say it again: Anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of the taxpayers' money that has not first been both authorized and appropriated by Congress.

So if you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," just bear in mind that the Founding Fathers made it very clear that it is the constitutional duty of Congress to control Federal spending.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,851,012,058,348.35 as of the close of business Tuesday, March 7. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $18,414.53.

TRIBUTE TO PRIVATE TRACIE JOY McBRIDE

Mr. WELLSTONE. Mr. President, it is with great sadness that I speak today in remembrance of 19-year-old Army Pvt. Tracie Joy McBride of Centerville, MN, who reportedly was abducted nearly 3 weeks ago from Goodfellow Air Force Base in Texas and then murdered.

Private McBride joined the Army last April because she wanted to serve her country. She had just finished basic training in California and had only been on the base in Texas for about 2 weeks for advanced intelligence training at the time of her death.

Private McBride brought pride and dedication to her military service, and I want to take this occasion to recognize her honorable service to our country.

Mr. President, as Private McBride is being laid to rest today in Fort Snelling National Cemetery in Minnesota, my wife Sheila and I extend our deepest sympathy to Private McBride's family and friends.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE FEDERAL COUNCIL ON THE AGING—MESSAGE FROM THE PRESIDENT—PM 28

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

In accordance with section 204(f) of the Older Americans Act of 1965, as amended (42 U.S.C. 3015(f)), I transmit herewith the Annual Report for 1994 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1995.*

REPORT OF THE TRADE POLICY AGENDA AND ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 29

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1995 Trade Policy Agenda and 1994 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1995.*

REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT—PM 30

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

I transmit herewith the 1993 annual report on the Administration of the Federal Railroad Safety Act of 1970, pursuant to section 211 of the Act (45 U.S.C. 440(a)).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1995.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–475. A communication from the U.S. Trade Representative, transmitting, a draft of proposed legislation to provide authorization of appropriations for the Office of the United States Trade Representative for fiscal years 1996 and 1997; to the Committee on Finance.

EC–476. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential Determination relative to the Serbia and Montenegro Sanctions Program; to the Committee on Foreign Relations.

EC–477. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–478. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–479. A communication from the Director of the U.S. Information Agency, transmitting, a draft of proposed legislation entitled "U.S. Information Agency Authorization Act, Fiscal Years 1996 and 1997"; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

Maurice B. Foley, of California, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

Juan F. Vasquez, of Texas, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any

duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. BREAUX, and Mr. KERRY):

S. 517. A bill to eliminate the Board of Review for the Metropolitan Washington Airports Authority and increase the number of Presidential appointees to the Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE (for himself, Ms. SNOWE, Mrs. BOXER, Mr. BRYAN, Mr. HOLLINGS, Mr. THURMOND, Mr. LUGAR, Mrs. HUTCHISON, Mr. WARNER, Mr. AKAKA, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. STEVENS, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. LOTT, Mr. INOUYE, Mr. HATFIELD, Mr. MCCAIN, Mr. JEFFORDS, Mr. COCHRAN, Mr. JOHNSTON, Mr. BURNS, Mr. BAUCUS, Mr. DODD, Mr. KERREY, Mr. DORGAN, Mr. BRADLEY, Mr. LEVIN, Mr. LEAHY, Mr. BROWN, Mr. DOMENICI, Mr. DASCHLE, Mr. SARBANES, Mrs. FEINSTEIN, Mr. GRASSLEY, Ms. MIKULSKI, Mr. ROBB, and Mr. CRAIG):

S. Res. 85. A resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 86. A resolution to make effective the appointment of the Deputy Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. BREAUX, and Mr. KERRY):

S. 517. A bill to eliminate the Board of Review for the Metropolitan Washington Airports Authority and increase the number of Presidential appointees to the Authority, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY AMENDMENTS ACT OF 1995

Mr. HOLLINGS. Mr. President, today, I am introducing a bill that seeks to accomplish two goals: first, to make sure that the Metropolitan Washington Airports Authority [MWAA] can continue to operate and prosper; and second, to ensure that appropriate input into the decisions of the MWAA is maintained. The bill thus protects the interests of the traveling public and maintains many well-developed and defined compromises on which many of my colleagues have worked over the years.

I had initially considered legislation recreating a board of review with authority to oversee the actions of MWAA. That was part of the original arrangement in transferring these airports—Congress would be able to oversee actions of the airports because they are critical resources, not just for Virginia, but for all of the States. Such an approach also would have protected the traveling public and maintained the resolution of difficult issues accomplished with the transfer. This bill does not take that step, but instead is intended as a compromise, and one that is workable for all concerned.

I want to put this matter in perspective for my colleagues. In 1986, I spent many days on the Senate floor debating the transfer of Washington National and Dulles Airports. I believed then, as I do now, that we have a responsibility to ensure that Federal assets are properly used, are properly valued, and are able to provide benefits to their users. These airports are important to all of us and our constituents. As a result, when Congress created the MWAA, a number of critical and interrelated compromises were made, including assurances that access to the airports would be appropriately maintained and that the Federal Government would retain its authority and oversight of the airports.

In addition, Congress specifically recognized the historic use of the airports and legislated that the number of operations, or slots, and the rules governing flights would be frozen. The local community, including Maryland, the District of Columbia, and Virginia, recognized that National Airport would be allowed to continue to serve cities that it had traditionally served, and Dulles would be given a chance to grow into a major domestic and international airport. This meant that noise problems would be minimized at National, and growth would occur at a then-distant facility some 22 miles from the Capital.

As my colleagues know, both Washington National and Dulles International are undergoing major renovations. The airports floated more than $1.3 billion in bonds and currently have underway about $700 million in construction projects. All of us have seen first hand the major construction going on at these airports. That construction came about because Congress recognized that the airports served different purposes, and we facilitated future planning and growth opportunities. National Airport has a perimeter rule, which ensures service to communities within the perimeter rule. That was part of the original deal. The former Governor of Virginia, Gerald Baliles, at a hearing before the Commerce Committee's Aviation Subcommittee, recently reiterated how carefully balanced the transfer legislation was. Dulles, without a perimeter rule, has the benefit of a superhighway with door-to-door access from downtown Washington to the airport, to facilitate its growth. And it has grown. We need to make sure that we keep our commitments to all of the States involved.

Congress also recognized that these airports are more than just local airports, and because the underlying land is Federal property, we established a congressional board of review and an Airports Authority—two separate bodies, appointed in different ways, and with different responsibilities.

Unfortunately, the Supreme Court disagreed with our method of oversight, and on January 23, 1995, the Supreme Court denied certiorari in Hechinger versus Metropolitan Washington Airports Authority. The Court of Appeals had struck down as unconstitutional the congressional board of review. The appellate court's decision has been stayed until March 31, 1995.

Under the existing legislation, because the board of review has been found to be unconstitutional, the Airports Authority is unable to move forward on major decisions.

As a result, Congress must now take action to address the problem. There are many options available, but our goal should be to ensure appropriate oversight of a facility on Federal property being operated under a long-term lease, without creating a maze of oversight. This is a fine line, but a responsibility we must accept. Therefore, today I am introducing legislation that will add six Presidentially appointed and Senate-confirmed members to the MWAA board of directors. This will ensure that the Federal Government continues its active participation in the decisions of these airports, but also will recognize that the communities have an important and critical role in shaping the future of these airports. The bill eliminates the congressional board of review.

The legislation goes to the heart of the problem—and does so in a way that is constitutional. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 517

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Metropolitan Washington Airports Authority Amendments Act of 1995".

SEC. 2. ELIMINATION OF BOARD OF REVIEW.

Section 6007 of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2456) is amended—

(1) by striking subsection (f); and

(2) by striking subsection (h) and redesignating subsection (i) as (h).

SEC. 3. INCREASE IN NUMBER OF PRESIDENTIALLY-APPOINTED MEMBERS OF BOARD.

(a) IN GENERAL.—Section 6007(e) of the Metropolitan Washington Airports Act of 1986 (formerly 49 U.S.C. App. 2456(e) is amended—

(1) by striking "one member" in paragraph (1)(D) and inserting "7 members"; and

(2) by striking "Seven" in paragraph (5) and inserting "10".

(b) SEPARABILITY.—

(2) Section 6011 of that Act (formerly 49 U.S.C. App. 2460) is amended by striking "Except as provided in section 6007(h), if" and inserting "If".

(c) STAGGERING TERMS FOR PRESIDENTIAL APPOINTEES.—Of the members first appointed by the President after the date of enactment of this Act—

(1) one shall be appointed for a term that expires simultaneously with the term of the member of the Metropolitan Washington Airports Authority board of directors serving on that date (or, if there is a vacancy in that office, the member appointed to fill the existing vacancy and the member to which this paragraph applies shall be appointed for 2 years);

(2) two shall be appointed for terms ending 2 years after the term of the member to which paragraph (1) applies expires; and

(3) three shall be appointed for terms ending 4 years after the term of the member to which paragraph (1) applies expires.

SEC. 4. PRESERVATION OF ACTIONS BY PREVIOUS BOARD.

Any action taken by the Board of Review under section 6007(f) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(f)) as such section was in effect before its amendment by this Act is hereby ratified and deemed valid.

SEC. 5. RECONSTITUTED BOARD TO FUNCTION WITHOUT INTERRUPTION.

Notwithstanding any provision of State law, including those provisions establishing, providing for the establishment of, or recognizing the Metropolitan Washington Airports Authority, and based upon the Federal interest in the continued functioning of the Metropolitan Washington Airports (as defined in section 6004(4) of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. App. 2451(4)), the board of directors of such Authority, including any members appointed under the amendments made by section 3, shall continue to meet and act after the date of enactment of this Act until such time as any necessary conforming changes in State law are made in the same manner as if those conforming changes had been enacted on the date of enactment of this Act.

SEC. 6. STATUS UNAFFECTED.

Nothing in this Act, or the amendments made by this Act, shall affect the treatment of the Metropolitan Washington Airports Authority under Federal, State, or local tax law.

SEC. 7. ADVISORY GROUP TO REVIEW LEASE PAYMENTS.

(a) IN GENERAL.—Section 6007 of the Metropolitan Washington Airports Authority Act of 1986 (formerly 49 U.S.C. App. 2456) is amended by adding at the end thereof the following new subsection:

"(i) ADVISORY GROUP TO REVIEW LEASE.—

"(1) APPOINTMENT.—The Secretary shall appoint an advisory group of 3 individuals not otherwise employed by the United States Government to review—

"(A) the lease arrangements under section 6005; and

"(B) any renegotiation of that lease or any portion of it, including subleases, including any change in the terms or conditions of that lease, and including the amount of any payments made or received under it.

"(2) TERMS; QUALIFICATIONS.—

"(A) Members of the advisory group shall serve at the pleasure of the Secretary.

"(B) Members of the advisory group shall be chosen on the basis of their experience in aviation matters and in addressing the needs of airport users.

"(3) REIMBURSEMENT OF EXPENSES.—Members of the advisory group shall serve without compensation but shall be reimbursed by the Airports Authority for expenses actually incurred in carrying out their responsibilities under this Act.".

(b) CHANGE IN DISPOSITION OF LEASE PAYMENTS.—Section 6005(b)(1) of that Act (formerly 49 U.S.C. App. 2454(b)(1)) is amended by striking "general fund of the Treasury" and inserting "the Airport and Airway Trust Fund".

ADDITIONAL COSPONSORS

S. 190

At the request of Mr. PRESSLER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 190, a bill to amend the Fair Labor Standards Act of 1938 to exempt employees who perform certain court reporting duties from the compensatory time requirements applicable to certain public agencies, and for other purposes.

S. 270

At the request of Mr. SMITH, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 270, a bill to provide special procedures for the removal of alien terrorists.

S. 275

At the request of Mr. GRASSLEY, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 275, a bill to establish a temporary moratorium on the Interagency Memorandum of Agreement Concerning Wetlands Determinations until enactment of a law that is the successor to the Food, Agriculture, Conservation, and Trade Act of 1990, and for other purposes.

S. 323

At the request of Mrs. KASSEBAUM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 323, a bill to amend the Goals 2000: Educate America Act to eliminate the National Education Standards and Improvement Council, and for other purposes.

S. 356

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 356, a bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States.

S. 439

At the request of Mr. THOMAS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 439, a bill to direct the Director of the Office of Management and Budget to establish commissions to review regulations issued by certain Federal departments and agencies, and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. THOMPSON, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution proposing a constitutional amendment to limit congressional terms.

SENATE RESOLUTION 85—RELATIVE TO HEALTH CARE LEGISLATION

Mr. CHAFEE (for himself, Ms. SNOWE, Mrs. BOXER, Mr. BRYAN, Mr. HOLLINGS, Mr. THURMOND, Mr. LUGAR, Mrs. HUTCHISON, Mr. WARNER, Mr. AKAKA, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. STEVENS, Mr. MURKOWSKI, Mr. KEMPTHORNE, Mr. LOTT, Mr. INOUYE, Mr. HATFIELD, Mr. MCCAIN, Mr. JEFFORDS, Mr. COCHRAN, Mr. JOHNSTON, Mr. BURNS, Mr. BAUCUS, Mr. DODD, Mr. KERREY, Mr. DORGAN, Mr. BRADLEY, Mr. LEVIN, Mr. LEAHY, Mr. BROWN, Mr. DOMENICI, Mr. DASCHLE, Mr. SARBANES, Mrs. FEINSTEIN, Mr. GRASSLEY, Ms. MIKULSKI, Mr. ROBB, and Mr. CRAIG) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 85

Whereas women constitute more than 50 percent of the population of the United States;

Whereas, because women's health historically has received little attention in terms of Federal funding and in terms of research priorities, there should be an increased emphasis on the needs and preferences of women in such areas;

Whereas the Federal Government should increase its support for women's health and can make a significant difference in improving the status of women's health;

Whereas increased funding for research is insignificant if women's health care services are restricted;

Whereas many women view their obstetrician-gynecologist as their primary or sole physician;

Whereas approximately 70 percent of women would be unwilling to change their obstetrician-gynecologist to save money;

Whereas an obstetrician-gynecologist improves the access to health care of a woman by providing primary and preventive health care throughout the woman's lifetime, encompassing care of the whole patient in addition to focusing on the processes of the female reproductive system;

Whereas preventive and primary care provided by an obstetrician-gynecologist includes instruction in breast self-examination, cervical cancer screening, health education, instruction in health promotion, hypertension and cardiovascular surveillance, osteoporosis counseling, sexually transmitted diseases counseling, and identification of victims of domestic violence;

Whereas the most effective way to treat health problems is to prevent such problems

from occurring or to catch such problems in the early stages, when such problems are most treatable;

Whereas 60 percent of all office visits to obstetrician-gynecologists are for preventive care;

Whereas obstetrician-gynecologists refer their patients to other physicians less frequently than other primary care providers, thus avoiding costly and time-consuming referrals;

Whereas more than two-thirds of all visits to obstetrician-gynecologists were by established patients of the physician who were returning for care of a medical condition;

Whereas obstetrician-gynecologists manage the health of women beyond the reproductive system, and are uniquely qualified on the basis of education and experience to provide such health care services to women;

Whereas obstetrician-gynecologists provide health care to women with an awareness of the relationship of disease to family history;

Whereas over two-thirds of general family practice physicians do not deliver newborns and will not be able to address this need of women; and

Whereas 80 percent of maternity care services in the United States are provided by obstetrician-gynecologists: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) obstetrician-gynecologists should be included as primary care providers for women in Federal laws relating to the provision of health care; and

(2) legislative proposals that define primary care should include primary care services performed by obstetrician-gynecologists in such definition.

• Mr. CHAFEE. Mr. President, today I join with my colleagues Senator BOXER and Senator SNOWE, along with 37 other Senators in submitting a sense-of-the-Senate resolution that obstetrician-gynecologists [OB–GYN's], should be recognized as primary care physicians under Federal health programs.

This resolution is a very important first step in guaranteeing American women the access to quality medical care that they need in order to lead healthy and productive lives. Such a change in policy would give women greater access to the medical treatment they need, while eliminating much of the bureaucracy in our current health care system.

American women use obstetrician-gynecologists more than any other type of physician. In 1987, more than 53 percent of women aged 15 and older, who visited an OB–GYN, did so to receive a general check-up. In 1990, over 7 million women visited an OB–GYN for a general examination. When asked, the majority of these women stated that they regarded their OB–GYN as their primary care physician. In fact, receiving a general check-up was cited more frequently as a motivating factor for seeing an OB–GYN than for visiting either family physicians or internists.

OB–GYN's provide a variety of services which are vital to women's health: screenings for breast, ovarian, and cervical cancer; counseling about sexually transmitted diseases, such as HIV; and identifications of domestic violence victims.

One of the most important services that OB–GYN's provide is prenatal care. Lack of adequate prenatal care has serious ramifications on our society: mental retardation, deafness, blindness, autism, cerebral palsy, epilepsy, or chronic lung ailments, are just a few of the problems that affect children whose mothers did not receive adequate prenatal care. The Institute of Medicine, in its report, "Preventing Low Birthweight," found that prenatal care is most effective in reducing the chance of low birthweight among high-risk women.

Dr. Ruth Schwartz, clinical professor of obstetrics and gynecology at the University of Rochester School of Medicine and Dentistry, has stated that a woman with prenatal care is five times as likely to give birth to a living child than women who have no prenatal care. Although only 7 percent of live births were low-birth-weight babies, this number accounts for nearly 60 percent of all infant deaths.

Infant mortality rates in this country should be a concern to all of us. We are the richest nation on the planet, the most industrialized country in the world, and yet we have one of the highest infant mortality rates in the industrialized world. As the preceding statistics attest, one way to defeat this statistic is to provide American women freer access to OB–GYN's.

The majority of American women perceive their OB–GYN's as their primary care physicians. The challenges that we face with regard to battling infant mortality and ensuring health babies point us toward one direction: giving women direct access to OB–GYN's.

Mr. President, I urge my colleagues to cosponsor this important resolution.•

SENATE RESOLUTION 86—RELATIVE TO THE DEPUTY SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 86

Resolved, That the appointment of Thomas B. Griffith to be Deputy Senate Legal Counsel, made by the President pro tempore this day, shall become effective on March 13, 1995, and the term of service of the appointee shall expire at the end of the One Hundred Fifth Congress.

AMENDMENTS SUBMITTED

THE EMERGENCY SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT

SIMON AMENDMENT NO. 327

Mr. SIMON proposed an amendment to the bill (H.R. 889) making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; as follows:

On page 22, strike out line 16 and all that follows through page 23, line 2.

On page 22, line 2, strike out "65,000,000", and insert "81,000,000" in lieu thereof.

MURKOWSKI (AND DOLE) AMENDMENT NO. 328

Mr. MURKOWSKI (for himself and Mr. DOLE) proposed an amendment to the bill H.R. 889, supra; as follows:

On page 25, between lines 4 and 5, insert the following:

SEC. 110. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for assistance to or programs in the Democratic People's Republic of Korea, or for implementation of the October 21, 1994, Agreed Framework between the United States and the Democratic People's Republic of Korea, unless specifically appropriated for that purpose.

HELMS AMENDMENT NO. 329

Mr. HELMS proposed an amendment to the bill H.R. 889, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . LIMITATION ON EMERGENCY AND EXTRAORDINARY EXPENSES.

(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense may not be obligated under section 127 of title 10, United States Code, for the provision of assistance, including the donation, sale, or financing for sale, of any time, to a foreign country that is ineligible under the Foreign Assistance Act of 1961 or the Arms Export Control Act to receive any category of assistance.

(b) EFFECTIVE DATE.—The limitations in subsection (a) shall apply to obligations made on or after the date of enactment of this Act.

BUMPERS (AND LAUTENBERG) AMENDMENT NO. 330

Mr. BUMPERS (for himself and Mr. LAUTENBERG) proposed an amendment to the bill H.R. 889, supra; as follows:

At the end of the bill add the following:

SEC. . Notwithstanding any other provision of law, effective 30 days after the date of enactment of this Act, none of the funds made available for the National Aeronautics and Space Administration by any previously enacted Act shall be obligated or expended for the NASA/Russian Cooperative MIR program, unless the President certifies to Congress that Russia has agreed not to sell nuclear reactor components to Iran.

KASSEBAUM (AND OTHERS) AMENDMENT NO. 331

Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. HATCH, Mr. THURMOND, Mr. GRAMM, Mr. GREGG, Mr. CHAFEE, Mr. COVERDELL, and Mr. WARNER) proposed an amendment to the bill, H.R. 889, supra; as follows:

At the end of the first excepted committee amendment, insert the following:

SEC. 110. (a) Congress finds that (1) it is the role of Congress, as the representative body of the people, to decide the policy of the United States with respect to relations between management and labor; and (2) the executive branch should not use the Federal procurement process to initiate major changes in the labor-management relations of the United States.

(b) The purpose of this Act is to ensure that the Congress decides important labor-management relations policy by prohibiting the executive branch from spending any appropriated funds for the purpose of implementing an executive order that would debar or in any way limit the right of Federal contractors under common law to use permanent replacements for workers engaged in a strike.

(c) None of the funds made available under any appropriations Act for fiscal year 1995 may be used to implement, administer, or enforce any executive order, or other rule, regulation, or order, that limits, restricts, or otherwise affects the ability of any existing or potential Federal contractor, subcontractor, or vendor to hire permanent replacements for lawfully striking employees.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 8, 1995, to conduct a hearing on credit unions.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 8, 1995, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider domestic petroleum production and international supply.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Wednesday, March 8, 1995, beginning at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on welfare reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 8, 1995, at 1:30 p.m. to hold a hearing on Intellectual Property Rights and the People's Republic of China.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATFIELD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, March 8, at 9:30 a.m. for a hearing on regulatory reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, March 8, 1995, beginning at 2:30 p.m., in room 485 of the Russell Senate Office Building on reforming and downsizing of the Bureau of Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on health professions consolidation and reauthorization, during the session of the Senate on Tuesday, March 8, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the sessions of the Senate on Wednesday, March 8, 1995, at 9:30 a.m., in room SR-428A, to conduct a hearing focusing on the Regulatory Flexibility Amendments Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 8, 1995, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 8, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this oversight hearing is to consider Forest Service appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INDIAN ISSUES

• Mr. CAIN. Mr. President, last November's election signaled the end of business as usual on the part of the Federal Government. With the post-election talk of welfare reform and block grants, Indian country has been swept up by concern that the unique needs of Indian tribes will be ignored during the debate on block grants and welfare reform. Indeed, in the dozens of meetings I have had with tribal leaders over the past month, they have expressed concern that current block grant proposals in the Congress will diminish the already inadequate level of welfare and social service resources available to tribes and their members. I understand these concerns because, as a practical matter, tribal governments have been routinely shut out of the policy debates and kept away from the table when major policy decisions are made.

What is most frustrating, however, is that during the past 2 months I have heard statements that are premised solely on the notion that promoting block grants implies that the new majority in Congress intends to diminish the trust responsibility that the Congress and the administration have toward American Indians and Alaska Natives, and that the majority intends to use reform to undermine tribal sovereignty and the government-to-government relationship between the United States and Indian tribes. I find it unfortunate that there are those who would choose to spread this message of impending doom rather than work constructively and creatively to find ways to include tribal governments in the current debate.

Mr. President, let me set the record straight. I do not believe any Member of this body, Republican or Democrat, would deliberately and purposefully seek to diminish the benefits that various Federal programs have provided for individual Indians and Indian tribes. In fact, I believe that the new Congress has the potential for offering a rare opportunity for Indian tribes to reshape how the Federal Government has dealt with them. The primary reason we are undertaking welfare and block grant reform is to enhance the control of local governments over these programs. This rationale is quite similar to the Federal-Indian policies I have continuously promoted for Indian tribal governments since the beginning of my tenure on the Senate Committee on Indian Affairs.

As the chairman of the committee, I will continue to advance Federal policies that are intended to enhance the control of tribal governments over Federal programs. Therefore, I intend to do everything I can to ensure two things—first, that tribes are not swept

aside as we reform the welfare system. And second, that any block grants support, rather than undermine, the unique role that tribal governments have in the Federal system.

In order to accomplish these goals I intend to advocate for the provision of direct Federal funding to Indian tribes for programs otherwise under consideration for consolidation into Federal block grants. I will promote direct funding for tribal governments through tribal block grants. To do otherwise would be inconsistent with the Federal Government's legal and fiduciary obligations to Indian tribes. Direct Federal grants to tribes, bypassing the State governments, is consistent with the government-to-government relationship between the Indian tribes and the Federal Government.

At present, in most Federal welfare programs, more often than not, State governments use Indian population figures to justify higher levels of Federal funding. But no matter how much Federal money a State gets, tribal members continue to experience inequity in the quality and quantity of services available under State administered programs. What is most shocking is the fact that, despite the piles upon piles of existing Federal regulations requiring State government accountability in operating welfare programs, there are literally no requirements to ensure that tribal populations receive an equitable share of these Federal funds. The only excuse given by State government administrators for this inequity is that administering programs for tribal populations is problematic and more costly because of the remoteness of many tribal communities. If this is indeed the case, States should embrace, not oppose, a new approach that vests in tribal governments the Federal funds and flexible authorities necessary to carry out these responsibilities.

I know that there are some tribal and State governments which have established cooperative working relationships under the present Federal-State arrangement despite the legal and structural impediments to such relationships. There are also many tribal governments which are either too small or unable to administer specific federally funded programs. Many of these tribes have to rely on State governments to administer these programs for their tribal members. In these instances, Indian tribal governments should have the opportunity to use the Federal funding to contract with a State government to administer programs for tribal members.

Many tribal governments have the ability to administer these and many other federally funded programs. Many are eager to do so. As with State governments, excessive Federal regulations have hindered tribal governments in their efforts to administer these programs to serve their communities. For this reason, in the current legislative efforts to reform welfare and other social service programs, tribal governments seek changes that will provide direct Federal funding to them along with reductions in regulatory burdens so that administrative costs are diminished and tribal innovation and flexible authority is increased.

Indian tribal members have long received direct services from a variety of State administered programs. More than 1.1 percent of all Indian people have received State-administered Aid to Families With Dependent Children [AFDC]. The Head Start Program has had a successful track record of serving Indian children and families living in proverty. The Job Opportunity Basic Skills [JOBS] and Job Training Partnership Act [JTPA] programs have helped to improve the lives of thousands of Indians by providing training and employment opportunities both on and off reservation communities. Therefore, I believe it is imperative that the Congress outline a clear role for tribal governments in the block grant and welfare reform debates. Consider, for a moment, the certain result of failure if we do not include tribal governments as part of the solution.

Mr. President, under the Constitution, Congress has plenary power to prescribe the Nation's Indian policy. Over the past 2 centuries Congress has poorly exercised that power, developing inconsistent or contradictory policies which over time have wasted or misdirected millions upon millions of scarce Federal dollars. More importantly, the periodic contortions in Federal Indian policy have had grave consequences for American Indian people.

I believe Congress has finally begun to make significant strides in improving its dealings with the Indian tribes. Last year, by passing the Indian Self-Determination Act amendments and making the Tribal Self-Governance Demonstration project permanent, Congress clearly set a new course. This new direction offers two key principles that should likewise guide all welfare reform and block grant efforts: (1) Provide direct Federal funding to tribes, in recognition of the government-to-government relationship; and (2) affirm the right of tribes to choose to administer their own programs or to use their funds to contract with States to administer programs according to tribal design.

I am convinced that these principles must be the cornerstone of a viable and fiscally sound Federal policy that will prove to be beneficial to individual Indians and Alaska Natives who have been so critically underserved by Federal-State arrangements. I firmly believe that this policy is wholly consistent with the goal of shifting funds, power, responsibility, and accountability for such programs to local governments, like Indian tribes, which are closest to the people to be served. In addition, I am sure that many tribal leaders will agree with me that all programs currently claiming to serve Indian people should be scrutinized to find ways to cut administrative waste and enhance local tribal government control and flexible tribal administration.

Finally, Mr. President, I must remind those who spread fear that the conditions of Native Americans and their tribal governments will greatly suffer under a Republican-controlled Congress: Indian issues are neither Republican nor Democratic. They are unique, human issues which call for understanding and cooperation on both sides of the aisle. I believe it both wrong-minded and counterproductive to suggest that the new majority party intends to place Native American tribes in some new or greater peril. The far more constructive approach would be to work, in a nonpartisan manner, to adapt the new directions being discussed in the Congress to the unique needs and arrangements that have characterized the best Federal-Indian relations, and that uphold the unique moral and constitutional relationship we have with Indian tribes—that of direct, government-to-government dealings between each tribe and the United States.●

NATIONAL SPORTSMANSHIP DAY

● Mr. CHAFEE. Mr. President, yesterday marked the celebration of the fifth annual National Sportsmanship Day. Designed to promote ethics, fair play, and good sportsmanship in athletics, as well as in society as a whole, National Sportsmanship Day was initiated by the Institute for International Sport at the University of Rhode Island.

The Institute for International Sport gained national attention in 1993 as the sponsor for the highly successful World Scholar-Athlete Games. More than 1,500 student-athletes from 108 countries participated in athletic and scholastic competitions. This year, the institute will sponsor the Rhode Island Scholar-Athlete Games, which will serve as a model for similar events in all 50 States.

Schools and colleges from across the United States are encouraged to participate in National Sportsmanship Day. This year, 5,000 schools representing all 50 States and 48 countries are expected to participate in the celebration. The programs to celebrate National Sportsmanship Day include discussions, debates, and essay writing and are based on material that the institute provides.

The information provided to participants by the institute also outlines the Student-Athlete Outreach Program, which encourages high schools and colleges to send talented student-athletes to local elementary and middle schools

as positive role models. The institute also selects individuals to serve as Ethics Fellows. This year's Ethics Fellows include a Rhode Islander, Claire Ferguson, who is best known as President of the U.S. Figure Skating Association. All of this is done in an effort to highlight the qualities that comprise sportsmanship—honesty, integrity, and humility.

National Sportsmanship Day is recognized by the President's Council on Physical Fitness and Sports. Florence Griffith Joyner and Tom McMillen, cochairs of the President's Council, pointed out the "valuable life skills and lessons that are learned by youth and adults through participation in sports." I ask that the full text of the letter be printed in the RECORD at the conclusion of my remarks.

I am delighted that National Sportsmanship Day was created in Rhode Island and I applaud all of those who participated in this inspiring event from the students and teachers, to the Ethics Fellows and the participants in the Outreach Program. Finally, I would like to congratulate all of those at the Institute for International Sport at the university of Rhode Island who have made this program a success for the past 5 years.

The letter follows:

THE PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS,
Washington, DC, November 28, 1994.

Mr. TODD SEIDEL,
Director of National Sportsmanship Day, Institute for International Sport, University of Rhode Island, Kingston, RI.

DEAR MR. SEIDEL: The President's Council on Physical Fitness and Sports is pleased to recognize March 7, 1995, as National Sportsmanship Day. The valuable life skills and lessons that are learned by youth and adults through participation in sports cannot be overestimated.

Participation in sports makes contributions to all aspects of our lives, such as heightened awareness of the value of fair play, ethics, integrity, honesty and sportsmanship, as well as improving levels of physical fitness and health.

The Council congratulates the Institute for International Sport for its continued leadership in organizing this important day and wish you every success in your efforts to broaden participation and awareness of National Sportsmanship Day.

Sincerely,

FLORENCE GRIFFITH JOYNER,
Co-Chair.
TOM MCMILLEN,
Co-Chair.●

APPOINTMENT OF DEPUTY SENATE LEGAL COUNSEL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 86, submitted earlier today by Senators DOLE and DASCHLE, regarding the Deputy Senate Legal Counsel, that the resolution be considered and agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 86) was agreed to, as follows:

Resolved, That the appointment of Thomas B. Griffith to be Deputy Senate Legal Counsel, made by the President pro tempore this day, shall become effective on March 13, 1995, and the term of service of the appointee shall expire at the end of the One Hundred Fifth Congress.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Madam President, I ask unanimous consent that during the 104th Congress the authority of the majority leader to make six appointments and that of the minority leader to make seven appointments to the Senate Arms Control Observer Group, pursuant to S. Res. 105 of the 101st Congress as amended, shall be increased to seven appointments for the majority leader and eight for the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces on behalf of the majority leader, pursuant to Public Law 96–114, as amended, the appointment of the Senator from Idaho [Mr. CRAIG] to the Congressional Award Board.

ORDERS FOR THURSDAY, MARCH 9, 1995

Mr. DOLE. Madam President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on Thursday, March 9, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each, with the exception of the following: Senator THOMAS, 10 minutes; Senator BAUCUS, 25 minutes; Senator DASCHLE, 30 minutes; Senator MCCONNELL, 10 minutes; Senator BREAUX, 15 minutes.

I further ask that at the hour of 11 a.m. the Senate resume consideration of H.R. 889, the supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Madam President, I will yield to the Senator from Massachusetts in a moment. We will adjourn or recess following that statement.

For the information of my colleagues, we will complete action on the supplemental bill tomorrow; therefore, Senators should be aware rollcall votes are expected throughout tomorrow's session, probably into the evening, and I ask that following the statement by the distinguished Senator from Massachusetts, Senator KENNEDY, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Madam President, President Clinton is right to use his executive authority to side with American workers and defend their basic right to strike. An insidious business practice has grown up in recent years like mushrooms in the dark under which employers hire permanent replacements for striking workers. That practice is unfair and ought to be prohibited, and that is what the President's Executive order does. It restores the fair balance in labor-management relations and ends the unfair tilt against working families.

I urge the Senate to defeat the Kassebaum amendment, to support the President and reject the unseemly business and Republican right wing pressure to nullify his order.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. I ask unanimous consent that I have up to 5 minutes to speak before we adjourn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Madam President, let me rise in this Chamber to echo the words of the Senator from Massachusetts.

I believe the action taken by the President is an extremely important message. It is an important message that has a great deal to do with fairness and restoring some balance of power between those who work for wages and management. I do not think we are really going to be able to build the kind of successful economy we need for ourselves, for our children, and for our grandchildren unless we have high morale, high levels of productivity, and a really good working relationship between labor and management.

I have seen over the past decade-plus so many strikes defeated, so many unions busted, so many broken lives, so many broken families, and so many broken dreams, and the right to strike

has now become the right to be fired, and so much of what many of us or many of our parents or many of our grandparents fought for, which was basic collective bargaining rights, some kind of fairness in the workplace, some kind of support for working people is, I think, really very much in peril.

So, Madam President, I just want to make it clear as we discuss this amendment tomorrow I will be in the Chamber, I will be in the Chamber with documents, I will be in the Chamber with a very full analysis, and I will make every effort possible as a Senator to make this debate real in terms of what it means in personal terms for working people, whether they be in unions or whether they not be in unions. So I look forward to a very spirited and a lively and very important and I think a very long debate.

Madam President, I thank the Chair, and I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I look forward to the debate tomorrow. I applaud the action, as I mentioned earlier, the President has taken. We will have an opportunity to debate both the authority and the reasons for that.

Quite clearly, the President has the responsibility to make sure, in terms of implementing the various contracting responsibilities in which the Federal Government is involved, that there is going to be a good product received in a timely way which meets the various quality standards. He has a responsibility to do so. He has made the judgment that this action is called for.

I was not here earlier tonight at the time those who opposed this action were saying that we ought to have a legislative solution. Last year I was on the floor of the Senate, with, I believe, my friend and colleague, the Senator from Minnesota, when we attempted to take that action, and it was effectively filibustered by those who refused to let the majority of the Members of this body take that action in a bipartisan way. The House of Representatives had taken that action in an overwhelming way. So we were denied the opportunity to take action by the Congress to address this in a legislative way.

The President has responded in a responsible way, and we will have an opportunity to look over the recent history as we debate this issue—the actions that were taken by the President, President Bush, and other Presidents who had used Executive orders to diminish the legitimate rights of workers in this country at a time when legislative proposals were before this body.

But it is important that we understand what is at risk for tens of thousands, hundreds of thousands of working families. I do not know what it is about the Republicans. They have it in for working families, for the most part families that are making $25,000, $26,000 a year, trying to pay a mortgage, trying to educate their children, trying to make sure that their parents are going to live constructive and productive and hopeful lives. I do not know what it is that the Republican leadership and the Republican Party has against those Americans who are the backbone of this country.

We already heard the efforts in our committee, the Labor and Human Resources Committee. We have seen the actions taken by the House to effectively emasculate the Davis-Bacon Act. The average construction worker is making $27,000 a year—$27,000 a year. What is it about working families that the Republicans have to try to diminish the wages and the working conditions and the rights of working families? We have seen that. And we will see and have the opportunity to debate that issue on the floor of the U.S. Senate.

Here we have another example about the attitude of Republicans towards working families. It is very interesting. You talk about trying to do something about health care for working families—"No, we cannot do that. We cannot possibly address it, to make sure that working families are going to be able to have health insurance."

We want to do something about minimum wage—"Oh, no, we cannot pass that. We cannot have an increase in the minimum wage. We cannot bring the minimum wage up to try to make it a livable wage. We cannot do that, even though we have record profits in this country and even though the minimum wage has decreased in terms of its purchasing power to what it was the last time we increased the minimum wage and with Republican—with bipartisan support. No, we cannot have an increase in the minimum wage."

We have to do something about those families whose kids are going on to college. We have to assist those two-thirds of the young people in my State, 67 percent of whom require student loans, to be able to afford a college education. But the Republicans say, "No, we are going to make them pay increased interest rates while they are going to school and college. The indebtedness of those sons and daughters of working families is not high enough. We are going to make them pay more."

And now we find when it comes to an economic issue for working families we have them in the bullseye again. When you just look across the spectrum: No on the minimum wage, retreat in terms of Davis-Bacon, to try to make sure workers rights are going to be preserved so we are going to get quality product—that is basically the issue. As John Dunlop has pointed out, the issue is not the wages, it is performance. You can pay less wages and get a lousy product and the taxpayer will be left holding the bag.

So we have "no" on the minimum wage, "no" in terms of trying to do something to protect the construction workers and give the assurance to the taxpayers on their interests, "no" in terms of looking out after the legitimate rights of working families who are trying to participate in this dramatic expansion of the profits that we have seen in the period of the last 4 or 5 years for the major companies and corporations. The workers are not getting any participation in it. For the first time, basically, in the history of the industrial revolution in the United States, workers are not participating.

All they are trying to do is, not demand, but what they want to do is to be able to represent their views, economic views, in a collective bargaining context which is as old as the industrial policy of this country. We find the first time the President stands up on that to try to protect it, the ink is not even dry and our Republican friends are declaring all-out war on these working families.

Sometimes we have to say "no." I look forward to the debate and discussion when we will get into greater detail, not only on these measures but on the particular Executive order. On tomorrow we will have a chance to debate this issue.

Mr. WELLSTONE. Will the Senator yield for a moment?

Mr. KENNEDY. I will be glad to yield.

Mr. WELLSTONE. Will the Senator, my colleague from Massachusetts, agree that actually tomorrow will be a very important day for the Senate and for the country, because we really will have a full opportunity to talk about the concerns and circumstances of working families? That this really will be an opportunity to talk about wages, to talk about jobs, talk about opportunities—

Mr. KENNEDY. Talk about children.

Mr. WELLSTONE. To talk about children, that is correct. To really talk about what is being attempted right now in the House of Representatives, and over here in the Senate, and to try to take all of this discussion about strategy—I really respect the way the Senator put it just a moment ago—all this talk of strategy and which buttons to push, to put it in personal terms: families, people's lives, opportunities.

I think tomorrow will be a day—I ask the Senator—where we will take the opportunity to really spell out in great detail what the meaning of all this is.

Mr. KENNEDY. I agree with the Senator. We just got notice of the introduction of this amendment a short while ago. We will have a full opportunity to debate it tomorrow. I was prepared to debate it this evening or tomorrow or the day after or whatever it takes. The Senator is one of our leaders in terms of what has been happening to children, to children's rights

and children's interests, what has been happening to hungry children. These are the sons and daughters of working families. All of this is coming into a sharper perspective. And all of these are basically related to the economic rights of working families.

They are not able to pursue those economic rights which have been basic and fundamental rights in our society, and which have been the backbone of our strength and vitality—the fact that men and women were able to pursue their economic dreams, as well as the success of the private sector, in a way which both of the parties were able to grow and to prosper. And to see that kind of effort to diminish that, and to also see, Madam President, the efforts that have been made in the recent days on changing Taft-Hartley, and that 8(a)2 provision, to try to repeal the existing ability for the trade union movement to organize workers, to have that whole concept threatened with company-controlled unions, as I fear would be the case with the 8(a)2 recommendations—this is all part of an effort.

We are only into this year some 2½ months. Take how we are going to change the whole Taft-Hartley law and the 8(a)2, take the action this evening on the President's Executive order to protect workers rights, take the opposition to the minimum wage—the whole series. We will have a chance to debate this, hopefully, in an informed, balanced way tomorrow and to really point out what is at risk with this particular amendment from my friend and colleague.

I urge my colleagues this evening to think deeply about this amendment. It is a matter of enormous importance and I think it will tell a great deal about this Senate and also about where we as a country are really going in these next few years.

Mr. WELLSTONE. If the Senator will yield for one final question?

Mr. KENNEDY. Yes.

Mr. WELLSTONE. Will the Senator agree with me that some of the issues that he just highlighted tonight have a great deal to do with 60 years of history, and to an extent this agenda we see right now is an attempt to really turn the clock back in a way people of the United States of America, when they see it, will just not support? It is beyond the goodness of people. It is beyond what people are about in our country.

Will the Senator agree that this really calls for, tomorrow, a full debate? This really calls for a day of real debate on this question? So it will be our hope that Senators will be out here and we will have a chance to go through these issues in great depth.

Mr. KENNEDY. The Senator is absolutely correct. I will look forward to that opportunity.

Mr. WELLSTONE. I look forward to that.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 95–521, appoints Thomas B. Griffith as Deputy Senate Legal Counsel, effective March 13, 1995.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 9:30 a.m. tomorrow, March 9, 1995.

Thereupon, the Senate, at 7:09 p.m, recessed until Thursday, March 9, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 8, 1995:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

GLYNN C. MALLORY, JR. [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

RONALD V. HITE [redacted]

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8373, AND 8374, AND 12004, TITLE 10, UNITED STATES CODE:

AIR FORCE RESERVE

To be major general

LOUIS A. CRIGLER [redacted]
TERRENCE L. DAKE [redacted]
ROBERT A. NESTER [redacted]
REESE R. NIELSEN [redacted]
RALPH H. OATES [redacted]

To be brigadier general

LOUIS C. FERRARO, JR. [redacted]
CLAYTON T. GADD [redacted]
WALTER T. HATCHER III [redacted]
ROBERT A. KRELL [redacted]
SHARON K. MAILEY [redacted]
JAMES L. MARTIN [redacted]
WAYNE L. PRITZ [redacted]
EDWARD F. RODRIGUEZ, JR. [redacted]
DENNIS W. SCHULSTAD [redacted]
LAWRENCE F. SHEEHAN [redacted]
LARRY L. TWITCHELL [redacted]
ERNEST R. WEBSTER [redacted]
GEOFFREY P. WEIDEMAN, JR. [redacted]

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

REGULAR AIR FORCE

NURSE CORPS

To be lieutenant colonel

ROBERTA L. FIERRO [redacted]
MARGARET A. JEALOUS [redacted]

BIOMEDICAL SCIENCE CORPS

To be lieutenant colonel

HARVEY J.U. ADAMS, JR. [redacted]
ANDREW COLON [redacted]
JOHN G. SCHLEIFER [redacted]
ROBERT H. SCHWARZHOFF [redacted]
NANCY A. SLICNER [redacted]

NURSE CORPS

To be major

JACQUELINE D. ALLEN [redacted]
BRUCE D. BISHOP [redacted]
CAROLYN A. CRAMER [redacted]
JEREMIAH J. FLANIGAN [redacted]
SELEA A. HAYES [redacted]
JANET A. HAYHURST [redacted]
ROBERT G. HONTZ [redacted]
BARBARA A. JARRETT [redacted]
SUSAN E. JONES [redacted]
DAVID L. KUTZLER [redacted]
HELEN F. LINDSEY [redacted]
BONNIE L. MACK [redacted]
KATHLEEN A. MCCLELLAN [redacted]
EILEEN B. MOFFITT [redacted]
MARIAN B. NUTT [redacted]
JANICE E. PEEBLY [redacted]
SIDNEY H. POTMESIL [redacted]
JEANNE C. ROGERS [redacted]
VICTORIA M. RUTLEDGE [redacted]
DENNIS C. SAMPSON [redacted]
STEVEN L. VIEIRA [redacted]
WALLACE K. WINTER [redacted]

BIOMEDICAL SCIENCE CORPS

To be major

GREGORY D. CLIFT [redacted]
MARY A. ELLIOTT [redacted]
JEFFREY L. FOSTER [redacted]
JOE F. GROSS, JR. [redacted]
SCOTT O. HAIL [redacted]
FRED C. KELSEY [redacted]
JOHN A. KILDEW [redacted]
MONTE C. MCMEANS [redacted]
JEFFREY W. SHRIFTER [redacted]
JAMES N. SOTACK, JR. [redacted]
JOHN T. SWINSON [redacted]
TIPTON W. YOUNG [redacted]

THE FOLLOWING INDIVIDUALS FOR APPPOINTMENT IN THE RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

MARTIN E. APPLEBAUM [redacted]

NURSE CORPS

To be lieutenant colonel

CAROL P. MANN [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, IN ACCORDANCE WITH TITLE 10, UNITED STATES CODE, SECTION 624 AND 1552, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

CHAPLAIN CORPS

To be lieutenant colonel

STEPHEN D. HESS [redacted]

IN THE NAVY

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

AMY L. DIGIOVANNI [redacted]
MICHAEL J. HANNA [redacted]
ANTONIO HICKS [redacted]

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

KUMAR ATARTHI [redacted]
SCOTT AYERS [redacted]
WILLIAM BAXTER [redacted]
ESTHER BOPP [redacted]
VICTORIA DASHNEYWUERTZ [redacted]
AARON FORESTER [redacted]
JEFFREY GILBERTSON [redacted]
DONALD JENKINS [redacted]
CHRISTIAN JURS [redacted]
DAVID LALIBERTE [redacted]
AMY MARION [redacted]
JOHN T. MARTIN [redacted]
CARLOS MONTANEZ [redacted]
ANTHONY MOORE [redacted]
DORIAN PARKER [redacted]
CHRISTOPHER R. RUSSELL [redacted]
JOSE SANCHEZ [redacted]
KARL SASSER [redacted]
RONALD TERRELL [redacted]
JOHN VECOLI [redacted]
DONNA WATKINS [redacted]

THE FOLLOWING-NAMED CANDIDATES IN THE NAVY ENLISTED COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DWAYNE BANKS xxx-xx-x...
GREGORY DIXON xxx-xx-x...
JOSEPH ESPINO xxx-xx-x...
ANDREW FISCHER xxx-xx-x...
MATTHEW FLEMMING xxx-xx-x...
BRUCE W. FORD xxx-xx-x...
THOMAS M. GOLSON xxx-xx-x...
JADON LINCOLN xxx-xx-x...
CHARLEYEN A. LINDER xxx-xx-x...
MATTHEW MEMMELAAR xxx-xx-x...
ROSS NISWANGER xxx-xx-x...
RONALD ROEN xxx-xx-x...
EDWARD L. STEVENSON xxx-xx-x...
BRYAN N. THOMPSON xxx-xx-x...
RICHARD WATERS xxx-xx-x...

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICER TO BE APPOINTED PERMANENT LIEUTENANT IN THE MEDICAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

SUSAN A. LIPPOLD xxx-xx-x...

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

LYNN S. BEMILLER xxx-xx-x...
MARK S. SPITZER xxx-xx-x...

THE FOLLOWING-NAMED COMMANDERS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF CAPTAIN IN THE LINE, IN THE COMPETITIVE CATEGORY AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

To be captain

ABERNATHY, JOHN M., III xxx-xx-x...
ADAMS, ALLAN B., JR. xxx-xx-x...
ADAMS, JOE R. xxx-xx-x...
ALLYN, WILLIAM R. xxx-xx-x...
ANDERSON, DALE N. xxx-xx-x...
ANDERSON, LARRY E. xxx-xx-x...
BALDWIN, HENRY S. xxx-xx-x...
BARR, ROBERT C. xxx-xx-x...
BARRINGER, FRED A., JR. xxx-xx-x...
BARTHOLD, DAVID H. xxx-xx-x...
BASS, JOHN R., II xxx-xx-x...
BELL, FREDRICK A. xxx-xx-x...
BENNETT, GARY D. xxx-xx-x...
BLACK, BRUCE M. xxx-xx-x...
BRACKEN, FRANK L., JR. xxx-xx-x...
BRANCHFLOWER, JOHN L. xxx-xx-x...
BREINER, THOMAS L. xxx-xx-x...
BROWN, DAVID A. xxx-xx-x...
BROWN, THOMAS R., JR. xxx-xx-x...
BRUCE, ROBERT C., JR. xxx-xx-x...
BUBB, THOMAS A. xxx-xx-x...
BUDDE, THOMAS J. xxx-xx-x...
CASTNER, ROBERT G. xxx-xx-x...
CHAMBERLAIN, ROBERT M. xxx-xx-x...
CHRISTENSEN, NYLES L. xxx-xx-x...
COFFER, ALAN B. xxx-xx-x...
COLLINS, DOUGLAS L. xxx-xx-x...
CORLEY, ROBERT D. xxx-xx-x...
COX, VINCENT H. xxx-xx-x...
CRANDALL, JAMES W., JR. xxx-xx-x...
CRAWFORD, BERTRAM M., JR. xxx-xx-x...
CRAWFORD, DANIEL A. xxx-xx-x...
CRITES, DON M. xxx-xx-x...
CROWE, RICHARD C. xxx-xx-x...
CUNNINGHAM, JAMES A. xxx-xx-x...
DANFORTH, PETER A. xxx-xx-x...
DARLAND, DALLAS M. xxx-xx-x...
DAVIDSON, GARY R. xxx-xx-x...
DAVIS, DAVID H. xxx-xx-x...
DEVEAUX, CHARLES M., III xxx-xx-x...
DICK, RICHARD xxx-xx-x...
DOMBROWSKI, PAUL R. xxx-xx-x...
DOUGLAS, MICHAEL L. xxx-xx-x...
DOYLE, MERRILL C. xxx-xx-x...
DRIVER, JOHN J. xxx-xx-x...
DYSON, JAMES J. xxx-xx-x...
ECKERMAN, LAWRENCE I. xxx-xx-x...
ELIASEN, EDWARD S. xxx-xx-x...
ERICKSON, RICHARD E. xxx-xx-x...
FISHER, EARLE B., JR. xxx-xx-x...
FITZGERALD, DOUGLAS H. xxx-xx-x...
FLOWERS, WILLIAM A. xxx-xx-x...
FOWLER, HAROLD E., JR. xxx-xx-x...
FRIDGEN, MICHAEL J. xxx-xx-x...
FULLER, JAMES T. xxx-xx-x...
GADZINSKI, GARY F. xxx-xx-x...
GAHRAN, BRIAN H. xxx-xx-x...
GALECKI, RICHARD M. xxx-xx-x...
GAUTILLE, JOSEPH C. xxx-xx-x...
GEIGER, JAMES M. xxx-xx-x...
GEORGE, STEPHAN H., II xxx-xx-x...
GHOLZ, LEE A. xxx-xx-x...
GILMORE, GREGORY, C. xxx-xx-x...
GINTZER, HARRY C., III xxx-xx-x...
GLASSER, DONALD J. xxx-xx-x...
GLENN, LONNIE L. xxx-xx-x...
GOUDGE, DEREK xxx-xx-x...
GROVER, GRETCHEN G. xxx-xx-x...
GUNDERSON, KENNETH J. xxx-xx-x...
HAAS, JAMES E. xxx-xx-x...
HAILE, LAMAR C., III xxx-xx-x...
HAMILTON, GEORGE R., JR. xxx-xx-x...
HARDEN, TIMOTHY S. xxx-xx-x...
HARMON, STEPHEN C. xxx-xx-x...
HART, KENNTEH R. xxx-xx-x...
HARWOOD, THEODORE L., III xxx-xx-x...
HAWKENS, EDWARD R. xxx-xx-x...
HAYDEN, JOHN W. xxx-xx-x...
HAYES, FRED E. xxx-xx-x...
HEINRICH, RICHARD D. xxx-xx-x...
HELLER, LEIGHTON J., JR. xxx-xx-x...
HELSELL, PETER F. xxx-xx-x...
HENDERSON, GLENN xxx-xx-x...
HENDERSON, THOMAS J. xxx-xx-x...
HESSEY, JOHN H. V. xxx-xx-x...
HINSON, DAVID E. xxx-xx-x...
HOGAN, GARY P. xxx-xx-x...
HOGAN, JOHN D. xxx-xx-x...
HOWARD, WILLIAM R. xxx-xx-x...
HOYT, JOHN R., JR. xxx-xx-x...
IAIA, JOHN T. xxx-xx-x...
JACKSON, FREDERICK P., 246–84–8054
JACKSON, ROBERT W. xxx-xx-x...
JOHNSON, JEFFREY M. xxx-xx-x...
JOHNSON, JOHN A., JR. xxx-xx-x...
KEARNEY, JAMES P. xxx-xx-x...
KELLY, PATRICK M. xxx-xx-x...
KLOCH, STEPHEN J. xxx-xx-x...
KONDRACK, CHARLES J. xxx-xx-x...
KUTZER, JOHN F. xxx-xx-x...
KVAMME, JAMES C. xxx-xx-x...
LARNED, ROBERT T. xxx-xx-x...
LAWSON, JEFFREY E. xxx-xx-x...
LEONARD, DAVID L. xxx-xx-x...
LEVEDAHL, WILLIAM K. xxx-xx-x...
LINDSEY, ANDREW E. xxx-xx-x...
LINGERFELT, MICHAEL L. xxx-xx-x...
MANGANARO, WILLIAM F. xxx-xx-x...
MARGUTH, JERRY W. xxx-xx-x...
MARQUES, JOHN B., III xxx-xx-x...
MARTIN, DOUGLAS F. xxx-xx-x...
MARTIN, LANCE S. xxx-xx-x...
MARTIN, WILLIAM E., II xxx-xx-x...
MC CLELLAN, STEPHAN A. xxx-xx-x...
MC KNIGHT, BRADLEY D. xxx-xx-x...
MEANEY, PATRICK J. xxx-xx-x...
MEARSHEIMER, THOMAS L., JR. xxx-xx-x...
MEEKINS, CHARLES D. xxx-xx-x...
MERRITT, JOHN H. xxx-xx-x...
MICHAUD, BRIAN K. xxx-xx-x...
MILLER JOSEPH G. xxx-xx-x...
MILLER, ROBERT K. xxx-xx-x...
MITCHELL, GARY C. xxx-xx-x...
MURPHY, JOHNSS. xxx-xx-x...
NEMECHEK, MICHAEL M. xxx-xx-x...
NIEDERMAIER, DAVID G. xxx-xx-x...
NIELSEN, WILLIAM F. xxx-xx-x...
NIEMYER, ANDREWS S. xxx-xx-x...
NORLAND, ERIC R. xxx-xx-x...
OLEXIK, CARL S., JR. xxx-xx-x...
OLSON, LARRY A. xxx-xx-x...
O'SHAUGHNESSY, JOHN L. xxx-xx-x...
OWENS, MICHAEL K. xxx-xx-x...
PARK, JOHN S. xxx-xx-x...
PEBERDY, CHARLES A., JR. xxx-xx-x...
PIERCE, GREGORY D. xxx-xx-x...
PRATT, ROBERT W., II xxx-xx-x...
PRING, BRIAN L. xxx-xx-x...
RACHEL, DAVID F. xxx-xx-x...
RAINES, FRANK E. xxx-xx-x...
RATCLIFFE, ROBERT F. xxx-xx-x...
RICHARDS, STUART A. xxx-xx-x...
RICKETTS, GARY A. xxx-xx-x...
ROBINSON, CHRISTOPHER B. xxx-xx-x...
RODWELL, KEITH E. xxx-xx-x...
ROLAND, MICHAEL J. xxx-xx-x...
ROSE, FRANK J. xxx-xx-x...
ROUEN, DOUGLAS M. xxx-xx-x...
RYAN, CHARLES T. xxx-xx-x...
RYAN, PAUL J. xxx-xx-x...
RYAN, RICHARD S. xxx-xx-x...
SATORIUS, MARK A. xxx-xx-x...
SCHEER, JOSEPH xxx-xx-x...
SCHNECK, ANDREW E. xxx-xx-x...
SCOBY, DAVID H. xxx-xx-x...
SEWELL, STEVEN R. xxx-xx-x...
SHACKELFORD, THOMAS F., II xxx-xx-x...
SHINNICK, WILLIAM B. xxx-xx-x...
SIMMONDS, THOMAS L. xxx-xx-x...
SMITH, NORMAN K., II xxx-xx-x...
SMITHWICK, JAMES P. xxx-xx-x...
SNOOK, WILLIAM V. xxx-xx-x...
SPEIGHTS, WILLIAM D. xxx-xx-x...
STANFIELD, WAYNE S. xxx-xx-x...
STANLEY, TIMOTHY D. xxx-xx-x...
STANTON, ROBERT S. xxx-xx-x...
STEAGALL, WILLIAM F., JR. xxx-xx-x...
STEVENSON, GEORGE R., JR. xxx-xx-x...
STEWART, JOHN M., JR. xxx-xx-x...
SWINDAL, FREDERICK L., JR. xxx-xx-x...
TABB, HENRY J. xxx-xx-x...
TOMLINSON, CRAIG S. xxx-xx-x...
TREVINO, ROBERT C. xxx-xx-x...
UDICIOUS, RICHARD A. xxx-xx-x...
VANDERSLICE, JOHN A., II xxx-xx-x...
VECCIA, JAMES V. xxx-xx-x...
VEREMAKIS, DEAN S. xxx-xx-x...
WALSH, DENNIS P. xxx-xx-x...
WEBB, DAVID R. xxx-xx-x...
WEBB, GREGORY G. xxx-xx-x...
WESTON, EDWARD G. xxx-xx-x...
WHEELER, DANIEL A. xxx-xx-x...
WHITMAN, BARTON W. xxx-xx-x...
WIEDENHAEFER, RICHARD C. xxx-xx-x...
WILLIAMS, JEFFREY C. xxx-xx-x...
WILLIS, JOHN R. xxx-xx-x...
WILLY, CHARLES S. xxx-xx-x...
WILSON, JOSEPH D. xxx-xx-x...
WOODY, GARRY L. xxx-xx-x...

UNRESTRICTED LINE OFFICERS (TAR)

To be captain

ALLISON, JOHN M. xxx-xx-x...
BRANNAN, TANDY T., II xxx-xx-x...
CHRISTOPHER, STEVEN C. xxx-xx-x...
COMER, DAVID S. xxx-xx-x...
DEBBOUT, JOHN P. xxx-xx-x...
ERICKSON, GARY M. xxx-xx-x...
FILKINS, MICHAEL J. xxx-xx-x...
GILMORE, BRIAN W. xxx-xx-x...
GLADDEN, RILEY J. xxx-xx-x...
HEILENDAY, RICHARD M. xxx-xx-x...
HOLLYFIELD, WALLACE G., JR. xxx-xx-x...
LAPORTE, CRAIG B. xxx-xx-x...
LAVIGNE, BARRY A. xxx-xx-x...
LIVINGSTONE, DAVID D. xxx-xx-x...
NAGELIN, THOMAS F., JR. xxx-xx-x...
SABOL, ALEXANDER J. xxx-xx-x...
SCHORN, DAVID M. xxx-xx-x...
STUART, WAYNE S. xxx-xx-x...
WANDELL, ALTON J. xxx-xx-x...
WILLIAMS, RICHARD C. xxx-xx-x...
WRINKLE, MICHAEL R. xxx-xx-x...

ENGINEERING DUTY OFFICERS

To be captain

ALLEN, WILLIAM H. xxx-xx-x...
ANDRYUK, NICHOLAS A. xxx-xx-x...
CARLSON, JOHN E., III xxx-xx-x...
CLANCY, EDWARD V. xxx-xx-x...
COHEE, FRANK E., III xxx-xx-x...
CROSS, WILLIAM A. xxx-xx-x...
GOSLER, JAMES R. xxx-xx-x...
HOUGH, PHILLIP G. xxx-xx-x...
KLEE, CARL R. xxx-xx-x...
LASH, JAMES H. xxx-xx-x...
PERREIRA, NOLAN G. xxx-xx-x...
RIX, WILLIAM H. xxx-xx-x...

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be captain

ALLEY, THOMAS C., JR. xxx-xx-x...
BUSHELLE, WILLIAM R. xxx-xx-x...
CRAIG, RAYMOND P., JR. xxx-xx-x...
MORRISON, GRAY D. xxx-xx-x...
ROEDER, FREDERICK J. xxx-xx-x...
SHANNON, JOHN G. xxx-xx-x...

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

BELL, WILLIAM H. xxx-xx-x...
TYSON, DAN M. xxx-xx-x...

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

ALLEN, JOHN M. xxx-xx-x...
CHESSON, MICHAEL B. xxx-xx-x...
DAVIS, MICHAEL H. xxx-xx-x...
DILLON, VERONIQUE S. xxx-xx-x...
DUNN, DAVID P. xxx-xx-x...
HOLSTEAD, RONALD E. xxx-xx-x...
PASKEWITZ, EARL T. xxx-xx-x...
VOGEL, FREDERICK Q. xxx-xx-x...
ZELLMER, RICHARD J., xxx-xx-...

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

To be captain

FUNK, WILLIAM D. xxx-xx-x...
JIMENEZ, MICHAEL A. xxx-xx-x...
KUCHARSKI, MICHAEL J. xxx-xx-x...
MC NAMARA, BRIAN S. xxx-xx-x...
MOSS, WILLIAM A. xxx-xx-x...
NELSON, RICHARD T., JR. xxx-xx-x...
PATTEN, BARRY A. xxx-xx-x...
PEACOCK, ROBERT J., II xxx-xx-x...
SPILLANE, CORNELIUS M. xxx-xx-x...
WHITE, EDWARD F., JR. xxx-xx-x...

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

BLEVINS, DAVID H. xxx-xx-x...
BRIANT, CHARLES C. xxx-xx-x...
CHUNG, BELINDA W. xxx-xx-x...
CODY, JOSEPH P., JR. xxx-xx-x...
DAVIS, JORDAN B. xxx-xx-x...
DUVEEN, JUDI A. xxx-xx-x...
FORBES, LAURIE E. xxx-xx-x...
GREEN, NORMAN K., JR. xxx-xx-x...
GREENLEE, JIM M. xxx-xx-x...
HILL, JOHN B. xxx-xx-x...
HOLLIMAN, WILLIAM M. xxx-xx-x...
HURLEY, RODNEY G. xxx-xx-x...
KELLEY, JACKSON D. xxx-xx-x...
LILLJEDAHL, SHARON L. B. xxx-xx-x...
LOOKABILL, ROBERT L. xxx-xx-x...
MACLIN, JAMES S. xxx-xx-x...
NEATHERY, JAMES W. xxx-xx-x...
PATTERSON, WILLIAM M. J. xxx-xx-x...
PATTON, GREGORY D. xxx-xx-x...

RIVET, LEONARD N. [redacted]
ROESLER, GORDON M., JR. [redacted]
SCHOONOVER, ELEANOR S. [redacted]
SEGHERS, PHILIP E. [redacted]
SIDONI, JAMES A. [redacted]
TERRELL, LEANNA F. [redacted]
TROUT, RICHARD W. [redacted]
WELLS, JAMES D. [redacted]

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

To be captain

CURFS, THOMAS P. [redacted]

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

DANIELS, THOMAS H. [redacted]
DAYTON, DANIEL S. [redacted]
FISCH, STEPHEN R. [redacted]
HULTS, ARTHUR S., III [redacted]
JARVIS, KENNETH A. [redacted]
PANDZIK, MICHAEL L. [redacted]
PINARD, THOMAS C. [redacted]
SCHNEIDER, CHARLES F. [redacted]
URBAN, WALTER M., JR. [redacted]
WILKINSON, JOSEPH B., JR. [redacted]
WYATT, JOHN D., III [redacted]

SPECIAL DUTY OFFICERS (FLEET SUPPORT)

To be captain

ALLEN, SHIRLEY [redacted]
ATWATER, CHARLES D. [redacted]
BARY, CHARLENE G. [redacted]
BRENNAN, CHRISTOPHER P. [redacted]
BUTLER, MARVIN G. [redacted]
CELLINI, ANTHONY L. [redacted]
CULPEPPER, MICHAEL L. [redacted]
DALTON, JOSEPH A. [redacted]
DICKSON, GARY W. [redacted]
DRISCOLL, SONDRA L. [redacted]
FEENEY, KEVIN J. [redacted]
GOLDSTEIN, KATHLEEN M. [redacted]
GOMEZ, LAWRENCE T. [redacted]
GONZALES, ROMAN, III [redacted]
GROESBECK, DEBORAH [redacted]
HARLAN, WAYNE A. [redacted]
HARRIS, VASCAR G. [redacted]
HEBERT, VERONICA D. [redacted]
HONDA, FRANCES T. [redacted]
HOWES, SANDRA L. R. [redacted]
JACQUES, PHILIPPE A. [redacted]
JOHNSON, BARNEY G., III [redacted]
JOHNSON, ROXANNE T. [redacted]
KATIN, ROBERT A. [redacted]
KERMEN, ROBERT J. [redacted]
LOPEZ, GILBERTO J., JR. [redacted]
MARTINEZ, JACK, JR. [redacted]
MCDEVITT, CAROL J. [redacted]
MORGAN, JONI P. [redacted]
NIENOW, CLARK B. [redacted]
NOBLE, RUSSELL S. [redacted]
ODOM, DENNIS F. [redacted]
PARK, ALAN M. [redacted]
PITCHFORD, GAYEL A. [redacted]
PRITZ, DAVID G. [redacted]
RICK, DENNIS L. [redacted]
RINANDO, ALAN R. [redacted]
ROBINSON, DONALD L. [redacted]
SMITH, MARK W. [redacted]
SMITH, RALPH R. [redacted]
STOFFELS, GARY B. [redacted]
TRITCHLER, JAMES A. [redacted]
WEBSTER, RICHARD M., JR. [redacted]

SPECIAL DUTY OFFICERS (FLEET SUPPORT) (TAR)

To be captain

DENARDO, JANET E. [redacted]

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

SHAYNE, GEORGE R. [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, March 8, 1995*

The House met at 11 a.m.

PRAYER

Rabbi Rachel S. Mikva, Congregation Hakafa, Glencoe, IL, offered the following prayer:

For the sake of Heaven.

The rabbis taught: Any argument conducted for the sake of Heaven will bear fruit. If not for the sake of Heaven, it yields nothing.

God, Source of knowledge and insight, what does it mean: For the sake of Heaven?

That each of us has the courage to face and to speak the truth? And still, however, passionately we may cling to our vision of truth, we must never fail to recognize Your image, God, reflected in the face of the other.

For the sake of Heaven.

That we are always mindful before whom we stand? Committed to serve constituents, the Nation, the people of the world, ultimately we stand before You, naked of power or possessions, seeking only to understand Your will and do it with a whole heart.

For the sake of Heaven. God, we pray that our words and our deeds may be for Your sake, bringing healing to our world and wholeness to all those whose lives we touch. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Maryland [Mrs. MORELLA] come forward and lead the House in the Pledge of Allegiance.

Mrs. MORELLA 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.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 244. An act to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

REPORT ON H.R. 1158, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR ADDITIONAL DISASTER ASSISTANCE AND MAKING RESCISSIONS FOR FISCAL YEAR 1995

Mr. LIVINGSTON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 104–70) on the bill (H.R. 1158) making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

REPORT ON H.R. 1159, SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR FISCAL YEAR 1995

Mr. LIVINGSTON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 104–71) on the bill (H.R. 1159) making supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON HOUSE OVERSIGHT

The SPEAKER laid before the House the following communication from the chairman of the Committee on House Oversight:

COMMITTEE ON HOUSE OVERSIGHT,
Washington, DC, March 3, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: Pursuant to House Rule 51, clause 7, I have appointed the Honorable Lincoln Diaz-Balart as chairman of, and the Honorable Robert W. Ney to serve on, the review panel established by that Rule for the 104th Congress.

Best regards,

BILL THOMAS,
Chairman.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 Members on each side for 1-minutes, after the gentleman from Illinois [Mr. PORTER].

TO WELCOME RABBI RACHEL MIKVA

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

Mr. PORTER. Mr. Speaker, I have the great pleasure today of welcoming to the House Chamber Rabbi Rachel Mikva of Temple Hakafa who graciously began our session this morning with her opening prayer. It is an honor to welcome Rabbi Mikva to Washington and to the House of Representatives, and the wonderful words she shared with us today reflect the strong leadership she provides to the people of her congregation in Glencoe, IL.

But my connection with Rabbi Mikva goes far beyond the fact that her synagogue is located in my congressional district. Her father, Abner Mikva, is well known to all of us in this Chamber for his distinguished service as a judge and later as chief judge for the Circuit Court of Appeals for the District of Columbia, a position to which he was appointed by President Jimmy Carter. After many years of outstanding work as a jurist, Ab agreed last year to leave the bench to serve in his current office in the White House as counsel to the President.

What newer Members may not know is that Ab Mikva once represented the 10th District of Illinois. And in 1978, I challenged him for the seat. Our campaign that year was heated and energetic and was a race of ideas and respectful debate in the greatest tradition of American politics.

The victor of the campaign was not known on election evening. And when we awoke the morning after, Ab had retained his seat by a margin of 650 votes. Rachel at that time was 18 years of age, and one can expect that with her hard work for her father perhaps she provided enough of her fellow 18-year-old votes to win so close an election.

Shortly thereafter, Ab was appointed to the bench by President Carter, and I ran successfully in the special election that followed to succeed him and represent the wonderful people of the 10th District here in Washington.

We have remained good friends over the years, and it is a pleasure to welcome him here today. He is in the gallery to my right with his grandchildren

and Rachel's children, Jacob and Karen, and I thank his daughter, Rabbi Rachel Mikva, for inspiring us with her opening prayer today.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

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

Mr. MYERS of Indiana. Mr. Speaker, I join many friends of the Mikva family in welcoming Rabbi Rachel. The Mikva family and my family became friends many years ago when they first came to Washington. We lived in the same neighborhood. Little Rachel and our youngest daughter, Lori, became very good friends, schoolmates.

I can recall and I can recommend it to about 350 high school kids here this morning, when they would come to visit their fathers. Rachel would sit on this side of the aisle, on the center aisle, and our daughter, Lori, on the other side, and just stare at each other, good friends at home and in school, but they became very competitive here. So we always remember that little Rachel, so proud today as we join the Mikva family and their grandchildren and welcome Rachel. We thank her for joining us today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CUNNINGHAM). Members should not refer to the gallery.

REPUBLICAN CONTRACT WITH AMERICA

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

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

We kept our promise.

The contract goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we kept our promise; and commonsense legal reform to end frivolous lawsuits—we are doing this now.

And we have these items still to go: Welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for middle-income families; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

RESPONSIVE TO THE NEEDS OF VETERANS

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

Mr. MONTGOMERY. Mr. Speaker, I also would like to welcome Rabbi Mikva to be our guest Chaplain today.

Mr. Speaker, doctors still are unable to diagnose some illnesses affecting gulf war veterans. Speaking before the Veterans of Foreign Wars Monday, the President of the United States indicated his intention to continue the search for the answers, and we certainly congratulate him on that.

Mr. Speaker, moving to another area, we will have a vote on this floor next week to cut some funding for veterans' programs. I hope the House will not do this and will continue to appreciate our great veterans.

INTERNATIONAL WOMEN'S DAY

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

Mrs. MORELLA. Mr. Speaker, today, March 8, we commemorate International Women's Day, and is it not appropriate to have Rabbi Rachel Mikva offer us the morning inspiration.

This is a time to recall the difficulties which women in the United States and around the world continue to face in their efforts to achieve equal rights and equal opportunity and to commit ourselves to remedy the difficulties.

Recent times have seen great attention to the subject of women and human rights. Women made great gains at the Vienna Human Rights Conference, and last September's International Conference on Population and Development focused attention not only on the need for access to family planning but other issues also concerning women, literacy, girls' education, and childhood and maternal nutrition programs. Women's issues are central to the current economic conference in Copenhagen and will take center stage at the Beijing conference later this year.

As we look to cutting U.S. foreign assistance, I hope we will take care to see the benefits which we receive when we support women's rights. Let us in all ways make sure that we celebrate International Women's Day.

REPUBLICAN SHELL GAME

Mr. GENE GREEN of Texas. Mr. Speaker, the Republicans should stop playing the shell game with promising increased funding for school lunches but not guaranteeing that increase. The Republican welfare reform bill removes the guarantee of school lunches, but it does provide an increase in the spending authorization. Promising an increase in one bill at the same time passing this week massive education and school rescissions in another bill proves to America that no program is safe from the budgetary axe of the majority party, including school lunches.

I ask my colleagues from Texas to contact the State agency which is running the school breakfast and lunch program. They estimate a cut in meals to children.

We may wish to waive this off as a reduction of an increase, but what about the increase in population which has occurred in Texas and particularly in Houston.

Let us be fair, take school lunches and breakfast program out of welfare reform and put it back into education. A hungry child is not a good student. These programs could be streamlined, but Congress should guarantee that every child in America should have a hot nutritious meal at school.

Under the Republican bill, we lose the lunch guaranteed by this shell game, promising an increase, taking away an appropriation and yet letting the State transfer 20 percent.

THE TOP 10 LIST

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

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, the top 10 falsehoods of 1995: No. 10, owners and players really care only about the game of baseball; No. 9, Republicans are cutting children's nutrition programs; No. 8, you can trust Connie Chung; No. 7, the protesters around here in recent days are not paid with taxpayer funds; No. 6, the media is fair and unbiased; No. 5, we need more Federal regulations, not less; No. 4, those six Democrats voted against a balanced budget amendment for principle, not for politics; No. 3, Bill Clinton really knows what he is doing in Mexico; No. 2, the President really wants to end welfare as we know it; and, Mr. Speaker, the No. 1 falsehood of 1995 we will get out early tonight.

□ 1115

A TRIBUTE TO MARYAM RAJAVI AND FREEDOM FIGHTERS IN IRAN ON INTERNATIONAL WOMEN'S DAY

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

Mr. TRAFICANT. Mr. Speaker, today is International Women's Day, celebrated here in America, but not in Iran. In Iran, women are treated like cattle. Women cannot own property. In fact, women cannot even choose their own clothing, and are still stoned to death.

What is ironic is this terrorist nation, this totalitarian regime is now being challenged by a new democratic resistance party led by a woman, Maryam Rajavi. I rise today to pay tribute to Maryam Rajavi and the freedom fighters in Iran and, on International Women's Day, to pay tribute to the achievement of all women, but advise Congress to take a look at Iran.

Iran will not change from without; Iran must change from within. President Maryam Rajavi and her government in exile, a democratic government in exile in France, can do that, and provide human rights in Iran.

REFORMING THE WELFARE SYSTEM SO IT WORKS FOR THE PEOPLE, NOT AGAINST THE PEOPLE

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

Mr. HEFLEY. Mr. Speaker, it is time for us to admit to ourselves that the grandiose welfare programs of the 1960's have failed. Welfare has been riddled with crime and abuse for years. At long last, it is time to fix the welfare system from just maintaining the poor to transforming the poor.

Middle-income Americans no longer equate compassion with spending more money in Washington for programs that do not work. Money is not the answer. Change is the answer. And that is what we want to do—change the welfare system so that it works for the people not against the people.

The three principles of change are personal responsibility, work, and State control.

Mr. Speaker, we are keeping our promises. Instead of defending the status quo, we will produce real change.

DON'T CUT THE SCHOOL LUNCH PROGRAM

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

Mr. ROMERO-BARCELÓ. Mr. Speaker, the school lunch program is a good, proven program. It feeds hungry children nutritious meals. Children who are not hungry learn better and are healthier. This is a simple premise, but it is a premise that has worked well since the original school lunch program was signed into law in 1946.

I believe that it is a travesty and a disgrace to destroy such a successful program. Throwing this program into a block grant does absolutely nothing to ensure that such funds will end up in a school lunch program of the high caliber that we now have. As a former mayor and Governor, I have grave reservations about the effectiveness of a system of block grants where vitally necessary nutrition programs are forced to compete against each other for increasingly scarce dollars.

No child in a nation like ours should go to school hungry or suffer from malnutrition. The school lunch program helps to ensure that this does not happen. It is a proven program—it works. Do not cut the school lunch program. Do not cut taxes for wealthy corporations at the cost of our children's physical and emotional health.

This is not a Contract with America, this is a contract with the wealthy of America against the poor, against the veterans, and against the children of America.

THROUGH WELFARE REFORM AMERICANS WILL BE AGAIN EMPOWERED, NOT ENTITLED, TO LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS

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

Mr. MARTINI. Mr. Speaker, when my grandfather, Michael, came from Italy to America over 90 years ago, he came because of a promise. It was the promise that sets the United States apart from every other nation in the world.

That promise is the American dream: the deal that if you are willing to sacrifice and live by the rules set out by the world's greatest democracy, then you are empowered, not entitled, to follow a life of liberty and a pursuit of happiness that only America can offer.

When I came to Congress, I came because of that promise. I told my constituents I would protect that dream that our forefathers created, nurtured, and cherished.

Mr. Speaker, after 2 months on the job, I can say with great satisfaction that we are indeed restoring that sacred promise. Our efforts to date protect in our society what was so dear to my grandfather and all of our ancestors: a sense of opportunity, responsibility, and accountability that truly distinguishes these United States of America.

DEMOCRATS WILL NOT BE HAPPY UNTIL EVERY CHILD GETS GOOD NUTRITION

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

Mrs. SCHROEDER. Mr. Speaker, the Los Angeles Times today reports that when Speaker NEWT GINGRICH was asked about the Democrats and the school lunch program, he said, "The Democrats won't be happy until every child gets a Ferrari."

Let me tell you, this is not a school car program, this is a school lunch program, and the Democrats will not be happy until every child gets good nutrition, "Why Johnny can't eat." We are not talking about happy meals with little prizes in them, and we are not talking about big fancy cars, because we do not give them to our kids; besides which, I must say to the Speaker, if Democrats were going to give anything, they would give a Ford.

ENDING POVERTY, CONTROLLING WELFARE ARE GOALS OF BLOCK GRANTS TO STATES

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

Mr. JONES. Mr. Speaker, during the past 30 years, the Government has tried solving the problems of the poor. The Government has invested over $5 trillion to create a better life for the needy while in reality, this outdated and bureaucratic-laden system has encouraged a destructive social behavior in recipients, including an ever increasing illegitimacy rate. Since 1965, the average household has spent $50,000 in taxes to support this system and of the 5 million families who receive benefits only 20,000 people work.

As members of Congress, we have the responsibility to end this cycle of dependency. The Republican proposal will do just that. We will merge four cash welfare programs into one block grant to the States, saving the taxpayer $5.6 billion. Under this block grant, States will gain greater responsibility in administering the program and more flexibility to be innovative in combating poverty and welfare.

We will continue to create programs to restore the power of the States and to return the American dream to everyday people.

CURTAILMENT OF JOBS PROGRAM THREATENS 1.2 MILLION CHILDREN WITH ILLNESS

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

Mr. FIELDS of Louisiana. Mr. Speaker, I rise today to voice my strong opposition to the dismantling of our National Summer Youth Job Programs.

Mr. Speaker, 1.2 million children will lose the opportunity to be employed and educated this summer. In my State $19 million would be eliminated, canceling 13,000 summer youth jobs. That is right, Mr. Speaker, this summer we will have an additional 600,000 young people nationwide on the streets with

nothing to do, at a time when we should be encouraging work, and discouraging crime.

I submit, Mr. Speaker, this rescission is a crime and we should defeat the rescission proposal when it arrives to the floor.

I urge my colleagues on both sides of the aisle to look beyond our whips, look beyond our caucuses, look beyond our party positions. Let us not look beyond our consciences.

Let us stand up for our young people and say "yes, you will have and deserve the right to work this summer."

INTERNATIONAL WOMEN'S DAY

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

Ms. PRYCE. Mr. Speaker, today is International Women's Day, a day in which women around the world are commemorating their struggles and victories.

One of the most important ways to ensure the safety and success of women throughout the world is to provide them with economic stability.

This is especially true in America, and is center to the debate taking place in this body over welfare reform. The current welfare system locks women into dependency and destroys their futures. It does not provide the incentives to obtain job skills or an education. It is a system that encourages teenage mothers to leave their parents' home and take a premature step into life's troubles. In short, not only does the current welfare system fail to help women, it suppresses women and destroys chances for their futures and those of their children.

We have to create a welfare system that encourages responsibility; one that provides women with opportunities to become self-sufficient and to provide for their families.

Economic stability allows women to take charge of their lives and not live as victims of government dependency.

In the spirit of International Women's Day, I urge my colleagues to support America's women through meaningful welfare reform—we all should be able to live the American Dream.

GINGRICH REVOLUTIONARIES SAY TO HUNGRY CHILDREN "LET THEM EAT BLOCK GRANTS"

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

Mr. DEFAZIO. Mr. Speaker, a school principal in my district told me of children lined up at the door of one of our neighborhood schools on a Monday morning, not because they were so anxious to learn, but because they were hungry. Their school breakfast was to be their first hot meal since school lunch on Friday, 2½ days without a hot meal.

Those hungry kids are just going to have to go a little bit longer if the Republican cuts in the Nutrition Programs and the School Lunch Programs go through. They tell us it is just the administrative costs, they just want to eliminate the Federal bureaucrats to the cook in the local school, that would be 4 percent of the costs. Their cuts are seven times the administrative costs.

Mr. Speaker, just a little decrease or increase in the price of food? More eligible hungry kids? The Republicans have an answer for that: Give them smaller portions, that is the Republican plan. Two centuries ago Marie Antoinette said "Let them eat cake." Today's Gingrich revolutionaries say "Let them eat block grants."

PRESIDENTIAL EXECUTIVE ORDER BANNING THE HIRING OF PERMANENT REPLACEMENT WORKERS BY FEDERAL CONTRACTORS

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

Mr. GOODLING. Mr. Speaker, this morning, President Clinton signed an Executive order that would ban Federal contractors from hiring permanent replacement workers. I rise today to express my strong opposition to the President's action, both in terms of what it means for our country's workplace policy, as well as the manner in which it was done.

In terms of workplace policy, the President's order will have serious negative implications for our system of collective bargaining. The foundation of that system is a balancing of the interests and risks of labor and management that allows the bargaining process to prod both parties toward a collective agreement on the terms and conditions of employment.

A ban on the use of replacement workers will undoubtedly lead to more strikes, and the ripple effects of those strikes will result in lost jobs and lost business opportunities throughout industry.

Beyond its policy implications, the legality of the Executive order is also questionable. The Congress has expressed its will with respect to the legality of permanent replacement workers and the President's order runs completely counter to that will. The responsibility for setting employment policy rests in the Congress, not in the White House.

I call on President Clinton to reconsider his decision to pursue this dangerous and ill-conceived threat to our national labor policy.

COMMEMORATING INTERNATIONAL WOMEN'S DAY

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

Mrs. LOWEY. Mr. Speaker, I rise today to Commemorate International Women's Day. Today we celebrate the victories and commemorate the struggles of women around the globe.

While women have made considerable progress in the struggle for civil rights and equity, we still have a long way to go. Women have gained greater access to education. But currently, throughout the world there are about 85 million fewer girls enrolled in school than there are boys, despite nearly equal numbers of girls and boys in the world. We must do better.

Women have gained greater access to jobs and the economy, but currently, women compromise nearly two-thirds of the world's illiterate population. We must do better.

Women have fought, in this country and around the world, to gain access to adequate health care and full reproductive rights. But an estimated 500,000 women die each year from pregnancy related causes, including unsafe abortions. And in this country, the debate over abortion rights, and recent actions to eliminate that right in the case of victims of rape and incest, threatens to undermine the health and safety of women. We must do better.

Mr. Speaker, the upcoming U.N. Fourth International Conference on Women will provide us an opportunity to look at how we might do better. I join my colleagues in commemorating today, International Women's Day. It is a day to look toward the future, when we must do better for women.

OPPOSING THE EXECUTIVE ORDER BANNING THE USE OF PERMANENT REPLACEMENT WORKERS DURING STRIKES

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

Mr. FAWELL. Mr. Speaker, in the collective-bargaining process, the union has the ultimate right to strike in an economic strike. The employer has the right, however, to hire permanent replacement workers in order to be able to continue his business.

I rise today to express my strong opposition to the Executive order just issued by the President which would ban the use of permanent replacement workers during strikes against government contractors. I question the authority of the President to issue such an order, and I urge him to rethink this divisive strategy.

The labor law implications of banning permanent replacements have been debated at length in this Chamber. The fact that many, many days

have been devoted to the issue in recent years should leave no doubt in anyone's mind that this is a legislative issue. Any Executive order that touches on this same issue is an infringement on the separation of powers so vital to our constitutional form of government. It would be an usurpation of the congressional authority.

THE GOP'S DRAMATIC CUTS TO PROGRAMS FOR CHILDREN

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

Mr. STUPAK. Mr. Speaker, the GOP budget cutters are at it again. In yesterday's Congress Daily, the GOP chairman said "I want to downsize in a way that makes sense, but is dramatic."

Yes, the GOP is dramatic. It is dramatic to cut the children's preschool nutrition program. It is dramatic to cut the school breakfast program. It is dramatic to cut the school lunch program. It certainly is dramatic, but where does all this dramatic money go?

After the GOP dramatically cuts the children's nutrition program, the money will go not to the deficit, not to reduce our debt, but it goes to those families who will get a tax break, those families who make more than $180,000 a year.

□ 1130

Tax breaks for those families who do not worry about hot lunch or who worry about preschool nutrition programs.

Oh, yes, it is dramatic. Let us reject these Republican cuts aimed at all children. While it may be dramatic, Mr. Speaker, it certainly does not make sense.

EXECUTIVE ORDER BARRING USE OF REPLACEMENT WORKERS DURING LABOR DISPUTES CALLED UNCONSTITUTIONAL

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

Mr. LAHOOD. Mr. Speaker, 8 months ago the striker replacement legislation died in the Senate of the United States. Almost 4 months ago, the people of the United States vetoed the failed policies of the past. They demanded less intrusion in our lives. The President of the United States is seeking to force through that which we and the American people have rejected.

Mr. Speaker, we learn from the media that the administration has issued an Executive order to ban the use of permanent replacement workers during labor disputes involving government contractors. We have not seen the details yet, but I cannot imagine such an order that would be constitutional or lawful.

The Executive order will be a serious impediment to our defense readiness. The order would debar Federal contractors for reasons other than quality and effectiveness. As a result, for political reasons, our fighting men and women would not necessarily be guaranteed the best product by the best possible contractors. This I cannot countenance.

Mr. Speaker, it is a sad day for our Nation whenever one branch of our constitutional form of government seeks to encroach on the province of another. I am afraid we are on the verge of such a day.

SUPPORT FEDERAL NUTRITION PROGRAMS

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

Ms. ESHOO. Mr. Speaker, we have become the most powerful country in the world because previous generations invested in us. Now the new Republican majority is treating this generation of children differently. If we do nothing else in this body, we need to take care of our children, those whom we inherit as legislators, the children of our Nation. I am a mother and I have spent my adult life raising, nurturing, and caring for my children. They are my first priority and my reason for living.

The children of our country deserve the same from us. We must feed their bodies to keep them healthy and nourished and feed their minds to help them become productive citizens. That is why we provide school lunches. That is why we have a public education system, and job training programs. That is why mind-enriching noncommercial public programming and public television is so important.

The Republican majority is cutting the funding for the children of our Nation, the nutrition for their bodies and the food for their minds, and these cuts will starve our Nation's future.

I urge my colleagues to think about our Nation's children and not rob them of their future.

ANNUAL REPORT ON ADMINISTRATION OF FEDERAL RAILROAD SAFETY ACT OF 1970—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. CUNNINGHAM) laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure.

To the Congress of the United States:

I transmit herewith the 1993 annual report on the Administration of the Federal Railroad Safety Act of 1970, pursuant to section 211 of the Act (45 U.S.C. 440(a)).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1995.*

1995 TRADE POLICY AGENDA AND 1994 ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means.

To the Congress of the United States:

As required by section 163 of the Trade Act of 1974, as amended (19 U.S.C. 2213), I transmit herewith the 1995 Trade Policy Agenda and 1994 Annual Report on the Trade Agreements Program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1995.*

ANNUAL REPORT OF FEDERAL COUNCIL ON THE AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities.

To the Congress of the United States:

In accordance with section 204(f) of the Older Americans Act of 1965, as amended (42 U.S.C. 3015(f)), I transmit herewith the Annual Report for 1994 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 8, 1995.*

SECURITIES LITIGATION REFORM ACT

The SPEAKER pro tempore. Pursuant to House Resolution 105 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1058.

□ 1135

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, with Mr. COMBEST in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, March 7, 1995, the amendment offered by the gentleman from Texas [Mr. FIELDS] had been disposed of and the bill was open for amendment at any point.

Six hours and thirty-five minutes remain for consideration of amendments under the 5-minute rule.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MS. ESHOO

Ms. ESHOO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ESHOO: Page 18, beginning on line 2, strike "For example, a defendant who genuinely forgot to disclose, or to whom disclosure did not come to mind, is not reckless.".

Ms. ESHOO. Mr. Chairman, I offer this amendment to improve the standard by which H.R. 1058 determines if a person has acted recklessly in misleading buyers or sellers of securities.

Protecting against reckless conduct is critical in securities law because in the world of finance there is ample opportunity to mislead investors with recklessly fraudulent statements.

My amendment is an effort to improve H.R. 1058 in this critical area. H.R. 1058 has many solid and much needed legal reforms. And as several of my colleagues mentioned yesterday, we should have had legislation on this issue before this House long before today. It is needed, and it is overdue.

However, Mr. Chairman, the bill before us is seriously deficient when it comes to recklessness—not so much by what is missing, but by what has been added. My amendment protects the recklessness standard by striking the sentence which allows the defendant to escape liability by saying, "Your honor, I forgot to disclose that important fact to the customer." In other words, I forgot to tell the truth.

Outside of this sentence, Mr. Chairman, the bill's definition of recklessness is perfectly adequate. It follows the so-called Sundstrand decision which has been supported by 75 percent of the Federal courts.

Yet, H.R. 1058 has taken Sundstrand and modified it to include a provision which exempts from liability defendants who forgot to act responsibly.

Mr. Chairman, I believe there is a reason that no U.S. appellate courts have adopted the definition for recklessness as it is stated in H.R. 1058.

Our Nation's judges, most of them conservative appointees, understand the difficulty plaintiffs, with legitimate cases, have in proving "knowing" fraud. Our courts have resoundingly said recklessness is not the same as knowing fraud, and "I forgot" is not an excuse.

For two centuries this country has prided itself on the fact that we are governed by the rule of law rather than by the whim of individuals. Now the majority proposes to overturn this principle with one sentence providing every guilty defendant the opportunity to escape retribution.

Mr. Chairman, I am not a lawyer. But I have a lay person's respect for our Nation's statutes. They should be written with care and with the goal of providing justice for every citizen.

Now with that in mind, Mr. Chairman, when we write the statute which prohibits reckless and fraudulent conduct in securities law, do we want to include the following sentence: "For example, a defendant who genuinely forgot to disclose, or to whom disclosure did not come to mind, is not reckless."

Mr. Chairman, do we want our laws to say such a thing? Do we want to give the defense of faulty memory to a reckless person? I don't think so.

The high-technology companies in my district need relief from meritless lawsuits now. We need to pass legislation that will end these suits yet protect investors' rights.

My amendment would be one step in the long process of writing a bill which Congress passes and that the President can sign. I urge my colleagues on both sides of the aisle to support this reasonable amendment and improve this legislation.

Mr. BLILEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the second sentence of the recklessness definition comes directly from the Sundstrand decision. It is part of the holding of the case. Take it out and we change the law. In footnote 20 of the Sundstrand decision, the court wrote, "[t]hus, if a trial judge found, for example, that a defendant genuinely forgot to disclose information or that it never came to his mind, etc., this prong of the * * * test would defeat a finding of recklessness * * * " 553 F.2d 1033, 1045F n. 20 (7th Cir. 1976). Thus, the second sentence comes directly from the original decision at the point where the judges were explaining the standard. Opponents of the legislation seem to want to choose selectively from Sundstrand or to pretend that the explanatory second sentence does not exist. But it does.

Opponents of the language argue that the second sentence is merely a footnote. If we ignore footnotes, we should ignore the recklessness issue—because the Supreme Court created the issue in the now-famous footnote 12 in the Hochfelder decision. Other famous footnotes in judicial history include footnote 4 in the Carolene Products case, which has generated dozens of law review articles and thousands of pages of commentary.

The Sundstrand court was using the footnote to explain that the standard for recklessness is something more than inexcusable negligence. In the Hochfelder decision, the Supreme Court expressly recognized that negligence is not enough for liability under IOb–5. Thus, a mistake, even a bad mistake, is not enough to establish liability. The wrongdoing must be conscious for liability to attach. In applying the Supreme Court's standard, the Sundstrand court explained that for a party to be liable for recklessness, the omission must derive from something more egregious than even "white heart/empty head, good faith." The footnote explains that "this is a subjective test with the requirement of something more than "inexcusable negligence" imposed because of Hochfelder." Thus, by including the second sentence in the legislation, Congress is clarifying its intent not to lower the standard under IOb–5 cases to mere negligence or gross negligence. As the Court explained, forgetting facts is not actionable.

Not a single Federal district or appellate court relying on the Sundstrand standard has raised any objections to footnote 20, or have found it inconsistent with the recklessness standard articulated in the case. Federal district courts have referred to footnote 20 when articulating the Sundstrand test. The courts appear to accept footnote 20 as part of the holding in the case. For example; *Seifer* v. *Topsy's International, Inc.* 487 F. Supp. 653, 665 (D. Kan. Mar. 19, 1980):

[T]he core requirement of Hochfelder and Ultramereal is that the plaintiff establish that the defendant lacked a genuine belief that the information disclosed was accurate and complete in all material respect.—Accord, Sundstrand, 553 F.2d at 1045 n. 20.

None of the circuit courts that have adopted the Sundstrand standard have rejected footnote 20 or its substance.

Opponents claim that the second sentence would reverse the rule of "ignorance of the law is no excuse." This argument is nonsense. The Sundstrand standard speaks of ignorance of the facts, not ignorance of the law. Ignorance of the law is, indeed, no excuse. But, as the footnote says, ignorance of the facts is negligence, or even inexcusable negligence, and actors are not liable for negligence under IOb–5 actions. The law is not intended to penalize individuals who forget particular facts. The second sentence says nothing about ignorance of the law and does not provide an affirmative defense for one who forgot to obey the law—as the minority argues. It speaks only to ignorance of facts.

I urge a "no" vote on the amendment.

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

Mr. Chairman, as I heard the former Member speaking, I could hear a distant sound and I think it was champagne corks popping on Wall Street. This is extraordinary. I am not an attorney, so I will not cite chapter and verse of precedents. I will go straight to the heart of the matter.

□ 1145

If a person who has worked hard their whole life to put together a little bit of savings for retirement, or maybe they want to annuitize their pension, they have to depend upon someone for advice. And they go and they depend upon the advice of a stockbroker or a prospectus written by some $500-an-hour lawyer on Wall Street. And there is a little omission in that prospectus. It forgets to tell you that you are not investing in Treasury bills, you are investing in derivatives. You lose your money, your life savings, your annuitized pension. It is gone. You are broke.

Do my colleagues know what? You now have a little problem. Two things. One is if you want to sue, this has loser pay in it. So if you are the individual who lost your life savings, you have to find the wherewithal to come with the money to pay for the costs.

Second, it has a new and novel defense from a lay person's perspective. I do not know of any other law in America where you can say, "I forgot. I forgot."

What this means is the next time that someone tries to go to court to recover against the next Charles Keating—there will not be another Charles Keating—that would be great if there were no more frauds that cost the American people millions of dollars like the savings and loan scandals. No, that is not what it means. What it means is you will not have recourse to sue them because they forgot or they just overlooked the disclosure that the bank was on the brink of insolvency when you put your money in there, or when you invested it in that bank.

At a time of turmoil in international markets, just after the bank's scandal, not very long after the Orange County scandal, how is it that we can come credibly before the American people and say Wall Street needs protection from those little stockholders, Wall Street needs protection from people who are putting their life savings in their hands. Why? Well, because Wall Street might forget to tell them something crucial.

This is absolutely outrageous beyond the pale. It is a step through a looking glass into some bizarre new world.

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

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

Mr. BLILEY. Mr. Chairman, the gentleman makes a strong argument, but he is wrong on one of the facts, and that is if the firm knew of some information that was derogatory and withheld it, they would not be excused under this language. They could not use the "I forgot" defense, because they knew the language to begin with.

Mr. DEFAZIO. If I can reclaim my time, I think what this leads to is full employment for psychologists, because we are going to have an awful lot of amnesia on Wall Street. It was not that they knew or recklessly disregarded or consciously omitted, but it is just they forgot at the moment that they were drafting it, or when the print of the prospectus came back from the printer, the proof, and it left out the section on risky derivatives, well, they forgot. They forgot that that should have been there.

Mr. BLILEY. Mr. Chairman, will the gentleman yield again?

Mr. DEFAZIO. I yield again to the gentleman from Virginia.

Mr. BLILEY. The word in there is genuinely forgot, and as a proof in fraud, you have to prove all fraud in court. But they would not be able to stand a chance of maintaining a defense under this language if they knew in advance and deliberately just withheld it, because they could not use that defense because they did not genuinely forget.

Mr. DEFAZIO. If I can reclaim my time, I understand this is not the reckless disregard section, so we already have reckless disregard, and this is a further definition of reckless disregard. That is, a defense for reckless disregard is "I forgot." Is that not correct? It is a definition of reckless disregard.

Mr. BLILEY. It is a definition of reckless, yes. The gentleman is correct.

Mr. DEFAZIO. Reclaiming my time, if someone recklessly disregards and they lose your pension or your annuity, I think at that point they should be liable. I do not think they should have the defense of they forgot. I do not think the average American is going to think depending on experts, that is an incredible position to be taken by the U.S. Congress.

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

Mr. Chairman, as we are having this debate I think it is important for all of us as Members not to forget certain points.

Point No. 1 mentioned by Chairman BLILEY just a moment ago is if you take this sentence out of the statute as the statute is currently drafted, you change the law. This sentence that is the subject matter of the debate comes directly from Sundstrand.

Some people say that this is not important because this sentence comes from a footnote. But it is important to point out, as the chairman did just a moment ago, that in footnote 12 of Hockfelder that footnote created the issue of recklessness and whether recklessness might meet the standard of intent that was required.

This sentence in Sundstrand was used to describe what was meant by the court in interpreting recklessness. This sentence has been litigated and relitigated. This sentence has stood the test of judicial review. In fact, this sentence as part of Sundstrand has been adopted by 9 of the 12 Federal circuit courts.

I think it is really important for this debate to put this in perspective. Where does this particular amendment affect the legislation, and it is important for Members to know that this occurs in subsection 4 in defining recklessness. But it occurs in section 10(a) where we are talking about the requirements for securities fraud actions, and particularly under section (a) of Scienter, and we say under this section, it says to establish Scienter and we list elements, the defendant indirectly made a fraudulent statement, the fact that the defendant possessed the intention to deceive, manipulate or defraud and the defendant made such fraudulent statement knowingly or recklessly, and that is why the definition of reckless is so important in its definition and how it is put down in this particular statute.

So it is important to go to the definition of recklessness in the statute as it is drafted to understand the purpose of that particular sentence.

I will read in section 4, recklessness. "For the purposes of paragraph 1," the paragraph I will refer to in just a moment, "a defendant makes a fraudulent statement recklessly if the defendant in making such statement is guilty of highly unreasonable conduct that involves not simply merely simple or even gross negligence, but an extreme departure from standards of ordinary care; and (b) presents a danger of misleading buyers or sellers that was either known to the defendant or so obvious that the defendant must have been consciously aware of it."

Then the sentence that is the subject of this follows. It says: "For example, a defendant who genuinely forgot to disclose or to whom disclosure did not come to mind is not reckless." The court was indicating what was meant in the definition of reckless in that Sundstrand decision, so it is important that this sentence remain, and it is important that people recognize that this has already been adopted, it has been litigated time and again, but adopted by 9 of the 12 Federal circuit courts.

Mr. MANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in favor of the Eshoo amendment.

At the outset, I want to commend my colleague, Ms. ESHOO, for offering this important amendment which would dramatically improve the bill's recklessness standard.

As a representative who hails from New York City, the financial capital of the world and the headquarters of most of our Nation's securities accounting firms, I share my colleague's interest in passing securities litigation reform and easing capital formation for our local, regional, and national economies.

However, as the representative of New York's Seventh Congressional District, I am also committed to protecting the people of Queens and the Bronx, who help keep New York City running by supplying the city's businesses with skilled labor. My district is also home to a large number of retired middle class workers.

I want to state that I support a level playing field in securities litigation.

I think clear rules will serve to define prohibited activities and eventually lead to better protection of all parties. We must resist the temptation to try to address the uncertainties of the securities market by presuming bad faith by either party in securities litigation cases.

In that regard, I rise in support of Ms. ESHOO's amendment which would correct the bill's untenable standard for defining recklessness which would protect fraudulent conduct.

When first introduced, this securities litigation reform legislation contained no provisions designed to hold businesses accountable for reckless conduct, instead, defrauded investors would have had to prove that defendants actually intended to defraud them. After much criticism from members of the Commerce Committee, liability for recklessness was restored, but was defined as willful blindness, a definition which has been adopted by no circuit courts of appeal.

It is difficult to understand why willfulness that is, intent, should be required as a prerequisite to a finding of recklessness.

In fact, the only thing that seemed to recommend that obscure definition was that it was so narrow that it was unlikely anyone could be found reckless under its definition, and in fact, no one had never been found reckless through its use.

For the benefit of my colleagues who are not on the Commerce Committee I would like to point out that, contrary to what they may hear today, there is little disagreement about what recklessness means in Federal courts. The majority of circuits, including the second circuit in New York, which most people acknowledge has special expertise in securities matters, has adopted the seventh circuit's determination in Sundstrand versus Sun Chemical, that:

Reckless conduct may be defined as a highly unreasonable omission involving not merely simple or even inexcusable negligence, but an extreme departure from the standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.

While H.R. 1058 now contains language similar to Sundstrand, I ask my colleagues to consider why the "For Example" sentence, which the Eshoo amendment would strike, was added to this accepted standard. I do not think that I am being unreasonably suspicious by suggesting that these changes were designed to undermine the Sundstrand standard. If my colleagues are not trying to weaken the accepted standard, why don't they simply accept this amendment?

The issue before us is not a complex legal question.

If the Congress passes something which represents the accepted definition of recklessness plus "something," then we are not codifying the current court standard. Courts will determine that we must mean something besides the accepted definition of recklessness, and set about to determine what else the addition of the footnote will require before a showing of recklessness can be made.

As Anthony Lewis pointed out in the New York Times on Monday, this extra sentence will likely open new loopholes for securities fraud.

I can think of no reason to allow businesses to escape liability for their own fraud if they conveniently forget that they perpetrated fraud on investors.

I cannot fathom the common sense in this definition of recklessness.

My colleague, Ms. ESHOO, and I have worked together through the committee process to improve the securities litigation portion of the Contract With America.

In an unfortunately all too partisan setting, Ms. ESHOO has attempted to forge reasonable legislation which balances the rights of businesses and investors. She has drafted a commonsense amendment. I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. COX OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MS. ESHOO

Mr. COX of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. COX as a substitute for the amendment offered by Ms. ESHOO: Page 18, beginning on line 2, strike "For example" and all that follows through line 5 and insert the following: "Deliberately refraining from taking steps to discover whether one's statements are false or misleading constitutes recklessness, but if the failure to investigate was not deliberate, such conduct shall not be considered to be reckless."

□ 1200

Mr. COX of California. Mr. Chairman, I would like to address myself to the comments that have been made thus far by my colleagues concerning one sentence in our definition in the statute of the court-created cause of action for reckless violation of the securities laws. The 1934 act and the 1933 act do not contain any private cause of action. This has been created by the courts.

Likewise, they do not contain any cause of action for recklessness. That, too, has been created by the courts in very recent years.

Our legislation takes the rather dramatic step of codifying this judge-made law of recklessness in the lower courts, judge-made law that the Supreme Court has never agreed to; only in a footnote in a Supreme Court decision did they say they were not prepared to decide whether recklessness could be a cause of action at all.

So for the first time our legislation would be codifying recklessness, and to do this, we borrowed, at the suggestion of Democrats on the Committee on Commerce, language from the seventh circuit Sundstrand case. The Sundstrand decision itself crafted a recklessness standard borrowed from another court in the western district of Oklahoma, and that court had its opinion quote verbatim in the Sundstrand case.

Then the judge in the Sundstrand case came up with his own interpretation of what that meant, which he put in a footnote. We have both the western district of Oklahoma case that was recited in Sundstrand and the judge's own words in this proposed legislation. It is the judge's own words in Sundstrand that contain the definition of the distinction between recklessness and negligence, so that someone who honestly makes a mistake is definitionally negligent but not reckless. Therein lies the distinction. And it is that language that is giving rise to all of this debate.

So my colleague from California has proposed merely to strike that sentence which would leave us with something of a vacuum in our legislative definition of recklessness, but her reason for wanting to strike it is, I think, a fair one, and that is that examples are not normally contained in statutes.

Now, one of the reasons that I think we need to put as much as possible into the statute is that judges increasingly are not looking to legislative history to determine what Congress meant. I actually support that mode of judicial interpretation of statute.

I think there is a way to solve the problem. I am going to agree with my colleague from California that we can strike this last sentence and still achieve the objective, and I have proposed that we substitute instead language from a court case in the southern district of New York that simply harmonizes the Hochfelder standard that we have already written into subparagraph (b) of this statute with the idea of recklessness. The sentence we would substitute says simply this:

Deliberately refraining from taking steps to discover whether one's statements are false or misleading constitutes recklessness, but if the failure to investigate was not deliberate, such conduct shall not be considered to be recklessness.

I think we can all agree this is exactly what this statute means. This is what the judge-made case law already on the books means. Even if we do not

enact this statute, it clarifies precisely what is our congressional intent. It offers guidance to the courts, and most importantly of all, guidance to the American people who would like to know in advance the standard to which they should conform their conduct.

So I congratulate my colleagues for focusing our attention on this issue. I think that this is a fair resolution.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. I appreciate the gentleman's congratulations. We tried very hard to focus you on this issue in committee. Let us just go over, briefly, what happened here.

In the subcommittee you told us the Sundstrand decision said one thing. We argued vigorously with that. In full committee you told us it said another thing which is what is in the bill today. Now you are presenting us with a handwritten amendment in which you say that you have tried to find some way to further codify what you were after.

I think it raises a serious question about exactly what you guys are doing. I mean, have you thought this thing through or not? Why is this just a handwritten amendment? Was this just patched together in the last hour? We are writing laws that affect pension plans, affect people's stock investments, affect the stability of the market. This is a serious matter. You come up here at the very last minute with a handwritten amendment which, by the way, I find to be very difficult, much of which is almost impossible to distinguish from what is in the bill already.

When did you write this amendment, I ask the gentleman from California [Mr. COX]?

Mr. COX of California. Reclaiming my time, the gentlewoman from California, at the close of business last night, was recognized as the opening amendment today, and it is, therefore, timely that we are discussing her amendment to this bill today, and it is because of the initiative to change the legislation that we are now engaged in describing how to do that. It is, of course, important for all of us to participate in this debate.

Mr. BRYANT of Texas. If the gentleman will yield further, the Republican leadership told us yesterday there would be no additional amendments. We just saw this in the last 5 minutes.

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

Mr. Chairman, I rise in support of the substitute amendment.

We are talking literally about the last sentence of the definition contained in the Sundstrand decision of recklessness. I want to point out for the members of the committee that the last sentence that is being debated here by the Eshoo amendment is contained in the Sundstrand decision. It is contained in the Sundstrand decision in further elaboration of what recklessness is not; Sundstrand adopts the language from the Oklahoma case which was the first case that was decided after the Supreme Court case of Hochfelder. It adopted that language and defined what recklessness is. That is in the bill exactly, indeed, as the court described it in the Sundstrand decision.

But Sundstrand and the court in Sundstrand went a step further. It said not only is this what recklessness is, this is what it is not.

And why was that important? It was important because in the original Supreme Court decision the Court made it very clear to its circuit courts who are going to be interpreting the law even more precisely than the Supreme Court did, it made it very clear, and here is a quote from Hochfelder, that "When a statute," like 10(b)(5) "when a statute speaks so specifically in terms of manipulation and deception and of implementing devices and contrivances, the commonly understood terminology of intentional wrongdoing, and when its history reflects no more expansive intent, we are quite unwilling to extend the scope of this statute to negligent conduct."

In effect, what Hochfelder was saying was that this statute, 10(b)(5), that we are codifying and amending today, was clearly in its origination and in its history an intentional-fraud statute, not a negligence statute. Now, I know that there are many who would like to turn it into a negligence statute. That is not what it is. It is an intentional-fraud statute.

The courts have interpreted that statute to say that when somebody's conduct is not quite clearly intentional but so reckless as to get real close to intentional misconduct, that that, too, can be used as a cause of action under the statute.

Hochfelder was saying you still need to find some elements that lead you to that conclusion that recklessness is so severe that it is the equivalent of intentional wrongdoing, and so Sundstrand came along, the Oklahoma case came along interpreting that Supreme Court decision even further and defined recklessness in those terms.

Let me quote from what is in the bill and what is in Sundstrand: "Reckless conduct may be defined as a highly unreasonable omission involving not merely simple or even inexcusable negligence." Hear this again, "Not even inexcusable negligence, but an extreme departure from the standards of ordinary care and which presents a danger of misleading buyers or sellers that is either known by the defendant or is so obvious that the actor must have been aware of it."

Sunstrand is, in effect, saying that you have got to get awfully close to intentional negligence.

What the gentleman is now offering in place of further clarifying language of what is not negligence that is contained in Sundstrand, verbatim, is a statement that is taken from other court decisions, again interpreting the Supreme Court decision saying "deliberately refraining from taking steps to discover whether your statement is true or false is, indeed, recklessness." In effect, referring again, as the Supreme Court said you must refer to, some kind of deliberateness, some kind of intentional misconduct, something so close to the intent to defraud that it meets both the history, the intent, and the original language of section 10(b)(5). Let me say it again: There are many people who would like this section of the law to be a negligence section. It is not. This is a fraud section of law, and you can try to turn it into a negligence standard if you like by amendment. That is not what this law is all about. That is not what this section of litigation is all about.

There are many lawyers who try to turn it into a negligence standard. The court in Sundstrand and the Supreme Court said that is not the law. This is a recklessness, almost right up there close to intent to defraud, and if you want to make sure that that is true, the gentleman's substitute amendment is not only right but eliminates, indeed, an example that is in Sundstrand, because I frankly think that is not good text in the law and substitutes instead a finding of the court.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

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

Mr. BRYANT of Texas. Mr. chairman, will the gentleman yield?

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

Mr. BRYANT of Texas. A few moments ago you all were quoting to us from a 1976 decision in Sundstrand saying this is the common law; we are just going to codify it.

Last night we were told there would be no more amendments to the bill. In the last 5 or 10 minutes, we have been handed a very illegible handwritten amendment which you are now lauding as a great new standard for this industry.

I would like to ask the gentleman, if I can——

Mr. TAUZIN. Reclaiming my time, I will be happy to respond; whatever time I have, I have got your question. The question is should the example that is quoted in Sundstrand of what is not negligence be contained in this bill. You have objected to that. The gentlewoman has asked we take it out. We are saying OK, if you really want to do that, let me answer the question——

Mr. BRYANT of Texas. Do you take it out?

Mr. TAUZIN. Let me answer your question.

Mr. BRYANT of Texas. I did not ask a question. I have got a question for you.

Mr. TAUZIN. If the gentleman has suggested it should come out as he and the gentlewoman have, we are saying OK, if you are going to take that out, you need to clarify as the Supreme Court asked us to do that you are still talking about a deliberate refraining from taking steps to discover the truth or falsity of the statement.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(At the request of Mr. BRYANT of Texas and by unanimous consent, Mr. TAUZIN was allowed to proceed for 1 additional minute.)

Mr. BRYANT of Texas. If the gentleman will yield further, when did you first see this handwritten amendment that we have been handed here in the last few minutes?

Mr. TAUZIN. We have been discussing that and other language taken from the Supreme Court decisions for some days now in an effort to try to make this bill more palatable to my friend from California who was going to offer this amendment.

Mr. BRYANT of Texas. We know as of last night there was no plan to offer any additional amendment. Now we see a handwritten amendment in the last few minutes.

Mr. TAUZIN. Reclaiming my time, this is not an additional amendment. This is a substitute for your own amendment. The idea is before I and other Members who support this bill are willing to accept your amendment which deletes language from the Sundstrand decision, we think you ought to have language that clarifies what the Supreme Court said. That is what this amendment does.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. FIELDS of Texas. Mr. Chairman, I would just point out last night this amendment did not exist, that this has been a dynamic process. We have taken the concerns expressed by people on the other side of the aisle. We have attempted to address those concerns to make the legislative language a little tighter, and we worked as late as this morning trying to come up with the particular language.

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

Mr. Chairman, I rise to oppose the substitute.

I rise first to commend the gentlewoman from California for her amendment. It should be adopted.

Second of all, this curious piece of paper that has been passed around should be rejected. The gentleman from California has presented us with an amendment that was never before seen. This is not inconsistent with the practices that we have observed.

But I want to take my colleagues through what is going on here. What is at stake here is the rights of investors, not a bunch of slippery lawyers, but investors, investors who were hurt in things like Orange County, things like the Milken, Boesky defalcations and a large number of other items of rascality, also in questions like we saw in connection with the savings and loan debacles where lawyers and accountants gave bad opinions, where they audited improperly, where they failed to keep track of property, where they did not find that property which was carried on the books did not exist, or where they failed to find that it was overvalued. Those matters have been found to be reckless, reckless by the courts, and actionable.

Now we find that there is an attempt to get away from the problem of these people by defining recklessness to essentially be deliberate misbehavior. At question is not the issue of negligence or even of fraud. It is simply of reckless misbehavior.

The amendment which is offered by the gentleman from California would say that if the failure to investigate was not deliberate, such conduct shall not be considered to be reckless. We are talking here about lawyers giving opinions as to suitability. We are talking here about accountants who are failing to ascertain that the property which is carried on the books and which is filed in the reports which are submitted to the shareholders and the SEC, in fact, does not exist or does not have the value which is assigned to it.

Is that fraud? Quite probably. Is it reckless? Absolutely. These people have a fiduciary duty, a fiduciary duty, a duty of the highest responsibility to the shareholders, and they have a responsibility which they must carry out to the Federal Government and to the State regulators to file their reports truthfully and to use due care and proper care to find out that the value is there, that the property exists, that it is not overvalued in some kind of a fraudulent evaluation.

□ 1215

That is what is at stake. This is an attempt to reduce the amendment offered by the gentlewoman from California [Ms. ESHOO] as an attempt to reduce the responsibility and to define recklessness now as some kind of deliberate misbehavior. That is not it.

What is at stake here is the question of whether or not the individual has carried out his proper fiduciary relationship, whether he has been reckless, and recklessness comes to the brink of, but does not include, deliberate wrongdoing.

This is an attempt to get a little more protection for wrongdoers and to strip a little more of the protection from the ordinary citizen who has invested his or her life savings in a stock or a security which can be converted to worthlessness by the kind of wrongdoing that this amendment offered by the gentleman from California [Mr. COX] would sanctify. That is what is at stake here.

Now, the original amendment offered by the gentlewoman simply struck out dicta, struck out a footnote. The committee was largely agreed that what we should do was to address this within the framework of the Sundstrand decision. The gentleman from California now finds that inadequate. He essentially would seek now to repudiate the language which he pushed in the committee. That is perhaps right, and I think that he should be commended for retreating from it, but not for retreating to something which raises the burden on the litigants to a still higher level, to address the problem of wrongdoing by people who are failing to carry out their fiduciary responsibility to investors and investing public of this country.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words. I would say simply I yield to the gentleman from California for his comments on this issue.

Mr. COX of California. I thank the gentleman for yielding.

Mr. Chairman, I listened carefully to the comments of the gentleman from Michigan [Mr. DINGELL], and I must say it proves the law of the inverse correlation between desperate level and factual content on many occasions.

What the gentleman from Michigan may have forgotten is that the bill we are discussing today simply embodies the policy choices that, for decades and decades, have been made by Democrat Congresses and confirmed by our Supreme Court.

The pattern of the Federal securities laws is clear. When Congress wanted to impose absolute liability or impose liability for mere negligence, it did so explicitly. What the gentleman may have forgotten is that the securities laws already impose strict and absolute liability on the directors of a company for fraudulent misstatements and omissions. It is not just recklessness, not just negligence, but strict liability and absolute liability for the directors of a company under section 11. It is the same thing for the officers of the company.

By and large, what the Congress has chosen to do in securities laws is deal differently with formal documents filed with the SEC and deal differently with the enforcement powers of the SEC, on the one hand, and, on the other hand, informal documents and conversations ranging from press releases to telephone conversations and so on, where we want to make sure we facilitate the

free movement of informal communications between issuers of securities and participants in the security markets.

So we find that the legislative judgment made by the New Deal Congresses of the 1930's was that it was appropriate to apply a very high standard of liability and not to require liability and not to require fraudulent intent where prepared offering documents, formal prepared offering documents and SEC filings are involved.

On the other hand, as is the case with private litigation that we are dealing with in this bill, Congress did not want to chill candid, free, and informal communications.

The language which the gentleman is discussing would affect private securities actions way outside the bounds of the formal offering documents that are provided prospectuses and so on, where we have strict liability. The "I forget" defense does not work for any people who are the issuers of securities.

I think we need to focus on the fact that what we are doing here is not writing language for the first time in this bill, we are taking language from court decisions and putting it into statutes, and we are doing it, I think, in a very foresighted way. So that for the very first time, what the gentleman would like to see, I think, a codification of recklessness, would exist in our securities laws, and that codification will reflect the best reconciliation of our Supreme Court decisions in Hochfelder, which said every violation of section 10–B has to be intentional and which our lower courts have said sometimes that would include recklessness.

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

Mr. WHITE. I yield to gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman from Michigan has asserted that the addition of the word "deliberately," which is contained in the gentleman's substitute, is something new to the law. Let me beg to differ, and let me quote from the Supreme Court.

The court said on page 212 of the decision, "We note that such a reading cannot be harmonized," a reading of nonintentional fraud, "with the history of this ruling. A history making clear that when the Commission adopted the rule, it was intended to apply only to activities that involved Scienter."

Scienter is defined by the court on page 194. It means "a mental state embracing intent," that is deliberateness, "intent to deceive, manipulate, or defraud."

I will quote from Sundstrand as well. This is the Sundstrand language, the definition of recklessness is "the kind of recklessness that is equivalent to willful fraud." Willful, deliberate fraud.

Further, "Indeed the franking definition," which is what they used, "of recklessness should be viewed as the functional equivalent of intent."

Deliberateness is what the Supreme Court in Sundstrand talked about, is absolutely part of our law, and it should be part of it. And I thank the gentleman for yielding.

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

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

Mr. ALLARD. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 1058 and the Cox amendment.

Mr. Chairman, abuses of securities litigation are particularly excessive. This act restricts the filing of frivolous suits by imposing stricter conditions.

The act requires class action suits to have plaintiff steering committees to ensure that the interests of the lawyers to do dominate those of the plaintiffs. It equalizes individual plaintiff awards in a class action suit and restricts named plaintiffs from filing more than five suits in a 3-year period. The act also allows the court to order the "lower pays" rule in unjustified cases.

The plaintiff has a greater burden of proof under this act, which allows the defendant to avoid liability if there is no intentional deceit. Also, the plaintiff must prove that loss was incurred because of reliance on a fraudulent statement. Finally, the act protects publishers of market predictions if the forecasts are well-reasoned but do not hold true.

Without these reforms, plaintiff lawyers can file securities cases with few restraints. They routinely pounce on companies following a chance drop in stock. They have good reason to take, and in fact promote these suits. The plaintiff's counsels generally spend little time determining the facts of the case, yet receive a considerable amount of money for their involvement. Such practices are fostered by so-called professional plaintiffs who are sometimes recruited by lawyers with the promise of easy money. H.R. 1058 removes the incentives to file unfounded claims.

Mr. Speaker, it is time we restore the notion that a capitalist economy, there are risks. The process is simple. Stocks rise, you win, stocks drop, you lose. Each person making an investment knows that it is a risk, still certain investors have been encouraged by counsel to fault companies for their inability to predict earnings. We can no longer afford to operate this way. Risk is an important element in the market.

In Colorado alone it is estimated that frivolous securities litigation unjustly costs tens of millions of dollars every year. The assailed companies feel like they are dealing with a terrorist. Following a simple shift in stock price or a particular corporate decision, they find that their company is suddenly held hostage and they are compelled to negotiate a ransom payment.

The cost of these suits is even more outrageous when you consider that the filing parties never see the bulk of the payment, it is the plaintiff attorneys who reap most of the benefits. When the law provides such incentives for greed, the law should be revised.

H.R. 1058, the Securities Litigation Reform Act, will effectively limit unreasonable law suits. I strongly support this legislation.

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

Mr. Chairman, the question for Members of the House is what should the standard, what would the standard be, if the Eshoo amendment were adopted? It is that simple.

Leaving aside all else you have heard today; if the Eshoo amendment was adopted, what would be the standard? Here is the standard. It is in the bill as brought out by the majority. The standard would be: "Reckless conduct may be defined as highly unreasonable (conduct) involving not merely simple," not merely simple, "or even inexcusable negligence, but an extreme departure from the standards of ordinary care and which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the action must have been aware of it." That is the standard. That is an extremely high standard.

Simple negligence is not enough, gross negligence is not enough; it has got be even worse than that before you can hold one of these security dealers liable in a civil action.

What we are arguing about is, should anything more come at the end of this paragraph? What the gentleman from California [Mr. COX] wanted to put at the end of this paragraph is a sentence that would have said, "Even if they do as bad as all of that, if they just plain forgot, it is all right, and they are not in trouble."

Now, having been, I assume, embarrassed by the absurdity of that proposal, he comes now with a last-minute rewrite, a handwritten amendment which we have just seen in the last few minutes, which says, "Add at the end of this extremely high standard a sentence that, "Deliberately refraining from taking steps to discover whether one's flagrant or false or misleading conduct would constitute recklessness. But if the failure to investigate was not deliberate, such conduct shall not be considered to be reckless."

Mr. Chairman, this language does not need an add-on. But, second, it sure does not need an add-on. But, second, it sure does not need an add-on that says, I forgot. In effect, Mr. COX's last-minute rewrite, which we did not see until 10 or 15 minutes ago, is just another way of saying, I forgot.

What does it say: "If the failure to investigate was not deliberate, such conduct shall not be considered to be reckless." What does that mean if failure to investigate is not deliberate?

The point is the law should hold somebody who is in the business of issuing securities to at least this standard so that those who invest will know that they are not being the victim of false statements or grossly reckless

statements that could cause them to lose their money.

If they lost their money, under the Cox language, they could say, "Well, our failure to investigate the facts which we put into the issuing documents was not deliberate." How can a failure to investigate be not deliberate? Who has the burden to decide whether or not an investigation ought to be done? Surely the burden ought to be upon those who are in a position, with an office full of experts and unlimited resources to do the investigation of whether or not the facts set forth in the offering document are true or not. The burden should not be left upon the pensioner, or upon the widow, upon the hopeful investor who has no way whatsoever to know what facts should or should not be investigated.

Members of the House, we have never ever allowed ignorance to be an excuse in a civil action or in a criminal action. If an American citizen forgets to buy their license plate after the old one has expired, they do not get to plead, "I forgot." They do not get to say, "Well, my failure to investigate whether or not my license plate has expired was not deliberate." You do not get off with that. If your lawyer fails to record your deed, he does not get off by saying, "I forgot," or, "My failure to investigate my file to see whether or not I had a deadline to record the deed," somehow or other was accidental. That does not let him off the hook.

Who should be held responsible? Surely it is not the average person, relying upon the representations of experts, who invests his money. This level of responsibility is higher than we place on probably any other potential defendant in a civil action. You cannot hold him responsible for simple negligence or even gross negligence. In fact, you cannot hold him responsible unless they exhibit an extreme departure from the standards of ordinary care or present a danger of misleading buyers and sellers known to the defendant are so obvious that he should have known it.

Ms. ESHOO wants to leave a period at the end of that sentence. These guys want to say, "However, if in spite of all that, the guy says, 'I forgot,' he gets off the hook."

Now, embarrassed by the words "I forgot," they come up with a last-minute rewrite which means, in effect, the same thing as I forgot.

I strongly urge you to vote down the Cox amendment, to say "no" to this reckless kind of legislative procedure where amendments are thrown together at the last minute on critical legislation like this, to say "no" to the Cox amendment, say "yes" to the Eshoo amendment, and let us leave some kind of protection in this law for the average American investor so that those who take advantage of them by misleading them in offering documents will not be able to profit from their recklessness.

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

Mr. Chairman, I would like to thank you for recognizing me because I really had intended to stay out of this discussion, but I got more and more outraged as I heard the debate taking place on the floor about what was going on. I want to respond to my colleague from Louisiana, Mr. TAUZIN, who said we were trying to go back to a negligence standard.

I want to admit to my colleagues that if it were me, I would be happy with a negligence standard. I did not come to the floor to play games with you. Lawyers are subject to negligence standard, doctors are subject to a negligence standard, ordinary people who drive automobiles and run into folks are subject to a negligence standard. If they make a mistake and they injure somebody, they are held liable.

But I will not recognize to you that under the law as it is written Congress has already imposed a higher level of standard for folks in the stock brokerage business and those who engage in securities business. They have said, "You can be held liable only if you do something fraudulently, knowingly, recklessly." That is a higher standard or actually, from the common, ordinary people's vernacular, it is a lower standard.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. No, I will not yield. I want to make sure that you can confuse the issue if you want, but right now is my time to try to relate this to some semblance of sanity rather than missed—come and go that you all are engaged in.

□ 1230

What my colleagues want to do is take the already high standard, the one that is a step up, that applies to every other member of society, and create what I would call an impossibility standard, because if we adopted this language, you would never ever be able to win any cases in the securities area because any time recklessness is alleged or somebody is engaged in fraudulent conduct, the securities person would come back and say, "Oh, well, that might be true, but I forgot to tell you," and all of a sudden they would be off the hook.

Well, my colleagues, I thought the purpose of this bill was to get rid of frivolous lawsuits and to cut down on the amount of securities litigation which we have built in a wonderful procedure for trying to stop those kinds of lawsuits, but, Mr. Chairman, when we start to raise the standard to an even higher level of care, an impossibility standard, then I start to wonder is the purpose really to get rid of frivolous lawsuits or is it to protect the buddies up on Wall Street from what goes on in the real world, from the standard that everybody else in our society, these people, all of whom are seated in the gallery, are subject to, this common, everyday standard, and all of a sudden securities people, whom we have already given a higher level of protection to, now they want to give an impossible level of protection to.

So, Mr. Chairman, I want to make sure that everybody understands in common, everyday language what is being proposed here: If I do something, if I am reckless, if I do it knowingly, and I come into court and say, Oh, no, I forgot, all of a sudden I am shielded from liability under this amendment.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

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

Mr. COX of California. I would just point out, to correct the record, that underwriters, brokers and dealers who act as underwriters are absolutely and strictly liable, and I say to the gentleman, "You don't need to prove negligence and recklessness; they are strictly——

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would remind Members not to make reference to individuals in the gallery.

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

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California [Mr. COX] to the amendment offered by the gentlewoman from California [Ms. ESHOO].

Mr. Chairman, let us make it quite clear that today there is a standard which is used by the Federal courts, and that standard is largely an agreed upon standard, and it is the standard which is in the well of the House which has been sitting there as a printed statement of what has been accepted by 80 percent of the Federal courts of the United States.

Now, remember the standard is one which Federal judges across the country, most of them Reagan and Bush Federal district court judges, have used as their standard, and it has served our country quite well.

Now, if over the course of the last 10 to 15 years 75 to 80 percent of the Federal district court judges, almost all of them Reagan and Bush appointees, have drafted a standard, have adopted a standard, which they use, why would we on the floor of the U.S. Congress adopt a standard which is a handwritten standard just presented to us that will override 15 years of precedents of the Reagan and Bush era judges that have reached the consensus as to what the standard should be?

Should we not give some deference to these Federal district court judges? Should we not allow them in their courts, knowing all of the facts and law, the history of this country, to come to some consensus?

Now, I have the greatest respect for the legal knowledge of the gentleman from California, but it is not so substantial a level of respect that I think that a handwritten amendment on the floor, with no notice to any Members and in contradiction to the promise that there would be no additional majority party amendments to the legislation here today, should serve as a substitute for 15 years of settled law. The intent of this amendment, I think, at the end of the day, is nothing more, nor less, then to dress up, dress up the I-forgot defense. It puts it in fancier words. It uses a legalese that, I think, is probably more professional than actually putting the words "I forget" into the law, but the effect of it is the same, to ensure that the standard for ordinary Americans to be able to bring actions against executives of companies who have misled those individuals in the investment of their money have a more difficult time in court.

That is what this is all about, by the way, or else we would not be out here on the floor of the House of Representatives. We would not be here if they were really happy with what the Sundstrand decision says, which is again, and this is what we believe the public should have as their protection, that there be reckless conduct which may be defined as highly unreasonable conduct involving not merely simple or even inexcusable negligence, but an extreme departure from the standards of ordinary care and which presents a danger of misleading buyers or sellers that are either known to the defendant or so obvious that the actor must have been aware of it.

This standard is one which the Federal district court judges have, George Bush and Ronald Reagan judges, codified for all intents and purposes as the national standard. We cannot use, we should not be allowed to use, a handwritten amendment on the floor of the House of Representatives to be attached to this profoundly important piece of American jurisprudence, and I just hope that anyone who is listening to this debate understands quite clearly that any additions to this are meant to reduce the ability of ordinary Americans to recover in the courts of the United States when executives of S&L's, when executives of a private company, have deliberately misled—

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

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

Mr. Chairman, first of all I want to compliment the gentleman from California [Mr. COX]. In Sundstrand the court defined "recklessness" building on the court decision in Hochfelder, and that is what we have currently in the statute. We have language that has already been litigated, and relitigated, and been adopted by 9 of the 12 Federal circuit courts.

Now, I am complimenting the gentleman because, if I understand what the gentleman from California is doing with his handwritten amendment, which at one time that is the only type of amendments we had on the floor, handwritten amendments, but what the gentleman is doing is, first, I understand, he is trying to be cooperative. There were some concerns expressed on the other side of the aisle, and the gentleman is stepping up to the plate to meet some of those concerns, and we take the amendment offered by the gentlewoman from California [Ms. ESHOO] as being a sincere attempt to make the language better. Well, I hope that the other side of the aisle can look at this in the same vein, that the gentleman from California is trying to make this a better piece of legislation, and in doing so he is being consistent with what is in the statute now, and I would ask the gentleman: "Is that the gentleman's intent; first, to be cooperative; and, second, to be consistent with the thrust of the language that is currently in the statute as drafted?"

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I thank the gentleman from Texas for his kind words. That is, of course, precisely the purpose here.

I say to the gentleman, naturally, when we put the Sundstrand language into the case, or, excuse me, into the statute, to begin with in committee, it was an accommodation in itself in response to concerns expressed on the other side of the aisle. What we now seek to do is to remove part of the Sundstrand decision even though there was request to put it in to begin with and instead to clarify, as best we can, how we are harmonizing the Supreme Court decision in Hochfelder, which all lower courts recognize is the law of the land. It states rather clearly that there must be an intent to deceive, manipulate, and defraud. We have put that into the statute with the common law of recklessness that has developed in concert with that, and we are simply saying that good faith is not reckless.

There are many different ways to say this. We want to say it as clearly and as often as we can so we can avoid litigation on this subject, and while there has been much reference to a handwritten amendment, the fact is the handwriting was a mere transcription of language that appears in the Second Circuit of New York District Court case from which we are quoting. It is the courts' language; it is the courts that have crafted this common law remedy.

I would also just like to point out for the record that one would think from this debate that recklessness is the only standard by which we judge securities laws violations, but in fact it is the standard by which Congress, acting in the wake of the Depression, the New Deal Congress, sought to judge actions on the periphery of securities transactions, at the center of securities transactions, involving issuers, underwriters, accountants and experts. We have strict liability.

I say to my colleagues, so the notion that you can't sue someone who was reckless or someone who was merely negligent is wrong. You can sue and win on the basis of strict liability against the company, the issuer, the directors, the officers, the accountants who issue the registration statement and act as its underwriters and its experts. There is strict liability.

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

Mr. FIELDS of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Texas [Mr. FIELDS] for yielding, and I, too, want to compliment the gentleman from California [Mr. COX]. What he did was to listen very carefully to the concerns expressed by the gentlewoman and try to address them and answer them and bridge the gap. What he has done is not made up language. The language is from the latest expression of the courts, the U.S. District Court for the Southern District of New York, interpreting the Supreme Court decision in Hochfelder, and what the court said in that case, and I quote:

> When the defendant deliberately failed to acquire the information that would have indicated to her that statements were false or misleading, that constituted recklessness.

That is the exact language the gentleman has presented to us today in this amendment. In quotes, "The defendant deliberately refrained from taking steps to discover whether their statements were false or misleading constitutes recklessness," which is an exact statement of what the court said, not what the gentleman from California said.

Mr. FIELDS of Texas. Reclaiming my time for just a moment to see if the gentleman agrees, this has been an evolutionary process. There have been changes from the time this bill was originally introduced up until today. I mean we have changed on the loser pay provisions, we have changed on this particular section. There have been other things that we have done in trying to craft a good piece of legislation working with all parties.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

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

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Chairman, I would just like to appeal to the common sense of the gentleman from Texas. This amendment, which they all have handwritten at the last minute, says that deliberately from taking steps—for refraining from taking steps to discover whether or not one's own statements are false is reckless, but if the failure to investigate whether one's own statements were false was not deliberate, then that conduct is not considered to be reckless.

How in the world could a failure to investigate whether or not one's own statements were false, that it was not deliberate, possibly justify as a way of exonerating one from responsibility? I ask, who has responsibility to make sure that your statement is not false in the first place?

□ 1245

Mr. FIELDS of Texas. Mr. Chairman, reclaiming my time, first of all, I think this is an honest-to-goodness, legitimate attempt to clarify, and I also think it is an honest-to-goodness attempt to work with the other side of the aisle. Again I want to compliment the gentleman from California for doing that, and I want to go one step further. I think it makes the standard even stronger.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield further?

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

The question is on the amendment offered by the gentleman from California [Mr. COX] as a substitute for the amendment offered by the gentlewoman from California [Ms. ESHOO].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 252, noes 173, answered "present" 1, not voting 8, as follows:

[Roll No. 210]

AYES—252

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

NOES—173

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

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—8

Abercrombie
Gibbons
Johnson, E.B.
McDade
McKinney
Meek
Rangel
Waters

□ 1304

Mr. HALL of Texas and Mr. WELLER changed their vote from "no" to "aye."

So the amendment offered as a substitute to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. ESHOO], as amended.

The question was taken; and on a division (demanded by Mr. FIELDS of Texas) there were—ayes 120, noes 73.

So the amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

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

The Clerk read as follows:

Amendment offered by Mr. MARKEY:

Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 6. INAPPLICABILITY TO DERIVATIVES.

This Act and the amendments made by this Act shall not apply to any action based on an allegation of fraud in connection with the purchase or sale of a derivative instrument. For purposes of this section, the term "derivative instrument" means any financial contract or other instrument that derives its value from the value or performance of any security, currency exchange rate, or interest rate (or group or index thereof), but does not include—

(1) any security that is traded on a national securities exchange or on an automated interdealer quotation system sponsored by a securities association registered under section 15A of this title;

(2) any forward contract which has a maturity at the time of issuance not exceeding 270 days;

(3) any contract of sale of a commodity for future delivery, or any option on such a contract, traded or executed on a designated contract market and subject to regulation under the Commodity Exchange Act; or

(4) any deposit held by a financial institution.

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

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

There was no objection.

Mr. MARKEY. Mr. Chairman, the amendment which is now pending before the House is one that deals with one of the most complex areas of the financial world. The issue is derivatives. The issue here today is whether or not these new financial products, derivatives, which are causing more and more trouble out in our financial marketplace, are going to be given the proper respect, which they should in this legislation, with respect to protection of investors.

Derivatives are financial products whose value is dependent upon or derived from the value of some underlying financial asset, such as a stock or a bond, a foreign currency, a commodity or an index representing the values of that asset.

Some derivatives have been around for many years, such as exchange traded futures and options used by investors and dealers seeking to hedge positions taken in the stock and bond markets, or to speculate on future market movements.

Within the last few years, however, exchange traded futures and options have been supplemented by a vast and dizzying array of over-the-counter derivatives. These include structured securities, forwards, swaps, options, swaptions, caps, floors, and callers that may be linked to the performance of the Japanese stock market, the dollar, deutsche mark, the S&P 500, or virtually any other asset out in our marketplace.

Today the outstanding value of the principal underlying the over-the-counter derivatives is estimated to be $12 trillion. Remember, we are going to have a big debate here this year on how to spend $1.5 trillion, which will divide this Congress quite bitterly. We are talking here now about instruments that are valued at $12 trillion in their principal form.

Now, the dynamic growth of the over-the-counter derivatives market is the direct result of developments in telecommunications and computer technologies and breakthroughs in new concepts and modern portfolio management strategies.

Using these new tools of technology and portfolio management strategies, a new generation of Wall Street geniuses have begun to market these products out across out country. By breaking down the price movement into individual deltas and gammas, betas, and vegas dancing across the computer screen, the quants, that is the mathematical geniuses who call themselves quants because they deal in quantitative mathematics, they deal as physicists, who have moved over from the nuclear physicist world into the world of creating these new products, have created the new world of cyberfinance, which is reshaping both the United States and the global financial marketplace.

□ 1315

These geniuses, these young men and women that work with computers and highly sophisticated mathematical and other principles, have developed these captions and flortions, the accreting and amortizing swaps, the digital options, the butterfly spreads, the condors, the straddles, the cylinders, the roller coaster swaps.

All of these products have now been sent out into the American marketplace, in many instances with the promise that they are quite safe for a municipality to purchase. There might be a home town that has been told they can purchase some of these products. There may be people inside of the district who have been told they are quite safe to purchase.

The problem is, Mr. Chairman, is that in the hands of "The Boy Who Lost $1 Billion; Nicholas Leeson, the 28-Year-Old Trader Who Bankrupted England's Oldest Financial Firm," that is Newsweek's cover this week; Fortune magazine, "Cracking the Derivatives Case: the Untold Story of Lies, Arrogance, and Ignorance That Cost Major Players Billions." This is Fortune magazine we are talking about.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 3 additional minutes.)

Mr. MARKEY. Mr. Chairman, this is Time magazine: "Ego and greed, the insider story of the 28-year-old trader who blew $1 billion, broke a bank, and stunned the world."

This is Fortune magazine from 2 weeks ago: "The risk that won't go away; financial derivatives are tightening their grip on the world economy, and nobody knows how to control them."

Mr. Chairman, we are talking here about ensuring that these very sophisticated geniuses not be able to inoculate themselves against suit while they are dealing in these very risky financial products that are so complex that, in more instances, the CEO's of the companies themselves do not understand them. Proctor & Gamble, Gibson, companies across this country are alleging that they were misled into these products.

The objective of the Markey amendment out here is to ensure that investors are protected when they are misled into products of this nature, which by their very personality cannot possibly be understood by ordinary, unsophisticated investors. By that, I mean the town treasurers, the country treasurers, the ordinary individual that thinks that they are sophisticated, but they are not so sophisticated that they can understand an algorithm that stretches out for half a mile and was constructed only inside of the mind of this 26- or 28-year-old summa cum laude in mathematics from Cal Tech or from MIT who constructed it. No one else in the firm understands it.

The lesson that we are learning is that the heads of these firms turn a blind eye, because the profits are so great from these products that, in fact, the CEO's of the companies do not even want to know how it happens until the crash, which brings down the oldest bank in England, which brings down a company, a county, a municipality, an individual.

Mr. Chairman, this amendment is intended to ensure that protections are given to individuals against these kinds of products being sold to them. Mr. Chairman, I urge every Member that is very concerned about Fortune magazine's identification of this as one of the most serious problems in our economy to vote "yes" on the Markey amendment, to give real protection to the ordinary investor in this country.

Mr. FIELDS of Texas. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the purpose of this legislation is to stop frivolous lawsuits. That is the purpose, to stop lawyers from rolling the dice. I want to point out that the example of Mr. Leeson does not fit under this particular legislation because he acted with intent, knowingly.

The proposed amendment would exclude from the coverage of the Securities Litigation Reform Act many derivative instruments. The benefits of the act should not be denied to any type of transaction that is a security. Vexatious and expensive litigation is a general problem, not just in one area and not another.

The proposed amendment is based upon a fundamental misunderstanding of derivatives. Few derivative transactions are securities. Of those that are securities, fewer still are traded off the exchange. This act that has been drafted is designed to provide protection against frivolous securities litigation.

It would be counterproductive to introduce exclusions based upon classes

of transactions, particularly for transactions that frequently provide substantial hedging benefits to end-users throughout the United States.

Derivative transactions are now essential risk management tools. Exposing these transactions that are securities to the risk of frivolous litigation would raise the cost of essential risk management activities.

To adopt this amendment, and I cannot say it any more succinctly than this, to adopt this amendment is to adopt two standards of fraud for securities, one for derivative securities traded in the over-the-counter market, and then a separate standard for all other securities. That is not fair. This amendment is flawed, and I urge Members to vote against it.

Mr. DINGELL. Mr. Chairman, I rise in support of the amendment. Mr. Chairman, this amendment would remedy a problem that is being largely ignored throughout this society, and is largely being ignored in connection with this legislation.

This is a problem of huge investments by pension funds, investment funds, mutual funds, and State and local governments across the country in the high-risk derivative securities. These investments are often made without purchasers being informed by their brokers of the true nature or the great risk of these investments or, in some cases, without the brokers even informing the purchaser that they are making these investments at all.

The amendment would exempt derivative securities from the bill. Those are the securities which caused the collapse of the investment pool run by Orange County. Americans are only beginning to understand the risks associated with these things, which are little better than financial time bombs. Only because of investments in derivatives which caused one of the wealthiest communities in the country, Orange County, CA, to go belly up in a matter of months and now be in bankruptcy, has the public begun to focus on the huge risks associated with these kinds of investments.

In Orange County the derivative losses have forced cutbacks in vital Government services such as health care, education, and even road maintenance. In some cases, county employees have been laid off completely, or else have had their hours of pay reduced.

Mr. Chairman, Orange County is not alone, as the "60 Minutes" expose on Sunday night dramatically highlighted. A particularly chilling moment in that piece toward the end was when "60 Minutes" asked their expert whether there may be other Orange counties out there, and he responded with this warning: "It is not a question of whether there are others out there. There are, and many other municipalities are out there sitting on huge derivative timebombs, without any of them even knowing that they confront this great peril on behalf of themselves and their constituents."

As we debate this bill in only 7 hours, literally hundreds of local municipal governments scattered all over the country are just beginning to discover the extent of their exposure to high-risk derivative securities. Many of them are seeking to avoid this disaster and to climb out of the pit after suffering colossal losses on their investments.

From Auburn, Maine, to the State of Florida, from Charles County, MD, to Odessa College, TX, to Aspen, CO, and to Orange County, State and local governments are suffering staggering losses due to incredibly complex, incomprehensible high-risk securities whose risk cannot only not be calculated, but not even understood.

There is a chart here which explains and shows the communities and public institutions across the United States which have just so far reported losses from investments in speculative derivatives. Look at the list: Orange County, $1.7 billion in losses; Louisiana State pension fund, $50 million; Georgia Municipal Electric Authority, $49 million; City College of Chicago, $46 million; Minnetonka fund in Minnesota, over $90 million; New Hampshire State pension fund, $25 million; the Virginia State retirement system, $66 million, and West Virginia investment pool, up to $279 million.

How would the Members from all these States and all the others who might be afflicted with this situation explain to their constituents that they have voted to prevent their county governments and their governments from acting to recover from wrongdoers for their failure to properly advise, or their failure to properly reveal facts associated with the speculative and risky character of the investment?

We just got over paying $150 billion to bail out the savings and loans institutions from a financial disaster, largely caused by legislation that was rushed through this body because big business came in here pleading for relief.

If Members will recall, they came in saying that they had to have the ability to engage in all kinds of businesses so that they would then be able to go out and make money and get themselves out of a hole which they had rapidly been digging.

The same situation is here. Mr. Chairman, in a nutshell, this is deja vu all over again. I urge my colleagues to support the Markey amendment. Vote to protect the American people against derivatives. Vote to allow them to engage in proper self-help, to retrieve ill-gotten gains from wrongdoers who carelessly and recklessly disregard their responsibility to investors, to taxpayers, and to this country.

Mr. COX of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. The effect of this amendment is to carve out a $1.5 trillion hunting preserve for strike suit lawyers. It would exempt from the protections for plaintiffs who are class members, plaintiffs who are involved in actions related to derivatives.

Presumably in order to protect the citizens of Orange County, CA, the gentleman from Michigan would make sure that our legislation would not be available to provide for people in Orange County a plaintiffs' steering committee, so that the plaintiff class has a means to protect themselves against abusive practices. There would be no court-appointed guardian for members of the class if they happen to be suing in relation to Orange County. There would be no ban on professional plaintiffs. There would be no ban on bonus payments to preferred plaintiffs, so some members of the class could be discriminated against. All the protections in our bill would be unavailable.

There is also an incredible non sequitur in the argument that I just heard, and that is that Barings and Orange County and Proctor & Gamble's problems with derivatives and Gibson Greetings' problems with derivatives, all of these things would never have happened if only we had the present strike suit system in place.

Of course, we do have the present strike system in place, and these things happened. What we are seeking to do is prevent fraudulent abuse using the securities laws.

Our existing security laws are targeted at abusive practices, devices to deceive, manipulate, and defraud. For the first time what the gentleman from Massachusetts would be doing is shifting us away from focusing on bad practices and saying that "We are only going to focus on these bad practices if they involve certain kinds of securities, and we will discriminate from one kind of security to another." It would be an incredible hodge-podge, unmanageable for our Nation's capital markets.

It is not as if we have to deal with this issue at the 11th hour with a floor amendment. We have actually had hearings on this subject. The Senate Committee on Banking had extensive hearings on derivatives and on their role in Orange County.

Alan Greenspan, the Chairman of the Federal Reserve System, testified. Arthur Levitt, Chairman of the Securities and Exchange Commission, testified. Here is what he said, Arthur Levitt: "It would be a grave error to demonize derivatives and blame them for the loss in Orange County. Derivatives are not inherently bad or good. They are a bit like electricity, dangerous if mishandled, but bearing the potential to do tremendous good."

□ 1330

Alan Greenspan: "It would be a serious mistake to respond to these developments by singling out derivative instruments for special regulatory treatment." The Chairman of the Federal Reserve said it would be a serious mistake to pass the Markey amendment because the amendment singles out derivatives for special treatment and special legal status in 10b–5 actions. It would create a separate legal status for the treatment of derivatives.

Furthermore, there is no reason Congress should permit abusive litigation to continue if a derivative is involved. What we are after here with this legislation is the prevention of abusive practices. Why would we want those abusive practices to go on if derivatives were involved? It makes no sense at all. Congress would defeat its purpose if it allowed abusive lawsuits to continue in one special area of securities transactions. Congress should end abusive securities litigation, regardless of the particular type of transaction that was involved.

I urge the defeat of this ill-considered amendment.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Chairman, just very quickly, I ask the gentleman if he concurs with me. Two examples that have been prominently used in this particular debate on this amendment, Barings and Orange County. If we apply the requirements of Scienter under this particular statute that we are discussing, the defendant directly or indirectly made a fraudulent statement, the defendant possessed the intention to deceive, manipulate, or defraud, the defendant made such fraudulent statement knowingly or recklessly.

As we know the facts of these two particular cases, in these two particular cases, they would not be afforded any of the benefits under the statute that we are debating which is aimed at stopping frivolous lawsuits. Is that the gentleman's understanding?

Mr. COX of California. Mr. Chairman, that is exactly right. What we will be doing by passing this amendment would be opening the door for frivolous lawsuits in a particular type of case. Ironically, there would even be new issues to litigate. Now we could litigate the question of whether a derivative product was involved or not, whether it was peripheral to the transaction, whether it was central to the transaction, whether it was really derivative or not. All of this is rather abstruse and in any case irrelevant to what we are trying to do right here.

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

Mr. Chairman, I am not an attorney and I will not stand in the well and say that I understand everything about derivatives, either, even having served the last 2 years on the Committee on Banking, Finance and Urban Affairs. But what I do know is that the more you know about them, the more you have to be a little bit leery about how they are handled. They are extremely complicated and they are dangerous financial products. Even some very sophisticated investors do not understand derivatives completely. Their value is derived from the value of other assets, other instruments, other indices, and they are frequently traded over the counter in very highly leveraged transactions. At this time really no one can make a reasonable prediction of the potential losses that institutional holders, including many public entities, face from the derivatives. The one chart that the gentleman from Michigan [Mr. DINGELL] was pointing to showed how many municipalities, how many counties across this Nation, and those are just the ones we know about, may risk some sort of danger and some taxpayers' dollars. I will be offering an amendment very soon to try to deal with that.

But this scantily regulated market is thought to be rife with fraud and abuse. I will point right now to Fortune magazine, we have blown this up, and it says, "Cracking the Derivatives Case, the Untold Story of Lies, Arrogance and Ignorance that Cost Major Players Billions."

We are talking about billions of dollars and we do not know the stories about the lies, we do not know how much arrogance and how much ignorance there is.

The point is that now is not the time to relax the already lax controls that exist on the misconducts in the derivatives market.

During the past year, private companies like Procter & Gamble, Gibson Greetings, and public entities like Orange County, CA, have made headlines. Financial institutions like Barings Bank PLC have experienced sudden and dramatic losses based on derivatives trading. According to Sunday's "60 Minutes," the question is not whether there are going to be more losses but the question really is when will those losses be known and how much will they be? How many more billions of dollars will be lost in the derivatives market?

For that reason I would say just as all of the headlines that the gentleman from Massachusetts [Mr. MARKEY] had pointed to earlier, this is just not the time to relax those already lax controls.

Orange County has filed a multi-billion-dollar Federal securities suit already against Merrill Lynch and others. The suit will not be affected because after that news, Orange County was grandfathered in and some other municipalities, other local governments have not been. The gentleman from California [Mr. COX] determined that he wants to make this bill prospective only. Other institutions may soon find themselves in the same predicament.

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

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

Mr. MARKEY. We have here Fortune magazine. This is not some populist perspective on this issue. Here is the headline in their magazine, "The Risk That Won't Go Away."

"Like alligators in a swamp, derivatives lurk in the global economy. Even the CEO's of the companies that use them don't understand them."

We have to give the public protection. We have to ensure that they are going to be able to bring class-action suits if there is a systematic pattern of trying to defraud investors in this area.

Derivatives are just not as well understood as they should be even by the people who are selling them, even by the people who are making profits from them. We have to have the protection of the Markey amendment for all investors in this country.

Mr. KLINK. Reclaiming my time and asking the gentleman a question, would you say, sir, by everything that we know that certainly we have had much more experience in the normal securities market. We have not had that experience in understanding how to deal with derivatives and the cases of these billions of dollars. My understanding also is this is sometimes constructed much like just going into one of the gambling casinos in Las Vegas and laying your money down and spinning the wheel.

Mr. MARKEY. If the gentleman would yield further, I think it is a pretty big step for Fortune to take to say that CEO's of the companies do not even understand them, and we are talking about the companies that are selling them as well as buying them. I think that we should give the protection to the ordinary investor on a financial product that is that complex.

Mr. KLINK. I thank the gentleman from Massachusetts, and I support his amendment.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from Texas, the chairman of the subcommittee.

Mr. FIELDS of Texas. I appreciate the gentleman yielding. As always I appreciate the work of the gentleman.

Let me just ask, the gentleman mentioned Procter & Gamble. As I understand, Procter & Gamble is an over-the-counter derivative which is not a security derivative and consequently would not be covered by this amendment. Is that the gentleman's understanding?

Mr. KLINK. It may or may not be true. Again not being an attorney, I do not know the intricacies of my knowledge.

Mr. FIELDS of Texas. Also the gentleman has mentioned Barings.

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

Mr. KLINK. Barings is offshore. Reclaiming my time for a moment, I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

The answer is that it is an over-the-counter interest rate swap which again the CEO's of these companies are contending were not accurately described to them. There are many derivatives that are infinitely more complex, in fact exotic in their nature.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KLINK] has expired.

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

Mr. KLINK. I continue to yield to the gentleman from Texas.

Mr. FIELDS of Texas. I am certainly not trying to put the gentleman on the spot. Going back to Barings, Barings is, as I understand, a situation involving exchange-traded derivatives which again would not be the subject matter of this particular amendment and not the subject matter of this legislation.

Mr. KLINK. Reclaiming my time from the gentleman, I appreciate what the gentleman is trying to do. My problem with this is the process.

The gentleman raises some good questions, but again with the last substitute amendment from the gentleman from California [Mr. COX], the way we are approaching this legislation, I do not think that we have had the opportunity given the fact that we are on this 100-day calendar to address these things, and certainly not to the satisfaction of this Member.

I just think that when we are talking about something as volatile, something that is as dangerous and as complicated as derivatives that I think that the gentleman's amendment from Massachusetts certainly makes a great deal of sense, to say let us just take a step back in this one instance and have the adequate time to hold hearings so that we are not placing this extremely volatile portion where billions of dollars are being lost on the same train that is taking that 100-day ride.

Let us take time. I may find after we have those hearings that I agree with the gentleman from Texas.

Mr. FIELDS of Texas. Because I am willing to make a commitment to the gentleman that we will have hearings on the subject of derivatives. It is my understanding that the report comes out this week from the Securities and Exchange Commission. I think that is subject matter that must be addressed by our subcommittee and we will be having hearings on that particular subject.

Mr. KLINK. I appreciate the chairman's promise of that. I still support the amendment of the gentleman from Massachusetts. I urge its passage.

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

Mr. Chairman, if this amendment were to be properly characterized in financial terms, it may well be a derivative in itself because it is not apparently well-understood and second is attempting to solve a very complicated problem in a very simplistic manner. Further, if this were to be classified as a forward-looking statement, the disclosure required for the sale of initial public offering, it might well be actionable under the public fraud statute.

Let me explain why. This amendment is purporting to solve the derivatives problem that exists in our marketplace internationally. It was inferred that if this were in effect, the Barings failure might not well have occurred. It was inferred that if this amendment had been operational, Orange County might well have been somehow prevented.

The simple fact is this amendment creates a new cause of action for only a very small number of derivatives transactions. There are huge numbers of derivatives transactions on a daily basis. The ones that are the target of this amendment deal specifically with a very small number of investors and frankly are not held for investment purposes in most cases but are actually transactions between two knowledgeable business interests who are trying to minimize their business future risk. For instance, one gentleman may have a variable interest rate, one may have a fixed interest rate and for reasons we do not understand, they want to enter into the transaction which limits both their risk.

The irony in this debate is derivatives have been lost, they have been mischaracterized. Derivatives in essence are instruments intended to minimize risk-taking. And because of the sensationalism surrounding a few very significant and unfortunate losses that have occurred in the international market, this amendment is being proposed to appear to be responsive to those problems. It is not in fact. If it had been adopted by this Congress and had been the law of the land, it would make no difference in any of the failures we are now discussing or debating and in fact will likely not preclude any forward failures as a result of its adoption.

The chairman of the committee has proposed hearings on the matter and in our own Committee on Banking and Financial Services, there will be hearings on the matter and we should be taking a responsible look into the regulation of derivatives, but let me quickly add, none of the current regulators, whether it is the SEC, the Federal Reserve, the FDIC, the Comptroller of the Currency, all of whom have testified before the Committee on Banking and Financial Services at any time in the near term have indicated any need for any regulatory authority beyond which that they already have.

I suggest to the Members this amendment is not well thought out, it is ill-timed, and should be rejected.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. BAKER of Louisiana. I yield to the gentleman from California.

Mr. COX of California. The gentleman is exactly correct in noting first that this amendment as drafted excludes most of the big derivatives problems that we have all been made publicly aware of. It also includes many things that are not derivatives at all. The definition as drafted includes, and I quote, a contract that derives its value from the value of any security. That includes a lot of things that most people would not consider to be derivatives at all.

For example, many people in firms across America, many in California, have their compensation package comprised of something called phantom stock. Phantom stock is not real shares of stock but it is just a contract that tracks the value of the underlying stock. The way this is written, because those are not exchange-traded securities, any lawsuit arising out of that employee compensation would be exempt from the coverage of what we are passing right now, the Securities Litigation Reform Act. Surely the gentleman does not mean to include those types of things as derivatives.

Mr. BAKER of Louisiana. If I could reclaim my time, the gentleman's point is well made, and that is that in many cases these are negotiations entered into between two well-intended and understanding business partners for their mutual benefit. If we are actually looking to protect the unsophisticated investor from acquiring an interest in a product which they do not understand, this amendment does not accomplish that goal. If we are worried about pension fund investments or the working person who is trying to enhance his financial condition, adopting this amendment will not in fact help. It may in fact hurt. I thank the gentleman for his comment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 162, noes 261, answered "present" 1, not voting 10, as follows:

[Roll No. 211]

AYES—162

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McNulty
Meehan
Menendez
Metcalf
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Rivers
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Slaughter
Smith (WA)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—261

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

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Davis
Fattah
Gibbons
Jefferson
LaTourette
McDade
McKinney
Meek
Rangel
Waters

□ 1403

The clerk announced the following pair:

On this vote:

Mr. Fattah for, with Mr. Davis against.

Messrs. DEUTSCH, LAFALCE, and TEJEDA changed their vote from "aye" to "no."

Mr. PAYNE of New Jersey and Mr. BERMAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 28, line 12, insert before the period the following: ", except that this Act and the amendments made by this Act shall not apply to any action commenced by any State or local government, or any agency or instrumentality of any State or local government, before the date which is 3 years after such date of enactment.".

The CHAIRMAN. The gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Chairman, the purposes of the amendment are very simple, to permit counties and local units of government, States, to continue to sue under existing law for 3 years. If we are concerned about frivolous litigation, that is not a matter of concern here.

Mr. Chairman, the purpose of the amendment is very simple, to permit cities, States, local units of government to continue suing under existing practices for a period of 3 years. This will not afford any professional litigant, any sly lawyer to run around forming class-action suits. It simply allows communities to have the same protection that Orange County would have to sue where wrongdoing is done them using the new derivatives.

I would urge my colleagues to support this legislation.

Mr. Chairman, I yield to my friend and colleague, the gentleman from Pennsylvania [Mr. KLINK], a cosponsor of the amendment.

Mr. KLINK. Mr. Chairman, I thank the gentleman, the ranking member of the Committee on Commerce, for yielding to me.

I am very proud and pleased to cosponsor this amendment with him. Indeed, the gentleman is correct, this is a simple amendment. It allows State and local governments who have been defrauded in the securities market to bring suit for recovery of their losses under current rules for 3 years after the enactment of this bill.

The derivatives disaster that we have seen, we have talked about all morning long, in Orange County, CA, has shown us the risks that currently face State and local governments that have invested public moneys in the securities market.

Again, Orange County, CA, lost $1.7 billion, almost $2 billion. If you take a look at this chart, these are other municipalities, other counties across this country. Many will be in the States of the Members who are in this Chamber.

And what we are simply saying is that residents there now face cutbacks in public services. Orange County's biggest employer now faces layoffs; small investors might lose their nest eggs; retirees in Orange County might lose their pensions. We do not want this to happen in other counties either. We want them to have the same course of action as the people in Orange County will have after they have been grandfathered by this bill that we are taking up today.

Other communities and States across the country face these problems. We have seen losses. You will see the list.

It is in places like Minnesota, Colorado, Maine, Maryland, Illinois, Wyoming, Florida, South Carolina, Georgia, Ohio, Louisiana, California, New Hampshire, Texas, Virginia, and Wisconsin.

Mr. Chairman, the losses will run into the multibillions of dollars. These are taxpayers' dollars. We want to protect the taxpayers of your counties, of your cities, of your townships in the same way that we have grandfathered the people from Orange County, CA.

Now, regardless, ladies and gentlemen, of whether you support the provisions of H.R. 1058, you have to agree that they are going to make it more difficult to pursue securities litigation. The bill provides for heightened pleading requirements, a modified losers-pay rule, a more stringent definition of recklessness, and hundreds of other, or many other legal hurdles.

However, I believe that if and when these provisions take effect, State and local governments should have extra time to bring legal action under the current law in order to recover public money that has been lost.

Three years is the current statute of limitations in securities fraud. This amendment that I cosponsor along with the gentleman from Michigan [Mr. DINGELL] will provide that extra amount of time after this bill takes effect for those State and local governments that are now facing losses, or may discover losses in the next year or two, to determine whether they have been defrauded and then to decide the best way to recover those losses.

State and local governments have successfully countered in fraud cases in the past. The city of San Jose, CA, recovered $12.7 million in a case 10 years ago when it sued two investment companies after they lost $60 million. The State of West Virginia successfully sued several brokerage firms after they lost $200 million between 1986 and 1987. These are not frivolous lawsuits. These are government entities that are trying to protect the taxpayers' dollars, those same taxpayers that pay our salaries, from having losses due to securities fraud.

We have all heard stories about frivolous lawsuits, but I would beg to differ that municipalities, government entities, are not going to bring frivolous lawsuits. If they do, then they are going to suffer term limits at the ballot box, because the people that live there and pay their taxes will not allow for people to risk their dollars hiring attorneys, hiring solicitors to file frivolous lawsuits.

This is an attempt to be able to bring back money that has been lost on the securities market. This amendment is simple. It would allow State and local governments who may have been defrauded to bring suit for recovery of their losses under the existing rules but only for 3 years from enactment of H.R. 1058.

Orange County and others can get their suits filed before this bill takes place, will have an easier time to recover their losses; your State and your community deserve the same chance.

I urge people to support this amendment.

Mr. DINGELL. One last point, this amendment does not roll back the statute of limitations.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

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

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am happy to yield to my good friend from Texas, for whom I have greatest regard.

Mr. FIELDS of Texas. Mr. Chairman, I appreciate that.

First of all, I appreciate the gentleman clarifying this does not toll the statute of limitations. That is just what I heard the gentleman say.

Mr. DINGELL. I was aware of the apprehensions of my good friend from Texas. I wanted to ease them as best I could.

Mr. FIELDS of Texas. I appreciate that. If the gentleman will continue to yield, could the gentleman give us the specific examples that he is trying to address?

Mr. DINGELL. Matters of the sort that you see on the poster in the well. You are looking there at, I would say, probably 40 or 50 cities, States, and local units of government as well as possibly a number of State governments where they would be compelled to sue now on matters which might involve derivatives under the new law as opposed to the old law. The amendment permits them to sue under the old law for a period of 3 years. That is because the derivatives situation is growing and expanding, and every day we find some new situation which requires, quite frankly, great concern.

For example, the Barings Bank which just collapsed, Orange County, other places as listed on the chart that my good friend has just shown to the House.

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

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

Mr. MARKEY. If I may ask the gentleman a question, Have there been any allegations that any municipality in the United States has filed a frivolous lawsuit? Is there any allegation that has ever been made that they should be prevented under this legislation from being exempted and using the older standard?

Mr. DINGELL. If the gentleman would permit, the gentleman has come up with a very good point. The thrust of the legislation before this body at this minute relates to lawyers who assemble class-action suits for their personal profit. This relates, this amendment protects intact for a period of 3 years cities, States, counties, and local units of government, so that they may go in and sue. There have been no allegations whatsoever, none, that cities, States, or counties have engaged in any kind of frivolous litigation on matters of this kind.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. FIELDS of Texas. Again, just as a point of clarification, and I appreciate the gentleman yielding, are these the only examples that the gentleman is speaking to in his amendment?

Mr. DINGELL. Well, these are the only ones of which I am aware at this particular minute, but I would observe that every day, if you read the Wall Street Journal, you will find that there are new and additional derivatives problems which are afflicting everybody, including highly sophisticated people like General Electric, Barings Bank or, indeed, Orange County, which ran a several-billion-dollar investment trust.

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

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

Mr. TAUZIN. Does the gentleman's amendment exempt countries and municipalities from the other provisions of this bill?

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

(At the request of Mr. TAUZIN and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. I understand the gentleman to explain the amendment that it allows the municipalities to sue under the old liability regimes.

□ 1415

The question is, does it also exempt the municipalities and pension funds from the other provisions, such as not paying bounties, conflict-of-interest provisions, and other protections of this bill?

Mr. DINGELL. Those matters, I would observe to the gentleman, are not relevant to the kind of litigation that we are discussing here.

Mr. TAUZIN. If the gentleman will yield further, the question is, does this amendment also exempt these suits from the conflict-of-interest provisions, the payment of bounties, other problems we have had with lawsuits where lawyers are, in fact, sometimes engaged in a conflict-of-interest provision?

Mr. DINGELL. If the gentleman would permit, cities, States, counties, local units of government are covered

under existing law in all matters; all matters, all fashion, all purposes for a period of 3 years. They are given no additional right over those which they have now, and none are taken away from them. They may proceed to litigate in the fashion they may now do for a period of 3 years.

Mr. TAUZIN. If the gentleman would yield further, the answer is that this amendment does, in fact, exempt cities and these funds from the other protections of this bill, conflict-of-interest, payment of bounties?

Mr. DINGELL. Let me advise my good friend that the protections of this bill have never been extended to investors. The protections of this bill are extended to a bunch of high-priced lobbyists, to a group of people in the accounting profession, large numbers of whom are now in the gallery up above watching this proceeding, and to a group of slippery people in the investment industry who have been taking advantage of investors by marketing questionable derivatives, by engaging in an assortment of difficult, improper series of behaviors.

Mr. TAUZIN. If the gentleman would yield further, then a lawyer who wants to pursue a case for one of these listed up here in front of us could still engage in a conflict-of-interest position that is prohibited by this bill, could still engage in payment of bounties prohibited by this bill?

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

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

Mr. DINGELL. What the gentleman [Mr. TAUZIN] is referring to are class action matters. Those are matters which really do not relate to the business that we are discussing. Here we are talking about communities, cities, States, local units of government, governmental agencies which need to go in and sue. These are not class actions in the sense that we have been talking about in the basic legislation which we address, the actions to which we are addressing ourselves with this amendment are not class actions. No professional plaintiffs, no bodies, no illegal behavior of the kind that would be condemned by this legislation.

It would be illegal for a county treasurer to accept a bounty, and indeed if he were to do so, he would first of all be committing a crime, but second of all if he were to do so, he would be responsible for paying those moneys over to the county or to the governmental agency of which he was a part because that money would belong to the county as opposed to belonging to him.

Mr. TAUZIN. If the gentleman would yield further, I just want to be absolutely clear that the amendment that the gentleman has offered goes further than exempting these kind of lawsuits from the liability standards, it exempts it from the entirety of this bill, is that correct?

Mr. DINGELL. That is correct, but, remember, the language of this bill is not something which is applicable to the kind of lawsuit about which we are addressing under this particular amendment. The language of this bill relates to bounty hunting, to a large number of other practices which are engaged in by people who participate in class action suits, according to the charges which have been made here, and not governmental institutions which are going out and suing to recover moneys improperly taken from their taxpayers.

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

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

Mr. MARKEY. I thank the gentleman for yielding to me.

Mr. Chairman, is it not true that the U.S. Conference of Mayors and the Government Finance Officers Association of the United States both favor this?

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has again expired.

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

Mr. DINGELL. I yield to the gentleman.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, the mayors of the United States, those whom we are talking about putting block grants together and trusting them with hundreds of billions of dollars of American taxpayers' money, now we are going to put real restrictions upon them, putting them into a suspect class of frivolous plaintiffs who have been abusing the court system of this country. Whereas the mayors and Government Finance Officers Association has a sterling record for bringing suits only where they are justified.

Mr. DINGELL. There is no evidence of abuse by the mayors and Government Finance Officers of the cities, States and counties. It is also a fact their behavior has been exemplary.

It is also a fact that they are engaged in litigation to protect their taxpayers against wrongdoing done not only to the cities, States, and counties, but also to the taxpayers thereof.

U.S. CONFERENCE OF MAYORS,
Washington, DC, March 6, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the United States Conference of Mayors, I would like to raise some serious concerns regarding H.R. 1058—formally title II of H.R. 10, the Common Sense Legal Reforms Act.

Local governments participate in the securities markets both as investors of pension funds and temporary cash balances as well as issuers of municipal debt. Therefore, we have an interest both in preserving well-established and vital investor rights and protecting ourselves from unwarranted and expensive litigation.

While we recognize the goal of H.R. 1058 to curtail "frivolous" private securities actions under the federal securities law, we believe that the intended reforms may severely limit justified litigation, lessen deterrence to securities fraud, and weaken existing legal standards.

In addition, as has been pointed out by the Government Finance Officers Association (GFOA), this legislation fails to address key issues such as an extension of the statute of limitations to provide a fair and reasonable period for filing a securities fraud case and the creation of investor rights to pursue private actions against person who violate appropriately clear standards in aiding and abetting securities fraud.

We ask that these concerns be addressed as this legislation is considered on the House floor. Thank you for your continued attention to our nation's cities.

Sincerely yours,

VICTOR ASHE,
Mayor of Knoxville,
President.

GOVERNMENT FINANCE
OFFICERS ASSOCIATION,
Washington, DC, March 3, 1995.

Re H.R. 1058 (Title II of H.R. 10 concerning securities litigation reform).

Hon. FRANK TEJEDA,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN TEJEDA: The House of Representatives will take up H.R. 1058 (formerly Title II of H.R. 10, the Common Sense Legal Reforms Act) next week. I am writing on behalf of the Government Finance Officers Association (GFOA) to register opposition to the package of securities litigation reform changes scheduled for a vote on Tuesday. The GFOA is a professional association of state and local government officials, both elected and appointed, whose duties include the investment of temporary cash balances and pension funds and the issuance of municipal debt.

Our members are both investors in securities and issuers of securities. Therefore, it is especially important to GFOA that any reform legislation strike an appropriate balance to ensure the rights of investors and at the same time correct flaws in the litigation process that result in frivolous litigation. We oppose H.R. 1058 because it is harmful to investors and the markets. We believe the reforms that are intended to deter frivolous lawsuits do not simply address abuses, but chill litigation, even when justified. We support limited and targeted litigation reforms that preserve investors' rights, preserve accountability and instill market discipline.

Additionally, we do not support this bill because it fails to address important issues identified by our members. These are an extension of the statute of limitations to provide a fair and reasonable period for filling a securities fraud case and the creation of investor rights to pursue private actions against persons who violate appropriately clear standards in aiding and abetting securities fraud. Also, we continue to be concerned about the method used to allocate financial liability faced by defendants in securities fraud litigation.

Federal securities litigation reform is an important issue for state and local government officials. However, we urge you to vote "no" on final passage of H.R. 1058.

Sincerely,

CATHERINE L. SPAIN,
Director,
Federal Liaison Center.

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to this amendment.

Mr. Chairman, this amendment proceeds on the mistaken premise that what is good for trial lawyers is always good for everybody else. It proceeds on the mistaken assumption that the trial lawyers' interests are always the same as their clients. But what we heard in hearings on this very bill is that that, unfortunately, is not always the case.

The Dodd-Domenici bill which preceded this in the Senate last year, drafted in principal part by the current chairman of the Democratic National Committee contained no such carveout as is being offered today.

The Tauzin bill that was offered in the Congress last year contained no such carveout. This legislation contains no such carveout, for a very good reason. Every client deserves the protections of this legislation. The mere fact that there happens to be a government that is the client does not mean that that client should not still have protections against abusive practices by lawyers.

Let us take, for example, the provisions in this legislation that prevent abusive conflicts of interest. The judge is given the opportunity to disqualify a lawyer from representing the client if it turns out that the lawyer owns the securities that are the subject of the action. That is a conflict of interest, and judges should, except for exceptional cases which this bill provides for, have the opportunity to disqualify the lawyer for conflict of interest.

Why in the world would we want to say, just because taxpayers are involved, they should not have protections against conflict of interest that are provided on page 11 of this bill? There is a full recovery rule in this bill that is a substantial protection to plaintiffs with winning cases. Right now we have a winner/loser system under which, when you get all finished, the winner has to pay the costs anyway even though they proved somebody else is responsible and committed the injury.

We have heard that in some cases that might deter people without much money from bringing cases, and we have already provided for that by letting the contingent fee arrangement take care of that. But obviously, if the government is bringing the case, that is not a question. Instead the problem is going to be at the other end of the case when the government prosecutes a very good cause of action and the taxpayers then end up holding the bag for the damages committed by someone else and that the court has already proven and accepted were established by someone else.

The gentleman from Michigan said that governments cannot be involved in class actions. Nonsense. Of course they can.

This is a new rule that he has just, invented on the floor of this Congress. But there is nothing in the Federal Rules of Civil Procedures that would prevent a subdivision of a local government from being a member of a class. And why should they not be entitled to the same protection for class members as this bill provides? Right now we know that one of the abuses that occurs in that kind of litigation is that the lawyer settle the cases on terms favorable to themselves, giving only cents on the dollar to investors.

But this bill provides protections for members of that class so that they find out up front how much is going to the lawyers per share and how much is going to plaintiffs in the action. All of these protections are designed for investors' benefit. As a practical matter, what the gentleman would do with his amendment is strip all of these investor protections simply on the ground it happened to be a government or a subdivision of a government, not prosecuting under the Federal securities law, not SEC acting as a plaintiff on its own behalf. This makes absolutely no sense whatever. There is no precedent for it in 60 years of Federal securities law, and we should not start at the 11th hour having not taken it up in any committee or subcommittee or any time heretofore, and do it right now.

I strongly oppose the amendment.

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

Mr. Chairman, ladies and gentlemen, I do not think there is anything that more highlights the real purpose of this legislation more than the refusal of the gentleman from California [Mr. COX] and the gentleman from Texas [Mr. FIELDS] and others to go along with this amendment.

All this amendment says is that the very harsh new standards for winning one of these cases are not going to apply in the future, will not be made to apply for the next 3 years to cities and to public institutions.

This bill was brought to us because the other side told us, without any evidence, by the way, but told us there were a bunch of greedy lawyers out there and a bunch of greedy professional plaintiffs and all of them got together and would file these strike suits, making life miserable for people in business who need to raise capital.

Well, assuming that that is correct, they never did tell us that the cities and towns of the country and the counties of this country and the universities and public institutions of this country were involved in that kind of behavior. In fact, everybody knows they are not.

I wonder if the city council of a city is going to vote to engage in an irresponsible lawsuit to try to make a little money. I hardly think so. I wonder if the University of Minnesota, which was on this chart before it was taken away, was going to vote that the board of regents involved themselves in an irresponsible lawsuit. I don't think so.

This amendment by Mr. KLINK is a very fine idea. It just says we are not going to apply these standards to public institutions because we have seen an enormous number of them who have gotten into trouble lately and they ought to be able to file lawsuits based upon the current law.

A very remarkable thing with regard to Orange County, Mr. COX's area, should be commented upon. H.R. 1058, when drafted and circulated last fall, contained a provision which would have applied the new, harsh standards in the bill today retroactively to pending cases. Well, then Orange County got in big trouble, lost a whole bunch of money, and lo and behold, without comment, the retroactive provisions of the bill are now out.

So, Mr. COX's community, which is the biggest example in the country of the point that is being made here today, is allowed to file and prosecute its lawsuit under the low standard, but my town and city or your town or city will in the future have to prosecute its case under the harsh standards. What a curious development. Where did that provision go?

The point is this: Even if there is justification for this legislation, and I think there is not, no case has been made that we have had irresponsible lawsuits filed by cities and communities and universities.

For goodness sakes, if these people who sometimes I think are more easily than they ought to be duped and fooled and get into trouble, they ought to be able to file their lawsuits under the existing standards.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

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

Mr. COX of California. I thank the gentleman for yielding to me.

Mr. Chairman, I would just like to correct the record. The bill, as originally introduced, had the same effective date that the bill on the floor has. This has never been changed.

Mr. BRYANT of Texas. I want to reclaim my time. The gentleman has changed my words. This is a debating technique which is very clever, but it does not work.

What I said was the draft of the gentleman's bill which was circulated last fall after you guys won the election and had your Contract With America, had a retroactivity provision in it. Lo

and behold, Orange County realizes it cannot live with the retroactivity provision, and the retroactivity provision, which would have affected your community negatively, was taken out. So all the rest of us will have to prosecute our cases for our towns and cities under the high standard, but your county gets to keep going under the low standard.

My point is that the bill no longer applies retroactively, and therefore the gentleman's community of Orange County is protected, but all the rest of our communities are not.

Vote for the amendment. At least give the taxpayers a break.

Mr. MOORHEAD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment, and I yield to the gentleman from California [Mr. COX].

Mr. COX of California. I thank the gentleman from California for yielding to me. I will be brief.

Mr. Chairman, I have already made my complete presentation on why I think this amendment would gut the bill. It would strip all the protections concerning conflict of interest, protection of litigants from abuses by the attorneys not in the interests of the clients and so on, just on the thin tissue that there happens to be a government entity involved.

But I did want to address the comments of the gentleman just preceding concerning the applicability of this legislation to litigation arising out of the Orange County problems.

□ 1430

Any litigation arising out of the Orange County problems that anyone chooses to file under Federal securities laws will be covered by this bill as soon as it is passed by the Congress. Thus far the actions have been filed, not under the Federal laws, but under State laws, so it really would not matter what is the effective date for this purpose, and I have taken it to be an affront to this Member to suggest that, when we introduced the bill on January 4 and made sure that the bill was drafted with a provision that makes it clear that there will be only one rule applying in the middle of any lawsuit, that that was somehow directed to Orange County.

In my view this is good legislation which I want applicable to my constituents. I would like to have all of my constituents have the protections against conflict of interest, against abusive practices by lawyers that foment litigation against strike suits apply to them. This will help the taxpayers of Orange County, and I would not be surprised, mark my words, that somebody does not bring a lawsuit against the county of Orange, against the taxpayers of Orange County, and it is they who will be the ultimate deep pockets unless we have these strike suit protections. The new incoming treasurer of Orange County, the guy who has come in at the request of all the people, picking up the pieces, is the guy who knows what is going on here, has written a letter, wrote to our committee, and he said he strongly supports this legislation without the carve out that the gentleman's amendment would provide because it will protect the taxpayers of Orange County from precisely the kind of abuses that we are legislating against here today.

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

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Michigan [Mr. DINGELL] and I rise just to make again the very simple point that the gentleman from Michigan is seeking to ensure that the cities and towns of the United States, who may have already been placed in jeopardy by financial transactions that have yet to fully manifest themselves in terms of the financial losses which their citizens, their taxpayers, are going to suffer, be allowed to be exempt from this legislation for 3 years so that a lot of this financial activity can be made more manifestly obvious.

The reason for it is quite simple. One, there has been no allegation that any mayor, that any city counselors, that any city solicitor, in the United States has ever filed a frivolous lawsuit, and the ostensible justification for this legislation is that we are going after the lawyers and the professional plaintiffs who are making a mockery of the court system of this country.

If that is our justification for passing legislation, let us not allow the cities and towns, the taxpayers of this country, to be swept into this. If we do not have the capacity to exempt municipalities from this legislation, even though there are no allegations against them, then clearly the intent is to inoculate those whose municipalities might sue rather than protect municipalities themselves.

So let us know what this amendment is all about. I say to my colleagues, The Dingell amendment is to give your mayor, your city counselors, the ability to sue.

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

Mr. MARKEY. I yield once again to the gentleman from Michigan, the author of this amendment, so he can elaborate upon that point.

Mr. DINGELL. Mr. Chairman, there is absolutely no evidence of wrongdoing on the part of any municipal, State or local government official in connection with litigation of this kind, absolutely none. There are absolutely no protections given to cities, States, and local units of government by the bill, but what is given, and it is a prodigious benefit, is to a group of slippery rascals from the derivatives business. They will receive an inoculation against litigation against them for wrongdoing in connection with derivatives and in connection with investments which the cities have made and the counties and the local units of government have made to increase their earnings on the monies which they have as tax receipts during the time that they are waiting to expend those monies.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BRYANT of Texas. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY], and to supplement the remarks he just made I would just like to address the gentleman from California [Mr. COX] one more time here. He stood up here a moment ago and said what a curiosity that the original draft that was circulated in the fall said that this bill is going to be retroactive, so these high standards would apply retroactively to everybody, and, lo and behold, Orange County got in trouble, got its lawsuit filed, and the retroactively provision went out. The gentleman from California [Mr. COX] said, "Oh, it wouldn't make any difference because that case is filed in State court."

I say to the gentleman, Well, I just went there and checked, Mr. COX. The fact is that Orange County filed a $3 billion lawsuit under rule X(b)5 in Federal Bankruptcy Court, so your community gets the lower standard, but our communities get the higher standard.

I urge my colleagues to vote for the Dingell amendment.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I oppose retroactive legislation. It does not work. We had the same question come up on title I of this bill. I opposed it there.

I say to my colleagues, The fact is, if you have two different rules operating inside of the same lawsuit, it doesn't work.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield to me again?

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

Mr. BRYANT of Texas. Why did the gentleman just tell us his case was filed in State court when it was filed in Federal court? I mean the grounds of the gentleman's defense continue to shift from moment to moment around here.

I say to the gentleman, The fact is whatever you propose, whatever you support, the fact of the matter is it was going to be retroactive until your community got in trouble, and now all of our communities have to face a higher

standard, but not Orange County. Your community gets to go in the lower standard. That's not a good idea.

Vote for the Dingell amendment.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. COX of California. The original lawsuits were filed under State laws and in State courts. The gentleman brings a new matter to my attention, but I assure him that lawsuit was surely filed after January 4, after the date of introduction of this bill, which gets directly to the gentleman's point.

The gentleman just speaks of motive, and I gave the gentleman my answer to his question, which is that I wanted to be sure, when we introduced that bill on January 4, that it was not retroactive.

Indeed, Mr. Chairman, I was in a radio debate with a Member of the other body from California in which she alleged that this was retroactive——

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(By unaniomus consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. COX of California. Mr. Chairman, will the gentleman continue to yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. COX of California. She stated that the bill was retroactive, and I stated that it was not, and I then went back and checked, and indeed that provision of the bill, the effective date, which is a biolerplate provision that comes at the end that this Member had never been involved in drafting, was improperly constructed, and it would have required that inside a lawsuit two different rules apply. That makes no sense whatever.

Mr. MARKEY. Reclaiming my time, Mr. Chairman, just to conclude by making this point:

Once again there are no allegations against any mayor or city council in the United States. Why are we going to charge them with being frivolous in any lawsuits which they are going to bring if there has never been an allegation in the history that has come before this body as testimony that would lend that kind of limitation upon their ability to sue if they have been defrauded?

The gentleman from Michigan [Mr. DINGELL] does not even ask that they be given the rights for eternity, but only for the next 3 years so that the existing body of financial sales, of representations which have been made in the marketplace to municipalities, continue to be litigated under the old law.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

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

Mr. Chairman, let me, first of all, address what I almost hear as a basic assumption that the underlying piece of legislation is bad. This is not a bad piece of legislation. This legislation is aimed at the filing of frivolous lawsuits, and I will be glad to stipulate to my good friend from Michigan and my good friend from Massachusetts that our county and local governments do not file frivolous lawsuits.

Now, having said that, the underlying piece of legislation would not apply to them in the filing of lawsuits that have merit, which we are willing to stipulate that is what they do. But why deny for 3 years the protections that we think are in this piece of legislation when frivolous lawsuits are filed?

Now, having stipulated that frivolous lawsuits are not filed by governmental entities, let me create a scenario because, as the gentleman from Michigan pointed out just a moment ago, we have had some local governmental entities who have lost money. There is a fact question in each of those situations whether the money was lost on bad judgment, by someone who represents that governmental entity, or whether money was lost because of some fraudulent and intentional advice. If it was fraudulent and intentional advice, then this statute would not affect that type of cause of action. If it was bad judgment on the part of the agent for the governmental entity, we could envision under some circumstances where a lawsuit could be brought that would be frivolous.

The point is this statute is designed to stop the filing of the frivolous lawsuits, should not be construed in any way as stopping the legitimate lawsuits that can be brought when there is fraud or some other type of intent, and with that I would have to reluctantly oppose the amendment offered by the gentleman from Michigan [Mr. DINGELL]. I think he brings it with every good intention.

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

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

Mr. DINGELL. Mr. Chairman, I will express the highest regard to my good friend, the gentleman from Texas [Mr. FIELDS].

First of all, a litigant must prove and plead what is going on in the mind of the other side before he can properly get into court. He has literally got to define the thought process and the intentions of the other party. Cities, States, counties, local units of government, would not be compelled to bear that burden. That is hardly something that I think they ought to be compelled to do because they are litigating on behalf of their taxpayers. There are a large number of other burdens that they must pay before they can get into court and a large number of other burdens they must carry, and I do not see why it is that they should have to carry these burdens to litigate on behalf of their people.

There is no allegation, none, that there has ever been any wrongdoing, that there is any ambulance chasing or any shyster lawyer practices engaged in in connection with these matters, and I would just urge my colleagues to support this, and I appreciate the concerns of my friend from Texas, but I would just say that the burdens that he is imposing on the cities, and States and local units of government by this amendment do not need to be accepted because there is no abuse on their part.

Mr. FIELDS of Texas. Reclaiming my time, Mr. Chairman, again I have the highest admiration for my friend, I return the compliment and I sincerely mean that.

There is a difference of opinion perhaps on the need for the specificity of pleading whether it is a governmental entity or it is a private class seeking some redress, but I will restate to the gentleman that it is my strong belief that this is a fair statute and there should not be two different types of treatments, one for governmental entities and those for all others. I think this is fair to all who might be subject to some action that would be fraudulent, particularly with intent.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from California.

Mr. COX of California. I will just underscore what the gentleman from Texas has just said.

The assertion is made that government entities generally do not bring frivolous lawsuits. So what? That is really not what we are talking about here. What we are talking about is abusive practices in the context of litigation, and in many of the cases and in many of the parts of this legislation those abusive practices are maintained by lawyers acting otherwise than in the interests of their clients, so this bill protects the client, and who is the client for purposes of this amendment? The government entity and the taxpayer.

Why would we want to strip the taxpayer of the protection against abusive practices that this legislation affords?

On the question of pleading, the gentleman from Michigan, although I am sure with every good intention, misstates rather dramatically what the legislation says. What the legislation says is that the complaint shall specify each statement or omission alleged to have been misleading. That is not an onerous requirement for anyone inasmuch as rule X(b)5, section 10(b), in the 1934 act predicates liability on some misstatement or omission, and we already have a requirement in here that

either you prove reliance or fraud on the market. So there has to be a fraudulent statement out there somewhere, and asking somebody to identify what those fraudulent statements are before they bring litigation is, I think, entirely reasonable.

Second, the complaint shall also make——

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

□ 1445

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

Mr. FIELDS of Texas. Mr. Chairman, I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I thank the gentleman for yielding further.

Finally, the section says an allegation may be made on information and belief. So there are several parts of this pleading section that the gentleman from Michigan has conveniently left out of his description.

First of all, we are talking today about allegations, so we do not need to know that they are true. You simply allege it and you get on with your lawsuit, you go through discovery, you take depositions, you subpoena records, and so on, and see if you can back up those allegations. But you make the allegations in your complaint; you do not put the proof in your complaint.

Second, you can do it on information and belief, so you just state in your pleading that the plaintiff is informed and believes and thereupon alleges that—and that is very, very easy to do. The complaint shall make allegations which, if true, would be sufficient to establish Scienter.

So for purposes of judging the pleading, all the court does is assume all of the allegations are true even before you have actually proved them, and if added together, assuming their truthfulness, they would state a cause of action and you get by judgment on the pleadings, and away you go and you are off with your lawsuit. That is the way it ought to work.

Many, many years ago a young lawyer wrote a Law Review article in which he said that the noticed pleadings which, up until that point, had been the rule of Federal pleadings, should be departed from and we should have this rule where you specifically plead, because it would help end abuses in this area. The young lawyer who wrote this, it turns out, is a lawyer named William Shannon Lerach, who is now one of the big securities class action lawyers in America—he lives out in San Diego, out my way in California—and he came as a witness and I asked him about this Law Review article and he said, "I still agree with that today."

So I think the gentleman from Michigan should get in league with Mr. Lerach and get on board with our pleading requirements. They are good ones, and we need them.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has again expired.

(On request of Mr. DINGELL, and by unanimous consent, Mr. FIELDS of Texas was allowed to proceed for 3 additional minutes.)

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

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

Mr. DINGELL. Mr. Chairman, the new rights that would be afforded cities, States, and local units of government would be the following: No. 1, loser pays. Before a city, State, or local unit of government can go into court in connection with derivatives fraud or other fraud upon their consumers involving securities, they would have to absorb the risk of paying the entire cost, lawyers and everything else, if they lost.

In addition to this, there would be, as I mentioned, the heightened pleading requirements. There would be no more joint and several liability. So slippery people would escape. There would be no fraud-on-the-market protections for inactively traded securities.

Now, here is what the United States Conference of Mayors says with regard to protections that the bill would afford them. Reduced to its simplest form, it is "thanks but no thanks." I will, by unanimous consent, at the appropriate time include this with my remarks.

While we recognize the goal of H.R. 1058 to curtail frivolous private securities actions under Federal securities laws, we believe that the intended reforms may severely limit justified litigation, lessen deterrence to security frauds, and weaken existing legal standards insofar as the communities are concerned.

Mr. Chairman, I thank my friend for yielding.

Mr. FIELDS of Texas. Mr. Chairman, reclaiming my time, let me address a few of the points the gentleman has just made.

First of all, with regard to the loser-pay provision in our bill, there is a substantial justification clause, and the court has the discretion in the requirement for the posting of a bond.

On the second point, we do have a legitimate disagreement on the specificity of pleadings. I think it is important to have pleadings that are specific.

The third point the gentleman made is with regard to joint and several liability. Joint and several liability is in this statute where there is knowing fraud. Again we have talked about this, and we have been willing to stipulate that the cases we are aware of at this particular moment are cases that are legitimate that the county governments and local governments have against others.

The final point the gentleman made was regarding the fraud on the market. Nothing is changed with this particular statute based on what the law is at this particular moment. We are codifying Levinson.

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

Mr. FIELDS of Texas. I am glad to yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, it would require in addition to that also that State or local units of government, cities or counties, before they could litigate, could be required to post a bond; is that not so?

Mr. FIELDS of Texas. That is possible, but also, reclaiming my time, the judge has the discretion to say, "Your bond is $1," or your bond is something else that is reasonable. The judge has the discretion to come in and ask for something other than the posting of what could be the entire cost of that particular lawsuit.

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

Mr. FIELDS of Texas. Reclaiming my time, Mr. Chairman, let me finish and then I will be glad to yield to the gentleman.

We did that on purpose to give the judge the discretion to look at cases like this and use good common sense.

Mr. DINGELL. But under the current law, however, there is no requirement that a city, county, State, or local unit of government post a bond.

Mr. Chairman, I thank my friend for yielding.

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

Mr. Chairman, there are two classes of stockholders whose interests can be affected by a 10B(5) statute. There is a class of investors who believes they have been defrauded, and they ought to be able to file a lawsuit. Under this bill they can file that suit. Any city, county, or individual in this country who believes they have been defrauded in their investments can file a suit, and if there is a fraudulent claim, they will have the full protections of joint and several liability that exists in current law.

Under this bill the big change is that if you file a suit for something other than intentional fraud in this judge-made area of the law, you are going to have to specify who is guilty of the recklessness or who is guilty of the misconduct, and in the court proceedings they are going to find out what percent they contributed, and they will be liable for that percentage. It is called proportionate liability.

So stockholders or investors, whether they be cities, counties, pension funds, or individuals who believe they have been caused to have a loss in their investments through someone's recklessness, can still file a lawsuit under this bill. They simply have to point to

the guilty party, and the proportion of liability is assessed against that guilty party. That is the big change in this bill.

But there is another class of stockholders who under current law are horribly affected under 10B(5) lawsuits. They are the stockholders who still own stock in the company that is being sued, who are still a part of the corporation that just got sued by one of these lawyers, and who find out that the value of their stock has been depressed because their company is suddenly involved in a big extended lawsuit that may be without merit. In fact, most of these cases are settled regardless of merit. In fact, one of the persons who went bankrupt as a result of some of these suits was quoted as saying, "It wasn't the litigation we would lose that was the problem; it was the cost of winning that caused the greatest part of our financial distress."

As companies around America are being sued under 10B(5) judge-made law, with deep pockets, or anybody who gets shotgun suits filed against them, finds out that their company is depressed and their stock is hurt, who do we find out is hurt then? It is the pension investor, the private investor, who still owns stock in that company and who finds out that the company is spending most of its money on lawyers and courtrooms instead of on creating products and creating jobs.

Now, should it matter whether a lawsuit is brought by a government or by an individual when that is the result? This amendment will exempt all government suits under this 10B(5) filing, whether it was a derivative investment or not. The suit may be against a small company struggling to create jobs and indeed to return profits to its investors, as is often the case. Are we going to say that governments get better protections, that they can sue in deep pockets liability under this act, when citizens will be under this new standard? Are we going to say under our system of justice that governments have a better standing in court than citizens? If the reforms in this bill are not good for this country, and I firmly believe they are, I would not have engaged in this effort for 4 solid years to reform this section of law. If the Chairman of the SEC is correct when he said, "There are two classes of stockholders whose rights must be balanced here," should we give government better protection under the law than we extend to citizens? Should we not have the same rules applying to government investors as we have applying to individual investors?

If there is one thing Americans hate the most around here, it is when we apply different standards to government that we do to citizens. We just went through that in the first week of this Congress when we decided that the Congress should be accountable to the same laws we impose on businesses across America. Are we now going to say that when we are reforming this body of law, we are going to have a separate set of laws for government and a separate set of laws for citizens? I do not think we should do that.

Let me concede, as my friend, the gentleman from Texas did, that I do not believe that governments bring frivolous lawsuits, but they do bring lawsuits against companies just like individuals do, and they ought to have the same rules apply to them as will apply to citizens in this case, and if Members believe as I do that we are reforming this law for the right reasons, they should vote against this amendment. If they do not, then they should vote for the amendment and vote against the bill.

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

Mr. Chairman, I will not take the full 5 minutes, but there are a couple of points that I think need to be made on this amendment. Again let me say that I am proud to cosponsor this amendment with the gentleman from Michigan [Mr. DINGELL].

As for the previous speaker, the gentleman from California [Mr. COX], I agree with much of his intent, but as to his point about having two classes, the fact that there is one set of laws for governments and one for citizens, the fact if that government is citizens. The government has no money. The only money that the government has is that which the citizens send to us.

Now, I would put it this way: When a normal citizen makes an investment, that citizen has the responsibility for that decision, and whether or not they are going to be able to sue, whether that suit is frivolous, we ought to address that in some form. But normal taxpayers do not very often have much of a say in how moneys are invested on their behalf by their local governments.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield on that point?

Mr. KLINK. Yes, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, citizens invest in money market funds that make investments, just as they invest in pension funds that are run by governments and by private entities that make investments. There is no difference.

My question to the gentleman is this: Why should we say to a citizen that chose a private investment fund to make his investments, "You're going to have a set of laws that relate to you, but if you invest in a government pension fund, you get a different set of laws that apply to you"? That is what is wrong.

Mr. KLINK. Mr. Chairman, I think, to answer the gentleman's question, there appears to be, with this whole derivative thing, the fact that things are changing from moment to moment and from hour to hour. Every time we pick up a newspaper something new has happened, and we are learning something new about it all the time. If I may respond to one of the comments that I think the gentleman from California [Mr. COX] made, he mentioned the fact that this carve-out did not exist and the Dodd-Domenici language did not exist in his bill, but I think things have changed dramatically.

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

Mr. KLINK. I would like to finish my thought, and then I would be glad to yield to the gentleman.

The fact of the matter is that things are changing all the time in this regard. So what we are saying is, let us not create two separate bodies of law. But the amendment delays the effect of this bill on State and local governments for 3 years, and that is the same period of time that currently is the statute of limitations for securities fraud.

□ 1500

I think it is unfair to require State and local governments to risk taxpayers' money in a loser-pay system. That is one of the problems.

Let me just finish with this, and that is I have a letter here from the mayor of Philadelphia, Edward Rendell. The first paragraph of the letter says, "The city of Philadelphia," and this is like other municipalities, some are much larger and some are smaller, "The city of Philadelphia is responsible for proper administration of over $2 billion in public pension funds for its workers and its retires. Like other private and public institutional investors, the city is completely dependent on a strong Federal system of securities laws and remedies to ensure probity in the financial marketplace and to deter would be wrongdoers."

This next sentence is what really bothers me. He says, "We are deeply concerned by the incidence of fraud in securities markets, and most particularly by the fact that many questionable investment schemes seem to target municipalities and government entities."

They find themselves being targeted because they are not up-to-date, and they are talked into these investments, and just like Mr. COX's Orange County, CA, all of a sudden something bad happens.

I will tell you that I think large and small municipalities across the State, not wanting to bring frivolous lawsuits, not wanting to spend taxpayers' money in pursuing frivolous cases, they are shocked by what happened in Orange County, CA, they are shocked when they look at what happened in San Jose and in States across this Nation.

We simply say let us delay it for the statute of limitations. Let us not have

different sets of rules for other municipalities than we have for Orange County.

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

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

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding. I asked him to yield to make this point. Any municipality or pension fund that thinks they have been defrauded under any kind of investment, be it a derivative or something else, has that right to file that suit today. These lawsuits are cranked out normally up to 2 hours after the stock prices fall. If somebody has a case on that list that we were shown this morning, they can bring that suit today under the old law. They can bring it next week under the old law. Until this law goes into effect, they can file this suite.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. KLINK. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, yes, they can file a lawsuit today, but what we are finding out about derivatives is as this instrument spins around the world and its consequences, this is like peeling an onion. The fact is this law may become law before people realize the extent to which they have been damaged. A lot of these investments are very indirect investments. They join pools. State laws require it. We are talking about the money of school boards.

The CHAIRMAN. The time of the gentleman form Pennsylvania [Mr. KLINK] has expired.

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

Mr. KLINK. I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, in the California example, people who really had very little say over the investment of their money, school districts, water districts, sewer districts, citizen boards, without this kind of experience, and they were indirectly part of this arrangement and now they want to unravel that and assert their rights, we ought to let time for that to happen.

This is like the early days of the S&L scandal. There are a lot of people that do not know today that they are going to be affected by this because something else that goes wrong in the market triggers the vulnerability into this investment pool fund or instrument that looks safe today or looks safe 3 months from now, but may not turn out to be safe a year from now.

Mr. TAUZIN. If the gentleman will yield further, I would say to my friend from California [Mr. MILLER] that we just had that debate. We agreed not to exempt derivative lawsuits from this bill. That is another debate. But my point is this amendment covers more than investments in derivatives, does it not?

Mr. KLINK. Yes, it does.

Mr. TAUZIN. It exempts the city in all of its suits. So if the city, county, or pension board wants to bring a suit against a small company, under this amendment they would be exempted from this bill, would they not be?

Mr. KLINK. Mr. Chairman, reclaiming my time, I think this is an instance where we just have to agree to disagree. I understand that.

My point is this: If it is fair for Orange County, CA, to go under the old rule, then I think we need to take the statute of limitations, and I do not think that is being unreasonable, and say for not the period of enactment, but for the period of the statute of limitations, while this is being shaken out.

Mr. TAUZIN. If the gentleman will yield further so I may make one final point, just to clarify it, the gentleman is saying this statute of limitations will apply to new claims that might arise during the 3 years. The gentleman is not saying you are extending the statute of limitations for claims that already exist, are you?

Mr. KLINK. No.

Mr. TAUZIN. No, you are actually extending this law for 3 years applied to new claims. So it is not an extension of the statute of limitations, is it?

Mr. KLINK. Mr. Chairman, reclaiming my time, the gentleman is correct. I am saying extend it for the period of time of the statute of limitations. The gentleman is correct. I think this will give us time to see how this is shaking out. Again, there is a lack of confidence across this country because of what happened in the gentleman's area in Orange County, CA.

Mr. COX of California. Mr. Chairman, I ask unanimous consent to proceed for 3 additional minutes.

The CHAIRMAN. Without objection, the gentleman from California [Mr. COX] is recognized for 3 additional minutes.

There was no objection.

Mr. COX of California. Mr. Chairman, we actually have had testimony on this very subject, on the application of this bill as presently drafted to Orange County, and the testimony came in a letter addressed both to the testimony came in a letter addressed both to the chairman and to the ranking member of the Subcommittee on Telecommunications and Finance. It comes from John M.W. Moorlach, who will soon be nominated and sworn in as the new Treasurer of Orange County to pick up the pieces where Bob Citron left off.

Here is what his testimony said:

The taxpayers of Orange County will suffer severe financial repercussions resulting from its longtime former treasurer's investment strategy. Now lawyers may victimize our taxpayers a second time by extorting multimillion dollar settlements under rigged rules that stack the deck against the county. This will further compound our already tragic financial losses. As a certified public accountant, I'm well aware that members of my profession for years have been victimized by strike suits brought by a handful of unscrupulous lawyers. These unethical few neither know nor care whether their so-called clients have actually been victimized. They simply bring cases for their extortion value and settle them without trial on the merits. As a result, accountants and companies innocent of any wrongdoing end up paying out millions of dollars to get rid of nuisance suits, while entire classes of victims of real fraud may only get pennies on the dollar for their claims. The biggest share by far goes to the lawyers.

Now, here is where we get to the point of this amendment.

This game has already started in Orange County. Whatever the rights and wrongs of these cases, the only certainty is that under the current system, only the lawyers will get rich. Justice will not be done, not for the plaintiffs who will receive a percentage on the dollar as their lawyers benefit from handsome fees, and not for Orange County's taxpayers, who may have to take another multimillion dollar hit that will be as unnecessary and destructive as Citron's investment strategy itself.

Mr. Moorlach's point is that the County of Orange, already suffering, and you have seen the layoffs, 11,000 people, already suffering from the consequences of the Citron strategy, may now itself be the target of strike suits. And, yes, some of these suits may be brought by unscrupulous lawyers who are lucky enough to land as a client any one of the municipalities or subdivisions that invested in this pool.

Lawyers have great sway over their clients. We want to make sure that the clients always have rights against the lawyers, that they have the right to control the litigation, and that litigation device is not abused. If it were to be abused, then Orange County, read "the taxpayers," would end up paying the damages.

John Moorlach concludes,

The Contract With America bill will stop this legalized embezzlement farce. It will strengthen the rights of real victims of fraud, while preventing frivolous cases from victimizing responsible people. It will be good for the country and for Orange County. I wish you well as you consider this important legislation."

So the point is that when municipalities are suing municipalities, it is just as likely that lawyers can get out of control as when lawyers are representing someone else. We want to make sure that Orange County's taxpayers are protected to the extent that Orange County might be a victim of lawsuits that are brought for their settlement value, because it is the taxpayers, not Bob Citron, that will end up paying those damages. And we want to be sure that the municipalities who are plaintiffs have all of the protections against conflict of interest, protections for lawyers to drive the litigation so that

the lawyer does not do it, protections against lawyer-driven litigation that are part of this bill. Stripping all of those protections out of this bill just because it is the taxpayers who are the clients and the taxpayers who would otherwise get those protections makes no sense at all.

So I hope at least in the context of my home county, having heard from the people who are handling that, that we would understand just how destructive this amendment might be.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

Mr. COX of California. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Chairman, that is the point I made a moment ago. Your home county has already been taken care of. They have already filed their Federal case under the lower standard. Now you are raising the standard for the rest of our communities.

Mr. COX of California. Reclaiming my time, the gentleman is aware that the statutes of limitation that apply to what went on in Orange County are sufficiently long so that people can file lawsuits after this legislation. It is my sincere and fond hope that this legislation will apply to as much of the litigation that might arise out of Orange County as is possible, for precisely the reasons that John Moorlach, the soon-to-be Treasurer of Orange County, just pointed out.

Mr. BRYANT of Texas. If the gentleman will yield further, the gentleman just verified what I just said in a long round and about way of saying it.

The second question I have for the gentleman is, inasmuch as all this amendment does is say we are not going to apply the standards of this bill to the cities and counties and public institutions for the next 3 years, can you name a city or county or public institution that has been accused of filing a frivolous securities case?

The question has already been answered, and the answer is "no."

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 248, answered "present" 1, not voting 6, as follows:

[Roll No. 212]

AYES—179

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

NOES—248

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

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—6

Gibbons
McDade
McKinney
Meek
Rangel
Sisisky

□ 1527

Mr. BACHUS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1530

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment, the Mineta-Tauzin amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TAUZIN: Page 26, beginning on line 1, strike section 37 through page 28, line 2, and insert the following:

"SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) SAFE HARBOR IN GENERAL.—In any private action arising under this title based on a fraudulent statement (as defined in section 10A), a person shall not be liable with respect to any forward-looking statement if and to the extent that the statement—

"(1) contains a projection, estimate, or description of future events; and

"(2) refers clearly (or is understood by the recipient to refer) to—

"(A) such projections, estimates, or descriptions as forward-looking statements; and

"(B) the risk that such projections, estimates, or descriptions may not be realized. The safe harbor for forward-looking statements established under this subsection shall be in addition to any safe harbor the Commission may establish by rule or regulation.

"(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For the purpose of this section, the term 'forward-looking statement' shall include (but not be limited to) projections, estimates, and descriptions of future events, whether made orally or in writing, voluntarily or otherwise.

"(c) NO DUTY TO MAKE CONTINUING PROJECTIONS.—In any private action arising under this title, no person shall be deemed to have any obligation to update a forward-looking statement made by such person unless such person has expressly and substantially contemporaneously undertaken to update such statement.

"(d) AUTOMATIC PROCEDURE FOR STAYING DISCOVERY; EXPEDITED PROCEDURE FOR CONSIDERATION OF MOTION ON APPLICABILITY OF SAFE HARBOR.—

"(1) STAY PENDING DECISION ON MOTION.—Upon motion by a defendant to dismiss on the ground that the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section and that the safe harbor provisions of this section preclude a claim for relief, the court shall stay discovery until such motion is decided.

"(2) PROTECTIVE ORDERS.—If the court denies a motion to dismiss to which paragraph (1) is applicable, or if no such motion is made and a party makes a motion for a protective order, at any time beginning after the filing of the complaint and ending 10 days after the filing of such party's answer to the complaint, asserting that the safe harbor provisions of this section apply to the action, a protective order shall issue forthwith to stay all discovery as to any party to whom the safe harbor provisions of this section may apply, except that which is directed to the specific issue of the applicability of the safe harbor. A hearing on the applicability of the safe harbor shall be conducted within 45 days of the issuance of the protective order. At the conclusion of the hearing, the court shall either dismiss the portion of the action based upon the use of the forward-looking information or determine that the safe harbor is unavailable in the circumstances.

"(e) REGULATORY AUTHORITY.—The Commission shall exercise its authority to describe conduct with respect to the making of forward-looking statements that will be deemed not to provide a basis for liability in private actions under this title. Such rules and regulations shall—

"(1) include clear and objective guidance that the Commission finds sufficient for the protection of investors;

"(2) prescribe such guidance with sufficient particularity that compliance shall be readily ascertainable by issuers prior to issuance of securities; and

"(3) provide that forward-looking statements that are in compliance with such guidance and that concern the future economic performance of an issuer of securities registered under section 12 of this title will be deemed not to be in violation of this title. Nothing in this section shall be deemed to limit, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under other statutes under which the Commission exercises rulemaking authority.".

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

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

There was no objection.

Mr. TAUZIN. Mr. Chairman, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, the amendment that the gentleman from Louisiana [Mr. TAUZIN] and I are offering addresses the issue of the safe harbor for forward-looking statements—statements made by companies and others about the future prospects of earnings, products, technologies or the like.

Mr. Chairman, if a company fails to meet analysts' earnings projections—or other projections—because of changes in the business cycle or a change in the timing of an order or contract, the company often finds itself faced with a lawsuit. In fact, more than one out of every two companies in Silicon Valley have been subject to a class action securities lawsuit. Many of these lawsuits are based upon forward-looking information.

Once a company experiences a drop in stock price or if earnings fail to meet expectations, plaintiffs' lawyers use the discovery process as a fishing expedition to find any statements or records within a company that could support an allegation of fraud. Quite often, they base their charges of fraud on what they allege are false and misleading past statements of future expectations. Technology companies are prime targets for this type of senseless litigation because of the nature of the technology industry. By definition, forward-looking statements in the high tech industry involve a future product, innovation, or technology. Failing to meet one expectation or another is often inevitable.

Why is a safe harbor for forward-looking information important? Because the threat of costly and disruptive litigation has a chilling effect on the willingness of companies to make disclosures in the marketplace. And over the long term, less information results in a less efficient marketplace. According to a recent study, technology companies are sued far more frequently than any other industry, and pay the highest settlements of any industry—averaging over $9 million per case. A National Venture Capital Association study of over 200 publicly traded entrepreneurial companies found that 71 percent reported being more reluctant to discuss company performance with analysts or the public. To all of these companies, the SEC safe harbor rules have proven to be legally nonexistent.

Let me offer you two Silicon Valley examples:

John Adler, CEO, Adaptec, a Silicon Valley high technology company. Mr. Adler says Adaptec has adopted a "no communications" policy, which "means they say nothing beyond what they must disclose by law."

Scott McNealy, CEO, Sun Micro-systems, spoke of his company's policy of offering only "limited guidance" to Wall Street analysts. Concluding that the legal risks of providing earnings and revenue projections to Wall Street analysts are too high, the company no longer releases this information and refuses to comment directly on analysts' projections.

Mr. Chairman, technology companies are popular targets for class action lawsuits because of several industry-wide factors which provide grist for the securities litigation mill: First, they have many new cutting edge products, which sometimes do not succeed in the marketplace; second, their earnings and stock price are volatile; and third, they have a custom and practice of paying officers and employees in part with stock or stock options.

These factors are seized upon by plaintiffs' lawyers over and over again to create a false picture of fraud by technology companies, where none in fact exists. For example, if a company announces that earnings during the quarter were negatively affected by various external market factors, plaintiffs' lawyers proceed to sue the company, accusing it of fraud for having failed to predict the adverse effects of price competition, and so forth. These cases involve nothing more than fraud by hindsight, the basic theory of which is that the company should have known, or must have known, that the future would not be as predicted. The safe harbor rules have proven ineffective to stop this type of abusive litigation.

Faced with a barrage of suits alleging fraud by hindsight, it is no wonder that technology companies have become reluctant to provide forward-looking information to the market.

Another phenomenon which is almost universally experienced by technology companies, and is predominantly a function of customer behavior, is the extremely uneven pattern of bookings during a particular quarter. Many technology companies will experience a significant percentage of bookings in the last few weeks of a quarter—the so-called hockeystick—as a result of customers waiting until the end of the quarter to negotiate the best deal. The hockeystick pattern makes the task of predicting revenues and earnings extremely difficult, particularly for technology companies selling higher-priced products and equipment, where the loss of just a few orders will make or break the quarter.

A number of recent class actions have been brought against companies which missed the quarter, but did not know that would occur until just a few weeks—or in some cases, days—before the end of the quarter. Nevertheless, under the fraud by hindsight theory,

these companies have been sued for not having predicted the future, and for giving supposedly baseless statements of optimism at the beginning of the quarter. The safe harbor rules have utterly failed to protect these companies from abusive shareholder litigation.

Mr. Chairman, the litigation risks associated with making forward-looking disclosures also have been compounded in recent years by two key developments in the caselaw: First, the so-called duty to update, and second, the judicial refinement of the bespeaks caution doctrine.

Very frequently, companies provide soft forward-looking information to the market, such as "demand should continue to be strong for our products." The duty to update would authorize a claim, even when the original statement was true when made, if the company does not timely inform the market when demand no longer is strong. Under this rule, the requirement to track all forward-looking statements given to the market, including soft information, and continually update it, can quickly overwhelm the abilities of even the most dedicated of companies. Further, companies cannot reasonably rely on risk factor disclosures, since plaintiffs may argue that a company disseminated literally dozens of cautionary statements to cover all the specific risks and contingencies it sees in its futures business. In short, companies continue to proceed at considerable peril in making forward-looking disclosures.

Mr. Chairman, my amendment is intended to promote maximum disclosure by corporate executives by providing a safe harbor for forward-looking statements if, and only if, certain requirements are met. Only statements involving projections, estimates or descriptions of future events are covered. In order to be protected the statements must be referred to clearly as forward-looking statements or be understood as forward-looking statements. Second, the risk that such projections, estimates or descriptions may not be realized must also be clearly stated.

This approach has broad support in the business community.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(At the request of Mr. MINETA and by unanimous consent, the gentleman from Louisiana, Mr. TAUZIN, was allowed to proceed for 2 additional minutes.)

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

Mr. TAUZIN. I continue to yield to my colleague, the gentleman from California.

Mr. MINETA. Mr. Chairman, it is supported by the American Business Conference, the American Electronics Association, the Association of Publicly Traded Companies, the Business Roundtable, the National Association of Manufacturers, the National Venture Capital Association, and the American Institute of Certified Public Accountants.

More importantly, Mr. Chairman, this approach has broad support among recipients of forward-looking information—the investment community. The California Public Employee Retirement System [CALPERS] stated "We recommend that the existing safe harbor rule be amended to provide a safe harbor from private actions to any issuer who adequately couches its projections in cautionary language."

This amendment is also consistent with the recent testimony of the executive director of the Council of Institutional Investors, representing hundreds of local, State, and labor pension funds.

Finally, this amendment would not prevent the Securities and Exchange Commission from bringing an enforcement action against any person on the basis of a forward-looking statement. It would only curb "fraud-by-hindsight" alleged in private, speculative strike suits. So, Mr. Chairman, this amendment will finally provide some clear guidance to companies in the area of forward-looking statements; it will maximize disclosure and improve the efficiency of the market, and most importantly it will provide investors with the ammunition they need to make sound decisions based on maximum information.

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

Mr. Chairman, first and foremost, I want to congratulate my good friend, the gentleman from Louisiana [Mr. TAUZIN] and my good friend, the gentleman from California [Mr. MINETA] for offering this good amendment. It is an amendment that I plan to support. I encourage all of my colleagues to do so. In fact, on this side of the aisle, we have examined the amendment, and we would be more than happy to accept it.

I represent a community in my district that has a very high biotechnology presence, in Woodlands, TX. I am told constantly by these companies that they have to be very careful in what they say and how they disclose information. It is very difficult for them to communicate, particularly when they are trying to raise capital.

I think what the gentleman from California [Mr. MINETA] does in his statement is goes in a direction that provides that safe harbor, gives protection, and certainly puts investors on notice as to what is a forward-looking statement.

Let me also say that I believe this is a pro-investor, pro-disclosure amendment. I support it, because it is clear that if we do not provide an effective safe harbor for forward-looking information companies who disclose only boilerplate information specifically required by the Securities and Exchange Commission, in that instance, the investors does not win.

We have seen the study cited by my colleague. The threat of litigation has a chilling effect on disclosure of forward-looking information. In the end, investors are deprived of valuable information.

Mr. Chairman, we should face it, investors want company officials to talk about their future prospects. Investors want to hear the opinions of company officials, analysts, and others. The SEC has said this kind of information is important to investors, but company officials cannot know with certainty what the future actually holds.

That is so true for my companies in the Woodlands. When they in good faith respond to questions from analysts, or when they talk or write about trends and future uncertainties, they risk being sued by some plaintiff's lawyer at some point in the future.

The Securities and Exchange Commission itself has recognized that it needs to provide a safe harbor for this kind of information or companies will never in fact disclose that information. However, the rules the SEC wrote years ago just do not work.

The area of the gentleman from California [Mr. MINETA] is an example: 19 of the 30 largest companies in Silicon Valley have been sued since 1988; the aggregate settlement cost was $500 million. A National Economic Research Association study found that high-tech companies were involved in almost one-third of the settlements analyzed, making the industry a disproportionate target of securities suits.

A National Venture Capital Association survey found that 62 percent of responding entrepreneurial companies that went public since 1986 had been sued by 1993, so there has got to be change, Mr. Chairman. We think that the safe harbor provisions of this bill are strengthened by this Mineta amendment. It offers the companies and others the certainty that they need.

The amendment also gives investors that information they need. It ensures that investors will understand that statements about projections, estimates, and future events are just that, projections, clearly identified as such. It requires that clear warnings are given that these projections may not be realized.

If these requirements are met, and only if these requirements are met, the safe harbor will be available. This is the Speakes caution doctrine, which courts have recognized. This is hardly a radical or new idea. We have had far too many lawsuits based on fraud by hindsight after people of good faith have made forward-looking statements, or for reasons beyond their control, fell short.

This amendment would curb those abusive private actions, but it does not affect the SEC's enforcement powers in any way. If the SEC has found any company has attempted to take advantage of the safe harbor by committing fraud, it could bring an injunctive action against the company, impose civil

fines, impose sanctions on its officers or directors, refer the matter to criminal authorities, and get a court to order disgorgement of any illegal profits.

The range of enforcement powers of the SEC are simply not effective, so any suggestions that fraud would go unremedied are unfounded. This would also make it clear that the SEC has the authority to write additional safe harbor rules.

This is especially important because this amendment applies only to actions brought under the Exchange Act.

I want to conclude by complimenting my good friend, the gentleman from California, who has been a leader in this particular area, and also I want to compliment my good friend, the gentleman from Louisiana [Mr. TAUZIN].

□ 1545

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

Mr. Chairman, I rise in support of the Mineta amendment. It will take only a minute of my time, but I want to clarify for my colleagues what the amendment will do and what the amendment will not do. This amendment will result in greater disclosure of information to investors. It will encourage corporate officials to give investors useful information about their future plans. It will prevent the "fraud-by-hindsight" lawsuits that are crippling our high-technology industries.

The bill will not give corporate officials a license to lie, because the authority of the SEC, the State regulators, the Justice Department and other law enforcement agencies will not be affected. It will not permit brokers or others to make promises about the company's prospects, because it clearly does not cover statements that are promises or assurances and it will not change the law of insider trading. If corporate insiders try to hype their company's stock and bail out before the investors know the real facts, they can be sued by the investors as well as by the SEC.

This amendment simply says that when company officials talk about the future, the statements must be taken in context, and when they give clear warnings that their projections or estimates may not come true, they cannot be sued by private actions.

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

Mr. FARR. Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding. I asked him to yield for only one purpose and that is indeed to congratulate the gentleman from California for the excellent amendment.

This amendment has the unique advantage of being supported by both the high-technology community, which is the subject of many of these lawsuits, and by many investor groups. For example, CALPERS, the California public employees investment group, is in support of this approach. The executive director of the Council of Institutional Investors, a group of large corporate and labor union pension funds, has endorsed this approach. It is the right approach, it brings us closer to the bill the gentleman from California [Mr. MINETA] himself has cosponsored and filed in this session and in former sessions of the Congress. I want to congratulate him again for this fine work and urge adoption of the amendment.

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I too want to join in congratulating my colleague, the gentleman from California [Mr. MINETA], for offering a very constructive proposal on safe harbor. It is in fact part of the legislation that we had intended to change in the committee but because of our deadline to bring the bill to the floor, we determined that it would be best accomplished on the floor of the House. But I do not want anyone to think that because this amendment is being made on the floor that it has not been carefully discussed and thoughtfully considered.

It has had the complete benefit of analysis by every member on our Committee on Commerce, and I think the gentleman from California, who is not on the committee, is to be congratulated for broadening that discussion and that debate and the support for this amendment to be on the committee.

This amendment does a number of things that is really long overdue in the area of forward-looking information. It codifies the "bespeaks caution" doctrine in effect, something that we have found very workable in the common law, and now we are making it very clear as a matter of congressional policy, very clear as a matter of statute, that we intend to do that in the securities laws themselves, in the positive law.

A very important part of this amendment is that it will permit people who project honestly and diligently the future as best they can with the limited tools that all of us have to prognosticate, permit them to avoid a lawsuit on the basis of those statements.

CALPERS testimony was just referred to by my colleague the gentleman from Louisiana. I want to read just briefly from that testimony. This is of course a huge investor of pension funds. Their view is from the investor standpoint.

They say, "By definition projections are inherently uncertain."

"The more such statements are based on assumptions susceptible to change, the less useful they are in assessing prospective performance. Investors recognize this and appropriately discount the importance of such information when making investment decisions. We see no reason why investors should then be allowed to rely upon such statements in an action for fraud after the speculative nature has been fully disclosed."

That is precisely the basis for this amendment. What my colleague the gentleman from California does in his amendment is put into law a clear, understandable and readily accessible procedure to automatically stay discovery and to avoid all the rest of the lawsuit while the court takes a look at whether the safe harbor applies and we do not get ourselves mixed up in long months and years of discovery on the general lawsuit itself until first we dispose of this question of the safe harbor. It makes it truly a safe harbor.

This is very much the approach that I think we ought to take. For some time, we have asked the SEC to help us with rules in this area. But as we worked on this legislation, we discovered that the SEC itself did not want the responsibility of writing the court procedures for early dismissal of an action, the court procedures to stay discovery, because that would put an independent agency of the Federal Government in the business of writing rules to govern the article 3 courts. It is appropriately the role of Congress to do that in the statute.

I think what we have got here, in sum, is a safe harbor provision that will work, it is clear and easy to understand for all of the people, not just the issuers of securities but people who talk about securities, for their business, the analysts, the people on the telephone and so on, people will not be afraid to talk about the future anymore for fear of a lawsuit; and we have satisfied the concerns of investors who desperately want this information.

Right now, we have something of a black market in forward-looking information. Nobody wants officially to state for the record, least of all CEO's speaking to the press, what might happen in the future of their company because they know they might be sued if they are wrong, if they guess wrong about the future. But investors all want this information. They are interested mildly in the track record of a company, what has happened in the past, but what they really want to know is what is going to happen if I buy this security, if I buy this stock or this bond today, tomorrow and the next day, what will happen in the future, is this a good investment or not?

It is that future information that matters the most, that is what the market demands, and the market gets it after a fashion right now, they get it in whispered conversations, under the table, it is a black market, it is not the best information, it is not the highest quality information, and we would like it to be. That will be the effect of this amendment. It has been adequately

demonstrated, I think, to everyone's satisfaction that this will help investors in that fashion, it will help issuers, it will stop frivolous and abusive lawsuits, which is precisely the centerpiece of this bill.

I heartily endorse it. I congratulate my colleague the gentleman from California for bringing it, and I am happy to support it.

Ms. HARMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

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

Ms. HARMAN. Mr. Chairman, I am pleased to join in the bipartisan effort to clarify and improve upon the safe-harbor language contained in the securities litigation reform bill.

Investors, the SEC, and securities analysts all agree that forward-looking information, that is, information about a company's future prospects, is critically important to investors. Such information is particularly important to investors of high-technology, high-growth companies, whose very existence pushes the boundaries of technology that are essential to our economy's future growth.

By their very nature, the statements of these companies involve a future product, innovation, or technology whose performance is subject to the vagaries of the economy.

By their very definition, projections of performance are inherently uncertain and it is often inevitable that the company will fail to meet one or more analysts' expectations.

When these companies fail to meet analysts' expectations, they often face abusive lawsuits, which sap resources that could otherwise be used for research, product promotion, and market development.

As a consequence, corporate executives have been increasingly reluctant to make forward-looking statements. They are unwilling to put scarce assets at risk if a product is delayed or an earnings estimate is not met.

A study by the National Venture Capital Association of more than 200 publicly traded entrepreneurial companies found that 71 percent reported being more reluctant to discuss company performance with analysts or the public.

While the immediate loser of such practices are the companies dependent on raising capital in the markets, the ultimate loser is the investor, for whom these statements are invaluable sources of information.

Thus, it is not surprising that the safe-harbor language offered by my friend from Silicon Valley is supported by the investment community, the recipients of forward-looking information.

One of the largest institutional investors, the California Public Employee Retirement System said that "a revision to the safe harbor is warranted in order to better balance the dual objectives of maintaining efficient capital markets and promoting investor protection." The safe-harbor amendment achieves this balance.

I urge its adoption.

I yield to the gentleman from Louisiana [Mr. TAUZIN].

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

I want to congratulate her on her statement. It is exactly correct. The adoption of this amendment not only furthers the cause of this legislation, which is to encourage good disclosure, but certainly to make it clear that forward-looking statements, particularly when they are carefully framed the way this amendment requires them to be so that investors are warned in advance that these projections may not be realized, is the way in which to protect against both these kinds of lawsuits, and at the same time encourage information to come forward above the table, not under the table.

I congratulate the gentlewoman on her statement.

Ms. HARMAN. I appreciate that.

I would make one additional point, that is, the bottom line from this amendment is more information, not less, to investors, and everyone wins from that practice.

Mr. TAUZIN. The gentlewoman is correct.

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

Mr. Chairman, the subject matter on the floor at this time is an extremely sensitive one, because it deals with the public materials made available to investors in this country, and upon that information, investors make their decisions as to whether or not they should put their money into any particular company in this country.

If you are CALPERS, that is, this huge institutional investor, you do not have to worry. You are able to hire dozens of extremely sophisticated analysts to give you all the information you want. So it would make sense for CALPERS to sign up on something like this. I think they are wrong. I think they should be embarrassed, because they know that the ordinary investor does not have the same kind of access to information. Perhaps they are looking for more people to sign into CALPERS as their agent to do this kind of analysis. But for the ordinary investor, they are dependent upon the prospectuses, upon the annual reports, upon the registration reports, upon the quarterly reports of publicly held companies.

Now, a forward-looking statement under historical definition is one which the company makes projections about what they think is going to happen. Inside the contours of that statement, they have to be respectful of the truth as opposed to absolute outright conjecture.

For example, you cannot say today in your forward-looking statement, "And over the next year, we expect to find the cure for AIDS. And we expect to see our stock increase in value 1,000 percent."

"And, by the way, the cure for cancer could come in one year, but that might be a two-year project and then we expect to see yet a doubling again of our stock."

That kind of forward-looking statement historically has not been allowed, unless you know that is going to happen, because people might think that you are asserting that you are going to find a cure for AIDS, or for cancer, or some other breakthrough in some other area of American entrepreneurial endeavor.

You can, however, make a forward-looking statement about what you think looks reasonable for the future, reasonable.

What we have in this amendment is for all intents and purposes not a safe harbor. A safe harbor is something we can all support and historically we do, and the Securities and Exchange Commission right now is in the process, as the experts in this field, of drafting new safe harbor legislation, new regulation for this country.

□ 1600

But if this particular amendment passes, we are going to have to change the old statement to be amended to "lies, damn lies, and forward-looking statements" because you will be able to say whatever you want and you will be protected.

And here is the language in the amendment that makes that possible, it is pretty simple:

> A person shall not be liable with respect to any forward-looking statement if the risk that such projections, estimates, or descriptions may not be realized is made part of the statement.

So you just have to say after 30 pages of describing the cure for AIDS and the cure for cancer, psoriasis, and baldness and then put in one sentence that says, "the risk that such projections, estimates, or descriptions may not be realized," that is it, that could be a footnote, but it will be in there after 30 pages.

Now if you are CALPERS you will find it. You are hiring summa cum laudes from Stanford or Harvard Business School to read these things for you. You are investing billions of dollars. But what about the tens of thousands of individuals who are just going to be relying upon a prospectus? They are going to be reading this statement without any real knowledge that in fact this one little sentence is the disclosure, the inoculation against suit

after you put your life savings in this company thinking they are guaranteeing.

So I do not have any problem with forward-looking statements. As a matter of fact, I could even construct this amendment.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

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

Mr. MARKEY. I can even imagine a situation where we draft something that allows for even those kinds of statements to be made. But of course we would have to put some kind of skull and crossbones around it and inside of the statement so we differentiated it from the facts ma'am, nothing but the facts in terms of what the actual condition of the company is.

So this is, in my opinion, a very dangerous amendment. We can change the forward-looking statement regulations of this country. I do not have any problem with doing that and I think a lot of CEO's in this country need some relief, and I think we can work with them to do it. But the way this is drafted right now, the single worst, most unscrupulous business executives in this country will be free to make any kind of misstatements they want and by just making this very simple disclaimer that the estimates may not be realized, they are off the hook. And they will hire the fanciest law firms in America to draft a 30-page statement with this one line in it and it is caveat emptor out in the marketplace, running completely contrary to our long history of disclosure and protection for investors.

So this is not a safe harbor, this is a safe ocean of fraud, and the SEC will have to wage a two-ocean struggle with limited resources to keep track of all of the fraud and misrepresentation that will be possible. I sincerely hope that the Members would reject this amendment. I think it can be drafted in a way which does in fact comport with the needs to reform the forward statement conditions under which we are now operating, but this is not that amendment.

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

Mr. MARKEY. I am glad to yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has again expired.

(At the request of Mr. MINETA and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. MINETA. Mr. Chairman, under the example the gentleman gives, it seems to me that the SEC would still be able to bring an action against the individual, or there are State regulations or there is common law fraud that would still subject the maker of those kinds of statements to action.

Mr. MARKEY. If I may reclaim my time, it is not the SEC we are talking about in this particular legislation, it is the investor, him or herself who will be limited in their ability to sue to get money back for themselves.

Mr. MINETA. In my opinion, if my friend would further yield, it seems to me that again in those instances, the gentleman used the example of CALPERS as a number of us did, it seems to me that whether they are sophisticated individuals who are investors, or the grandmother who wants to buy stock for grandchildren, that they would still be subject to the provisions of this bill and that they are going to be subject to suit.

On the other hand, let me also mention where the gentleman said the SEC is drawing rules on this right now, as I understand it they are just looking at the issue. They have done nothing to get into rulemaking or even holding a hearing on this issue.

Mr. MARKEY. If I can reclaim my time, the SEC comment letter to the committee on it said:

> Because the Commission is in the midst of a rulemaking proceeding, it would be inappropriate to take a position on the substantive safe-harbor provisions. The most appropriate solution to the issue, from the Commission's perspective, would be a provision directing the Commission to complete its rulemaking proceeding and report back to Congress.

So they are in the midst of doing the rulemaking on this issue right now and they have been, and again, the point is that we are stripping individuals from their ability to sue, not the SEC to bring an enforcement action. We want some ordinary person who has put $50,000 or $100,000 of their own money into a company, maybe even $1,000 of their own money into a company under completely, or almost fraudulent, not almost, but actually a fraudulent set of misrepresentations made by the company.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I am new to Congress and new to the Commerce Committee. I would like to say in the very short period of time I have been on the Commerce Committee I have developed a great deal of respect and even admiration for the gentleman from Massachusetts. I think he does a very good job of explaining his points to us. But I have to say he is absolutely dead wrong on this issue because this is a case where it is the ordinary investor not the large investor that will benefit from this amendment.

The securities laws as they exist now are an example of laws that are distorted by our legal system to work against the purposes for which they were actually intended. These laws were designed to promote disclosure, and yet the threat of liability is so great, the uncertainty is so great, that companies are restrained and prevented from disclosing information that they would like to disclose.

It is not the large investor who suffers. The large investor will figure out that information. They do have staffs, they can get that information on their own, but the small investor, precisely the person who needs to have this information and who would benefit from a little bit greater information flow, does not get this information.

Mr. Chairman, I spent the last 15 years or so representing small companies in the Seattle area, and in that area we have hundreds and hundreds of small technology companies, biotechnology companies, just the sort of companies that would love to disclose lots of information to the public. They do not do so because of the threat of liability that exists under the current law.

It is absolutely essential for the ordinary investor to get this information, and this amendment is long overdue to allow that information to be disclosed.

So I would urge every single one of my colleagues to vote for it.

Mr. FIELDS of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. FIELDS of Texas. I appreciate the gentleman yielding because it is important to focus this debate again on companies that have actually been affected, and the fact that the safe-harbor language that is currently in place does not work.

Netrix, a typical small company located in Virginia went public in September 1992, and in 5 months the company's stock doubled in value. In February the company announced that the first quarter earnings for 1993 would be disappointing. The stock fell and the company was immediately hit with a lawsuit. In the weeks following the filing, Netrix had to produce 50,000 documents and 200,000 electronic messages to plaintiffs' attorney. The company estimated that to defend the suit would cost $250,000 and possibly millions more if it lost in an extended court battle. They settled the suit for $975,000. The lawyers got 33 percent plus expenses, shareholders were left with what amounted to about $400 per person.

Silicon Graphics, a California computer company, has been hit by four class action lawsuits in the past 3 years. In 1991 the company was hit with a lawsuit. The CEO, Ed McCracken, decided to fight the suit. After 1 year of legal dispute, the judge dismissed the suit. Two other law firms sued the company again. After another year of dispute, they settled for an undisclosed amount, perhaps close to $1 million. By that time the company had spent more than $1 million in legal fees.

Legent, a Virginia software firm, was sued within hours of acknowledging in

July 1993 that its quarterly earnings would be lower than expected. Over the next 8 to 10 weeks the company had to provide 290,000 pages of documents to respond to plaintiffs' subpoenas. The CEO of the company spent nearly 90 percent of his time preparing the company's defense. Legent wanted to settle but was outraged by the amount. A Federal judge finally dismissed the charges, but by that time the company had spent $2 million in legal fees.

Mr. Chairman, this is abusive, particularly when you realize that the vast majority of the suits are against these high-technology developing, emerging companies.

We need the amendment offered by my good friend from Louisiana [Mr. TAUZIN] and the amendment offered by the gentleman from California [Mr. MINETA]. This is necessary for this legislation.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I thank the gentleman for yielding. I want to concur with the gentleman's earlier assessment that the safe harbor protects investors of all sizes. There is certainly no reason to think that the same investor who in one of the litigations that is covered in other parts of this legislation, who would be relying upon the fraud-on-the-market doctrine, would not rely for the same effect on what CALPERS or other large investors are doing when they assess information.

The market price, according to the fraud-on-the-market doctrine reflects knowable information enacted in a liquid market, and if we have big institutional investors that are pouring over all these prospectuses, reading all of the press releases and so on, if they are the big market makers and traders, of course, that gets translated to the price under what we call efficient markets theory as quickly as can be.

The CHAIRMAN. The time of the gentleman from Washington [Mr. WHITE] has expired.

(At the request of Mr. COX of California and by unanimous consent, Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. COX of California. Mr. Chairman, would the gentleman yield?

Mr. WHITE. I am happy to continue to yield to the gentleman from California.

Mr. COX of California. Once that market price then reflects the assessment that CALPERS or some other institutional investor has made of forward-looking information, an individual who does not read the prospectus is put in the position of benefiting from that expertise. That is how the fraud-on-the-market doctrine works. That is why we were asked to put it into the legislation.

So it really does not do to say that the individual investor is left only with the prospectus, because as the gentleman knows, most individual investors, would that it were otherwise, do not read those prospectuses. It would be a much better market if everybody did, but just as shoppers go into grocery stores, and so many hasty shoppers like I used to be before I had kids, I would hurry myself down the down the supermarket aisle and just grab things, and go down the checkout and I would depend on all of the other shoppers actually looking at the prices in the supermarket and that is what kept the supermarket honest. It was not CHRIS COX when I was moving down the aisle that quickly.

But it is the same way with individual investors who would buy so many shares of stocks. They are not for such a trivial investment going to read the prospectus and read everything available to the investors, but somebody is, and it is in fact the case that the market is capable of discounting forward-looking information.

What is most important about this amendment is that the quality of forward-looking information that we have not got under the current rules is defective and it is injuring investors. Bad information is being traded on because it is the only information in many cases. When companies know things that could be of use to investors they are sitting on it because it may affect the future and they are afraid to say yes or no, here is what is going to happen. And we have material event disclosure already. We have to talk about things as they occur, but what about having a best estimate of the future? That is what investors want to know and that is what this amendment will get out to the marketplace.

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

Mr. Chairman, I am going to try and make this simple enough so that all of my colleagues can understand, and so that a Philadelphia lawyer is not needed to interpret what is about here.

□ 1615

This does not deal, the amendment, with the authorities of the SEC. It deals, however, with the authorities of the ordinary citizen to go to court, to sue over matters in which he has been deceived, hoodwinked, or in which he has been taken advantage of my someone who has made a forward-looking projection or statement, provided that meets certain tests. Those tests are really very simple. They say that the disclosures are forward-looking statements and, second, it refers to the risk that the projections made may not be realized.

Once those two tests are met, no rascality, no deceit, no duplicity, no outrage, no falsehood, no misleading statement is of a character which would ban a citizen to go to court to seek redress for the fact that he has been deceived and that he has lost money because of that condition. That is all it says.

This is an immunity bath for wrongdoing so long as the disclosures say that they are forward-looking statements; and, second, that it refers to the risk that the projections may not be realized. If those conditions are met, this is an immunity bath, and any kind of rascality, any kind of deceit is fully justified.

This is an amendment which would have been loved by Mr. Ponzi, who was the builder of enormous fiscal undertakings which were bottomed on fraud, holding companies, and other kinds of misbehavior. This is the kind of proposal that would have been loved by Mr. Insull, who built himself an enormous empire of electrical utilities through devices which would have been sanctified under this by simply the use of the two devices which are set forth in the language of the amendment.

It will only be a little while if this is adopted into law that Members of Congress are going to have people saying, "Why is it that you permitted this kind of behavior to go forward?" And we are going to have to address our constituents as to why it is we have taken from the American investing public the protections which they now have with regard to truth, fairness, honesty, and integrity in the marketplace and in reporting and disclosures. It has all been done on the thesis there are a bunch of slippery lawyers out there forming a large number of citizen suits which I happen to think is occasionally a very good idea, but it is important that they keep in mind one thing: the end result of this is going to be that citizens are going to be less able to protect themselves from wrongdoing, and the protection that we have built up over prospectuses and other things is going to be shrunk significantly by the unfortunate language of this amendment.

Mr. HASTERT. Mr. Chairman, I rise in support of the amendment by the gentleman from California.

This amendment, to provide a true safe harbor, strikes a balance between the need to encourage companies to provide information to the marketplace and the need to protect investors.

The amendment requires companies to include a cautionary statement in their prospectus for investors. This statement, describing activities expected to be undertaken by the company, would make it clear to investors that the statement is forward-looking and inherently subject to risk because the statement may not come to pass.

If investors are properly warned, then the company will not be subject to suit for the statements made. This provides a true safe harbor for companies that want to reveal as much information as possible.

The amendment will also make clear that the SEC has the power and flexibility to provide other safe harbors.

The safe harbor provisions offered up to this point do not provide clear definitions, so they still leave companies vulnerable to lengthy and expensive litigation. It's not really a safe harbor if the jagged rocks and sandbars of continued litigation threaten to run U.S. companies aground.

Therefore, I urge my colleagues to adopt this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WYDEN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WYDEN: Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly).

SEC. 6. FINANCIAL FRAUD DETECTION AND DISCLOSURE.

(a) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 is amended by inserting after section 13 (15 U.S.C. 78m) the following new section:

"SEC. 13A. FRAUD DETECTION AND DISCLOSURE.

"(a) AUDIT REQUIREMENTS.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission, the following:

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting any audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred, and (ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(A) any such illegal act has a material effect on the financial statements of the issuer,

"(B) senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to such illegal act, and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard auditor's report, when made, or warrant resignation from the audit engagement,

the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors has received a report pursuant to paragraph (2) shall inform the Commission by notice within one business day of receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished the Commission. If the independent public accountant making such report shall fail to receive a copy of such notice within the required one-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) within the next business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—An independent public accountant electing resignation shall, within the one business day following a failure by an issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rules promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C of this title, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b) of this section, then the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination whether to impose a civil penalty, and the amount of any such penalty, shall be governed by the standards set forth in section 21B of this title.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except for subsection (d), nothing in this section limits or otherwise affects the authority of the Commission under this title.

"(f) DEFINITIONS.—As used in this section, the term 'illegal act' means any action or omission to act that violates any law, or any rule or regulation having the force of law.".

"(b) EFFECTIVE DATES.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1996. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1997.

Mr. WYDEN. Mr. Chairman, this amendment stipulates that if there is a major fraud perpetrated at a corporation and corporate management refuses to correct the abuse, the corporation's accountant would be required to report the fraud to government regulators. This amendment is important to the legislation we are working on, because fraud and abuse often result in securities litigation. By providing new tools to root out financial fraud, Congress can help prevent securities lawsuits from ever being filed.

Now, we all know that it is simply impossible to wave a wand and prevent greed. The taxpayers and investors have a right to expect that corporate management, to whom they entrust their savings, will not go out and steal from them, and our citizens have a right to expect that those that they rely on to alert them to outright egregious cases of fraud, the public accountants who audit the corporate financial statements, will be at their post and ready to blow the whistle on a rogue executive. The Resolution Trust Corporation estimated that 40 percent of the savings and loan failures were attributable to fraud, but yet time after time the public accountants either did not know what was going on or simply did not tell anyone. The files now bulge with examples of companies that were shut down after receiving a clean audit.

For example, the General Accounting Office found that 28 of 30 savings and loans went bankrupt in California in 1985 and 1986 after receiving clean audits shortly before they went under. A most notorious example involved Mr. Keating and Lincoln Savings and Loan. The judge, when this case went to court, issued a blistering opinion and asked, "Where were the professionals when these clearly improper transactions were being consummated? Why didn't any of them speak up or dissociate themselves from the transactions?"

Had the accountants blown the whistle when they should have, Mr. Keating could have been shut down much earlier and taxpayers and investors could have been saved a lot of money.

This amendment will provide the investing public with a truth serum for the corporate financial statements.

The fun-house mirror that is used by ripoff artists and those with fraudulent intentions can be shattered. The word "public" in the title "certified public accountant" means that the auditors work for the public and not for management. They are not paid to compile a company's financial statements. That is the job of the internal auditor. The public auditor is paid to certify to investors and creditors that the statements that are compiled by the firm are accurate.

Let me close by saying that the Securities and Exchange Commission and the State securities regulators have long supported this amendment. To their credit, the accounting profession is now in support of the legislation.

I think that the staff on both sides, both the majority and the minority, probably can recite the language of this amendment by heart. We have worked cooperatively on this for many years.

Mr. Chairman, I yield to my friend, the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Chairman, I appreciate the gentleman yielding, and he is absolutely correct in the work that has been done through the years, the labor that he has put into this particular amendment.

I support the amendment, because it provides a more efficient mechanism for an auditor to report the discovery of acts of questionable legality to management, the board of directors, and, if necessary, to the Securities and Exchange Commission.

The current practice requires an auditor to resign if illegal practices are not addressed by the company. This can create an obvious disincentive to an auditor doing the right thing and pursuing his discovery up the corporate chain of command until it is addressed.

This amendment is the same legislation our committee and the House have reported out before, and I urge my colleagues to support the gentleman's amendment.

Mr. WYDEN. I thank my friend for his very gracious statement. He is absolutely right. We have passed this from our committee unanimously on several occasions.

Mr. Chairman, I would conclude by asking unanimous consent that debate on this amendment and all amendments thereto be limited to 15 minutes, equally divided, with the time I have already consumed to be counted against our side.

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

There was no objection.

The CHAIRMAN. Is any Member opposed to the amendment?

If not, the Chair will allocate the remaining time by unanimous consent.

Mr. FIELDS of Texas. Mr. Chairman, if it is possible, we would like the time divided at this point. I do not have any requests for time, but I never know when someone might come on the floor, and I would ask if the gentleman would mind dividing the time equally.

Mr. WYDEN. I would be happy to do that, Mr. Chairman.

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. FIELDS] controls 7½ minutes.

There was no objection.

Mr. FIELDS of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman very much for yielding. I asked him to yield only because this is going to be a consensus, and the gentleman from Oregon has already consumed most of his time, and I would like to have an opportunity to hear him again before the amendment is put to the House.

The Wyden amendment is consistent with H.R. 1058's goal of curbing the explosive growth of securities fraud lawsuits. It requires frauds to be detected, reported, and corrected before they become lawsuits.

The Wyden amendment will restore the confidence of the investing public in the integrity of financial disclosures made by public companies. It requires that audits include procedures designed to detect fraud and related-party transactions as well as to evaluate the issuer's ability to continue as a going concern.

It deters frivolous lawsuits against accountants by precluding private rights of action against accountants for any finding, conclusion, or statement expressed in the fraud reports made to the SEC by the accountant or by the accounting firm.

The amendment has already been reported unanimously twice by the full House, three times by the full Committee on Commerce. It is based on a solid record of 34 days of hearings conducted since 1985. It is a voluminous set of reports which covers just about every case from ESM to the American Savings & Loan Association case to the Home State Savings, the Z.Z. Best, Mission Insurance, Transit Casualty, the whole range of issues that have been raised over the last decade.

The gentleman from Oregon [Mr. WYDEN] has synthesized it into a single amendment with a set of recommendations which we believe go a long way toward insuring that there will be early and adequate detection of fraud by the accounting firms of this country, while inoculating them against suit in any of the activities which they undertake pursuant to the amendment which we are now considering.

Mr. FIELDS of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I, too, want to say not only a good word in favor of this amendment but in favor of its author. The gentleman from Oregon [Mr. WYDEN] has been a stalwart advocate for the proposition that when accountants do detect fraud that they make it known; they have a public responsibility, even though they are working for a private firm. His efforts in the last Congress to pass this amendment as a bill and move it into the Senate are well known by his colleagues on the Committee on Commerce, and I just want to make sure that the American public also is aware of his tremendous efforts to do that.

His efforts, combined with this bill, I think, will produce a combination that says when the public gets information it is going to be good information. When accountants detect fraud, it is going to get reported. We will have a better system that leads to fewer lawsuits and much more accurate information and hopefully many less of the problems that have engendered the debate we have had today.

The gentleman has been an extraordinary advocate of this proposition. I have been pleased to join with him in the past in favor of this bill.

I am pleased to say to the accountants' association, who have worked with him and I on this bill, and in deep support of it, and are anxious to see it become law, they, too, have recognized their public responsibility in this area as the gentleman has pointed it out so many times in the past.

I think we have come to closure on this issue. We begin to build a much better system with fewer lawsuits, hopefully fewer problems for investors, fewer problems for all of us who do not want to see problems settled in court, but want to see good investments made with good information, and I again want to congratulate the gentleman and thank my friend from Texas for yielding.

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

Let me just say that over the last 6 or 7 years under the leadership of the gentleman from Michigan [Mr. DINGELL] and the gentleman from Massachusetts [Mr. MARKEY], our subcommittee has held more than 20 hearings to examine the kinds of fraud that this amendment deals with.

□ 1630

That has been the bipartisan tradition in the Committee on Commerce. I want to thank the gentleman from Texas [Mr. FIELDS] for continuing that bipartisan tradition. I think this is going to help reduce the kind of problems that make for securities litigation.

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

Mr. FIELDS of Texas. Mr. Chairman, I want to compliment our friend, the gentleman from Oregon [Mr. WYDEN], for this amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BRYANT OF TEXAS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BRYANT of Texas: Page 18, beginning on line 6, strike subsections (b) and (c) and insert the following (and redesignate the succeeding subsections accordingly):

"(b) PLEADING REQUIREMENT.—In any action arising under this title in which the plaintiff may recover money damages only if it proves that the defendant acted with scienter, the plaintiff must allege in its complaint facts suggesting that the defendant acted with that state of mind.

Mr. BRYANT of Texas. Mr. Chairman, one of the most, I think, difficult to understand portions of the bill before us today is the portion that has heretofore not been focused upon, regarding the requirements for pleading the case when a person might file if he has been defrauded by someone in the business of issuing securities.

The requirements of H.R. 1058 will, in simple statement, be impossible for real-life plaintiffs to meet because they require that investors who bring securities fraud cases must make specific allegations which, if true, would be sufficient to "establish," which word comes from the bill, to establish that the defendant had acted knowingly or recklessly. That means prior to discovery when it is virtually impossible for plaintiff to establish the facts that would be necessary to meet this new requirement that would have to be known and filed with the case in the beginning or you could not even proceed.

I want to quote now: Plaintiffs would be required "to make specific allegations, which, if true, would be sufficient to establish Scienter as to each defendant at the time the alleged violation occurred."

That is to establish a knowing element on the part of the actor, the defendant, at the time the defendant committed the alleged violation.

Obviously, no defrauded investor could pursue a claim for fraud unless that plaintiff is lucky enough to have the clearest proof of each defendant's state of mind before filing suit.

State of mind is one part, but in spite of the specificity requirements of the Federal rules, state of mind is one part of the case that you cannot know, cannot prove in the beginning. Prof. Arthur Miller of Harvard University testified that an excessive pleading such as proposed in this bill is totally unrealistic. It is only in the rarest cases that this type of evidence exists in the beginning.

So, not only are we raising in this bill the bar so high that it would be almost impossible to win, not only are we making it impossible for average person to file cases because of the loser-pays provisions, but we are now saying that their filing must, in effect, allege, specifically cite so much evidence that you could prove the state of mind of the defendant from the very beginning.

Financial claims are complicated, more so than other types of cases. In many cases it is difficult to even understand the basic transaction. It can take years of work, reading documents and questioning witnesses to be able to put together the case to determine the defendant's state of mind.

Obviously, corporate defendants are not ignorant. They know not to make statement up front that can be used in this fashion. so it leaves the defendant or the plaintiff in a very, very difficult situation.

We had the director of the securities division of the Utah Department of Commerce, Mark Griffin, who testified on behalf of the State regulators, that,

This new pleading requirement would go well beyond what are current acceptable standards of pleading fraud with specificity. For example, plaintiffs may not know at the pleading stage information about a defendant's state of mind, which is usually not within a plaintiff's knowledge until after discovery.

No Federal court currently requires a pleading standard that is anything like the provision in this bill. Our distinguished former colleague, Judge Abner Mikva, now counselor at the White House, said it is very hard indeed, and almost impossible, for a plaintiff to know such things about a defendant's state of mind before his lawyers obtain documents and testimony in discovery.

In addition to the stat of mind requirement, this bill has a second flawed pleading requirement. Again, at the beginning of the case the plaintiff would have to set forth "with specificity all information," they have to give all the information in advance that forms the basis for the allegations of the plaintiff, meaning any whistleblower within a securities firm involved would have to be uncovered in the pleadings in the very, very beginning.

Third, a further deficiency in this bill is the language limiting the plaintiff to one amended complaint. That is, you file your complaint, and you had better comply with the specificity requirements I just mentioned and you only get one chance to amend your complaint.

Now, let me compare this, for example: In the suite filed against Charles Keating, talking about the civil suit filed by the defrauded bondholders in southern California, it was necessary for them to amend their securities complaint six times as new facts were discovered.

In the ZZZZ Best case, a notorious fraud in which the perpetrator and 10 others were convicted of crimes, there were 5 amended consolidated complaints before the case was allowed to stand.

As currently written, the bill would have prevented these cases from going forward, simply put.

My amendment would replace with the language my good friend from Louisiana [Mr. TAUZIN] set forth in H.R. 417, as introduced in the 103d Congress, with 180 cosponsors. The gentleman from Louisiana's [Mr. TAUZIN] language is better than what is in the bill today. What it simply says is there would be a heightened pleading requirement that goes well beyond current law with respect to fraud, but it is not so high as having to establish fraud without hard evidence.

My amendment would require that plaintiff alleged facts suggesting that the defendant acted intentionally or recklessly. It is the same language the gentleman from Louisiana [Mr. TAUZIN] used, the same language as cosponsored by the gentleman who is offering this bill today.

It is a heightened pleading requirement which was acceptable last year, and I would hope it would be acceptable this year. For goodness' sake, after all the other barriers raised in this bill, do not make it impossible for them to even file the case.

I urge support of the amendment.

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

Mr. Chairman, again I can appreciate the sincerity with which my colleague from Texas comes to the well. But pleading with specificity is something that every attorney should be prepared to do. Otherwise, the burden is unfairly required to guess what that person did wrong, what the defendant did wrong in a given set of circumstances.

H.R. 1058's provision is plain common sense. It requires a complaint to specify the statement alleged to be misleading. You have to ask the question: Is that unreasonable? Should not a defendant be told what he said or did not say that was misleading or fraudulent or that there was intent? The complaint must also specify the allegations which, if true, would be sufficient to establish scienter. Is it unfair to say to a plaintiff who wishes to sue for fraud that that plaintiff must plead the facts that, if they are later proven, would establish the case for fraud? To do otherwise is to sanction lawsuits where the plaintiff forces the defendant to guess how the defendant felt instead of merely producing evidence to defend himself.

Mr. Chairman, we talk about this all day, but what we are really aiming at in this legislation is to stop the frivolous lawsuit, not to stop the lawsuit, where there is a fraudulent statement

made directly or indirectly by the defendant. We do feel that the defendant—it has to be shown that the defendant made such statement knowingly or recklessly and that the defendant possessed the intention to deceive, manipulate, or defraud. If we do not have a more specific pleading requirement in this statute, then you are going to see continued what has already been discussed today, and that is people watching to see stock prices fall, coming in with a very general pleading, going into protracted discovery where all types of information is required, tying up the efforts and the resources of offices and directors of that particular corporation.

We do not think it is too much to require that, under this particular type of lawsuit, there be better and greater specificity.

Mr. BRYANT of Texas. Will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. I thank the gentleman for yielding.

Mr. Chairman, I would just like to point out that the language which is in my amendment is exactly the same amendment which Mr. TAUZIN introduced in the bill last year and which I suspect the gentleman from Texas, Mr. FIELDS, probably cosponsored, because 180 Members did. That was the bill to address the problem that this bill is addressing today, reportedly. Why would not the standard be as good as when it was introduced last year?

Mr. FIELDS of Texas. Mr. Chairman, we had the opportunity, first, to work on that piece of legislation. Second, the dynamics in this House and the Senate have changed. If you look at the requirements for explicit pleadings of scienter in our particular statute, I do not see that as being too burdensome for a plaintiff or a plaintiff's lawyer. It basically says he probably would add to subsection A, referring to scienter, section 10A applies to complaints,

> * * * shall specify each statement or omission alleged to have been misleading, and the reasons the statement or omission was misleading. The complaint shall also make specific allegations which, if true, would be sufficient to establish Scienter as to each defendant at the time the alleged violation occurred. It shall not be sufficient for this purpose to plead the mere presence of facts inconsistent with the statement or omission alleged to have been misleading.
>
> If an allegation is made on information and belief, the complaint shall set forth with specificity all information on which that belief is formed.

We do not believe that is a terrible burden for someone to carry as they walk into the courtroom door. That is the reason we have added the section.

Mr. BRYANT of Texas. Mr. Chairman, the principal point of my amendment is to point out what all lawyers agree to; that is, you can allege with specificity as required under the rules the violations of the law and the wrongdoing, but you cannot allege the facts which prove the state of mind of the wrongdoer.

The gentleman's bill requires someone to allege that in the very beginning, which cannot be done. Legal scholars agree it cannot be done. I am simply saying if you do that, that means no one can file a case. So why not make it higher than that presently, but make it a reasonable standard which can be met so that people can file these cases?

The gentleman's bill also says you only get one amended complaint. In the Keating case, they had to amend the complaint six times, as I said a moment ago, in order to get it together because they kept on discovering more and more detail.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

Mr. BRYANT of Texas. Mr. Chairman, I ask unanimous consent that there be a limit on debate of 20 minutes on the remainder of the consideration of this amendment, equally divided and controlled by both sides, and that request would go to any amendments to the amendment as well.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas [Mr. BRYANT]?

There was no objection.

The CHAIRMAN. The time is to be controlled equally by the gentleman from Texas [Mr. BRYANT] and the gentleman from Texas [Mr. FIELDS].

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I commend the gentleman for his amendment. The hard fact is that this legislation, as now drawn, makes it impossible to win without having both an attorney, a psychiatrist, and probably a psychic, because you must plead to prove the state of mind of the defendant in this litigation. And the way the language on this section is drafted, it also requires, for example, that you submit a witness list because you must literally, in your pleadings, include the names of confidential informants, employees, competitors, Government employees, members of the media, and others who have provided information leading to the filing of the case. And even where they have requested anonymity, ofttimes out of fear of retaliation you must submit those names.

This is not something which has been approved by the bar or by scholars. Bar groups, academics, and regulators have all opposed heightened pleading requirements. Arthur Miller, the Bruce Bromley Professor of Law at Harvard Law School, testified in 1994:

> The proposal seems to suggest that at the outset of the case, plaintiffs have the burden of proof of each individual defendant's state of mind. But this is totally unrealistic. It is not only in the rarest of cases that this type of evidence exists, under the best of circumstances requiring plaintiffs to plead defendant's state of mind generally calls for the drawing of subtle inferences from facts available prior to the institution, a task that is highly treacherous. It would be impossible in the vast majority of cases in which these facts are simply unavailable prior to the lawsuit.

Mark Griffin, director of the securities division of the State of Utah Department of Commerce, had this to say:

> This new pleading requirement would go well beyond what are currently acceptable standards of pleading in fraud with specificity. For example, plaintiffs may not know at the pleading stage information about a defendant's state of mind, which is usually not within a plaintiff's knowledge until after discovery. Therefore, such information could not be included in a complaint. It should be pointed out that this provision would appear to directly overrule, to directly overrule, rule 9B of the Federal Rules of Civil Procedures.

Beyond this, it must be observed there is something else here which has to be addressed, and that is a matter of very legitimate concern to those of us in this body. It is a fact that under this proposal, only one amendment of the pleadings would be permitted. Now, how do we compare that with existing law? Let us take the Lincoln Savings & Loan, the Keating fraud.

□ 1645

Plaintiffs were required to amend their complaint not once, but six times, before it met all requirements for defendants. The case ultimately led to recovery of $240 million for thousands of elderly victims who had been victimized. With that requirement, Mr. Chairman, there would have been no recovery in the Keating Lincoln Savings & Loan case. In the WPPSS scandal, where thousands of victims of fraud ultimately recovered over $750 million, Mr. Chairman, plaintiffs were required to amend their complaint several times before it met the requirements of all the defendants.

This proposal changes it. It keeps a requirement, a reasonable requirement for scienter, but it requires a reasonable number of occasions in which the pleadings may be reformed and may be amended. It is clearly fair. It is clearly proper. It protects the concerns of legitimate complaints, and it does not trammel or unfairly amend the provisions for existing Federal rules of civil procedure.

I urge the adoption of the amendment. The gentleman is wise in having offered it, and he deserves accommodation of the House. The amendment should be adopted.

Mr. FIELDS of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I was just, during the debate, refreshing my recollection about Dodd-Domenici. It is now S. 240 introduced January 18, 1995, for Mr. DOMENICI, Mr. DODD, who I need not remind people is now the chairman of the Democratic National Committee, Mr. HATCH, Ms. MIKULSKI, Mr. BENNETT, Ms. MOSELEY-BRAUN, Mr. LOTT, Mrs. MURRAY, Mr. MACK, Mr. JOHNSTON, Mr. FAIRCLOTH, Mr. CONRAD, Mr. BURNS, Mr. CHAFEE, on and on. It is a completely bipartisan group.

The provisions of Dodd-Domenici on specific pleading are a heck of a lot tougher than what we have in our bill because over in the other body they have recognized the problems that are created when someone launches a lawsuit which can take years and years and consume a whole lot of money on both sides with just vague conclusory allegations.

We have heard some horror stories, or not really horror stories because they never happened, but we have heard horror future fiction about what would have happened in old cases that were successful if the new rule had been put in place. We are told, for example, in one case they had to amend their pleading six times. Well, right now the current rules are sufficiently lax that nobody bothers a great deal when they file the complaint. In the very abusive cases we know they just roll them right off the word processor. The worst that can happen to them after all, since one can amend one's complaint nearly an infinite number of times, is that some judge will make them go back and amend it.

It is very difficult these days to get knocked out on the pleadings because one can simply amend. It is only when, even after amendment, people cannot state a cause of action. They end up losing on the pleadings, but it is not a logical form of argument to say that a case that was filed under the old rules where one could freely amend their complaint would have not make it if they could not have amended it so often. They simply would have taken more care in investigating the facts and bringing those cases to begin with, and what we heard about those cases is that the facts were on their side, that eventually they got it right even in their complaint.

The other thing we need to point out here is we are not asking anyone do anything other than allege. We are asking people to make an allegation. That is they can charge something. They do not have to prove it until later. But they have to know what it is they are charging. The definition of a fishing expedition lawsuit is one in which somebody does not know what they are after at first. They want to start the lawsuit to get the civil discovery tools to figure out their cause of action as they go along. They sort of make it up as they go along.

That is exactly the abusive kind of litigation we are trying to stop. This is the centerpiece of the bill that will permit us to stop it.

The language that is in Dodd-Domenici is:

> The complaint shall allege specific facts demonstrating the state of mind of each defendant.

Now we had a lot of complaint about that language on our side because people said, "Well, you would have to be a mind reader in order to demonstrate the state of mind of each defendant." So now our bill no longer says that. It says that the complaint shall specify each statement or omission alleged to have been misleading. Those are objective facts and the reasons that the statement or omission was misleading. That is factual as well, and of course one only has to allege it.

The complaint shall also make specific allegations which, if true, would be sufficient to establish scienter. So one only has to allege things which, if true, if they were proved later, would add up to a case that meets all the requirements of the existing law.

Then we go on to say it shall not be sufficient for this purpose to plead the mere presence of facts inconsistent with a statement or omission. If an allegation is made on information and belief, the complaint shall set forth with specificity all information on which that belief is formed. These are all things that are within the capacity of anyone initiating a lawsuit to comply with.

So, we are left with the fact that the Bryant amendment is probably directed at the language that people have complained about in Dodd-Domenici, which I point out again is sponsored by some of our most liberal Democrats in the U.S. Senate. This is a bipartisan agreement that fishing expedition lawsuits are a bad thing and we should stop them.

I also should point out that we have heard that the bill that we are amending here would overrule 9(b), but in fact Federal Rules of Civil Procedure 9(b), rule 9(b), requires that one pleads fraud with particularity. Since these are fraud cases, Mr. Chairman, that is exactly what we are requiring here, and we do flesh out in greater detail precisely what we mean so we can avoid litigation on this subject.

Ironically the amendment is completely inconsistent with Federal Rules of Civil Procedure 9(b) because, while it requires that one pleads fraud or particularity, the Bryant amendment would let a costly lawsuit go ahead if the complaint only, quote, suggests that fraud may have occurred. This is a hunting license for aggressive lawyers and frivolous lawsuits.

Finally the Bryant amendment is inconsistent with court decision after court decision which have said that, when the plaintiffs cannot state what statements are false, they cannot proceed.

So, Mr. Chairman, we are on solid ground here, and I hope that we will reject the Bryant amendment.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think, and perhaps in this debate more than most, it is just a question of who to believe. Mr. COX's characterization of this amendment is in my view completely incorrect, and I think that a careful study of it would cause most Members to agree.

When it comes to alleging fraud, Mr. Chairman, one must plead with specificity in order that the defendant might know what he is being charged with. The difference though is not with regard to alleging fraud. It is in the bill that is before us today, "You must, as well, allege what's called scienter," which means there was a knowing element on the part of the defendant, and one must allege the specific facts which prove the knowing element.

That is why the gentleman from Michigan [Mr. DINGELL] said a moment ago, "For the first time you're going to have to have a psychiatrist in your office if you're going to figure out a way to file one of these cases, and frankly even that wouldn't work. Basically they're raising the bar so high that nobody could file the case."

I have taken in my amendment the same standard which these fellows over here all supported last year and which the gentleman from Louisiana [Mr. TAUZIN] introduced last year in his bill. It raises the standard from where it is today, but it does not go bananas, go to the extremes, that make it impossible for anybody to file a case, and the second thing the amendment will do is it would eliminate the portion of their bill which for the first time says, "You can only file one amended complaint."

I ask, "Why would you want to stop a plaintiff from being able to file amended complaints?"

As the point was made by me and the gentleman from Michigan [Mr. DINGELL] together a moment ago in the Keating case, they had to file five or six amended complaints in order to finally get the case right because they kept on discovering things.

Let me show my colleagues one of the things they discovered right here. This is a blow-up of a document that was given out to their bond sellers that was used to tell them what they ought to emphasize in order to sell those bonds. It says at the top up there, "Capitalize on this," and then it goes over a series of sales points.

Look at the last one. Look at the last sales point on the second page of this memo. It says, "No. 13, and always remember the weak, the meek and the ignorant are always good targets." Now that is what they found in their discovery efforts in the Keating case.

Under the bill brought forth today by the gentleman from California [Mr. COX], this would not have been allowed to have been pled in the Keating case because, after the first amendment, one cannot amend anymore, so they could not have amended their complaint based upon the finding of this document. These documents are not waiting around for plaintiffs to find them. In the beginning they have got to find them through discovery.

What my amendment would say is that we are going to require, continue to require, specificity in pleading in allegations made with regard to fraud. But we do not go so far as to say, "You've got to plead the specific facts that prove scienter (that is knowledge) because nobody can get those facts. You can't file them," and under the bill before us today, if it has not been filed that way, they are going to be out court. So a person whose pension has gone down the drain, whose personal investments have gone down the drain, a person who has been defrauded, who has very few resources, even if he had a case, is not going to be able to get a lawyer to take the case because under the standard being brought to us today they could not win the case.

For goodness sakes. Let us at least go with the standard that these fellows said was the one we should go with last year rather than go with the standard of the new revolution in the House, which is go to enormous extremes.

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

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

Mr. MARKEY. As my colleague knows, the problem with this provision in the legislation is that it requires each person who has been defrauded, knows they have been defrauded, every bone in their body tells them that this financial advisor, this banker, this person that sold them this stock that has gone sour, defrauded them. But if they are going to sue, they have to be like Carnac. They have to be able to know exactly what was in the mind of the person who defrauded them, exactly on that night, December 18, 1993, when that person sold them or concocted the concept of defrauding the individual with the life savings losing investment which the person made as a result.

I say to my colleagues, you couldn't sue Charlie Keating. You couldn't sue anybody because, as the other person, absent the psychic Carnac-like powers, you're left to the marketplace to have a strong sense that you, in fact, have been defrauded, know that all of the circumstantial evidence points in that direction, but not be able to plead with the specificity that satisfies this Mount Everest of burdens which has been constructed.

And we have everyone from Anthony Lewis in the New York Times who has said it is very hard, indeed impossible for a plaintiff to know such things about a defendant's state of mind. We have Judge Abner Mikva who was an experienced Federal judge and is now counsel to the President who has spoken out against this smoking gun pleading requirement in the bill. This just creates insurmountable obstacles to an ordinary person being able to bring an action.

And remember the pleadings standard in the Bryant bill is identical to the Tauzin bill of last year. All we have done is taken the language that the gentleman from Louisiana [Mr. TAUZIN] had in his bill and brought it out here on the floor for those of my colleagues who supported the Tauzin bill last year.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BRYANT] has expired.

The Chair recognizes the gentleman from Texas [Mr. FIELDS] for 4 minutes.

Mr. FIELDS of Texas. Mr. Chairman, I yield myself such time as I may consume.

□ 1700

Mr. FIELDS of Texas. Mr. Chairman, since we spent most of today talking about intent, let us talk about what our intent is in this pleadings section. Let us also talk about what the effect is of our pleadings section.

Does the legislation as it is currently drafted, and particularly the pleadings section as it is currently drafted, bar a plaintiff or plaintiff class harmed by an untrue statement or material omission which was knowingly made and relied upon? Absolutely not.

In fact, we believe that the specificity of the pleading of facts required in this legislation should promote faster recovery at lower plaintiff cost; that the plaintiff should actually see a higher return when those type lawsuits are brought.

But it is important again to point to the facts, to constantly point to the facts that small and medium-sized companies alone have paid out nearly $500 million during the last 2 years, and we all recognize that settling a case is oftentimes cheaper and quicker than defending in court, and the problem is getting worse.

In the last 5 years the number of strike suits have tripled. The intent here is to stop the frivolous lawsuit, to stop the fishing expedition. If people do not think that happens, then I would be glad to refer them to a letter from a Mr. Dick Egan of Hopkinton, MA, dated January 16, 1995, this year.

In the body of the letter Mr. Egan talks about the two class action lawsuits filed against him. But let me just read down in the body of the letter where he says, "Our second Strike Suit came in 1991 when we pre-announced that we would not meet analysts expectations." The expectation of analysts. "We just weren't going to have a loss. In fact, we were (and still are) quite profitable. We just weren't going to meet the numbers someone else said we would.

"The stock tanked," to use his words, "and we were sued by a law firm that makes a business by initiating strike suits against high-tech companies. They sued us within 48 hours on behalf of two Planitiffs which together owned only 300 or 400 shares* * *

"Of course the lessons we learned from the 1988 suit were not forgotten and now being a larger company and knowing we did not do anything wrong to mislead sharehoders, I decided to fight this one out.

"I am pleased to report that the Judge's verdict was rendered in our favor and contained the comments that 'this case was dead on arrival' and he would not 'allow a continuance of this fishing expedition.' Certainly it did not help the Strike Suit Lawyers case when we pointed out their motion contained throughout the name of a prior plaintiff."

"Of course," Mr. Egan goes on, "we still had to pay our legal costs which were over $100,000 and while I never estimated the cost and time lost through the discovery process, I'm sure it was it was twice as much."

I will present this letter to anyone as an example of the type of fishing expedition, frivolous lawsuit this legislation is intended to stop.

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

Mr. FIELDS of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I would just point out the language in the bill is much improved over the language last year that the gentleman from Texas [Mr. BRYANT] and I offered. If the language we had in the bill was so good last year, I want to know why we did not get a markup on the bill. This language is much better, much more specific. It is the kind of language that would prevent fishing expeditions. We ought to reject this amendment and pass this good bill.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentleman from Texas [Mr. BRYANT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 168, noes 255, answered "present" 1, not voting 10, as follows:

[Roll No 213]

AYES—168

Abercrombie	Baesler	Barrett (WI)
Ackerman	Baldacci	Becerra
Andrews	Barcia	Beilenson

Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chambliss
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooley
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Engel
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Murtha
Nadler
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman.
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—255

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

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Bartlett
Bilbray
Clay
Gibbons
Hayes
McDade
McKinney
Meek
Neal
Rangel

□ 1721

Mr. McCOLLUM changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MANTON

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MANTON: Page 7, beginning on line 19, strike subsection (c) through page 11, line 8, and insert the following:

"(c) AWARDS OF FEES AND EXPENSES.—

"(1) AUTHORITY TO AWARD FEES AND EXPENSES.—If the court in any private action arising under this title enters a final judgment against a party litigant on the basis of a default, a motion to dismiss, motion for summary judgment, or a trial on the merits, the court shall, upon motion by the prevailing party, determine whether—

"(A) The complaint or motion is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

"(B) the claims, defenses, and other legal contentions in the complaint or motion, taken as a whole, are unwarranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

"(C) the allegations and other factual contentions in the complaint or motion, taken as a whole, lack any evidentiary support or would be likely to lack any evidentiary support after a reasonable opportunity for further investigation or discovery; or

"(D) the denials of factual contentions are unwarranted on the evidence or are not reasonably based on a lack of information or belief.

"(2) AWARD TO PREVAILING PARTY.—If the court determines that the losing party has violated any subparagraph of paragraph (1), the court shall award the prevailing party reasonable fees and other expenses incurred by that party. The determination of whether the losing party violated any such subparagraph shall be made on the basis of the record in the civil action for which fees and other expenses are sought.

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

"(4) SANCTIONS AGAINST ATTORNEY.—The court—

"(A) shall award the fees and expenses against the attorney for the losing party unless the court determines that the losing party was principally responsible for the actions described in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(B) may, in its discretion, reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy.

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

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

Mr. MANTON. Mr. Chairman, virtually all of the evidence assembled by the Commerce Committee during its consideration of the securities litigation reform issue indicated that Congress can and should take reasonable steps to reduce or eliminate frivolous securities lawsuits while at the same time protecting—rather than diminishing or even wiping out—the legitimate rights of defrauded individual investors to seek redress in our courts.

My amendment, based on rule XI of the Federal Rules of Civil Procedure, strikes that balance. This amendment provides that Federal courts *must* shift the cost of attorney's fees to the losing

party if the court finds that the loser's arguments were frivolous or presented in bad faith. Furthermore, this amendment would also require the court to impose sanctions on attorneys who bring these cases.

This is a tough standard but, and this is critical, it's also a fair standard.

The amendment responds directly to the concerns about frivolousness and abuse that underlie the legislation we have been considering.

The purpose of the legislation before us today is to deter those who exploit the otherwise effective laws Congress has enacted to protect the investor.

We have been told that securities lawsuits with virtually no merit, but which are expensive to defend, force companies into settlements.

According to many companies, these cases are sometimes brought in bad faith by lawyers whose sole interest is in securing a lucrative award or fees.

My amendment corrects this problem because it sends a clear message to Federal judges about their role in overseeing securities fraud cases.

It informs these judges that the Congress is dissatisfied with the discretionary approach to fee shifting adopted by the Supreme Court and the Administrative Office of the Courts, and wants fees and expenses imposed whenever a case is found to be frivolous or brought in bad faith.

My amendment also sends a message to overzealous plaintiffs' lawyers, because it will require the Court to impose the defendants' legal fees on them or the individual investor if the case is frivolous or brought in bad faith.

The approach of my amendment is superior to the fee shifting language contained in H.R. 1058 because my amendment does not mandate that judges require class action plaintiffs to post a bond before they can bring their case to court.

While I strongly support the concept of securities litigation reform, I cannot support a proposal to require ordinary people to pay for the right to have their day in court.

I understand my colleagues view that requiring undertakings from class action plaintiffs will curtail the number of suits which unscrupulous lawyers may bring. Fortunately, section 11(E) of the Securities Act of 1933 already grants judges the discretionary power to require class plaintiffs to post a bond.

This discretionary power allows judges to distinguish between the so-called professional plaintiffs and those plaintiffs who are professional, hard working Americans.

While I share my colleagues' interest in eliminating strike suits, the bill's reach is simply too broad, and would result in too great of a disincentive to plaintiffs with meritorious cases.

The approach taken in this amendment is vastly superior to the philosophy underlying the loser almost always pays rule contained in H.R. 1058.

□ 1730

Mr. Chairman, despite the so-called bipartisan support for this bill, I want my colleagues to be aware that virtually all witnesses with a reasonable claim to being objective and impartial strenuously oppose H.R. 1058's severe proposal to shift attorney's fees to investors.

The Securities and Exchange Commission opposes it. The group regulating the securities regulators from all 50 States oppose it. The group representing the officials in State and local governments who issue municipal bonds oppose it. The AARP, the National Association of Senior Citizens, and the Gray Panthers oppose it.

Consumer Reports, the Consumer Federation of America, and a host of other consumer groups oppose it. At least 65 of the Nation's leading corporate and securities law professors oppose it.

And the Economist, for years one of the world's leading voices in support of conservatism and the free market, believes that this type of fee shifting offends one of the most basic principles of a free society, and threatens to expel the middle class from the courts. The Economist concluded that this issue has by itself undermined the legitimacy of the entire British civil justice system. I can think of no reason why we would want to adopt any such rule in the United States

Make no mistake, my amendment is necessary to ensure that H.R. 1058 does not require average citizens to pay, that is, to post a bond, before they can have their day in court after they have been defrauded.

In a nutshell, this bill will require plaintiffs in a class action, who have lost the value of their nest egg because of corporate fraud, to put up good money after bad in order to simply earn the privilege of entering the courtroom.

My amendment clarifies Congress' intention with regard to whom this bill is designed to affect. It makes clear that it is only those cases which are frivolous or brought in bad faith which we want to discourage.

By eliminating meritless securities suits, we will serve to protect industry, but, and this is equally important, we will ensure that cases of actual securities fraud get the undivided attention of the public and our courts that they deserve.

Finally, I want to point out that I voted in favor of reporting securities litigation out of the Committee on Commerce. I suggest and recommend to all of my colleagues that if this amendment is defeated, they vote against the bill. I certainly will.

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me first commend my friend, the gentleman from New York [Mr. MANTON] for his attempt to, in effect, rewrite rule XI of the Rules of Federal Procedure in a way that is much better than rule XI, and to suggest that it be part of this act.

If this were the only chance we had to improve upon the condition of allocating the cost in a lawsuit, it would certainly be better than the existing law. His amendment is better than rule XI in two major respects, because it does make imposition of the fees mandatory and it does cover four clauses, not just the one clause covered under the current rule XI.

However, there is a better provision in the bill today than rule XI, and even this improved version of rule XI. The provision in the bill that is before us literally says that fees are going to be shifted in one of these cases only, and only under the following conditions:

First, that the position of the losing party was never substantially justified; that is to say, not only did he lose the case, not only did he dismiss the case, not only did he perhaps lose it on a motion for summary judgment, but that he never should have brought it in the first place. There was no substantial justification for bringing that case;

Second, that imposing the fees on the party who brought the suit with no substantial justification would not create an injustice, so the court has to make that substantial, substantive judgment;

And, last, that the cost of the fees on the prevailing party, the party who was sued unjustly, that the cost of those fees on that prevailing party indeed would be substantially burdensome and unjust, so the court has to make three findings.

Now, the Committee on Commerce did one additional thing in our effort to reach out to broaden support for the bill, and to make it clear that the court should use this fee-shifting arrangement only when these three things are proven. We put the burden of proof on all three of the things on the prevailing party.

In other words, if I bring a suit under this 10(b)(5) section of the law, I sue you and your company, and I lose that suit, and I lose it either on a judgment or a motion to dismiss, or I voluntarily dismiss it at some point, under our bill it would be your burden of proof to prove that I did not have a substantial, justifiable reason to bring that case. You have to prove the negative.

Second, you have to prove that it would not be unjust to make me pay your expenses in defending a suit I should not have brought.

Third, you have to prove that it would not be too much of a burden on me to pay my own expenses in defending that lawsuit.

What I am saying is, Mr. Chairman, that when we shifted the burden of

proof to the prevailing party, we made it extremely difficult, I think, for the fee shift ever to occur.

Let me tell the Members two other reasons why the Manton amendment needs to be defeated.

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

Mr. TAUZIN. I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, in layman's terms, as I interpret the amendment, and I agree, I respect the proponent of the amendment, the gentleman from New York, but as I read this bill, it cuts the losers-pay provision of the bill, because as I read this, it replaces the losers-pay language with language that would seem to make the attorneys of the party filing frivolous claims accountable.

Mr. TAUZIN. The answer is it could, because under rule XI the fees can be imposed on the attorney. However, my problem with it is bigger than that. The problems are the following:

First, rule XI does not allow sanctions in discovery proceedings. In fact, you cannot have sanctions where discovery proceedings have been conducted without justifiable cause. Rule XI, for example, permits the withdrawal of your suit or voluntary dismissal of your suit in order to avoid fee shifting.

Let's say you brought a suit against me you never should have brought. You have made me hire attorneys, you have kept my company in all kinds of legal trouble for a year or 2 years. Then it becomes clear that you should not have brought suit in the first place. The judge is about to impose sanctions on you, so you immediately withdraw the case. Under that scenario, under the Manton amendment, the judge could not impose sanctions, could not shift fees over to the party who should not have brought this suit.

In short, while it is an improvement over the existing law, and I must commend my friend for doing a good job in offering a solution that is better than existing law, the provisions of our bill are much better, much better, and this amendment should be defeated.

Mr. DINGELL. Mr. Chairman, I rise in support of the Manton amendment.

Mr. Chairman, I commend the gentleman from New York [Mr. MANTON] on his amendment on fee shifting. I rise in support of that amendment. As reported by the committee, H.R. 1058 would provide for fee shifting when the court determines that the loser's case was not substantially justified.

The bill, however, would require the court to order a bond from a plaintiff in a securities case. These are high hurdles in front of the courthouse door for any person, including those who have legitimate claims.

Let us talk first about the bond requirement. This section provides no guidance to the court on the amount of the bond or the form of the bond. It appears to me that a judge could require a middle-class plaintiff to post his or her house as collateral, or their retirement account, or the children's college savings as collateral. That is a high admission fee to the Federal courts.

I would remind my colleagues, the requirement for the bond is mandatory. It is absolute. The "substantially justify" test, as we are told, comes from the Equal Access to Justice Act. This act requires Government agencies to pay back attorney's fees to small businesses they sue when their case is not substantially justified. That is, I would note, however, a quite different case, Government against a small defendant.

Here we are talking about a little investor against a large and wealthy wrongdoer who has every incentive to run up the costs of the litigation. When the SEC brings a case, it does so only after it completes an investigation. That investigation involves the use of the investigative authority, including the subpoena power, which is possessed by the SEC.

Middle-class citizens have no such abilities. They do not possess subpoena powers. They should not be held, then, to the same standard as the SEC, nor should they be held to the same standard as the Federal Government.

Prof. Arthur Miller of Harvard Law School, who is perhaps the foremost expert in the area of civil procedure, has testified that fee shifting is almost invariably an intimidation device against plaintiffs. It is used to intimidate plaintiffs and to preclude them from proceeding with the protection of their rights, using the courts as they properly should.

This is especially true in the class action cases where one investor, the class representative, could find himself responsible for the fees incurred by huge corporations defending against the claims of the entire class. Remember, these corporations use enormous numbers of lawyers to litigate. Whole floors of hotels are peopled with attorneys whose sole function is to run the plaintiff out of money and out of resources.

Who could then afford to bring an action against Merrill Lynch or Charles Keating or Baring Bank or the people who brought the Orange County debacle if, at the end of the day, there was not just a chance but an almost certainty that the investor would be required to foot the entire legal bill for a corporate defendant, if it were certain that he had to post a bond amounting to enormous sums of money to assure that his lawsuit was not frivolous, and that he would be able to pay if the lawsuit went against him?

Here we see a significant difference between a suit that is unsuccessful and one that is frivolous. We are all opposed, I think, in this body to frivolous lawsuits, and indeed, we should be. The Manton amendment makes a clear distinction. Not all lawsuits are successful, and many that are not should have been.

It does not have to be done to American citizens this way. We do not have to have unfair, harsh, and restrictive bonding requirements. We do not have to impose enormous burdens on American citizens seeking to use their courts to protect their rights against wrongdoing and against the loss of assets taken from them by malefactors of great wealth.

I urge my colleagues to support the Manton amendment. I urge them to be fair to the little people of this country.

Mr. FIELDS of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, I appreciate the manner in which my good friend, the gentleman from New York [Mr. MANTON], brings this amendment, but it is our opinion that the language of the amendment as it is currently drafted does not write rule XI of the Federal Rules of Civil Procedure into the law.

The current system that this statute is dealing with makes it easy for entrepreneurial plaintiffs' lawyers to file speculative suits simply for their settlement value. There is little risk. Plaintiffs' lawyers take these cases on a contingency basis, and since over 90 percent of the cases settle, they are basically guaranteed a recovery.

That is why we have come in with the language that we have. It is essential that reforms to the system must change the incentives so plaintiffs' lawyers will weigh the merits of the lawsuit before racing to the courthouse.

The language that is in the statute is not an automatic loser-pay type of situation. Judges retain ample discretion under the statute as it is drafted. The court may impose attorney fees only when a party pursues a case that lacks substantial justification, and imposing the fee on the loser or making the winner pay his own fees would not be unjust.

These will not be shifted in close cases, only those that should never have been brought. That is the purpose of this particular section of the statute.

The court has discretion to require all or part of the winner fees to be paid by the loser's attorney, rather than the losing parties themselves. This discretion allows the court to avoid undue hardship, while still sending the message that bringing frivolous litigation will result in penalties.

Armed with the knowledge that their fees are recoverable, defendants will have greater resolve to resist settling what many have begun to call nuisance lawsuits. Plaintiffs who prevail will not lose any of their rightful damages in paying huge attorney fees because the defendant will be forced to pay for having chosen to fight the plaintiff's meritorious claim.

Mr. Chairman, I would also like to go to the statute for just a moment, because much has been made of the undertaking required. I want to read this section of the bill that is labeled "Security for payment of cost in class actions."

It says in the statute that,

In any private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the court shall require an undertaking from the attorneys for the plaintiff class, the plaintiff class, or both in such proportions and at such times as the court determines are just and equitable for the payment of the fees and expenses that may be awarded under paragraph 1.

□ 1745

We believe, Mr. Chairman, that this statute grants wide latitude and great discretion to that trial judge. We did that for a very important reason. Because there are cases in which the judge may come in and say that stock is put up to satisfy that undertaking, or perhaps a dollar. So that is why that was built into this particular statute. By striking this, I think it makes the effort that we have mounted today defective and therefore I urge rejection of the Manton amendment.

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

Mr. FIELDS of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank my friend for yielding. He stated very well the case against this amendment. If the case against this amendment were ever made perhaps even more eloquently than my friend from Texas, it would have been the judge in the 1989 decision entitled Necklin versus Weatherly Securities, Inc. In that case the judge held, and I quote, plaintiffs have not alleged a single fact which supports an inference of fraud.

He dismissed the case. But he declined to impose sanctions. The bottom line is that even in a case where the judge found that there was not even an allegation of an inference of fraud, he declined to impose sanctions under rule 11. I know the gentleman makes it mandatory under his amendment. The problem is that rule 11 has been terribly ineffective and even codifying it is not going to work. The provisions we have adopted out of the Committee on Commerce in this bill are much stronger and at the same time they give the judge great discretion to do what justice requires. If someone brings a lawsuit and they should not have brought it, not even substantially justified, but it would still be unjust for the judge to impose costs on them, when he dismisses the suit, he can do so.

But the gentleman knows as we have discussed this thing even further, there is even one greater reason to oppose the gentleman from New York's amendment, and, that is, if you want to avoid the deterrent sanction of this bill, under the gentleman from New York's amendment, all you have to do is hurriedly dismiss your suit right before the judge imposes the sanctions, because his amendment lets you do that. Under our amendment, you cannot get away with that.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has expired.

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

Mr. FIELDS of Texas. I asked for 2 minutes so that I could first of all compliment the gentleman from New York and just say how much I appreciate the gentleman's sincere efforts in working out this section. I appreciate that deeply. I wish that we could have come to closure, but I did want to make this statement that the gentleman has made an honest attempt. I wish we could have come to closure.

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

Mr. FIELDS of Texas. I yield to the gentleman from New York.

Mr. MANTON. I thank the gentleman for his kind words, Having the time, I would direct the question to the gentleman from Louisiana, referring to the case he just cited, if I understood correctly, in that case the judge found that the plaintiff's case was not meritorious, but if I understand the legislation before us that I am attempting to amend, you have to put the bond up in advance, it is a precondition before the judge decides anything. Am I correct?

Mr. TAUZIN. If the gentleman from Texas will yield, the judge may impose the requirement of a bond under the bill. He may impose the bond at $1, $1,000, whatever he thinks——

Mr. MANTON. If the gentleman will yield, that has been the rule since 1933, on both sides, both the plaintiff and the defendant could be subjected to having to put up an undertaking.

Mr. TAUZIN. If the gentleman would further yield to me so I can respond, this legislation does say now that we are providing a method by which the judge can impose fees upon the losing party if in fact the suit never should have been brought if it would not be unjust to do so and if it would not be undburdensome for the winning defendant to carry those fees.

He has got to find all three things. It does allow the judge to do that. Therefore, the requirement is that a bond be established, the lawyer can put up the bond if he has got an indigent plaintiff or the client can put up a bond, the judge determines how much of a bond, and the bond satisfies the requirements if it is ordered.

Mr. FIELDS of Texas. If I could reclaim my time, I just point out to the gentleman from Louisiana, the defendant is not there voluntarily.

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has again expired.

(At the request of Mr. MANTON and by unanimous consent, Mr. FIELDS of Texas was allowed to proceed for 1 additional minute.)

Mr. MANTON. I have one last question from the gentleman from Louisiana if I could have the time.

Mr. FIELDS of Texas. I yield to my friend the gentleman from New York.

Mr. MANTON. I ask the gentleman from Louisiana, is it not a little unfair that the legislation that I am seeking to amend has the word "shall" when it refers to plaintiffs before they file suit, put up a bond, it makes no mention as does the old rule 11–E that everybody's familiar with that goes back to 1933, that has been in the act from the very beginning, it gave the judge discretion to impose a bond on either the plaintiff or the defendant.

Yet in this legislation, it says plaintiffs "shall" before there is any indication that this might be a spurious lawsuit or might be one without merit. Does that not seem a little unfair, a little one-sided to the gentleman?

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

Mr. FIELDS of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The answer is that the judge has discretion to fix that undertaking. He can fix it at $1, $1,000, $2,000 $10,000 whatever it requires to guarantee that in effect the losing party is going to be able to respond to his order to shift the fees if it should occur and the judge still maintains a great deal of discretion.

Mr. MANTON. Should not the judge also say to the defendant, because it might be that the prevailing party might be the plaintiff who would then seek costs. Why is it that only the plaintiff class has to put up a bond, and it does say "shall," whereas no mention at all is made of the defendants who might not be the prevailing party?

The CHAIRMAN. The time of the gentleman from Texas [Mr. FIELDS] has again expired.

(At the request of Mr. TAUZIN and by unanimous consent, Mr. FIELDS of Texas was allowed to proceed for 30 additional seconds.)

Mr. FIELDS of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The answer is that plaintiff has brought the lawsuit and has incurred those costs upon the defendant in a case where the judge has found the lawsuit never should have been brought. That is what fee shifting is all about.

If the plaintiff wins the case, the judge has the capacity to award the plaintiff such damages as the plaintiff incurred, and in many cases that includes much of his expenses.

It is only in the case where the judge says you never should have brought this case and it would not be unjust for you to have to pay the fees of a person you made hire an attorney and go

through all this mess for nothing that we require the bond.

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

Mr. Chairman, I will attempt to be brief. I want to say that I respect our friend the gentleman from New York in introducing this amendment, but I am opposed to this amendment because as I interpret this amendment, it guts the loser-pay provisions of the bill and that is one of the key provisions of this bill. It would replace the loser-pays language with language that when you look at it would seem to make the attorneys for the parties filing frivolous claims accountable. However, its conditions would be so numerous that very few attorneys, if any, would ever be penalized.

To analyze just a couple of these conditions: It would require that the defendant prove that the plaintiff's complaint was meant to harass or to increase the cost of the litigation. That is a whole new standard of proof.

This amendment is a poor substitute for discouraging frivolous claims. It shifts the burden of responsibility on attorneys, not to the parties filing the frivolous claims. Those filing the frivolous claims should be held accountable.

A major purpose of this bill is to discourage frivolous strike lawsuits that are costing American businesses billions of dollars in unnecessary expenses and billions of hours in wasted time.

Worse still, the costs of the legal liability are passed on to the consumers. That is, you and me and all the people that we represent wind up paying more than is necessary, and the legal costs make American products less competitive overseas. That is the real reason I took these few minutes to speak on this bill, because as chairman of the Subcommittee on International Economic Policy and Trade, I have been working to strengthen American exports and this amendment will not help in that endeavor. When American products cost more, fewer companies can export. My friends, we already have a $150 billion trade deficit. How much more do we want?

Further, according to the Rand study, 90 percent of all American companies can expect to become parties to litigation. I want to repeat that. According to the Rand study, 90 percent of all of American companies can expect to become parties to litigation. Already 15 percent of American companies lay off employees out of fear of excess liability.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BRYANT of Texas. The Rand study says 90 percent of these companies will be parties to litigation, but not tort litigation and not securities litigation. It is commercial litigation. Give the House the full benefit of the Rand study.

Mr. ROTH. Let me take back my time.

You are correct, the Rand study does say that 90 percent of all American companies can expect to be parties to litigation. That is just nuts. We cannot continue to operate that way. That is why the American people are out there screaming and asking this Congress to do something about reform. Too many jobs are being lost and too many people are being harmed. How long can we continue to let this happen? No wonder the American people are demanding reform.

Yes, the gentleman who offered this amendment is a nice guy, but this is a terrible amendment. We cannot vote for this amendment. The securities litigation reform bill is more than legal reform. That is the point. It is not only legal reform. That is the point. It is not only legal reform, this should be a job creation bill. That is what we have to vote on.

For that reason, I would hope that the Members would vote against the amendment.

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

The CHAIRMAN. If the Chair might, the gentleman was correct in suggesting that there be alternating recognition. The gentleman from Wisconsin had been on his feet when no one else was standing at the time. The Chair had thought earlier that the other colloquy had ended. The Chair wants to make sure the gentleman understood that.

Mr. BRYANT of Texas. I thank the Chair. The Chair has done a fine job in presiding. I appreciate his remarks.

The CHAIRMAN. The Chair was trying to be fair.

Mr. BRYANT of Texas. Mr. Chairman, I move to strike the requisite numbers of words.

Mr. Chairman, the comments by the previous speaker I think really say a great deal about yesterday's bill, today's bill and the one we are going to take up tonight and tomorrow. The Rand study was quoted, when he said 90 percent of all companies are going to be a party to the litigation. Yes, they are going to be a party to the litigation, commercial litigation. Not securities litigation like we are talking about today or tort litigation like we are going to be talking about tonight and tomorrow, but commercial litigation. I think it is incumbent upon us to stick with the facts. If the real purpose of this bill is to get rid of frivolous suits and that was the only purpose, first we would have some evidence, some kind of scientific evidence, economic evidence, something to show us that there really was a growing number of frivolous lawsuits against securities dealers, and second, we would have the Securities and Exchange Commission down here talking in favor of this bill and they are not doing that.

I think it is important for us in this last amendment to get this thing in perspective. What has the gentleman from New York [Mr. MANTON] proposed? What he has proposed is a reasonable standard for shifting the cost of the lawsuit to the plaintiff. If the lawsuit was found to have been brought by an improper purpose, or if the lawsuit was found to have been rewarded by existing law, or if the lawsuit lacked evidentiary support or would be lacking any evidentiary support after an opportunity for further investigation, or denials of factual contentions are unwarranted on the evidence, any four of those could work. If that happens, what does the judge do? The judge on motion shifts the costs of the case to the plaintiff.

This is rule 11, but it is rule 11 made mandatory and it is rule 11 including the shifting of fees, not just sanctions. It is a reasonable approach. What does it replace? It replaces the standards in this bill which really, I think, is a fitting end to this debate today. Hardly anything now is actionable any longer. Almost anything a securities dealer wants to do now, he can do and get away with. This bill has eliminated the ability to recover. The final provision we are debating in the bill today eliminates the ability of a person even to go to court. Why?

Because nobody has the money to post a bond in advance which the bill requires, or to face the possibility that they might have to pay the enormous fees of these firms.

I would just point out to the Members of the House here what The Economist, perhaps the most respected British journal, says about the British system which has rules like these fellows would like to put into law. It is interesting that the Republican bill here would sort of take us back to the royalist way of doing things. It says that the worst aspect of Britain's civil justice system is that it denies access to justice to huge numbers of people. Only the very wealthy can afford the costs and risks of most litigation. This offends one of the most basic principles of a free society. The best way to open the doors of the courts to everyone is to learn from a county whose legal system is closely modeled on that of Britain, America.

That was written in January 1995 by the Economist, hardly a liberal socialist fuzzy-headed group of theorists.

I would just conclude by saying that to rewrite the law so that the securities dealers always win, to rewrite the law so that a plaintiff or a class of plaintiffs or a city or a county or a pension plan or somebody who has lost their life savings cannot win a case against a securities dealer who has all the resources in the world at his disposal is bad enough, but to add into this bill a loser pay rule which says you have got to post a bond before you

go to court and that you do not dare take your case to court because you might lose your home, your savings, everything you put aside for the kids' college, your farm or your ranch, that in my view is absolutely reprehensible.

□ 1800

The gentleman from New York [Mr. MANTON] has done a fine job of bringing this amendment forward and I urge Members to vote for the amendment.

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

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

Mr. DOGGETT. Mr. Chairman, I would like the gentleman to go back to the Rand study again. Do you mean as presented by the last speaker that the Rand study is saying that 90 percent of the businesses that get sued or involved in suits that would involve the collection of debt between businesses, for example?

Mr. BRYANT of Texas. Of course.

Mr. DOGGETT. It has absolutely nothing to do with this bill, does it?

Mr. BRYANT of Texas. That is exactly right.

Mr. DOGGETT. Yet it is the kind of statistic that has been brought out every day this week and I guess we will hear it tonight and tomorrow also. It is totally and completely misleading, and this bill is going to do nothing about that statistic. Any business that is out there that has a commercial dispute with a supplier, either trying to collect a debt or because it thinks it has a legitimate defense to a debt, those suits are going to go on. And of that 90 percent, the vast majority of them will not be touched by one bill that is being considered on the floor of this House this week.

Mr. BRYANT of Texas. The gentleman's point is very well-taken; that is exactly right.

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

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

Mr. MARKEY. Is it not true that out of the 270,000 cases in Federal district court that this bill is only going to touch 300 of them, which only affects 125 companies per year, and yet the number of tens of thousands we are talking about a half of a half of a half of 1 percent of all of the law cases brought in Federal court in the course of a year? And the gentleman from Wisconsin is completely wrong in his statistical representations.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BRYANT] has expired.

(On request of Mr. ROTH, and by unanimous consent, Mr. BRYANT of Texas was allowed to proceed for 30 additional seconds.)

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

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

Mr. ROTH. Mr. Chairman, if 90 percent of the business being sued is not high enough for the gentleman, does he think we should say have it 100 percent, if I say if you go into business you are absolutely automatically a criminal?

Mr. BRYANT of Texas. Of course not. The gentleman follows the point we are making, and he got up and quoted a figure that has no relevance. Eighty percent of the courts have commercial suits, and the Rand study the gentleman quoted was talking about commercial suits and he knows it.

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

Mr. Chairman, I will just pick up where this discussion has left off because I think the gentleman from Wisconsin is right on point when he talks about the litigiousness of our society, the crowded dockets, et cetera, in our Federal and State courts and the sense that every American is left with, that the civil justice system is not for them. They know when they go to the Federal courthouse near me in the Southern District of California, downtown Los Angeles, that they are looking at the second most crowded docket in America. They wonder why it takes them 5, 7 years to get to trial. Maybe all they have got is a case to collect a debt, but they have to wait in line behind these mammoth class action litigation suits that are taking years to resolve.

The fact of the matter is one out of every eight companies traded on the New York Stock Exchange has been hit with a strike suit. That is according to Vincent O'Brien and Richard Hodges in their study of class action securities fraud cases from 1988 to 1993 published in Law and Economics Consulting.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield on that point?

Mr. COX of California. Yes, I yield to the gentleman from Louisiana.

Mr. TAUZIN. I think a more important statistic, if the gentleman wants to argue statistics, is that the regime of law that they are defending they do not want to change today, according to that Vincent O'Brien-Richard Hodges study, found that investors received an average of 6 cents on the dollar in this legal dispute system under 10(b)5.

The only people making money are the attorneys. The investors get 6 cents on the dollar and that is the system being defended down here, the system people do not want to change. I suggest that is the most important statistic that has ever been quoted on the floor in this debate.

Mr. COX of California. I thank the gentleman for that elucidating point. What the Manton amendment does is merely import the requirements of rule XI of the Federal Rules of Civil Procedure into our bill and takes the post-December 1993 version of it, except it makes the imposition of fees mandatory as they were in the pre-December 1993 rule XI.

I went down and spoke at the American Bar Association winter meeting of their litigations sections, several hundred lawyers, and we talked in some detail about this legislation. We also talked about other pending legislation, legal reform, and when it came to rule XI, which is not part of our bill, the lawyers who were there to argue for and against every single one of these issues were unable to do so. The fellow who got up to argue the pro cases for rule XI, and he was just assigned the job, said I know I am a layer; I can take both sides of every issue, usually, but in this case rule XI, there is not any argument in favor of it. It does not work.

And that is what we know about rule XI. It has been tested and it does not work. It has been field tested, it has not accomplished its purpose.

Unlike the bill as it is presently written, the Manton amendment would permit the reduction of awards to the extent that the prevailing party unreasonably delays, but the Manton amendment requires imposition of fees on the attorney unless the court determines that the losing party was principally responsible for violation. In contrast, the bill as written leaves the issue of who to impose the sanction on in the discretion of the court. One of the reasons that all of those folks at the ABA meeting did not like rule XI was this very element of what the gentleman from New York [Mr. MANTON] would be introducing into the bill.

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

Mr. COX of California. I yield to the gentleman from Washington.

Mr. WHITE. I think the gentleman is making an excellent point. It is clear to all of us that rule XI is virtually never invoked in court. That is why we need this legislation so badly.

I also would like to point out we do not need to get caught in the minutia of this bill; we are coming to the end, I think it is important to realize what is at stake.

I come from a suburb of Seattle that represents the future of the United States economy. It is home to Microsoft, McCaw Cellular, home to hundreds and hundreds of other small companies who are affected by these sorts of lawsuits, and I can tell you this bill is for them.

That is what this bill is all about. It is designed to allow our future economy to prosper without the sort of sword of Damocles of this sword hanging over them.

If I could, for just 1 minute I would like to read a letter I got from the founder of one of these small companies in my district, because I think it points out exactly what is at stake here. This comes from Mr. Darland,

founder of Digital Systems in my district, a company that did not exist 10 years ago but was started in Mr. Darland's garage and has grown to be a very successful company.

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

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for the balance of the time.

Mr. MARKEY. Mr. Chairman, I rise in support of the Manton amendment. The Manton amendment seeks to prevent the scrapping of 200 years of American law being used to ensure that plaintiffs can bring cases where they feel they have been wronged in the financial marketplace. The English rule in this bill creates a burden on a plaintiff, a set of obstacles on a plaintiff that are higher than the set of obstacles that were in yesterday's loser-pay bill that was out here to be considered in diversity cases. It is an even stricter burden.

Loser pays is un-American. It is something that is completely outside of the traditions of the American jurisprudential history. It is absolutely impossible to imagine a situation where an investor who has lost only $5,000 or $10,000 or $15,000 would even consider bringing a case against a major financial institution, against a large company, if they feel that they have been defrauded; and if they lose the case, not lose the case and be out of court, but then have to prove that in fact the case was substantially justified, not just that it was not frivolous, but have to go through an entirely new proceeding to avoid having all of the costs that have been assumed by the large financial institution, by the large corporation, and hiring the largest law firms in New York or California or Boston to represent them.

It is un-American. The Manton amendment seeks to preserve the American tradition, where individuals can go to court and ensure that their case can be heard and not risk losing their house, losing everything they have saved in trying to fight to restore that which they have been wrongfully defrauded.

So this is a critical moment again for the House. It is once again going to vote on whether or not we want to impose the English rule, the loser-pay standard, upon American investors.

My heartfelt recommendation to every Member who is about to come out here and to vote is to continue, those who stood against loser pay yesterday to stand with the Manton amendment, to ensure that we retain that 200-year tradition of giving every American the right to go to court, the right to vindicate themselves before the bar of justice, without having to risk everything that they have ever earned in their life in paying the legal bills incurred by large corporations in trying to defend themselves against average Americans.

The CHAIRMAN. All time for consideration of the amendment has expired.

The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 254, answered "present" 1, not voting 12, as follows:

[Roll No. 214]

AYES—167

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

NOES—254

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

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—12

Archer	McDade	Rangel
Bilbray	McKinney	Seastrand
Gibbons	Meek	Stokes
Jefferson	Neal	Zimmer

□ 1828

Mr. FAZIO and Mr. DEUTSCH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. POMEROY. Mr. Chairman, I rise today in opposition to the bill, H.R. 1058.

Before coming to Congress, I served 8 years as North Dakota's insurance commissioner. I was the State's chief regulator for insurance and came to know the job of protecting consumers very well.

It is with this background that I place great importance on the position of the State and Federal securities regulators with regard to this legislation. They unequivocally oppose H.R. 1058. The sole purpose of these regulators is the protection of investing consumers, and their opposition to this bill comes directly from that purpose. They believe it deals an unfair blow to the investing public.

Regulators have no financial stake in this legislation and I weigh their position as highly credible. We have regulators to provide a check in the system—to make sure someone is looking out for the consumer. In considering legislation like this, I believe it is imperative that we listen to their expertise. While I approve of the goal of H.R. 1058—to deter frivolous claims or curtail strike suits—this bill goes too far and limits the ability of aggrieved investors to pursue just recovery from fraud.

I regret the committee did not work with the financial regulators to devise a carefully tailored response to this important issue.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to H.R. 1058, the Securities Litigation Reform Act. This legislation, as was the case with the ill-conceived Attorney Accountability Act we just had before us, would slam the doors of justice on hard-working Americans who unwittingly fall victim to corporate misconduct and fraud. H.R. 1058's anti-consumer, pro-big-business, special-interests-at-any-expense outlook falls right in line with the rest of the GOP Contract With America.

I believe all of us in this Chamber recognize that there continue to be isolated cases in which meritless securities class action lawsuits are brought and we should take steps to deter such behavior. But the GOP's approach on this issue, as with all other issues during this first 100 days of the 104th Congress, has been to isolate instances of meritless suits, blow them out of proportion, and then attack them with a sledgehammer rather than with the laser-beam specificity they deserve. This is irresponsible politicking, not sensible legislating, Mr. Chairman.

H.R. 1058 couldn't offer a more favorable climate for corporate misconduct. The number of egregious provisions in this legislation is overwhelming. For starters, H.R. 1058 would require defrauded investors, prior to the discovery stage of a suit, to establish the fact that a defendant acted knowingly or recklessly. This is an almost impossible task that goes way beyond the already stringent judicial standard now in place that requires investors to allege facts providing a strong inference that they were wronged.

However, the bill perpetrates an even greater miscarriage of justice by allowing parties against whom suits are brought to employ an "I forgot to obey the law" defense. You got it—all a defendant in a securities fraud case will have to do if this bill passes is to say "Oops, I'm sorry, I just didn't remember to disclose that pertinent information," and they will be excused from prosecution. You can bet that this provision alone is making a whole bunch of unethical corporate wolves out there salivate at the prospects of an easy way out in cases of fraudulent activity.

Yet most distressing, as we have heard for a couple of days now from several Members, is the fact that H.R. 1058 imposes loser-pays requirements forcing a losing small investor in a securities fraud suit to shoulder the legal fees of the investment banking houses, accounting firms, megacorporations, and so forth. I don't want to tell my constituents who lose their life savings that they had invested in mutual funds, IRA's, or pension plans because of a fraudulent action that they must then risk their homes and whatever else they may have left to have even a chance of recovering a small portion of what they lost. Do you think these investors will pursue any suit? Get real, Mr. Chairman.

Conspicuously absent from this bill are provisions which would effectively balance the scales of justice in securities cases such as a restoration of aiding and abetting liability standards, restrictions on secret settlements and protective orders, and mandated preservation of evidence to name a few.

The fact remains that private securities lawsuits have been a powerful deterrent to fraud and have been invaluable in supplementing and enhancing Securities and Exchange Commission [SEC] enforcement of Federal securities laws. The Lincoln S&L debacle and the Drexel Burnham disaster were just two high-profile cases of many that were initiated as a result of private investor action. It is not justifiable to throw the baby out with the bath water in the name of so-called reform.

Mr. Chairman, the SEC is strongly opposed to this legislation. SEC Chairman Arthur Levitt testified before the Commerce Committee last year on this issue that "in the balance between the interests of investors and the interests of a better system, a better system is important, but it can't be at the expense of those investors." In follow-up comments this year the SEC reiterated that their first priority is "the rights of American investors and the integrity of the American capital markets," something this legislation is weak in addressing.

Obviously my Republican friends don't agree with the No. 1 priority of the Commission. Otherwise, we would not be debating the misguided legislation we have before us today.

I urge my colleagues to vote "no" and prevent what will amount to a grave injustice to our Nation's consumers and small investors should H.R. 1058 pass.

Mr. REED. Mr. Chairman, I believe legislation is needed to deter the meritless strike suits that are siphoning resources away from so many of our innovative bio-technology and high-technology companies. I also strongly support the sections of the bill dealing with proportionate liability for defendants who did not act knowingly. In fact, I have been a cosponsor of bills to correct these problems with securities litigation that were introduced by the gentleman from Louisiana [Mr. TAUZIN] in past Congresses.

However, I am troubled by some of the extraneous provisions that have been included in the legislation before us today. I am particularly concerned about the redefinition of the recklessness standard. Initially, section 204(a)(4) of the bill would have allowed any defendant to escape liability by asserting they genuinely forgot or that disclosure did not come to mind. Fortunately the drafters of this provision realized this sentence created a giant loophole for wrongdoers. Unfortunately, instead of deleting this absurd provision, a hastily drafted amendment was adopted that, to my mind, confuses the issue even further.

There are other troubling provisions. For example, the bill limits the plaintiff to only one amended complaint: there were six amended complaints in the suit against Charles Keating. An amendment to exempt municipalities from some of the bills restrictions was defeated. Municipalities are hardly the professional plaintiffs we are attempting to stop and should not be barred from protecting their—and the taxpayer's—interests.

As Arther Levitt, the chairman of the Securities Exchange Commission, has said, "Our markets are the best in the world, partly because our securities laws are the best in the world. We tamper with the securities regulation system at our peril."

If this bill comes back from the Senate in a more reasonable form, I intend to support it. But I cannot support it as it now stands. Responsible legislation is needed to stop frivolous lawsuits. But we should not hinder our ability to police future calamities like the savings and loan frauds, the Orange County bankruptcy, and an increasing number of derivatives scandals.

Mr. BAKER of California. Mr. Chairman, I rise today to express my support for H.R. 1058, the Securities Litigation Reform Act.

As a member of the leader's task force on legal reform, I am particularly pleased that we are passing the second of three major legal reform bills in this the first 100 days of the Contract With America.

The Securities Litigation Reform Act will limit the practice of frivolous strike suits against companies merely because their stock prices experience sudden fluctuations.

Under current law, we have witnessed the emergence of a cottage industry of attorneys who prey upon companies with volatile stock prices. To correct the problem of professional plaintiffs, H.R. 1058 restricts these unlucky investors from filing more than five class action suits within a 3-year period.

Additionally, the bill imposes loser-pays sanctions where the court determines that the position of the losing party was not substantially justified. In such cases, the loser is responsible for paying all court and legal fees. This provides a disincentive for litigants to flippantly file suits without merit.

Finally, H.R. 1058 creates a safe harbor from frivolous lawsuits to protect companies that publish market predictions. This forewarns potential investors of risk inherent in investing.

In my home State of California, and the bay area in particular, there are many small, high-growth, high-technology firms which are volatile by nature. These firms are often victimized by frivolous securities litigation.

For the good of the bay area, the State of California, and the entire United States, I am proud that the House of Representatives is passing this monumental legislation.

Mr. CARDIN. Mr. Chairman, there is no question that the securities litigation system

can be improved. Too often, class actions are filed which result in each investor receiving a check for an insubstantial amount such as 50 cents while the attorney who filed the case reaps inordinace fees.

Changes to our securities laws must encourage innovation and investment, while at the same time deter white-collar crime and ensure the integrity of the financial markets. It must target frivolous lawsuits and other problems in the litigation process without impairing the ability of defrauded investors to sue.

While I support reasonable reforms, time has demonstrated that taxpayers and honest business people can suffer greatly from fraud and improper behavior. Although I supported final passage of H.R. 1058, there were some provisions—were too extreme. I voted in favor of the Securities Litigation Reform Act in order to show support for reform and to push the process forward. However, if the bill returns to the House, in the same form as it is presently drafted, I would find it difficult to support this legislation.

My concerns regarding H.R. 1058 include: Elimination of recklessness as a cause of action in securities fraud cases, enhanced pleading requirements which force plaintiffs to establish, before the discovery process occurs, that the defendant acted with the intent to deceive or defraud, requirement for class plaintiff to post a bond covering the legal fees and expenses of the defendants should the class plaintiffs not prevail and severe limitation of cases based on a fraud on the market.

Mr. Chairman, we must create reforms which control outrageous securities litigation without hurting investors. I am hopeful that a good compromise bill can be reached in conference with the Senate and that the House of Representatives will have an opportunity to vote on a bill that is reasonable but strong security litigation reform.

Mr. BILIRAKIS. Mr. Chairman, today we are considering an important piece of legislation, H.R. 1058, the Securities Litigation Reform Act. This bill reforms Federal securities law to stop the proliferation of strike lawsuits—suits filed by class-action attorneys on behalf of shareholders whose stock investments have failed to live up to their expectations.

Prior to the full Commerce Committee markup, I received numerous phone calls from constituents who were concerned that the Securities Litigation Reform Act would limit the ability of stockholders to sue if they are the victims of fraud. Normally, constituent communication is one of the most important sources of information that I rely upon to represent my district. However, in this particular case, I am not sure that the phone calls I received truly represent the views of my constituents.

Whenever Congress debates a controversial issue, all of my congressional offices are inundated with phone calls from concerned constituents. However, my district offices did not receive one phone call on this bill.

In fact, many of the calls my Washington office received were not even generated directly from individuals in my district. Rather, groups opposed to this legislation called my constituents and transferred their calls to Washington. These organizations instructed my constituents to say they were opposed to securities litigation reform. In many instances, my constituents were given very little information regarding this important legislation.

I find this practice abhorrent and misleading, Under the circumstances, I find it hard to believe that my constituents were presented with all of the facts regarding this legislation.

Over the last 5 years, the number of securities fraud suits has tripled. One of every eight companies traded on the New York Stock Exchange has been hit with a strike suit, and the most frequent targets of strike suits are small, fast-growing companies. In many instances, lawsuits are filed just hours after the news of a stock price decline with no evidence of wrongdoing.

Opponents of H.R. 1058 argue that investors will be hurt by the reforms included in this legislation. However, current law hurts victims of real fraud in several key ways.

First, individual shareholders who are part of the class action do not reap anywhere near the full amount of damages that are claimed in the suit. A study by the National Economic research Associates showed that the average investor recovers only seven cents for every dollar lost in the market, prior to the award of attorney's fees.

Second, current law encourages lawyers to file as many suits as possible and to settle them quickly, regardless of their merit. The sheer cost of going to trial is enough to compel most companies to settle out of court, even if they have done nothing wrong. Approximately 90 percent of companies sued eventually decide to settle.

In many cases, the plaintiffs would be better off going to trial but the cases are settled because a settlement guarantees a significant attorney's fee and eliminates any risk of failure to recoup funds already invested in the case.

To correct these shortcomings, H.R. 1058 creates plaintiff steering committees that are appointed by the court to make sure that class action lawyers act in the best interests of their clients.

This legislation will also make it easier for plaintiffs to understand a settlement agreement reached on their behalf. H.R. 1058 requires that class action plaintiffs receive a simple, easy-to-understand summary of the proposed settlement terms, including the full amount of attorney's fees and costs.

The present system shortchanges victims of real fraud because even successful plaintiffs must pay their own attorney's fees out of their judgment, thus ensuring that victims of fraud do not recover all they are owed. In some cases, victims of fraud must pay as much as one-third of the compensation they receive to their own lawyers.

H.R. 1058 allows prevailing parties to recover their attorney's fees from the losing side, ensuring that victims of fraud recover everything they are entitled to receive.

Under H.R. 1058, the court may impose attorney's fees only when a party pursues a case that lacks substantial justification and imposing the fees on the loser would not be unjust. The court also has the discretion to require all or part of the winner's fees to be paid by the loser's attorney rather than the losing parties themselves.

The bottom line is that strike lawsuits hurt investors by diminishing the value of their holdings. Investors lose when the stock price declines because of litigation, and they lose again when the company has to deplete its assets for defense fees and settlement costs.

Moreover, strike suits harm the economy. Instead of spending money on research and development, hiring more employees or reducing the cost of their products, companies end up spending a great deal of money on strike suit insurance and legal fees.

Mr. Chairman, I urge my colleagues to support H.R. 1058. I believe this is an important piece of legislation which will benefit both companies and investors.

Mr. DELAY. Mr. Chairman, today we consider legislation to end widespread abuses in our legal system—to end a litigation tax on many of the most productive companies in America.

The securities litigation reform bill before us today—H.R. 1058—will restore common sense to the Federal securities laws. When Congress wrote these statutes 60 years ago, the private right of action that H.R. 1058 addresses was not even contemplated. But 60 years of judge-made law have created a system that Congress never anticipated and that no one can defend. Today, the Federal securities laws are compensating defrauded investors little, but are making plaintiffs' lawyers rich.

The consensus for reform is overwhelming—SEC Chairman Arthur Levitt, pension fund managers from some of our largest cities and States, investor representatives, issuers, auditors, academics, business leaders, entrepreneurs, Democrats and Republicans—all agree that meaningful reform is necessary. And this is the legislation to do it.

Mr. Chairman, H.R. 1058 is a good bill that will protect jobs and stimulate economic growth—particularly for high-tech companies that are frequently the targets of these securities strike suits. It will end the legal extortion practiced today against many of America's most promising companies. It will free-up resources for investment in R&D, business expansion and job creation—rather than in lawyers and litigation expenses.

H.R. 1058 is a compromise bill that has been amended since its introduction to address many of the concerns expressed by our friends on the other side of the aisle.

And it is a bipartisan bill that includes among its original cosponsors my good friend from Louisiana and enjoys the support of many of my colleagues from the Democratic Party.

Mr. Chairman, Congress has avoided its responsibility to fix the securities litigation system for 60 years. But today we have the opportunity to act. Today we have the opportunity to restore the Federal securities laws to their intended purpose—to protect investors and keep America's securities markets the safest and most liquid in the world.

I urge my colleagues to pass H.R. 1058 and put an end to abusive securities litigation.

Mr. BILBRAY. Mr. Chairman, a core component of the American Dream is that hard work, creativity, and innovation is encouraged, and more often than not, rewarded with success. Unfortunately, for a vast number of small, fast-growing high-technology and biotech companies in southern California, the Silicon Valley, and elsewhere around the country, this dream has turned into a nightmare. A small fraternity

of attorneys have discovered that exploitation of loopholes in our existing securities laws can be extremely lucrative, and they have elevated the cunning application of meritless class action lawsuits to an art form.

Class action lawsuits, or strike suits, have had a devastating effect on biotech and high-technology firms, whose traits—volatile stock prices, rapid product development, and constantly evolving technology—make them an easy target for strike suits. If a company's stock shifts abruptly in one direction or another, or quarterly earnings are less than projected, it is likely to be targeted by a strike suit filed by plaintiffs' attorneys alleging fraud. Often, these suits are filed within hours of the stock fluctuation.

These suits have the effect of draining massive amounts of time and money from some of America's most competitive industries. A perverse result of these situations is that once hit with a strike suit, for many small companies it is cheaper to settle out of court—despite their innocence—in order to avoid a prolonged and costly court process. This amounts to legalized blackmail, and makes a mockery of that quaint concept of innocent until proven guilty.

Far from benefiting investors—on whose behalf these suits are ostensibly filed—these settlements typically recover only pennies on the dollar for investors, while the attorneys who brought the suit recover an average of 30 percent from large pretrial settlements. Investors are also penalized in the long run, as another side effect of strike suits is to reduce the incentive for voluntary disclosure of forward-looking information by a given company.

From my district in San Diego, up the State to the bay area, and elsewhere across the United States, these predatory strike suits have hamstrung some of our most competitive and growth-oriented industries, with predictable results. If a company is fortunate enough not to have to downsize or lay off employees, it is often forced to divert its resources from R&D, or product improvement.

In many instances, these companies are researching cures for such diseases as Alzheimers, AIDS, or breast cancer, or are developing medical implant devices which can help prolong or improve the quality of life for the ill and the elderly. If such research is discouraged, as it now is, and these products are kept from the market, as many have been, who is actually benefiting? Certainly not the little guys whom the strike suit attorneys claim to represent. A cursory review of the average fees garnered by strike suit attorneys indicates exactly whose interests are truly being furthered.

The bottom line is that American people are being taken for a ride under the current system—here's how:

First, new drugs and medical products that American consumers need and want are being priced out of reach, or kept from the market altogether by meritless strike suits;

Second, American taxpayers are footing the bill for the lengthy trial and appeal processes forced by these meritless strike suits; and

Third, America's competitive advantage in high-technology and biotechnology markets is being crippled by meritless strike suits, which adversely affect local and regional economies through lost jobs and business opportunities, in addition to hamstringing our ability to compete in the international markets.

H.R. 1058 will address these abuses, making rational, substantive, and fair changes in our system. It will benefit our economy, our competitiveness, and most importantly, the American people. Mr. Chairman, I urge my colleagues to rise in strong support of the Securities Litigation Reform Act; it's been a long time coming.

Mr. GANSKE. Mr. Chairman, I rise today in strong support of H.R. 1058. We must end the abuse that is eroding our legal system.

As so poignantly stated by SEC Chairman Arthur Levitt:

> Private actions are intended to compensate defrauded investors and deter securities violations. If the current system fails to distinguish between strong and weak cases, it serves neither purpose effectively.

I couldn't agree more. Unfortunately, this is precisely what we are left with today—an ineffective system.

The changes mandated by the Securities Litigation Reform Act currently before the House help restore responsibility and respectability to our court system.

First, the provision that imposes the loser-pays rules when the court determines the position of the losing party was not substantially justified. This prevents the consummate race to the courthouse. Plaintiffs with have to weigh the merits of their case before filing suit.

Opponents claim this will have a chilling effect on a plaintiff's right to sue. This simply is not the case. The modified loser-pays provision will only result in fee shifting in cases which should not have been brought in the first place. The only thing chilled by this provision will be meritless suits, which I believe deserve to be put in the deep freeze.

Second, as for the definition of recklessness, the current law is vague and uncertain. Parties may engage in nearly identical conduct, yet courts will reach completely different results. The vagueness and uncertainty of the current standard has led to a great deal of inconsistency, confusion and unfairness in our judicial system. I think all of us would agree that by creating consistency, we increase fairness and decrease the possibility of injustice in our legal system.

In general, strike suits under current law do more harm than good. Reform is needed for two main reasons. No. 1, proper plaintiffs must have a place to redress valid grievances in a system ensuring fraud victims recover their losses and not merely the estimated pennies on the dollar.

Number two, the securities industry must be allowed to get back to its intended functions. We must help foster a market that allows the industry to do its job and not spend all of its time defending meritless strike suits.

H.R. 1058 accomplishes both of these goals. I urge my colleagues to support this legislation which protects both the securities industry and individual investors.

Mr. LAFALCE. Mr. Chairman, I rise today to state my reluctant opposition to this bill, for I had hoped it would be adequately amended so that I could support it. Instead, I must comment on several serious issues that yet remain to be addressed with this legislation.

This week's so-called tort reform legislation consists of three bills, addressing in turn civil litigation, securities litigation, and product liability. In each case, I believe the proponents of the bill have recognized a real problem, but have attempted to write into law remedies that far exceed those needed to address the problem, and far exceeding those that are desirable.

Today's bill, H.R. 1058, is the least problematic of these bills. It addresses a discrete but serious issue—the filing of frivolous securities fraud class action lawsuits. As the Chairman of the Securities and Exchange Commission agrees, this problem clearly exists and may be growing. A very small group of overzealous attorneys pursue these lawsuits, often within hours of a significant change in the price of a stock or security. These attorneys keep on hand stables of professional plaintiffs for these suits, and prey on high-technology companies whose stock prices are naturally volatile. In many cases, companies are forced to settle out of court, rather than endure a lengthy and expensive trial on the merits.

The evidence indicates that such lawsuits are often baseless. However, the costs of defending such suits places a significant drag on high-technology and startup companies, not to mention their directors, officers, and accounting firms.

Without a system of proportionate liability—such as that proposed in H.R. 1058—accounting firms, for example, justifiably fear the prospect of being named as codefendants in these class action lawsuits. As a result, some now choose not to perform accounting and auditing services for this growing sector of our economy.

For these reasons, I had hoped to be able to support a bill that would address the specific problem of securities fraud class action lawsuits in a responsible way. Instead, like so many other bills seeking to enact the so-called Contract With America, we have today considered a bill that far overreacts and far overreaches.

H.R. 1058 did improve somewhat as it moved through the Commerce Committee, both at the subcommittee and the full committee level. Unfortunately, House leaders chose to circumvent the Legislative process in the Judiciary Committee, where further improvements could have been made. Today on the House floor, several valuable amendments to the bill were offered, including one by my colleague from New York [Mr. MANTON]. These amendments were not even considered seriously. I am forced to conclude that proponents of this bill do not intend to pursue reasonable compromise. I hope that the Senate will be more deliberate, and that any future conference agreement might weigh these difficult issues in a more responsible manner.

But at this time, H.R. 1058 contains numerous flaws, including: an unduly burdensome loser pays provision, prohibitive fact pleading requirements, an onerous bond requirement for the filing of class action suits, the need to show scienter rather than recklessness in order to prove securities fraud, et cetera.

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These are serious defects, which must be responsibly and deliberately addressed. For these reasons, I must now oppose passage of H.R. 1058, but hope it will be moderated significantly in conference with the Senate, so that I could then support final passage of the conference report.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MCINNIS) having assumed the chair, Mr. COMBEST, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

□ 1830

The SPEAKER pro tempore (Mr. MCINNIS). Under rule the previous question is ordered.

Is a separate vote demand had on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MARKEY

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

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

Mr. MARKEY. I am opposed to the bill in its present form, Mr. Speaker.

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

The Clerk read as follows:

Mr. Markey moves to recommit the bill, H.R. 1058, to the Committee on Commerce with instructions that the committee report the bill back to the House forthwith, with the following amendments:

Page 7, beginning on line 19, strike subsection (c) through page 11, line 8, and insert the following:

"(c) AWARD OF FEES AND EXPENSES.—

"(1) AUTHORITY TO AWARD FEES AND EXPENSES.—If the court in any private action arising under this title enters a final judgment against a party litigant on the basis of a default, a motion to dismiss, motion for summary judgment, or a trial on the merits, the court shall, upon motion by the prevailing party, determine whether—

"(A) the complaint or motion is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

"(B) the claims, defenses, and other legal contentions in the complaint or motion, taken as a whole, are unwarranted by existing law of by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

"(C) the allegations and other factual contentions in the complaint or motion, taken as a whole, lack any evidentiary support or would be likely to lack any evidentiary support after a reasonable opportunity for further investigation or discovery; or

"(D) the denials of factual contentions are unwarranted on the evidence or are not reasonably based on a lack of information or belief.

"(2) AWARD TO PREVAILING PARTY.—If the court determines that the losing party has violated any subparagraph (1), the court shall award the prevailing party reasonable fees and other expenses incurred by that party. The determination of whether the losing party violated any such subparagraph shall be made on the basis of the record in the civil action for which fees and other expenses are sought.

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

"(4) SANCTIONS AGAINST ATTORNEY.—The court—

"(A) shall award the fees and expenses against the attorney for the losing party unless the court determines that the losing party was principally responsible for the actions described in subparagraph (A), (B), (C), or (D) of paragraph (1); and

"(B) may, in its discretion, reduce the amount to be awarded pursuant to this section, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy.

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

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

Page 28, line 12, insert before the period the following: ", except that this Act and the amendments made by this Act shall not apply to any action commenced by any State or local government, or any agency or instrumentality of any State or local government, before the date which is 3 years after such date of enactment.".

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

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, this recommittal motion contains two of the worst elements of the legislation which is pending before the House right now and seeks to correct those two portions of the legislation.

The first part of the recommittal motion deals with the issue of the English rule versus the American rule. That is the question of whether or not a plaintiff, when they file a case and lose, should be subject to having to pay the legal bills of the prevailing side.

The English rule is completely outside the traditions of American jurisprudence. What we seek to do in the recommittal motion is to insure that there is a correction made that does not in fact impose upon plaintiffs who happen to lose cases which they have brought against large financial or industrial institutions in this country the responsibility of shouldering the legal bills of those financial or industrial firms.

The Manton amendment, which we just considered, dealt with this issue extensively in debate. We are sure all the Members understand this issue. We debated a similar form of this "loser pays" proposal all day yesterday on the floor of this House.

The second part of the recommittal motion deals with the Dingell amendment, which was made unsuccessfully earlier this evening. The Dingell amendment seeks to deal with the reality that no municipality, no mayor, no city council in this country has ever been charged with bringing a frivolous action in a case where they believe that the municipality has been defrauded.

As a result, the Dingell amendment sought to insure that there is a 3-year period in which the onerous burdens of this legislation are not imposed upon a municipality, that those municipalities can still bring actions up to 3 years based upon financial irregularities. So the heart of the Dingell amendment was that any State government, any municipality, any county in the United States can sue under existing law without the much higher burden which is imposed by the bill which is now pending before the House.

This measure insures that those mayors, those Governors, those city councilmen, those county commissioners who have never had a single charge levied against them that they ever brought a frivolous case, can continue to bring actions under the existing law. So, if the case exists where the derivatives, where fraudulent financial instruments have in fact been sold to municipalities, to State governments, to county governments, that they in fact are able to continue to bring lawsuits under the existing standard which had served our country well for the last 60 years in this country in securities fraud cases.

So this is a very simple case. The National Association of Mayors support the Dingell amendment and want the language in the existing bill to be deleted. The National Association of Government Securities Officials want this language to be deleted from the language. The recommittal language sends back to committee the portions which deal with "loser pays."

This bill is a much harsher version of the English rule than the "loser pays" rule that was voted on yesterday. Under this bill, if the 3-part test of not substantially justified, imposing fees and expenses on the losing party or its attorney would be just and the cost of the fees to the prevailing party is burdensome or unjust, then the loser must pay all of the attorney fees for the entire case.

In contrast, yesterday's bill just required the loser to pay that part of the attorneys' fees occurring after an offer of settlement was made and rejected or if the verdict was lower than the offer. The Manton language, in contrast, would require the losing party to pay the winner's fees if the case was frivolous or brought in bad faith. This responds to exactly the concern that the Republicans are complaining about.

If you are serious about wanting to penalize the attorneys when they have brought frivolous cases, then vote for this motion.

If you want the investors who have just lost their life savings to bet the house and put up a bond at the beginning of the case, then that would be incredibly intimidating. It would have a chilling effect on the willingness of investors to sue.

The recommittal motion seeks to insure that we do not establish insurmountable barriers to investors to be able to sue large industrial and financial powers in this country and insures the State, county, and municipal elements have the same laws they have always been able to use in order to protect their rights in court.

I hope there is an affirmative vote by this House to send this recommittal motion successfully back to committee so we can have an inclusion of these matters.

Mr. FIELDS of Texas. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. FIELDS] is recognized for 5 minutes.

Mr. FIELDS of Texas. Mr. Speaker, I will try to be very brief.

Both portions of the motion to recommit we have already voted on. The Dingell amendment, we do not want to see a dual standard: One standard that applies to municipalities and cities, and another standard that applies to everyone else.

In regard to the Manton amendment, we do not want to see the "loser pays" provision weakened.

What we do want to see, Mr. Speaker, is H.R. 1058 should not be changed as it was brought to the House because it revolutionizes the standard by which disputes arising under the securities laws are litigated.

This truly is an historic moment. This legislation will introduce for the first time the concept of proportional liability into the Federal securities laws. A defendant may be liable for joint and several damages only if found to have acted knowingly. Defendants found liable for recklessness will be held proportionately liable. Arguably, this is the most significant development in private securities litigation in the 61 years since the Securities Act was passed.

The bill also provides that the losing party, his attorney, or both, will pay the prevailing party's legal fees if the court enters a final judgment against them. The court has the discretion not to award fees if the losing party establishes that its position was substantially justified. The court will require the attorney, class, or both to post security for costs to insure that funds are available to pay the legal fees if they are awarded.

The Manton amendment would strike this out.

Mr. Speaker, I know the hour is late, and I will stop at this particular moment other than to say this is an historic moment for those who believe that we need commonsense legal reform.

Mr. Speaker, what I would like to do, for a moment, is to yield to the gentleman from Louisiana [Mr. TAUZIN], who has played such an important role not only in this Congress but in previous Congresses in moving a very important piece of legislation.

Mr. Speaker, I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank my friend for yielding. I will be brief. I do ask him to yield just to say a word thanks, a word of thanks not only to the chairman, who has been extraordinarily cooperative, the gentleman from California [Mr. COX], and others who have worked with us to moderate this bill, but also, more importantly, to Members of this body who are original cosponsors of this effort 4 years ago and have remained faithful to this effort to bring this bill to a conclusion. Members like Mr. PARKER, like Mr. HALL, Mr. MONTGOMERY, Mr. SHAW, Mr. MORAN, Members like Mr. RUSH, Mr. TOWNS, and Mr. BROWN, who have helped bring us to this point. I think we are about to pass a good bill. Defeat this motion to recommit, and we can pass this very historic bill.

I want to again thank all of those who persevered for 4 years to bring us to this point.

Mr. FIELDS of Texas. In closing, Mr. Speaker, I just want to thank the gentleman from Oregon [Mr. WYDEN] for his improving amendment regarding accounting reform. Also, Mr. MINETA for his amendment regarding safe harbor.

Mr. Speaker, with that, I urge my colleagues to vote down this motion to recommit and then vote for passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. MARKEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 251, answered "present" 1, not voting 10, as follows:

[Roll No 215]

AYES—172

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

NOES—251

Allard	Bateman	Burr
Archer	Bereuter	Burton
Armey	Bilirakis	Buyer
Bachus	Bliley	Callahan
Baesler	Blute	Calvert
Baker (CA)	Boehlert	Camp
Baker (LA)	Boehner	Canady
Ballenger	Bonilla	Castle
Barcia	Bono	Chabot
Barr	Brewster	Chambliss
Barrett (NE)	Brownback	Chenoweth
Bartlett	Bryant (TN)	Christensen
Barton	Bunn	Chrysler
Bass	Bunning	Clinger

Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Bilbray
Gibbons
Hoke
Johnston
McDade
McKinney
Meek
Neal
Rangel
Velázquez

□ 1901

Ms. ESHOO and Mr. EDWARDS changed their vote from "no" to "aye."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. MARKEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 325, noes 99, answered "present" 1, not voting 10, as follows:

[Roll No. 216]

AYES—325

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Maloney
Manzullo
Martini
McCarthy
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Minge
Molinari
Montgomery
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—99

Abercrombie
Becerra
Beilenson
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Bryant (TX)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Evans
Fattah
Filner
Flake
Foglietta
Ford
Gephardt
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jacobs
Jefferson
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Luther
Manton
Markey
Martinez
Mascara
Matsui
McDermott
Mfume
Miller (CA)
Mink
Moakley
Mollohan
Murtha
Nadler
Obey
Owens
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Reed
Reynolds
Rivers
Roybal-Allard
Sanders
Scott
Serrano
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thurman
Torres
Tucker
Velazquez
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—10

Bilbray
Coleman
Dickey
Gibbons
McDade
McKinney
Meek
Moorhead
Neal
Rangel

□ 1911

Mr. TAYLOR of Mississippi changed his vote from "aye" to "no."

Mr. MEEHAN changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BILBRAY. Mr. Speaker, I was absent due to an illness. I would like the RECORD to show that had I been present, on rollcall 213 I would have voted "nay," on rollcall 214 I would have voted "nay," on rollcall 215 I would have voted "nay," and on rollcall 216 I would have voted "aye."

Mr. ABERCROMBIE. Mr. Speaker, on Wednesday, March 8, 1995, I was meeting with a group of high school students—who traveled to Washington, DC, from the State of Hawaii—in a part of the Capitol where the voting bells could not be heard and missed rollcall vote No. 210. I want the RECORD to show that had I been present I would have voted "nay" on rollcall vote No. 210, the Cox substitute amendment to the Eshoo amendment.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN H.R. 1058, SECURITIES LITIGATION REFORM ACT

Mr. FIELDS of Texas. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

GENERAL LEAVE

Mr. FIELDS of Texas. 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 H.R. 1058, the bill just passed.

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

There was no objection.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 56

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that the following Members be removed as cosponsors of H.R. 56: Messrs. WELLER, FUNDERBURK, MINGE, HOLDEN, CRAPO, KNOLLENBERG, MCDADE, BRYANT of Tennessee, BASS, and OXLEY, and Mrs. WALDHOLTZ.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. SOLOMON. Mr. Speaker, for the benefit of the Members, the next order of business is the rule and general debate only on H.R. 956. This is an agreed-to rule. We do not expect a vote on it. Thereafter, we would go right to general debate. The gentleman from Missouri [Mr. VOLKMER] just shook my hand and agreed to this, so I think we can safely say there will be no further votes tonight.

Mr. WISE. Mr. Speaker, if the gentleman will yield so I can speak out of turn for 1 minute, let me just say I do not pretend to speak from great knowledge, but I would advise members that I have been informed that that assurance may not be able to hold up as to no votes. I just do not want Members to leave here. That is not coming from me.

Mr. SOLOMON. Mr. Speaker, I would just point out that the rule that is about to be debated provides for 2 hours of general debate. This is not a rule dealing with the amendment process. That rule will not come on the floor until tomorrow. I wanted to make that clarification.

Mr. WISE. Mr. Speaker, as the gentleman is aware, any Member on either side can call for a vote on even this uncontested rule.

FURTHER LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, I wish to address the House for the purpose of announcing a schedule change.

Mr. Speaker, last week I announced that the House would be considering term limit legislation on Monday and Tuesday, March 13 and 14. After meeting with the term limit supporters, we have decided to move term limits to the end of the month to maximize public debate and to give our constituents the opportunity to express their views on this historic legislation.

Mr. Speaker, a byproduct of this schedule change, one that I know Members will be particularly interested in, is that there will be no votes on next Monday, the 13th.

Mr. Speaker, on Tuesday the House will convene at 12:30 for morning hour. Business will begin at 2 o'clock, and there will be no votes before 5 o'clock on Tuesday next.

PROVIDING FOR CONSIDERATION OF H.R. 956, COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 108 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 108

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 956) to establish legal standards and procedures for produce liability litigation, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours equally divided among and controlled by the chairmen and ranking minority members of the Committee on the Judiciary and the Committee on Commerce. After general debate the Committee of the Whole shall rise without motion. No further consideration of the bill shall be in order except pursuant to a subsequent order of the House.

□ 1915

The SPEAKER pro tempore (Mr. EWING). The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas [Mr. FROST], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 108 provides for 2 hours of general debate on H.R. 956, the Common Sense Legal Standards Reform Act. Such time is to be divided equally between the chairmen and the ranking minority members of the Judiciary and Commerce committees, after which time the Committee will rise without motion.

Mr. Speaker, this is a rather simple rule which will not require a great amount of discussion. The House has completed 3 days of dialog on the first two components of legal reform, and House Resolution 108 simply assures a full discussion of H.R. 956.

This rule is designed to allow the House to continue this week's historic discussion over how to restore sanity to our Nation's legal system. These critical reforms will benefit virtually every phase of American life, and I believe that 2 hours of general debate provides ample time to discuss these reforms that will limit the devastating legal costs on the U.S. economy and the American work force.

The Committee on Rules had delayed reporting the second component of this rule until earlier this afternoon in order to provide more time to consult with the minority and the leadership. It has been our intention to present the minority with every opportunity to offer and vote on amendments to the principal sections of this bill, and the Rules Committee wanted to guarantee an additional day of discussions to provide Members on both sides of the aisle with this opportunity.

The majority has supported, these measures in the past, and I am pleased that House Resolution 108 was reported favorably from the Rules Committee yesterday by voice vote. I urge my colleagues to support this rule, and I look

forward to a thoughtful and deliberative debate on all of the significant issues raised by this bill.

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

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

Mr. Speaker, I will not oppose this rule, but I must take this time to express my strong opposition to this so-called reform of product liability. Mr. Speaker, I am joined in my opposition to this bill by a variety of groups including, to name but a few, the Consumer Federation of America, the Consumers Union, the American Association of Retired Persons, the National Conference of State Legislators, and the YWCA.

Mr. Speaker, these groups oppose this legislation because it is an assault on American consumers—the very American people the Contract With America seeks to assist by getting government off their collective backs. This bill does get something off someone's back, but what the bill really does is provide immunity to manufacturers and industry. The bill does it by making it very difficult for injured consumers to seek redress in the courts and thereby insuring that dangerous products remain on the market.

Mr. Speaker, this legislation will dismantle 200 years of State common and statutory law. This bill ignores the fact that at least 45 States have undertaken significant reform in response to the perceived problems in local civil justice systems. If we are to undertake civil judicial reform, such reform should complement, not undo, the efforts of the States. This legislation does not do that.

My Republican colleagues contend we must pass this legislation because of an explosion of product liability litigation. Mr. Speaker, there is absolutely no evidence to support this claim. In fact, Mr. Speaker, product liability claims filed in Federal courts have actually declined by 36 percent between 1985 and 1991 and they represent only 4 percent of all tort filings in State courts. The National Center for State Courts reported last year that since 1990, the national total of State tort filings has decreased by 2 percent. They estimated that if this trend continues, in the next 10 years State courts will experience a decline of 10 percent in State tort filings. This, Mr. Speaker, is hardly an explosion. Quite the opposite in fact.

My Republican colleagues contend that this legislation is required because juries are making outrageous and excessive punitive damage awards that damage American business, both large and small. My Republican colleagues contend that the only way to protect business and insure its competitiveness is to cap punitive damage awards.

But the fact of the matter is, Mr. Speaker, punitive damages are only rarely awarded—39 States already do not permit them or severely limit their size. These limits have been imposed at the State level in spite of the fact that consumer products are responsible for an estimated 29,000 deaths and 30 million injuries each year. In fact, between 1965 and 1990, punitive damages were awarded in only 353 product liability cases, 91 of which were asbestos cases. Three hundred and fifty-three in 25 years hardly add up to excessive number of awards.

Mr. Speaker, the GAO has reported that the size of damage are closely related to the severity of the injury and the economic harm suffered by the victim. Is it excessive or outrageous to award punitive damages in the case of a severely burned 4-year-old when her pajamas catch fire? Is it excessive or outrageous to award punitive damages when an oil tanker runs aground and bespoils a large portion of the coastline of Alaska? I think not.

Mr. Speaker, the Rules Committee met earlier this evening to consider amendments to this bill. The recommended rule severely restricts the number and scope of those amendments which will be debated on the floor. My Republican colleagues have long complained that the process in the House was closed and did not permit open debate on critical issues facing this Nation. If this issue is so critically important, the Rules Committee majority should have seen fit to open the process when we consider this legislation for amendment tomorrow. I would hope the American people deserve at least that much.

I noted that the majority leader just a few moments ago announced that we are not going to have votes on Monday and that we will not have votes on Tuesday until 5. And yet we were told in the Committee on Rules that we just do not have enough time to consider all these amendments that Members want to offer. They cannot have it both ways. They cannot cancel, effectively cancel 2 days of votes and then tell the Members that we do not have enough time to vote. There are a number of speakers on my side who wish to be heard on this matter.

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

Mr. LINDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the committee.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman from Georgia for yielding me the time.

Mr. Speaker, I rise in strong support of this rule for H.R. 956, the Common Sense Legal Standards Reform Act of 1995. The rule provides 2 hours of general debate equally divided between the chairman and ranking members of the Committee on the Judiciary and the Committee on Commerce.

This is part 1 of a two-part rule which will provide Members adequate time to debate the principles associated with product liability reform as well as a large number of both Democrat and Republican amendments to this bill.

Recognizing the merits of this rule, the Rules Committee favorably reported this rule by a voice vote.

The rule will allow a fair and open debate of the important issues associated with this bill.

Mr. Speaker, our legal system needs reform. It has been reported that Americans file a lawsuit every 14 seconds in this country. This litigation explosion has been most evident in the area of products liability lawsuits.

Between 1973 and 1988, as courts liberalized product liability laws, the number of product liability cases increased by 1,000 percent. The cost of these suits has been estimated to be as high as $80 billion a year—this is greater than the combined profits of America's 200 largest corporations.

The cost of these frivolous lawsuits is devastating to America's businesses, consumers, and families. Today, our excessive reliance today on a patchwork quilt of conflicting State statutes and common law relating to product defects burdens interstate commerce, discourages innovation, exacerbates liability insurance costs, compromises American competitiveness, and forces Americans to pay higher prices.

H.R 956 will establish uniform Federal rules by which manufacturers and consumers alike will be able to abide as they engage in interstate commerce. The commerce clause of the Constitution reserved this right for the Federal Government and I believe it is time for the Federal Government to correct this area of our legal system. This bill must be passed to prevent the further growth of these burdens.

I urge my colleagues to support fair rule and the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to this rule and I do so for a number of reasons, first and foremost of which is the fact that H.R. 1075 is far from the commonsense reform that it purports to be. While this legislation is bolstered by a good deal of Republican rhetoric it is supported by little empirical need.

My GOP colleagues insist there is an explosion of product liability litigation and punitive damage awards which is negatively impacting American competitiveness and stifling business growth in this country. This is pure bunk, Mr. Speaker.

Product liability cases represent less than one-half of 1 percent of all civil filings in the State courts. In addition, a mere 355 awards for product liability punitive damages have been given out over the last 25 years, and those few

awards have served to not only hold obviously negligent manufacturers accountable but also increase consumer safety. Ironically, there has been a 232 percent explosion commercial litigation between corporations over the same time period which H.R. 1075 doesn't even address.

Moreover, liability costs to American industries represent less than 1 percent of total operating costs and the fact remains that all companies, both foreign and domestic, are subject to the same laws in each State as well as abroad. What the current product liability system has done is increase American innovation and our reputation for safe and reliable products—something in which we can take pride and must continue.

Mr. Speaker, H.R. 1075 represents an absolute Federal power grab in an area that has historically been the province of the States. As a popular phrase in my city of Chicago states, "Stick around and the weather is bound to change," it seems a similar phrase could be used to refer to the manner in which my friends on the other side of the aisle continue to legislate with respect to State's rights.

H.R. 1075 will not create uniformity in product liability laws, as the National Conference of State Legislatures has testified. H.R. 1075 will not improve the functioning of our civil justice system. The only thing H.R. 1075 will do is preempt those State laws that effectively allow for injured consumers to be properly compensated for the harm caused them in favor of protections for the GOP's negligent, corporate, fat-cat contributors. This sure is not common sense to me or my constituents Mr. Speaker.

Before my colleagues cast a vote on this rule, I would ask them to consider the following:

A recent national telephone survey asked registered voters what they want, and don't want, as well as the kinds of things they mean when they think about common sense reforms.

Seventy-three percent said that the regulation of the civil justice system is just more of the same old big Government solution from Washington. Sixty-eight percent said the Federal Government shouldn't tamper with a justice system that lets citizens hold wrongdoers accountable, and 66 percent said politicians shouldn't tamper with a system that holds large corporations accountable to any individual.

Seventy-five percent of the respondents believe that "The only way corporations will stop making dangerous products is if they know they can be sued."

Eight out of 10 agree that "Corporations should be held accountable for their actions when they injure someone even if it is an accident."

Over 75 percent said that the current system should either remain the way it is, or be tilted more in favor of those injured in accidents.

Sixty-six percent of all people, and 72 percent of women believe that the "award a jury gives to the accident victim should not depend on how much the victim earns."

The survey also shows that there are some common sense legal reforms that people want. They include requiring court records to be open and available for reference rather than kept secret) a change I support and hope to accomplish along with Representatives SCHUMER and DOGGETT should H.R. 1075 proceed forward.

This is kind of thing the public thinks about when they hear the term "common sense legal reforms." It is pretty clear that what they don't think about are the unnecessary and draconian provisions such as those embodied in H.R. 1075.

I urge my colleagues to vote no on this rule and support the innocent victims of corporate misconduct, not the perpetrators of such activity.

□ 1930

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

Mr. Speaker, there are corporate fat cat contributors on both sides of this, I suspect. The trial lawyers contributed $2 million to the folks on the other side.

Mr. Speaker, for purposes of debate only I yield 5 minutes to the gentleman from North Carolina [Mr. COBLE].

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

Mr. Speaker, much has been said about the Contract With America. I think it has served most Americans well. I think most Americans are embracing it warmly.

That is not to say that I endorse all of the provisions of the contract. In fact, I have some problems with the bill that will be before us tomorrow. I do intend, however, to vote in favor of the rule now before us.

Mr. Speaker, as a member of the Committee on the Judiciary, I voted in favor to bring this bill to the full House because this issue deserves to be debated fully and openly in the House, not in the insular environs of a committee. This bill, as we all know, has been adeptly denied admittance to this floor for years.

Many times in the House, Mr. Speaker, Members who have no interest in legislation will indifferently reply "I have no dog in that fight." I have nothing but dogs in this fight, friendly dogs all: the insurance community, the business community, the medical community, the trial lawyers, and individual constituents throughout my district; this compounds the complexity of this issue, parties with whom I enjoy harmonious relationships, but who find themselves at odds with each other on this issue.

Mr. Speaker, I am troubled by what we are proposing here, because it is my belief that the law of torts and surrounding issues thereto which usually involve the insurance industry directly or indirectly are more appropriately addressed in the 50 State legislatures and/or the 50 offices of State insurance commissioners. I am not comfortable, Mr. Speaker, extending the tentacles of the Congress into an area that has traditionally been administered and regulated at the State level.

I, too, am uneasy about the proposal of capping the amount of damages. The awarding of damages, in my opinion, is best determined by the juries, the tryers of the fact in lawsuits. When we begin tampering with damages, this inevitably constitutes an invasion of the province of the jury. That province should be invaded only very infrequently, and only under extremely rare circumstances.

There are extreme examples of jury awards that are applied in defense of each side of this argument, Mr. Speaker, but extreme examples do not serve as valid reasons for dramatic change, nor for immediate reform.

Finally, during debate in the House Committee on the Judiciary it was implied that this issue pits rich against poor. That was indeed unfortunate, because this is not opulence on the one hand and poverty on the other. There are wealthy, poor, and middle class represented on each side of this very emotionally charged issue.

Perhaps some adjustment, some fine-tuning, if you will, is needed, but I fear the steps proposed by the bill at hand are giant steps when deliberate baby steps might be more appropriate.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I begin by commending the gentleman from Texas [Mr. FROST] for a valiant effort that nonetheless has produced the most grievous rule that I have had to work on in my career in the Congress.

On the matter of product liability, not discussed in this Chamber for many years, we now are presented with a modified closed rule, 6 hours of debate, 15 amendments designated by name, limited by amount of time, none being given over 40 minutes, none, and under these circumstances it makes legislating almost a travesty. I want this body to know that I have never felt so badly about the way that we have been treated in the Committee on Rules, not just this side, but the whole Congress, in taking up this measure.

Mr. Speaker, right off the bat, we are not going to be able to do much about the preemption of State laws, because we are putting caps on punitive damages on State laws.

In New Jersey, the damages, punitive damages that are now available against

sexual predators will now be capped by this law. In Minnesota, a victim injured or killed by a driver under the influence of drugs or alcohol, the punitive damages will be capped under this law. In Illinois, punitive damages that are available to any person who sells or transfers an illegal drug to a child will be capped under this law.

This is absolutely outrageous, that we would be taking a few minutes to quickly run through a bill in a contractual effort to keep within a time limit.

Mr. Speaker, I ask my friends on the other side, and I have raised this a couple of times, if this is not friendly legislation to big business, then we do not know where we are and what we are doing. If you need the Wall Street Journal to help you out, here it is: "Big business is striking it rich in the GOP contract." I could say that, and I do, but they said it.

Just in case Members want to pretend that this is consumer-friendly or friendly to working people, it is not. It is an outrage.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Speaker, I rise in strong support of this rule and in strong support of the bill.

Mr. Speaker, this rule or this bill is the kind of legislation that article 1, section 8 of the Constitution cries out for, the commerce clause, which says that the United States Congress has the power to regulate commerce between the States.

There is such a hodgepodge of legislation that exists in this country from State to State with respect to product liability legislation that we are in a situation where we absolutely need, we require, we must have a bill such as this that will standardize the way that product liability is dealt with in every State.

The reason for that is that in fact everything that is manufactured in this country is manufactured in a way that it flows immediately in interstate commerce. There is clearly justification, rationale, and frankly, the necessity of dealing with this problem at a congressional level for the entire Nation.

Mr. Speaker, this is a genuinely pro-consumer bill. It may not be what the trial lawyers want, it may be anti-trial lawyer. Members may describe it that way; I am not sure that I agree with that, but it is clearly pro-consumer, because what it is saying is that we will not allow a lottery to be thrown any more to find out in what State or at what situation a particularly persuasive, a particularly eloquent, a particularly loquacious and compelling attorney will be able to bring forward a judgment that could never be brought if it were a criminal situation, bringing a fine against a particular defendant.

That is really one of the things that is at stake here, is that we have to remember that when we are talking about punitive damages, when we are talking about the awarding of punitive damages, we are talking about awarding damages in addition to economic damages, in addition to noneconomic damages. It is after the plaintiff, the damaged person, the aggrieved party, has actually been compensated, been compensated for all of the economic losses that they have incurred and all of the noneconomic losses they have incurred.

What this bill does is it says that punitive damages will be either a maximum of $250,000, or three times the economic damages that have been incurred. The reason that that is important is because we have something in this country called a Criminal Code, and the Criminal Code is designed to punish people for their wrongdoings, for their criminal acts.

If we have a sexual predator in New Jersey violating criminal statutes, then that is when the Criminal Code should be used and that person should be sanctioned, should be found guilty, and should be thrown away, but that is not the purpose of punitive damages.

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

Mr. Speaker, people watching this debate at home on television may wonder what in the world is going on here. Let me take just a moment to explain.

Mr. Speaker, under the procedure imposed by the majority for the consideration of this bill, there are two rules, one rule tonight providing for two hours of general debate, and there will be another rule tomorrow, proffering a certain number of amendments, only five hours and 40 minutes to deal with all the amendments in the bill.

The second rule is so outrageous that Members who want to be able to speak against the bill must take time during the consideration of the first bill, because of the fact that the majority has so severely limited the opportunity to offer amendments. That is why Members are standing up and speaking on the merits, on the outrageous provisions of this bill, during consideration of the first of these two rules.

Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this whole process is absolutely ridiculous. Let us talk about what we are doing here. We are taking the tradition of this country that has been in effect since this country began, and we are just throwing it up in the air and starting all over. We are doing it with one hearing, in which everybody was allowed 5 minutes to question witnesses, it was a huge panel of witnesses, and now we are not allowed any real amendments tomorrow.

There are all sorts of amendments, but they have been filed way, way down. I was not allowed to present mine, and many others were not allowed to present many of theirs. They have put real strict time limits on it.

I think most people in this body have no idea what they are doing. However, before people at home say "Oh, there they go again, they are all whining; don't the Democrats sound terrible," let me tell the average American how they are affected by this.

If you go into a drugstore and you go to buy some drugs, you assume that they have been looked at by the Food and Drug Administration, and you assume a certain safety level. You can forget that, because last week we did away with all that through risk assessment and regulatory reform and all the other stuff, because we wanted to lighten up on the pharmaceuticals.

Then you say "Okay, as an American, if I did buy something and it did not work, I can always hold the company accountable by suing them." Guess what, now we are taking on the other bookend tonight. That is what we are going to be talking about the next 2 days, taking away your right to sue, severely limiting your right to sue.

Therefore, the two things that Americans have relied upon, the little guy, the little guy, to hold the big guy accountable in this great system that we have, so we did not have Bhopal, and so we did not have those kinds of things, have really been radically changed in this contract. I am saying tonight "Wake up, America."

When you also look at what we are doing with punitive damages and preempting State laws, it is absolutely amazing.

□ 1945

The prior speaker, the gentleman from Michigan [Mr. CONYERS], our leader, was pointing out all the different laws there are. We could go on and on and on.

How about this one? Any agency that recklessly or willfully makes a mistake while transferring electronic funds.

You want to know how the average American could be messed up by that anymore? New Jersey would allow unlimited punitive damages in that case if you proved that they willfully did it.

"Hey, wrong. We're taking that away from them."

These things are very clearly on point.

How about Virginia where somebody can have unlimited punitive damages or there are no caps right now if an award is made available from a person who is injured or killed if someone is driving intoxicated? Someone like the *Exxon Valdez* or someone driving a train or a bus.

Under this, "No, we're going to cap it."

There are all sorts of issues in here for women and for children. This is another women-and-children-first bill, because noneconomic damages do not count. That means that if you are a parent that stays at home, you know what your value is? Zero when it comes to noneconomic value, because you did not get a paycheck. If you are a child, the same thing.

If it is about your reproductive organs or if it is about a fetus, the amendment I wanted to offer went to those issues, because women have seen over and over and over again the drug industry play fast and lose with them, whether we are talking about toxic shock syndrome, whether we are talking about IUD's, DES, or any number of things.

To say to women that the value of your reproductive organs are nothing unless I guess you have a job as a surrogate mother, then I suppose you would have economic damages, but that is not the average woman in America and we are not even allowed to present that amendment, the one that I think was the family-friendly amendment.

I hope people realize that we are not yelling to yell. We are yelling because we are throwing up hundreds of years of tradition in this country and this is the night where the little guys did not have the money to put in the legislative machine so the legislative machine is getting ready to roll right over them.

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

In response to the gentlewoman's comment that we are taking away the right to sue, only in Alice in Wonderland does that kind of language suffice. It reminds me of the character in one of those Alice-in-Wonderland stories that said, "When I use a word, it means exactly what I want it to mean."

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

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

Mrs. SCHROEDER. What does the gentleman mean, that I am Alice in Wonderland?

Mr. LINDER. The language the gentlewoman used, that this is taking away the right to sue, has an Alice-in-Wonderland quality about it.

The gentleman from Michigan who says this is the most egregious rule he has ever seen has a very short memory, because less than a year ago on the assault weapons ban, no amendments were allowed from either side at any time, a totally closed rule, an up-or-down vote.

As a matter of fact, this is not a 6-hour debate, this is a 12-hour debate. We have taken out the time for voting which your side has consistently asked us to do in the Committee on Rules. Six hours of actual debating on amendments.

Let me just say that the gentleman from Michigan was debating not this rule. This rule is about 2 hours of general debate. He was debating tomorrow's rule. Tomorrow's rule, he was speaking about with the time frames. As a matter of fact, tomorrow's rule has eight amendments in order from Democrats, six from Republicans and one bipartisan. I think it was just about March or May of last year when we were given the choice of voting up or down on the assault weapons ban with no opportunities for amendments. I think this is hardly more egregious than that.

Mr. Speaker, for the purpose of debate only, I yield 5 minutes to the gentleman from North Carolina [Mr. HEINEMAN].

Mr. HEINEMAN. I thank the gentleman from Georgia for yielding me the time.

Mr. Speaker, I stand in strong support of the rule and the bill itself. Why? Because meaningful tort reform is of great importance to all Americans, not just big business as the trial lawyers would have you believe. By limiting runaway punitive damage awards, we have the opportunity to help a myriad of local groups, such as the Little League, and the Boy Scouts, the Girl Scouts, cities and town governments, entrepreneurs, small business, doctors and nurses, and other providers of service.

Americans pay billions of dollars a year in litigation and higher insurance premiums resulting from product liability and personal injury cases. These litigation costs are prohibitive and stifle necessary innovation and research and development.

In a recent survey, 47 percent of U.S. firms said they withdrew products from the market for fear of litigation. Twenty-five percent had discontinued some form of research and development. Fear of litigation, that is what it was, a fear of litigation.

Frivolous litigation even threatens Little League. The astronomical cost of litigation and fear of being sued scares away volunteer coaches, umpires, and even the families of kids. Little League has seen its liability insurance skyrocket, up 1,000 percent from $75 a league to $795 a league.

Unbearable litigation insurance costs and fear of being sued unnecessarily is a common problem to all nonprofits. That is why the Common Sense Legal Reform Act will provide the predictability and proportionality in all civil tort cases.

Passage of the Common Sense Legal Reform Act is a vital step forward to provide equity throughout our civil justice system for all Americans.

Let's rein in those who are abusing the system and are negatively impacting small business, the YMCA, the United Way, the Boy Scouts, the Girl Scouts, and the Little League.

I strongly urge my colleagues to support the Common Sense Legal Reform Act.

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

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

Mrs. SCHROEDER. I thank the gentleman for yielding.

I just wanted to ask the gentleman about the State statutes that do allow civil recovery of punitive damages in the incidents of sexually abused children and so forth. I am sure the gentleman would agree with me that we should not be capping those in here, yet the attorneys we have talked to have all said that is what we are doing, whether it is sexually abused children or whether it is any number of these other things where States have allowed civil suits.

What do we do about that? I think it is terrible that we are not allowed to have a debate on that.

Mr. HEINEMAN. As the gentleman from Ohio [Mr. HOKE] had spoken before, he said that punitive damages are a surcharge and the meat and potatoes of litigation addresses itself to economic and noneconomic damages.

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

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

Mr. CONYERS. I thank the gentleman for yielding. I happen to enjoy working with the gentleman. I know of his career as a law enforcement officer.

I do not believe that you would approve of us preempting the State law's punitive damages on sexual predators that are found guilty in any State. That is not a law enforcement position, it is not a civil rights position. It should not be your or my position. Right?

Mr. HEINEMAN. No, I do not believe so. I believe that what we are talking about are Federal tort cases, cases that are brought before the Federal Government. As far as punitive damages are concerned, punitive damages happen to come about by the fact that people go overboard in their conduct, in their premeditated conduct almost as much as the law says in this bill.

Mr. CONYERS. The gentleman is against punitive damages for sexual predators when the State law provides it and we are capping it in this bill? Please.

Mrs. SCHROEDER. If the gentleman would yield, I think it is very clear——

Mr. HEINEMAN. Excuse me. Let me reclaim my time. We are talking about the replacement of State law by Federal law. Federal law is to address itself to product liability as well as all other civil cases as the bill states.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

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

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

Mr. CONYERS. I just want to cite the law to the other side so there is no confusion. Title II, Punitive Damages Reform, section 201(c). "Except as provided, in any Federal or State court on any theory where punitive damages are sought." Applicability and Preemption.

This preempts State laws where punitive damages are concerned, no question about it. Maybe that is the reason that the gentleman made the response that he did to me on that question.

I thank the gentleman for yielding.

Mr. BERMAN. Mr. Speaker, I rise not in opposition to this rule. This rule is only to deal with the general debate issue. I rise, and I hardly ever do, in opposition to a rule, the rule that is being filed tonight, because I am so outraged by what it has done. Let's talk for a moment about what the Republican majority is doing.

On a bill which is different in many, many respects from the bill passed either out of Energy and Commerce or Judiciary, in other words, a bill unilaterally changed, we are being asked now to debate, without any kind of committee record on a number of its provisions, with a rule that will be offered tomorrow that will authorize amendments which were never raised in committee and which massively expand the scope of the bill. But neither one of those points I think are that critical.

I have not been one of the people who have been decrying the Republican decision to limit the time. You have to limit the time in House with 435 Members. I am not even one who decries doing a modified closed rule.

The balanced budget amendment I thought was a fair rule. You gave the Democrats the chance to take the shots they wanted to and the amendments that they had. But in this case, you are doing exactly and in the most outrageous and egregious form what you accuse the Democrats of doing. You are denying the Democrats the chance to participate in choosing their amendments and you are carefully selecting out of a large number of amendments that have been offered those amendments which would moderate this bill and the amendments which would moderate the excessive provisions of this bill and which have a chance of passage, which are in many cases being proposed by members of you own party, you are denying them the chance in allowing the amendments that are the most extreme, that raise the issue in the most clearer fashion and which are destined to lose.

You are determining the results of the legislation by the process of the rules. It is just what you ran on in November and said you would never do. It is just what the Speaker said he would never do, after the election, in his acceptance speech, what you at every press conference scream about and in every rules debate scream about. You are denying the amendments.

I am going to give a couple of examples. Punitive damages: There is a cap on punitive damages. The gentleman from New Mexico [Mr. SCHIFF], a Republican, proposes an amendment to limit that cap on all punitive damages just to product liability. He proposes another amendment to raise the cap to 3 times all damages, not just noneconomic damages.

The gentleman from Florida [Mr. MCCOLLUM], a Republican proposes an amendment to raise the cap from $250,000 to $1 million and from $250,000 to $500,000. You deny each and every one of those amendments and every other Democratic amendment, except one, the amendment, which I think is a good amendment, but it is an amendment which has no chance of passage, by the gentlewoman from Oregon that eliminates the cap entirely, because you cannot stand the test of a suggestion that something less extreme than what you are proposing but which still addresses the problem of runaway punitive damages might be offered on the floor, might win.

It is patently unfair, indefensible. I am waiting to hear the explanation for why the Schiff amendments, the McCollum amendments, the other Democratic amendments were not allowed, so you could allow the most far out amendment, an amendment that I plan to vote for, by the way, but an amendment that would totally wipe out any cap on punitive damages.

Let's talk about joint and several liability. You allow no amendment to strike joint and several, the change in joint and several liability. You do not allow my amendment to say that the minor tort-feasors no longer have joint liability but the major tort-feasors do. And you allow a Cox amendment never offered in either committee to extend the elimination of joint liability to every tort case in the country. A little automobile accident case in a rural county in Montana is now preempted by the proposed Cox amendment which you allow, never offered, and allow no amendments to modify.

□ 2000

You do not allow the Frank amendment which would have put a 20-percent limit on joint liability for both economic and noneconomic damages. It is an outrage, and I think tomorrow I am going to repeat this speech and I am going to find even better examples because you should have to face that you have betrayed everything you have been saying in this rule.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Georgia, my colleague, Mr. LINDER, for yielding me this time, and I congratulate him on his handling of this rule.

I think it is very important that we bring the debate back to what we are here about tonight. What we have, as the gentleman from Texas has properly said, is the first of two rules. This evening's rule I think we could call the starter rule. It is designed to begin the discussion of product liability reform, and we want to have enough time over the next 2 days to consider all of the amendment proposals, but offered by Members from both sides of the aisle.

It was clear from our mini-marathon Committee on Rules meeting yesterday which lasted about 6 hours as we will recall, that Members acknowledge both the significance and complexity of product liability reform because we had 82 or so amendments. The two committees of jurisdiction, Judiciary and Commerce, worked diligently to present the House with a solid product. The combined bill we expect to consider in the coming days starting tomorrow and the next the day, under a carefully structured and I believe fair rule, takes important steps to bring about consistency and fairness in product liability law, while setting the parameters for consideration of damage claims.

Now, there is going to be disagreement on some of that. This is not an easy subject, but I think it is important to point out that the gentleman from Michigan who got up and said that he was feeling bad about this rule tonight is feeling bad a little prematurely because when I went back and took a look at some of the problems, this is a mighty good rule. There is no problem with this rule. And if he is concerned about the rule that is coming tomorrow, then I would suggest that we do a little comparison, reminding Members that we had 15 amendments made in order out of 80-some submitted. Eight of those happen to be Democrat amendments. One happened to be bipartisan, and 6 happened to be Republican.

Let me make a comparison with that and some of the rules, the modified and closed rules of the 103d under the other leadership. At that time we had the Reinventing Government Act. That came through with 34 amendments submitted to the Committee on Rules; 3 allowed, zero Republican.

How about campaign reform, 35 amendments submitted upstairs in the Rules Committee, 1 allowed? How about Motor Voter, 19 amendments submitted to the Committee on Rules, 1 allowed?

Omnibus Budget Reconciliation, 51 amendments brought before the Committee on Rules, 8 allowed, 7 Democrat, 1 Republican. The RTC Completion Act, 12 submitted, 1 allowed.

Now I ask Members when they bring a performance standard like that against what we are going to propose

for the second staging of this rule which we will be happy to discuss with the Members tomorrow, I suggest they might want to go back and refresh their memories about how it was in the 103d and how much more open and how much fairer it is in the 104th in the way we are handling these things.

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

Mr. GOSS. I am happy to yield to the gentleman from California because he is going to ask if the Democrats were allowed selection. They were invited to participate always, and my friend from California, Mr. DREIER, is going to speak in just a moment. I think if the gentleman will save his question for the gentleman from California [Mr. DREIER], he will find the gentleman from California [Mr. DREIER] is going to answer that question. I am happy to yield to the gentleman from California.

Mr. BERMAN. I might just add on that point that was not going to be my question.

Mr. GOSS. Well, I hope the gentleman is going to ask that question.

Mr. BERMAN. That is directly contrary to what the ranking member of the Rules Committee and the ranking member of the Judiciary Committee have told me.

Mr. GOSS. Present ranking? Ranking last year, ranking this year? I would be very happy, I am not sure which ranking members the gentleman is talking about. But I guess I could further complete my statement by saying all these egregious closed rules that we complained about so mightily last year, and I just read the gentleman's statistics, the very people who are complaining about this relatively open rule compared to them all voted for those egregiously closed rules and the RECORD is clear on that.

So I think it is a little bit disingenuous to say the sky is falling on this very important subject when we have made in order 15 amendments, have got all kinds of debate time out there. We have taken out, as we have been asked to do in the Committee on Rules, the walking time, the voting time and we have it adjusted down to pure debate time.

The gentlewoman from Colorado, who is rising, who I will yield to in a moment, complained she did not have all of her amendments made in order, but I believe she does have one of her amendments made in order if I am not mistaken.

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

Mr. GOSS. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

First of all, there were 60 germane amendments as I understand that were not made in order. The ones made in order have very severe time limits on them, and the only thing I wanted to ask the gentleman about his analogy in prior years is I cannot think of any piece of legislation that was preempting all of this jurisdiction from the States in such a radical new direction and that is a very different kind of legislation.

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

Mr. Speaker, the gentleman from Florida [Mr. GOSS] is a friend of mine, and an honorable person. However, he has engaged in this just extraordinary double negative. That was, it was bad in the last session, and so that justifies doing bad things in this session.

This is not what his party ran on in November. His party ran on open rules and open process, and now he is trying to justify an extraordinarily closed process that would rewrite 200 years of civil law in this country by saying what was done in the last Congress was terrible; this is not quite as terrible; but we are justified in doing this because of terrible things that were done in the previous Congress.

Mr. GOSS. Mr. Speaker, will the gentleman yield briefly?

Mr. FROST. There will be ample time as it goes on. I only yield myself 1 minute.

Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I would say to the gentleman from Florida [Mr. GOSS] that the sky is falling when your party takes two bills that came out of committee and rewrites them, and sends them out here and, lo and behold, we find out what they do is they take, put a cap on punitive damages for somebody who sexually abuses a child. I would say the sky is falling. That is a curious position for your party to take. They put a cap on punitive damages for somebody that is killed or injured by a drunk driver or somebody who is on drugs. I would say the sky is falling if your bill does that.

I would say the sky is falling if you put a cap for punitive damages for somebody that sells drugs to a kid. And that is what the Republican bill does that has been sent out here, that you rewrote after it came out of committee.

An very interesting about this rule you are talking about here for tomorrow, you are bragging about it, and we are going to hear some more bragging here about it in a minute I guess, the gentleman said he spent 6 hours in the Committee on Rules rewriting the rule but there are less than 6 hours of debate on the whole bill, and we are not even going to be working on Monday now, apparently, a bill that wipes out 200 years of common law.

I looked at these amendments. The gentleman knows what he said, that he has an open rule here, he has been fair and so forth like that. Sixty percent of the time in the rule for tomorrow is set aside for the very Republicans that wrote the rule in the committee, the bill in the committee, and then rewrote the bill when it came out of the committee.

There is only 2 hours and 20 minutes set aside for amendments from Democrats that disagree with the bill. Do not tell us it is a fair rule. At least you ought to get out here and admit you just tried to rig it so you are not going to be embarrassed by meaningful amendments.

The fact of the matter is you have a bill out here for which there is no empirical data to support the allegation that will underlie the philosophy of the bill. You are trying to tell the American people, the gentleman from New York [Mr. SOLOMON] ought to pay attention to what I am saying here because I am talking about what he said a minute ago, he said all of these tort filings are up and so forth. You do not have any study that says that; I do not know where you guys get the facts except I guess you all just talk to each other at the country club and you just agree, "Ain't it awful, ain't it awful what is happening?" and talk about what the facts are.

The facts are that the National Center for State Courts found that product liability cases are only 4 percent of all tort filing. Tort filings in turn are only 9 percent of all civil filings, and civil filings are only 27 percent of all filings, which means product liability cases represent 36/100ths of a percentage point of the civil caseload and 97/1000ths of a percentage point of the total caseload in the State courts.

In addition to that, the studies indicate that the total number of these cases is going down, not up, and the Rand Corp.'s study indicates that only 10 percent of people who are injured ever use the tort system to seek compensation for their injuries in the first place.

Look, you guys are doing your corporate buddies a big favor out here. That is what is going on. You have written the rule in such a way we cannot offer amendments. The bill is a bad bill, and when we start taking up amendments tomorrow, the bill is going to be made even more bad when it comes to final passage. And we have so little time to talk about it and offer amendments that we are having to get up on the rule tonight, the first rule and 2 hours of debate and use the time to talk about the contents of the bill.

What does the bill do? The bill lets sexual abusers and drug abusers and people that sell drugs to kids off the hook.

It also says if I commit an intentional tort, if I get a baseball bat and come over to your house and beat the stuffings out of you with it, or if I burn your house down because I do not like you, there is a cap on punitive damages, you cannot get but $250,000 in punitive damages if I do that to you or

three times your economic damages, which would not be much of a factor in this situation.

You guys are on the side of wrongdoers, not just corporate wrongdoers but every other kind of wrongdoers, and you are saying States cannot do anything about it because you have a cap in here which, despite what was said by one of the speakers a while ago, applies to the State courts as well as to the Federal court.

This is an outrageous procedure. It is an outrageous bill. It is not based upon any factual data whatsoever. But to bring it to the floor with a rule like this where we have 2 hours and 20 minutes of debate and amendments brought by the other side, by opponents of the bill, and is an embarrassment and humiliation, and you have forever forfeited your ability to stand on this floor or anywhere else and criticize the Democrats for the way in which they write rules.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I would like to take just a couple of moments to address one particular item that was raised in the debate earlier, and that has to do with the attempt made by the majority, those of us on the Republican side, to listen to and get some input from Members of the minority when we came to discussing not the rule that we are going to be voting on in just a few minutes, but tomorrow's rules because the one we are voting on in just a few minutes is simply calling for 2 hours of general debate. So it is interesting we have begun debating a rule that we are not considering now on the House floor.

I am very happy to see my good friend from south Boston, the former chair and ranking minority member of the Committee on Rules [Mr. MOAKLEY] here, and of course my friend from Glens Falls, the distinguished chairman of the Committee on Rules. I was standing in the back of the Chamber when a discussion took place between the chairman and the ranking minority member. Now my hearing is awfully good, I had a hearing test downstairs. I could not hear exactly what was being said, but I got a report from the chairman and the chairman told me that an offer was made to the minority to come forward by 2:30 this afternoon with recommendations as to what amendments we might consider making in order, and it was not until we met at 4 o'clock this afternoon and gave a 10-minute break at the request of the minority to look at the amendments that were made in order that we heard anything at all about what ideas we wanted to have considered.

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

Mr. DREIER. I am more than happy to yield to my friend, the gentleman from south Boston.

Mr. MOAKLEY. Actually, the gentleman is partially correct. I had a conversation with the chairman and I said, "What have we got to look at; have you got a draft?" And he says, "No, I do not have a draft yet." I said, "We would like to see what you have so we could talk about it." He says, "Well, why don't you see what you can do and then come back and we will talk?"

But in the meantime the Committee on Commerce came down and other people from the committee came down and said that your committee was getting information from them.

Mr. DREIER. I expect I sort of became the intermediary here.

At this point, with the indulgence of my friend from south Boston I think Glens Falls ought to be represented.

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

Mr. DREIER. I am glad to yield to the distinguished gentleman from Glens Falls, NY, the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank my good friend for yielding. But to my good friend from Massachusetts, [Mr. MOAKLEY] he has had an alphabetical listing of 82 amendments. Fifty-one of those amendments are Democrat amendments, and I simply said give us a list of your priority amendments and let us consider them. And at 2:30 I expected to get those so we could sit down and caucus, talk about the amendments, and try to be fair. When no list came, we simply went through the list, picking out all of the issues throughout all of the titles and then had to make the decisions ourselves.

Mr. DREIER. And we ended up making eight Democrat amendments in order, five Repbulican amendments and two bipartisan amendments.

Mr. SOLOMON. The gentleman is absolutely correct.

Mr. BERMAN. Mr. Speaker, will the gentleman yield on this?

Mr. DREIER. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I thank the gentleman very much for yielding. I do not even want to get into the debate about what was said or who chose what because I was not there for any of the conversations.

Mr. DREIER. I was simply repeating a discussion I had.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. The question of the number of amendments that are Democratic and the number of Republican is all nonsense.

Address the issue of why you allowed the amendment that was the most extreme and none of the amendments by Republicans or Democrats that sought to refine the bill. I submit, and you will have to show me why it is not so, that you went through a systematic process of making sure no amendment that might moderate this bill, that could win, could be offered, and only amendments that could not win would be allowed.

You rigged the process, until you show me otherwise, and that is the real outrage of this rule.

Mr. MOAKLEY. Reclaiming my time, in answering to my dear friend from New York, the chairman of the committee, our side did not have that list until 4 o'clock. I never saw that list until 4 o'clock when I walked into that committee room.

Mr. SOLOMON. If the gentleman will yield, you had that yesterday all day long during the hearing; during the hearing you had the list of amendments, 82 amendments as we went through the testimony.

Mr. MOAKLEY. This was not the list you and I were talking about. I mean, that was matters that were going on then, and it was my understanding that somewhere we would have met and sat down rather than go up and then see our choices already picked by you on the schedule to be voted out.

Mr. DREIER. I am just sorry I was not there for the conversation.

Mr. MOAKLEY. You have got good ears.

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I have watched a lot of debate in my life on television usually between Senatorial candidates. Sometimes the hyperbole gets pretty extreme. One phrase I have heard pretty often, "You are shameless, you are shameless." I would never bring that word to bear here in this Chamber. I must say I advise my friend from Texas of an old equitable doctrine called clean hands. You do not come to court complaining of somebody's dirty hands unless you have clean hands yourself. That is the problem, the fatal flaw with your argument. There are eight Democratic amendments made in order, six Republican, on this legislation, and your complaint is we are only five times as generous as you were.

Now, I look at the motor voter bill. That was a big one, one amendment, one. Assault weapons. Did that reach into the States and the cities and the communities? Zero, zip, nada, no amendments at all. My God, and you have the chutzpah to complain that you have got eight amendments here? How do you do it? What do you drink? What do you eat that gives you that?

How about reinventing government? How many Republican amendments on that one? Zero. How about campaign reform? There is a big one. How many Republican amendments did you permit in your Committee on Rules? Zero.

Motor voter, assault weapons, omnibus budget reconciliation, one Republican amendment. Thank you, thank you very much. One Republican.

It is just too much, to take all of this moaning, and weeping, and gnashing of teeth, with your record.

Clean your hands, please.

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

Mr. HYDE. I yield to my friend, the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I say to the gentleman from Illinois [Mr. HYDE], the thing that just bothers me is that all of the speakers that are complaining here, that are squawking, every one of them voted for every single restricted rule in the last 2 years.

Mr. HYDE. We need an analysis of these rules. This is just cursory. This is off the top of my head. Let us go into this in depth.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield myself 30 seconds.

I would remind my good friend, the gentleman from Illinois [Mr. HYDE], and my good friend, the gentleman from New York [Mr. SOLOMON], that it was their party that ran for office last year, promising open rules, not promising partially open rules, not promising modified rules, promising open rules.

I would raise a question about the cleanliness of the hands, I say to my good friend, the gentleman from Illinois [Mr. HYDE]; your contract and your Speaker promised open rules. That is not what we have here today.

Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I hate to disagree with colleagues on both sides of the aisle. I do not think it is tremendously important to the American people, you know, who allowed more amendments when.

The question is: What does this bill do to or for the American people? This Corporate Liability Shield Act which we will take up tomorrow I heard earlier described as pro-consumer, and I heard some discussion of Alice in Wonderland. If you think this bill is pro-consumer, you have stepped through the looking glass.

The next time the Ford Motor Co. knowingly puts out a defective product and keeps it on the road and people burn to death, they will have a little different equation to deal with. It will be easier to keep it on the road, because they know the punitive damages are going to be limited next time around. That is pro-consumer?

Is it pro-consumer to preempt the States, 200 years of State law, to preempt every jury in every State in America with your judgment and cap damages? I do not think that is pro-consumer.

And how about the special provision for the wealthy? You know, if you get punitive damages under this bill, you are going to enshrine something into Federal law. You can get three times your monetary damages, generally including your wages. So if you are an electrician and you earn $30,000 a year, you are limited, but if you are a fat cat and you earn $250,000 a year, you can get three times that amount. That is pro-consumer?

Well, I suppose that is pro-consumer if the people you think of as consumers are the wealthiest people in America.

This sticks it to average Americans, again, like every other bill this week.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield the balance of our time to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, there may well be some debate about which of the various pieces of legislation considered this week is the most outrageous. Is it the reversal of 200 years of American law with reference to the way attorneys are handled in our society? Is it the potential for bilking those who invest our pension funds in securities in this country? Or is it denying the rights to those who are injured across this country from defective products?

There may be debate about that. But there can be no debate about what is the most outrageous rule for consideration of any of these measures, because we are tonight part of a double whammy, a double whammy to deny the people of America through a gag rule on this Congress the opportunity to discuss the full dimensions of this issue of taking away the States rights at the same time we take away the rights of victims.

We know full well there is ample time to debate the dimensions of this piece of legislation. We have just had the distinguished majority leader come to the floor of this House and tell us we have all day Monday, be it to play golf, be it to be wined and dined by the great corporate lobbyists who are so interested in this piece of legislation, but we have no time, not 1 minute, to spend on Monday discussing the rights that are being destroyed of the American citizens through this piece of legislation.

We have courts all over this land, we have State capitals all over this land struggling with the issues involved. Let them struggle on without the Federal Government taking over these issues and doing it in a way that is not actually debated on the floor of this House.

It deserves more than one evening, it deserves more than one day when you trample on the rights of our citizenry in the way this is being done.

Mr. LINDER. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, I realize that it is fun and interesting to debate the bill while discussing the rule, and tonight we debated tomorrow's rule instead of tonight's rule about which I will make just a couple of references.

It is a fact that the minority was offered an opportunity to prioritize their amendments and tell us which ones, in their judgment, were most important. They did not do that.

It is also true that of the 82 amendments that were printed on our desks for roughly 2 days both during the hearing and during the markup of this bill, there were eight to nine substantive idea differences. We had many amendments offered changing the cap, abolishing the cap; we had many amendments offered changing joint and several. We made a sincere effort to find in each of the areas where there were substantive differences and ideas to find the amendment to be voted on at that time, to debate it and vote on that idea.

If the amendments that are put forth, the 14 amendments or 15 amendments, 8 Democrat, 6 Republican, and 1 bipartisan, if they pass, it will dramatically alter this bill if it passes and goes to the Senate. The changes are substantive. They are sincere, and they are real. The debate will be long tomorrow and the next day on the substance of the amendments. The opportunity for the amendments to be voted on is rather unique, in my experience here, because we did not have opportunities in the last Congress to offer many amendments at all.

I urge my colleagues to remember just this: The rule we are voting on tonight says this, tonight there will be 2 hours of general debate on the bill, divided between the ranking members and the chairmen of the two committees, Judiciary and Commerce. That is it. That is hardly, hardly a difficult rule to take, and I urge my colleagues to support the rule.

The SPEAKER pro tempore (Mr. EWING). Without objection, the previous question is ordered on the resolution.

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 956, COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–72) on the resolution (H. Res. 109) providing for further consideration of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on National Security; Committee on Resources; Committee on Science; Committee on Small Business; Committee on Transportation and Infrastructure; Committee on Veterans' Affairs; and Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. DOGGETT. Mr. Speaker, reserving the right to object, we have consulted with the ranking member of each of those communities, and I believe this is by agreement.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

COMMON SENSE LEGAL STANDARDS REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 108 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 956.

□ 2029

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 956, to establish legal standards and procedures for product liability litigation, and for other purposes, with Mr. DREIER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

□ 2030

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

Mr. Chairman, I rise in strong support of the Common Sense Legal Standards Reform Act of 1995.

Mr. Chairman, this is an historic debate. After more than a decade of work by Members on both sides of the aisle, product liability and legal reform legislation is finally being considered on the floor of the House for the first time. For too many years discussion and debate was blocked by Members who are unsympathetic to the goals of this legislation.

Mr. Chairman, this legislation is directed at some basic fundamental problems with our civil justice system. It is intended to address the serious problems of lawsuit abuse. Lawsuit abuse saps our economy, eliminates jobs, pits neighbor against neighbor, injures our country's global competitiveness. In the words of former Attorney General William Barr, "Our civil justice system is slow, expensive, uncertain, and capricious."

Mr. Chairman, lawsuit abuse is harming American industry and American workers. The uncertainty and unfairness of the present system discourages employers from investing capital, making better and more innovative products, and creating new jobs.

Lawsuit abuse undermines our international competitiveness. Our companies pay liability insurance costs which are 20 to 50 times higher than foreign competitors. Those higher costs translate into higher prices for U.S. products, which in turn reduce our exports and job opportunities, they otherwise would provide.

Lawsuit abuse slows research efforts to find cures for many serious diseases. According to Science magazine, many of America's leading medical research and pharmaceutical companies have decided to abandon, or to avoid altogether, products that would be extremely helpful to America's health system. Numerous other life-saving medical products are not reaching the market because of liability concerns.

Lawsuit abuse means higher prices for consumers. Higher liability costs necessitated by the current legal atmosphere, and the lack of clear national standards, are ultimately passed on to consumers in the form of higher prices for products and services. Our legal system acts like a hidden tax, a "litigation tax" on the American consumer and too little goes to the injured victims.

The U.S. Department of Commerce has estimated only 40 cents from each dollar expended in product liability suits ultimately reaches injured victims. The tort system is too costly. The current system imposes a staggering cost on the United States. The annual cost of this tort system is estimated at $117 billion. It is the most costly system in the world.

Mr. Chairman, no single State can effectively resolve these problems. Frequently, a product is manufactured in one State, and sold in another State, while the alleged injury occurs in a third State. On average, over 70 percent of the goods manufactured in one State are shipped out of the State and sold elsewhere. So, the fundamental interstate character of this area of the law gets a uniform national solution.

Mr. Chairman, excessive, inflative punitive damage awards have effects far beyond the borders of one State. They affect the investment decisions of large and small businesses. They hamper job creation, and they discourage new products from going on the market. They affect the present and the future of virtually every American. In an increasingly global economy our confusing, crazy-quilt, patchwork of 50 separate State liability laws presents roadblocks to America's economic growth and job creation.s

Opponents say we should not preempt State law. Opponents of this legislation ironically talk of interference with states rights, but many of these same persons are quite comfortable preempting State law, and allowing expansive Federal regulation, in numerous other areas with the EPA, FDA, OSHA, Consumer Product Safety Commission, Equal Employment Opportunity Commission, NLRB, FTC, FERC, FCC, Securities and Exchange Commission, CFTC; and, who knows how many other Federal agencies regulating virtually every segment of the American economy?

It is ironic that the multibillion-dollar litigation industry should be one aspect of the economy, but they believe the Federal Government should not touch. The truth is that they are for the status quo.

This bill will not result in any new Federal spending, no new Federal department or agency will be created, no new Federal program will be established, no new Federal regulations will be issued, no new Federal court jurisdiction is created, and no new costs to the Federal taxpayer. Instead, what we will have are constant, and consistent, legal standards governing civil actions brought in both Federal and State courts. Instead of the uneven patchwork of 50-plus, confused, and inconsistent State laws, there will be basic uniform rules and legal standards that everyone will understand.

PUNITIVE DAMAGES REFORM

Importantly, in the area of punitive damages, this bill goes beyond product liability suits and extends punitive damage reform to all civil actions.

SEVERAL LIABILITY REFORM

We will hear more about this as we go along, but we have adopted the California rule, which is working very well out there.

PRODUCT SELLER FAIRNESS

We distinguish between a seller and a manufacturer, something that should have been done a long time ago; and, very importantly, we initiate a statue of repose, a uniform statute of 15 years on all goods. A statute of repose specifies the period of time after manufacture of a product during which a lawsuit relating to a product may be brought. Thus, manufacturers cannot be sued for products 15 years after their delivery. This is an important concept already recognized in Federal law because last year we passed the General Aviation Revitalization Act of 1994.

ALCOHOL AND DRUG DEFENSE

This bill includes language that would prevent a claimant from recovering in a product liability action if that person was more than 50 percent responsible for the harm because of the use of alcohol or drugs.

Mr. Chairman, the American people overwhelmingly support reforms in our current legal system. Why is that? Well, when the Girl Scouts of America have to trudge door to door in our neighborhoods to sell tens of thousands of boxes of cookies just to raise the funds necessary to protect themselves from liability, the American people know that something is seriously wrong with our legal system. When Americans see breakthrough work on medical devices and medical vaccines that could save lives halted because of the fear of lawsuits, the public is rightfully outraged. In a society where lawyers, not the injured victims, receive over half of every dollar spent on product liability litigation, it is time for change. Under our current system consumers lose, workers lose and businesses lose.

Mr. Chairman, as part of the Contract With America the Republican Party made a commitment to end lawsuit abuse in America and return fairness and common sense to our legal system. Mr. Chairman, H.R. 956 is at the core of this pledge and deserves the support of every Member of this body.

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

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. CONYERS] for 30 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 4 minutes.

My colleagues, we have reached the moment in the frantic 104th Congress where we will begin consideration of product liability reform, the conceded centerpiece of the new majority's contract with corporate America. But we should carefully study the signatories to this contract provision: the party of the first part, the Republican Party; the party of the second part, corporate America.

But where are the American people? They are nowhere to be found.

So, Mr. Chairman, let us be clear at the outset of this debate. What masquerades under the arcane title of product liability reform is nothing less than a frontal assault on consumers, on the courthouses and the juries of the 50 States, and on the continued safety of products found in our grocery stores, at our schools, and, yes, at our very homes.

Not to be allowed to be considered is joint and several liability which has now been severely reduced.

Not to be considered are various amendments on punitive damages, to raise the limit at least to a million dollars and to include noneconomic damages.

Not to be considered is the Federal preemption of State laws that include sexual abuse violations, drug violations and even, yes, regular assaults on individual to individual.

There is no way to change the law under this very strictured debate. I say to my colleagues, "Prepare yourselves for a journey into a dream-like world where proponents of this legislation are unable or unwilling to distinguish myth from reality for the myths have grown way out of control."

Mr. Chairman, this bill is all about the rights of States, and I do not stand as a States righter, but for over 200 years each State developed its own law; my colleagues know that. We have developed tort law at the State level by citizens, by their courts, by their legislatures, and they have done a great job. The laws kept apace of striking the proper balance between citizens rights and business interests. In the past decade alone over 45 States have modified their tort laws in various ways where they needed correction, but this bill is a move to federalize all State tort law so that corporate lobbyists can get from the Federal Government what they could not get from the States.

The pressure by corporations to do this in the first 100 days of this Congress has been enormous. It had to be to make the Republican majority turn its back and swim upstream from the central theme of the Contract With America which is, obviously, returning power to the States and to the people. I ask, "Remember that theme that we had only a few weeks ago? Remember it?" Well, it is history now, at least for the next few days.

In this bill the new majority is saying. "Welcome back to the world of the Great Society where the Federal Government will tell you how to run your courts, your juries, your business and your home."

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

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. Bliley] for 30 minutes.

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

Mr. Chairman, I rise in strong support of H.R. 956, the Common Sense Product Liability and Legal Reform Act. While many amendments will be offered to this bill from both sides of the aisle, I am confident that H.R. 956 represents the best compromise possible from the communities of jurisdiction.

The bill before the House today is the culmination of almost two decades of grappling with the issue of tort reform system under control, particularly in the area of products liability. I am especially proud to have the opportunity to bring this bill to the floor as chairman of the Commerce Committee.

While I am not a lawyer and do not profess to comprehend all of the finer points of legal discourse, I do know that today's tort system has grown into something that no one ever intended.

Today, people seem to talk to their lawyers more than they talk to one another. For every problem, the answer seems to be another lawsuit. It used to be that when you drank a case of beer and fell of a ladder, you were drunk and stupid. Now you sue the ladder company because the ladder was somehow defective. The only people who have profited from this change in attitude are the lawyers. Americans everywhere want this profiteering to stop.

That is why product liability is such a bipartisan issue. In the Commerce Committee, where my predecessor and good friend, the gentleman from Michigan, has historically championed the cause of meaningful product liability reform, we have held well over a dozen hearings and nearly 20 days of markup on product liability reform legislation. We reported out product liability reform legislation not just once, but twice, with significant bipartisan majorities. H.R. 956 is the ultimate product of those efforts, and there is a lot for Members on both sides of the aisle to support.

This bill injects some rationally into how punitive damages are awarded. It lifts the burden placed on interstate commerce by 51 separate jurisdictions. And it gives manufactures a small degree of predictability about what they face when they put their product on a truck bound for this marketplace we call America. However, there is nothing in this bill which impairs the ability to legitimately injured people to collect damages from the people or companies who injured them. That is what the tort system was designed to do and no one wants to take that away.

There will be a great many amendments offered to this legislation over the next several days. Some of these amendments will improve the bill while others are designed to gut it. I trust that Members will look at each amendment and listen to the debate carefully. And in the end, I hope that Members will make the right decision

and vote for a more rational and measured product liability system rather than for the trial lawyers.

□ 2045

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

Mr. TAUZIN. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the honorable ranking Member of our Committee on Commerce.

Mr. DINGELL. Mr. Chairman, I thank the distinguished gentleman from Louisiana for yielding.

Mr. Chairman, I have supported product liability reform for over a decade. In 1988 I presided over the infamous "torts class from hell" when the Committee on Energy and Commerce spent 10 long days in a markup to report a product liability reform bill. Regrettably, that bill died when other committees failed to take action. Since then, I have repeatedly cosponsored other major legislation on this subject and have sought to see to it that it was enacted into law.

I observed that this is a painful process to me because it is my view that the bill is being rammed through the House. Unlike previous efforts, there has been little meaningful attempt to work out a bipartisan piece of legislation, fair and balanced. The rush to judgment has produced a number of defects, inconsistencies, and errors, and indeed it has been fraught with what I view as being procedural errors and failures. Despite my misgivings about the process and certain provisions, I voted in favor of the Committee on Commerce bill. I did so because the core of the bill was consistent with those that I had previously supported and because there were assurances made at the markup that some of the bill's shortcomings would be corrected.

I will note, however, that under the probable rule, opportunities to correct some of the defects which I seek will become much smaller and much less opportune, but before the ink on the Committee on Commerce bill was dry, Chairman HYDE and Chairman BLILEY introduced yet another bill, H.R. 1075. This new bill differed significantly from the bill I voted for in committee.

One major change is the punitive damages provisions of H.R. 1075. They apply to all actions for harm, not just product liability actions. I am curious why this is so. It is possible it is motivated by any of a number of reasons, one, to protect all wrongdoers from punitive actions and two, to open up the bill so perhaps more extreme legislation unrelated to product liability reform might be considered. I hope that that second course will not be followed. The idea of limiting punitive damages and product liability actions is something I am willing to consider carefully but I do not believe that this legislation should be used to enact wholesale changes to all of our Federal and State laws with regard to civil actions in the courts of the Federal Government or the several States.

I am particularly concerned about the amendments that might arise to limit medical malpractice liability and to put severe limits on noneconomic damages in all civil cases. I believe that something should be done about medical malpractice liability, but I believe it should be done carefully and with consistency in terms of good practice of the kind that we have seen over the years. This bill should be about product liability reform, not about rewriting liability laws for all State and Federal cases.

Amendments that go to key provisions in this bill on product liability reform should be debated on and they should be voted on and sufficient time should be given. If the bill becomes an attempt to rewrite all civil liability law without hearings, without consideration in the committees of jurisdiction, and without proper notice and opportunity to participate for all Members, it will certainly diminish bipartisan support for the bill and threaten support for product liability reform. That would be a shame because we worked too long to try to achieve reform of what is a serious economic, social, and other problem.

I will participate in the debate allowed by this rule. I intend to listen to the arguments on all sides. I hope that fair and balanced debate will lead to fair and balanced product liability reform legislation, as I have for many years. But this bill cannot become a vehicle for another attempt to deal with issues outside the needed reform.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman from Illinois.

Mr. Chairman, when the evidence is in, we hope that the American public acting as the jury of us all will be able to render a final verdict in favor of what we are attempting to do here, and exhibit A among the evidence that we are going to present to the American people is title III, for instance, in this bill.

Here is the situation, and I ask the public to weigh this. We have an individual who is suffering from severe heart disease. The doctors who were attending this individual insist that the only way that life can be saved or life made better for this individual is for a valve of some sort to be implanted in the body of this individual. It has come to pass that medical devices that are intricately prescribed for this kind of condition have become scarce on the market, not because the innovative spirit of the scientists and doctors and practitioners and inventors who are involved in this field do not have new products and new ways of doing things, but because suppliers of the raw materials that go ultimately into the manufacture of these medical devices have found themselves liable to suits in which they have been found not to be culpable in the long run, but which has caused them millions of dollars in expenses for litigation, not to mention the time expended away from their ordinary business to defend a suit that ultimately ends up in their favor, but because they do not want the hassle of this kind of liability, they are leaving the marketplace, and that leaves the individual with the heart disease, the consumer, if you will, because this is a pro-consumer tenet that we are advancing here on this products liability bill, that consumer no longer has access to a heart valve that is important to saving that individual's life. That is what this is all about, and we can expand this type of example to hundreds of other examples in the marketplace which prevent, because of liability suits and the reluctance of companies to advance new products, depriving the consumer of lower prices, of a better selection, of new innovation devices and, in the example that I have offered to you here tonight and which is supported by many people in this room here tonight, the consumer, the consumer that we most want to benefit, the patient, the heart disease patient, the brain-damaged individual, the one who requires a hip joint or any other kinds of medical devices that can save lives or produce a better quality of life, the marketplace is shrinking because we do not have the type of legislation which we offer here tonight.

Mr. CONYERS. I am delighted to yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan for yielding.

Mr. Chairman, I think the way to frame this bill is this is the Washington-knows-best bill, and, for the life of me, I cannot figure out why we are doing this. We are here upsetting over 200 years of tradition and we are doing it after almost everyone has gone home. Let's face it, only the committees are here debating and this whole thing has been ramrodded through.

We are beginning to see now what people who contributed to the campaign are getting. The fat cats are going to get their tax cuts and they are going to get a huge liability shield, because that is what we are really constructing here is a shield for them against any liability.

It is almost like saying the Congress has now decided that the highest value in America is making money, making money at any cost. I mean, we want these fat cats to not have to deal with regulation, heaven forbid, because they might have to make something safe, and then, if you have taken the regulation away, you have got to change the

legal rules, because otherwise, they are going to get sued.

So if we can take away the regulation and take away the legal rules, wow, and America will be out there and we will be competitive again. I guess this is the new trickle down thing. So the employers will all be happy because they will have more money and hire more workers if the workers do not happen to get hurt. But if they do, it is too bad.

I find this really, really surprising, because this has very severe limits on damages. We are saying to all the State legislatures, we know better than you. Of course not in school lunch. We are going to take school lunches and give it back to the State legislature. They are nutritional experts but they do not know anything about product liability or torts or whether or not they want to put punitive damages on sexually abusive people and so forth and so on. We are going to take all that away from them and they get to do nutrition, which I think is really interesting.

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

Mrs. SCHROEDER. I would be happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I do not want her to suggest that our friends on the other side are indifferent to the fate of these children at the Federal level. Is it not true that if everything they want goes through, while the school lunch program would be in the hands of the State and they would decide without competitive bidding who would be the suppliers, if a child in fact were to have an untoward incident in what he or she ate, they would sue under Federal law so it would be a State administered law but it would be a Federal lawsuit?

Mrs. SCHROEDER. You got it. And then, of course, the child, not having a wage, would have a lot of trouble because of noneconomic damages, and children are certainly, most of them, I think the child labor laws are still in effect, but I have not looked, is that in the contract too, because a child does not have a job, they come out on the short end of the stick because they fall under the noneconomic damages that we are talking about.

I just find this something that is very drastic, and it really is changing the course of what we thought government was for. I thought government was to help protect the little guy from the big guy. Now we are finding out the government is helping protect the big guy from the little guy.

Well, most of the big guys I know have done a pretty good job of protecting themselves and I must say, I am very, very saddened by this.

□ 2100

Mrs. SCHROEDER. As I stand here looking at things that States have done that make sense to me, I am saddened. When you see people saying we ought to get kingpin drug dealers that are out pushing drugs to young kids and we ought to be able to get them in civil court, where obviously the standards are not as high, and we ought to be able to hit them with punitive damages, we are going to come in tonight and say no, we do not think so. We do not want kingpins to pay more than $250,000.

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

Mrs. SCHROEDER. I yield to the gentleman from Virginia.

Mr. BLILEY. Is the gentlewoman a lawyer?

Mrs. SCHROEDER. Yes, I most certainly am.

Mr. BLILEY. Is the lady's husband a lawyer?

Mrs. SCHROEDER. Yes, he most certainly is.

We know what punitive damages are, and what we are doing tonight is we are putting a cap on punitive damages. Now, the $250,000 might be a lot to us, but to a kingpin drug dealer it is not very much.

Mr. BLILEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY], the chairman of the subcommittee.

Mr. OXLEY. Mr. Chairman, I rise in support of the Common Sense Product Liability and Legal Reform Act. Product liability reform has occupied the Subcommittee on Commerce, which I chair, for almost two decades. It is testimony to the strength of the opposition that never before has this House considered comprehensive liability reform, but a new day has dawned. Let those who wish to defend the status quo do so, but my sense is that the American public is far ahead of them on this very important issue. Members of both the majority and the minority parties have worked hard for many years on product liability reform, and at least success is in sight.

Our bill comes to the floor today under the able leadership of Chairman BLILEY, and I commend him for his efforts. I thank the ranking committee member, my friend from Michigan, Mr. DINGELL, for his leadership on this issue over the many years. I know he is frustrated by both the pace and the process of this bill, but I commend the gentleman for his commitment to reform, which has remained constant through these years.

I also want to thank the gentleman from Louisiana [Mr. TAUZIN], my ranking member, again for his excellent work in this area. I also want to thank the Committee on Energy and Commerce staff who has worked long and hard, Doug Bennett, Robert Gordon, and Hugh Halpern for the majority, David Tittsworth for the minority, for their constant and hard work as well.

My colleagues on both sides of the aisle know that the product liability system in America costs the people of this country dearly. We pay more for products, we are denied life-saving medicines, we force companies to lay off workers, and we suffocate innovation. Just listen to the numbers.

Because of product liability exposure, 47 percent of American manufacturers have withdrawn products from the U.S. market; 39 percent have decided not to introduce new products; 25 percent have discontinued new product research. These decisions hit consumers, and it hits them hard. The Conference Board reports that again as a direct result of existing product liability laws, 36 percent of American manufacturers have stopped some manufacturing; 15 percent have laid off workers; and 8 percent have closed plants. What does our product liability system offer American workers? Lost jobs and lost opportunities.

Mr. Chairman, opponents of this legislation have portrayed the bill as anticonsumer. Nothing could be further from the truth. The status quo is anticonsumer and antiworker. America's liability system is a huge liability to American and its workers.

The bill before us today is effective, it is fair, and it is long overdue. It protects the right of those injured by defective products to recover all damages, both economic and noneconomic. It puts an end to the abuse of punitive damages and provides a reasonable statute of repose.

Manufacturers will be encouraged to innovate and compete and sellers of products will no longer face unlimited punishment for sins they did not commit. H.R. 956 loosens the self-imposed strangled hold our liability system places on the American economy.

Mr. Chairman, I do not want to take a lot of time, so I will close with the words of Francois Castaing, vice president of engineering for Chrysler Corp.

> It is well understood that product liability laws have a purpose. They are supposed to compensate for injury, promote safety and penalize gross negligence. If a corporation is irresponsible, it should be held accountable. But the situation in the United States has gone beyond punishing gross negligence. Now punishment is meted out for many risks that simply cannot be avoided when a product is produced and sold to a public that has wide discretion in how it chooses to use that product. When no distinctions are made in assigning responsibility for risk and all companies are held responsible—and penalized—for all risk, the ability to innovate, engineer, and compete is compromised.

Mr. Chairman, I am in strong support of this legislation. We have worked on this for a number of years in our committee. I think the efforts by the Committee on the Judiciary and our committee have brought us here today, where we can pass an outstanding bill with a good, strong, bipartisan support.

I would say to those who would continue to defend the status quo, that the burden of proof is on you to prove that

the current system is not inimical to the American worker.

Mr. TAUZIN. Mr. Chairman, would it be useful for the Chairman to summarize how much time remains for each of the parties?

The CHAIRMAN. The gentleman from Louisiana [Mr. TAUZIN] has 26 minutes remaining; the gentleman from Virginia [Mr. BLILEY] has 22 minutes remaining; the gentleman from Illinois [Mr. HYDE] has 19 minutes remaining, and the gentleman from Michigan [Mr. CONYERS] has 22 minutes remaining.

Mr. TAUZIN. Mr. Chairman, I yield 5 minutes to my friend, the honorable gentleman from Texas, [Mr. BRYANT].

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BRYANT].

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] is recognized for 6 minutes.

Mr. BRYANT of Texas. Mr. Chairman, I thank the gentleman for yielding.

I would say to the gentleman from Ohio [Mr. OXLEY], yes, Chrysler Corp. ought to be quoted in this debate. They have had the best 5 or 6 years of the company's history. They are doing extremely well. I own two of their products. So is Ford and so is General Motors. They are doing better than ever. Products liability cases have not kept them from doing well. They are doing extremely well.

I will say to the gentleman from Virginia, [Mr. BLILEY] who said a moment ago at the beginning of his remarks that this is the end of 20 years of working on products liability reform, the truth is, this is the culmination of 20 years of these big companies campaigning for products liability reform. Not based possible upon any empirical data, because there is not any to support your case; not based upon any economic studies, because there is not any to support your case.

You called the witnesses before your committee, Mr. HYDE, and you called them before your committee, Mr. BLILEY. You all set up these hearings, and I was at both of them. And I asked the question, do any of you guys have an empirical data to show that there is a products liability crisis in terms of the increase in the number of cases or increase in the size of the verdicts? And they all said no, we do not have any data like that.

In fact, the data is just the opposite. The National Center for State Courts finds that product liability cases are only 4 percent of all tort filings; tort filings are only 9 percent of all civil filings; civil filings are only 27 percent of all cases; which means that product liability cases represent a mere .36 percentage point of the civil caseload. Thirty-six hundredths of a point of the civil caseload.

In addition, in recent years the number of product liability filings has been steadily declining. If you challenge me, I will quote the studies for you. Steadily declining.

There is no data to support the movement you are asking this House to take in this bill. The fact is this is the culmination of a 20-year campaign that goes on, on the radio as we speak. One of the cases that you all like to talk about and be derisive of and they like to talk about on the radio all the time is the McDonald's coffee case.

Well, we found out the other day why you had not heard the other side of the McDonald's coffee case, because the lady who filed the case has a secrecy order imposed upon her. She could not talk about it. While McDonald's was talking about it, she could not talk about it. What were the facts? McDonald's was warned 700 times by complaints from people saying they had been burned by this super-heated coffee.

The average temperature of the coffee was 180 to 190 degrees. You are warned not to keep your hot water heater over 135 degrees because it might scald your children. Yet McDonald's continued. Here are pictures of three cases that you did not read about right here. You did not hear about these cases.

Here is an 11-year-old boy from South Carolina. The coffee he was holding spilled, causing horrible scalding. Tests conducted during the trial showed that the coffee was 180 degrees when spilled, even though it was poured 15 minutes earlier. That is what happened to that 11-year-old kid.

I have a picture here of a 3-year-old child. She was burned when she was 1½-years-old. The same situation. McDonald's coffee, they were warned but they did not do anything about it. Other folks in the coffee business have not had this problem.

This woman, this is a tragic case. She was critically burned when a cup of McDonald's coffee burned down the front of her body in Las Cruces, NM. She spent the following months in the hospital, remained wheelchair bound after the discharge, the wounds never completely healed, and she died 2 months after being released from the hospital.

Now, you can make fun of these cases if you want to, but what are these people supposed to do, Mr. HYDE? What are these people supposed to do, Mr. BLILEY? Just take it? They complained and nothing was done. The only way you get corporate America to move is tell them if you do not do something about it, you are going to be sued or you are going to lose money one way or the other. How else are they to deal with it?

You can make fun of these people if you want to, but they were burned, they were hurt. So they took the case to finality. You did not hear about these cases. You heard about the so-called $2.7 million verdict which that lady got. You know what? She got it because the jury heard this company had 700 times been warned and still did not change their behavior. The jury got mad and stuck them with a big giant punitive verdict. Of course, it was cut down to $400,000 by the judge later.

That is what goes on, and that is what you are trying to prevent. You have put a cap now on punitive damages in this bill. What a curiosity. Your cap on punitive damages now says that even if a person is found guilty in court of sexually abusing a child, now the Republican bill is going to put a cap on the punitive damages.

I think what I have said speaks for itself. This is a bad bill. You ought to be ashamed for bringing it before the House.

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

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

Mr. DOGGETT. Let me ask the gentleman if the lack of any data to support this bill is why these special interests are hiding behind the skirts and the little league outfits of the Girl Scouts of America, and whether you are aware of the fact that the Girl Scouts of America have repudiated this ad that is on television?

Mr. BRYANT of Texas. I am aware of it. It is an outrage. That is exactly why they are hiding behind it. They have no empirical data to back that bill up.

Mr. DOGGETT. For every one of these so-called horror stories they tell us about, there is a real live horror story, just like you told us about at McDonald's.

Mr. HYDE. Mr. Chairman, I yield myself 30 seconds to tell the gentlemen on the other side I have 3 pages of studies here. I know they are not familiar with them, but if they want to see them, we will get them Xeroxed and have them sent to their offices.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I thank the gentleman for yielding, and I thank the gentleman for his leadership in bringing this bill to the floor. It has been a long time coming. I would say to my friends on the other side of the aisle, first of all, that I personally sat in a meeting in which the executive director of the Girl Scouts of America for Washington, DC, told an entire group of people in a public place that they had to sell 87,000 boxes of Girl Scout cookies just to pay their insurance premiums; that they no longer can use diving boards in their pools, they can no longer rent cars, they no longer can have horses in the summertime in their camps, because of their problems with liability insurance.

The other thing I would say is, what I really want to talk about is exactly what they are concerned about, and that is special interests, because the

fact is that there are Democrats in this House that are working overtime to defeat these reforms to end lawsuit abuse. And it is an ugly side of American politics that is rarely talked about. But you have got to follow the money if you want to figure out what is really going on.

What you find out when you follow the money is that in the 1993-94 cycle, 341 Democrats were given money by the American Trial Lawyers Association. Ninety-four percent of all of the contributions that that PAC, that special interest political action committee gave were to Democrats. Thirteen out of 15 Members, Democrat Members of the House Committee on the Judiciary received substantial contributions, up to $12,000. We are talking about $114,500, $2 million given in the last cycle, the 1993-94 cycle, to Democrat candidates.

While it is lovely to talk about that this is for the women and this is for children and what we are really doing is protecting consumers, I thank you have to ask yourself who is really being spoken for in this regard.

Mr. Chairman, just to sum up, the fact is if you want to take a look at politics in America, it would be very disingenuous, you would be missing the point, if you did not also look at the money. When it comes to money, the trial lawyers have purchased themselves an awful lot of time in this Congress. They have made tremendous investments over a long, long period.

□ 2115

And when you are going to see this debate, you will see this debate couched in the terms of consumers versus anticonsumers, of prochildren versus antichildren, of prowomen versus antiwomen. That is not what this debate is about. It is pro-trial lawyers against proconsumers, people who are really trying to make the system work for American workers once again.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, we are seeing over these next couple of days one of the most complete degradations of the legislative process I have ever been sorry enough to witness. I am a supporter of product liability reform. I voted in the last Congress for medical malpractice reform. I voted for caps. I was prepared to support a good product liability bill, but the procedure and the substance to which we are going to be subjected over the next couple of days are so degraded and degrading and I cannot be part of it.

In the first place, we have the great inconsistency of people talking about States' rights. And the gentleman from Illinois said, Well, we are being inconsistent. No, most of us have not claimed to be either consistently for States' rights or Federal rights. Many of us have said, You look at it issue by issue and you see what makes the most sense.

The Republican Party that has clothed itself in States' rights garb until and unless their corporate allies decide they want it differently and then they change. And when the corporate allies say, Do not let States experiment with single-payer health insurance, don't amend ERISA, they say, OK. And when we federalize tort law, they say, OK, especially when it has nothing to do with manufacturing.

We heard a great rationale from the Chairman of the Committee on the Judiciary. This is all about manufacturing. The gentleman said in the Rules Committee, This is about exports. We don't export Little Leaguers. Sometimes they play Taiwan but they come back. They are not an export.

The amendments that are about to come—and this is all preordained, these amendments will pass—the amendments that are going to come will put limits on the amount of noneconomic damages that can be awarded into virtually any civil case in America. So this argument that this is justified because manufacturing is an economic activity is nonsensical. The Girl Scouts do not manufacture.

There may or may not be a case for covering the Girl Scouts or the Little League or every other lawsuit, but we are are not talking about manufacturing. We are also not talking about anything that resembles a respectable legislative process. In the Committee on the Judiciary controversial amendments on medical malpractice, et cetera, that were offered were withdrawn so they couldn't be debated. They will now come forward here.

I have voted in the past for medical malpractice reform. I have voted for limitations, and I say to my friends who are pressing for that, if you make a pact of this sort to take legislation and give it no hearing in this Congress and no markup in committee, if it is withdrawn and then pulled back, and then it comes up to be debated for a grand total of 40 minutes in the House, do not expect those of us who conscientiously agree with you to vote with you.

We have a list of amendments, 40 minutes, 20 minutes, 10 minutes, extending this legislation to virtually every civil lawsuit in America, expressing the contempt the majority apparently feels for the jury system, because what they say is the jury does not count.

We got an example of the intellectual level of the argument when the gentlewoman from Colorado was interrupted by the gentleman from Virginia. The gentlelady was nice enough to yield and the gentleman said, Are you a lawyer and is your husband a lawyer? That is third-grade type of debate and this is what we are getting in this complex legislation.

If you only have 40 minutes to talk about it, I suppose that is what you get. And it comes from someone who has been supportive of malpractice reform and who wants to support product liability reform. I say to those of my friends who want it, if you are serious about it, you will break this alliance with people who show such disrespect for the legislative process, such disrespect for your intellects, such total disrespect for the jury system, and decide because they have raw numbers, people who will vote however they are told, then they will win. They will win a short-term victory and they will discredit the important cause of product liability reform and those of us who really want to see it will in fact be suffering, because what will happen is by this unfair, overloaded, under-debated bill, they will bury the good.

Mr. BLILEY. I yield myself 1½ minutes.

I will point out to the gentleman on the other side that between 1973 and 1988 product liability suits in Federal courts increased 1,000 percent. In State courts, the increase was between 300 and 500 percent. One estimate of the total cost of these suits is $132 billion a year, a sum equal to the combined profits of the Nation's 200 largest corporations. And I stipulate that that is the reason that we are here debating this.

To the gentleman from Massachusetts I would say, when we were accused today in a bill that we passed overwhelmingly with bipartisan support for securities litigation reform, that we were bringing this because we were rewarding our fat cats, maybe some of us might beg to say that the gentleman on the other might be trying to defend them.

Mr. Chairman, that may be one of the reasons that they so vociferously defend the current system is that one of the heaviest contributors to their campaign coffers are the trial lawyers of the United States.

Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SCHAEFER].

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

Mr. SCHAEFER. Mr. Chairman, I thank the gentleman for yielding time.

PARLIAMENTARY INQUIRY

Mr. BRYANT of Texas. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRYANT of Texas. Do the rules prohibit implying a motive or the improper motive on the part of your adversary in debate for presenting legislation?

The CHAIRMAN. The rules of the House prevent Members from engaging in personal attacks.

Mr. BRYANT of Texas. I thank the Chair. But my further inquiry was, do the rules prohibit you from implying a prohibited motive, unsavory motive for offering amendments for advocating legislation?

The CHAIRMAN. The rules do not prohibit Members from engaging in discussions of political motivation.

Mr. BRYANT of Texas. What about motivations that relate to your personal occupation or your personal sources of income?

The CHAIRMAN. The rules prohibit Members from engaging in personal attacks.

Mr. BRYANT of Texas. I thank the Chair.

Mr. SCHAEFER. Mr. Chairman, I rise today in strong support of the Common Sense Product Liability and Legal Reform Act of 1995.

Members of the House, frivolous litigation has become a fact of American life whether we like to recognize it or not. Too often bringing people to court has taken the place of personal responsibility. Much of this behavior is due to the distorted incentives built into our current product liability laws.

Today, many people no longer look at themselves first to blame but instead search out the easiest way for a big court settlement. Overzealous litigation costs consumers literally billions of dollars every year. This price inflation comes in the form of liability insurance costs built to price products and services, estimated to be approximately $1,200 per person each year.

This litigation tax, as you might call it, is extremely regressive, raising the price of products to those that least can afford them. Unfortunately, the Committee on Commerce and Committee on the Judiciary have crafted a piece of legislation that restored sanity to the Nation's liability system. I would like to address one portion of that and that is the biomaterials access provision, and my good friend the gentleman from Pennsylvania [Mr. GEKAS] did hit on that but I would like to expand a bit.

One of America's leading industries is the biomaterial device field. These products literally save and enhance lives every day from pacemakers to artificial heart valves to cataract replacements. These products provide recovery and allow people to continue their lives.

The suppliers of base materials oftentimes provide the manufacturer with elements of the device that are too costly to produce except in mass quantities but alone have no implant value or purpose. Unfortunately, in recent times these suppliers have been named as codefendents in lawsuits, and in almost every case they are cleared of wrongdoing or negligence. Nevertheless, in the process they are forced to expend financial resources to achieve exoneration and to provide insurance.

The litigation risk has caused many supply companies to simply stop providing base materials for these lifesaving devices. Consequently the inability of device manufacturers to obtain the needed base supplies is causing the death of the biomaterials industry in this country.

The biomaterials section addresses this tragic consequence of overzealous litigation. This language will ensure that simply unless the supplier is negligent in the design specification requested by the device manufacturer or if the supplier is also a party in the overall manufacture or marketing of the device, the supplier is cleared of liability.

Mr. Chairman, I urge my colleagues to support this long overdue legislation, the Common Sense Product Liability and Legal Reform Act, which will help put an end to frivolous litigation while preserving each person's right to seek out compensation for real injury.

Mr. TAUZIN. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, let me return the very fine compliments of the gentleman from Ohio [Mr. OXLEY] the chairman of our subcommittee, for the work that was done in our Committee on Commerce on this bill.

I should also quickly acknowledge the extraordinary efforts put in over the last 12 years of the former chairman of our committee, Mr. DINGELL, who spoke earlier tonight. Mr. DINGELL has been committed to the issue of product liability reform for many, many years. This was in 1988 when our committee finally agreed upon a product liability reform bill and produced it for the House, that bill unfortunately never made it to the House floor because it could not come out of the other subcommittee of jurisdiction. As a result, the product liability reform bill that Mr. DINGELL and our committee fought so hard for in 1988 died its unnatural death in Congress, and it has never until this day had a chance to be debated again.

The bill we have before us is in many ways like that bill of 1988 and in many substantial ways very different. It is a bill that does, in fact, divide standards of liability between economic and noneconomic damages.

Joint and several liability for economic losses, the losses you can put your finger on, the ones you can put an easy dollar equation on, and several proportionate liability for noneconomic losses, losses that are harder to estimate, the pain and suffering, the mental anguish and such that jurors very often award in numbers that surprise us.

The bill also deals, as our bill did in 1988 with punitive damages, also it deals with them very differently and with a statute of repose although it deals with it very differently.

I want to for a minute talk about those differences. In the statute of repose that we produced in 1988, a statute, a section of the bill that was designed to end liability for products that were manufactured many years ago, the statute of repose time was set at 25 years. This bill sets it at 15. We are told the reason it is set at 15 is to coincide more nearly with State statutes of repose which are generally in the 10- to 12-year range. But the big difference is that this statute of repose extends beyond capital goods, the goods that are normally depreciated, heavy machinery, and now extends to all products. That is a big change and one that we will want to debate I am sure when we get to the amendments on that section and on the bill.

On the punitive damages area, there are two very—three very large differences as we look at the bill as it arises on the floor. The first large area of difference is the fact that the punitive damage cap, which is set in this bill which was apparently not in the bill in 1988, is set not only at $250,000 on products but it now is made to apply to all tort law and all civil suits, both State and Federal law, in civil actions for harm where plaintiffs, in fact, prove by clear and convincing evidence conduct that was specifically intended to cause harm, intentional harm.

□ 2130

There are two other differences. In the bill that we produced in 1988, we clearly said that the provisions on statute of repose did not apply to any plaintiff who did not have their medical bills paid. That bill, that provision, is still included in this bill, but I understand there will be an amendment from the other side to delete that language. I hope that does not occur, I hope we have a chance to debate the reason why that provision was in the 1988 bill and is currently contained in this statute.

In the punitive damage area, there was an exemption from punitive damages for drugs that were previously approved by the FDA. That exemption has been deleted from this bill. There will be an attempt, I will join in that attempt, to reinstate that exemption. The reason is, punitive damages are designed in our civil procedure as a quasi-fine. How ludicrous it is to fine a company for producing a product that we ourselves as a government approved. If that product causes some harm, it makes sense to make sure the harm is repaid, the harm is made whole, but should the government punish someone in a civil action or in a regulatory or criminal action for an action that the government itself approved? We are going to debate that tomorrow and I hope frankly we can come to the conclusion that that exemption ought to be returned to the bill as it did apply to the bill in 1988.

As I said, the major difference in the punitive damage section is a cap in this application to all civil suits. We will debate that. I personally have a problem with punitive damages in civil suits, so capping them is not as severe a problem for me as it is for other folks.

But I want to make a point that I hope we get a chance to make in debate tomorrow. I am disappointed frankly when I see the list of amendments that will be offered that we will not have an opportunity to offer more amendments in this section. Punitive damages are designed to punish a defendant who put us all at risk. My question is why should those damages go to the plaintiff? My question is why should not a very large percent of those damages go to the general public? If a company, a person, puts us all at risk with a product, the plaintiff obviously ought to receive some benefit for having brought that suit and called that to the court's attention and recovered some measure of damages for the rest of us. But a punitive damage award, a quasi-fine, ought to in fact insure to the benefit of the public at large. Some States have done that in their laws. We will have a chance to look at at least one amendment that does that, but I would hope that the majority would permit us to look at different ways of characterizing punitive damages so that the public at large benefits when a fine is levied in a civil case in the form of a punitive damage.

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

Mr. BLILEY. Mr. Chairman, I yield myself 1½ minutes.

I would ask my friends on the other side of the aisle, do they think there is really any coincidence in the fact that for 20 years the Judiciary Committee has refused to allow a bill on this subject to come to the floor for debate and the fact that their members that were there in the majority received overwhelming contributions from the Trial Lawyers Association?

Mr. BRYANT of Texas. Will the gentleman yield?

Mr. BLILEY. On his own time.

Mr. BRYANT of Texas. You asked a question. Let me answer it for you. Do I have the time, Mr. Chairman?

The CHAIRMAN. The committee will be in order. The gentleman from Virginia controls the time.

Mr. BRYANT of Texas. Will the gentleman yield?

The CHAIRMAN. The gentleman from Virginia is recognized.

Mr. BLILEY. Would the Chair ask the gentleman to stop interrupting?

The CHAIRMAN. The gentleman from Virginia controls the time and is recognized.

Mr. BLILEY. I thank the Chair. May we have order?

The CHAIRMAN. The committee will be in order.

Mr. BLILEY. I thank the Chair.

I also would point out that in a recent article in the Wall Street Journal that Creighton Hale, the CEO of Little League Baseball, wrote of a case in which a volunteer coach was sued for punitive damages in pain and suffering after one of his youthful outfielders was beaned by a pop fly. These types of suits lead to skyrocketing insurance costs.

A spokesman for the Girl Scout Council of the Nation's capital tells us that they have to sell an additional 87,000 boxes of cookies annually just to pay their liability premiums.

With that, Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HASTERT], a valued member of the committee.

Mr. HASTERT. I thank the gentleman for yielding me the time, and I certainly thank him for his great work on the bill on product liability. And certainly the gentleman from Ohio [Mr. OXLEY], our chairman of the subcommittee, has done yeoman's work as well, working the last few years with the gentleman from Michigan [Mr. DINGELL], the chairman of the then majority, in trying to put together H.R. 1910.

I have been involved in trying to work on product liability since I first came to Congress and certainly have looked forward to participating in this debate on the floor for many, many years.

Last year I was the cosponsor with a gentleman from the other side of the aisle by the name of Doc Rowland, a former member from Georgia, who was committed to bringing on the Fairness in Product Liability Act, and along with that we had garnered 126 cosponsors from both sides of the aisle.

I might also add that many of the provisions of this bill came from H.R. 1910, which was that act. It is plain to see that this is a bipartisan issue.

I was also extremely pleased to see that this issue was important enough that it was included in the contract.

As Members know, this issue of product liability reform is a mature issue that has been around for some 14 years. The Committee on Commerce was fortunate to hear from some true veterans of the field that have appreciated the hard work and commitment that many have made to this issue. I know they are just as pleased as I am to see the House is finally considering it on this floor.

Since I first became involved with product liability, I have been amazed at the adverse effects our current system has on American productivity, competitiveness and innovation.

We talk here a lot in Congress about competitiveness. We try to find ways to encourage it through legislation. I can tell Members without a doubt that if we enact this bill, we will boost the ability of American industry to compete. The best news is it will not cost taxpayers a dime.

United States liability costs are 15 times greater than Japan's and 20 times greater than Europe's. These costs represent American dollars not spent for research or development or employee benefits or new job creation. U.S. costs are higher because all manufacturers, U.S. or foreign, sell most of their products at home. Since liability costs per product are based on liability exposure, and exposure is so much less under the legal systems of our competitors, our liability costs are higher than those of other countries.

It seems to me that we should be encouraging American companies to stay in business. But this flawed system under which we currently work has just the opposite effect. We are not saying that you cannot file a suit if you have been wrongfully harmed or a company has been knowingly negligent, but if you pick up your lawn mower to use as a hedge trimmer, then you should not be able to sue the manufacturer. This bill only limits the number of lawsuits that have little or no merit.

If we were only interested in employing lawyers, then maybe we would not need to be concerned about product liability. But American families are paying more for everything they buy, from their air conditioners to their Zenith TV's, because companies must pay billions for meritless lawsuits.

I know some argue that we simply do not need to create uniform standard product liability laws. I have heard the opponents of the bill saying Republicans are doing an about-face, trying to pass laws on States from the Federal level, but the fact of the matter is that the creation of Federal uniform standard laws has been called for twice by the National Governors Association. Humor me for just a minute, but it is my guess that these folks are tuned in to what is needed at the State level.

It is critical that the manufacturers of each of our districts have a good grasp of what their responsibilities are as producers. And our constituents' rights as consumers should not vary widely from State to State.

I am hopeful that we will be able to address this issue, not only Republicans and Democrats as a united front here but as legislators committed to fixing the inequities and inconsistencies that currently exist in our laws.

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to my friend the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. I thank the gentleman for yielding me the time.

I would say that I think that the gentleman from Illinois [Mr. HASTERT] is speaking out a sincere belief. I would just call upon you and those similarly situated in your position to base those kinds of beliefs on empirical data and there is no empirical data to support the conclusions which you offered to the House in your remarks. That is the

fundamental reason why we oppose this legislation.

The gentleman from Virginia [Mr. BLILEY] has talked about campaign contributions. That is an unfortunate topic to get into I think from his standpoint. We could talk about campaign contributions from the cigarette industry which is located in your district, I know. In fact, I think it is the capital of it. But let me say this. I think the gentleman will be for this legislation even if he did not live within a thousand miles of a cigarette factory. I think he believes in it. I am not taking issue with your belief in it. But you suggested that our position is based upon the fact that the trial lawyers make contributions. I think I am typical in saying that many of the Members who have taken a strong position like mine have received as much as $10,000 in campaign contributions in each cycle, every two years, from the trial lawyers political action committee, out of probably $900,000 or so that gets spent. I have received probably $150,000 in campaign contributions from the companies' political action committees that support your position, and that is true of all of us over here, and you know that. There is one American Trial Lawyers Association PAC, there must be 2,000 corporate PAC's out there that agree with you.

I really think it is important, it is more I think accurate of you to base your arguments, your conclusions, your opinions, if you had some data, and I do not think you do, you would base it upon that, but to suggest it is based on campaign contributions I think demeans all of it. I do not think it is based on those from you or based on those from me. But I do question on where you guys are getting your information.

The gentleman from Illinois [Mr. HYDE] waved around a list of studies earlier this evening and he waved them around once in the committee. I would like to get the list. I will come over and get it in just a second.

The ones he read off in the committee were all studies that supported our side of the issue. I read to you from the minority report which made very clear that the number of products liability cases are going down, they are not a significant percentage of the overall cases. Obviously American industry is doing very well and I hope it does better in the future, but for goodness sakes, we have got to pay attention to the fact that we do have situations where corporations behave irresponsibly because they are human beings and all of our laws, all of our jurisprudence is written to deal with the behavior of a minority of every class, not a majority.

I think General Motors, Ford and Chrysler are great assets in our society but I think that they have in some cases behaved horribly. The Pinto case, all these other automobile cases, with an exploding gas tank, where they flip over, where they have not put a roll bar where they ought to put a roll bar and they cripple people. Look, they are human beings, giant bureaucracies. Some human beings in one corporation do not know what the other human beings are doing. We have no way to protect the public from this except a system of private litigation.

As the point I made a moment ago, I think should be reiterated, that private litigation is a tiny percentage of the overall litigation.

When you guys get up and talk about all the lawsuits, you forget that the lawsuits are commercial cases, 80 percent of them are commercial cases, not personal injury cases.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3½ minutes to the distinguished gentleman from New Mexico [Mr. SCHIFF], a valued committee member.

Mr. SCHIFF. I thank the gentleman for yielding me the time. I particularly want to commend his integrity in giving me this time since he knows full well in advance I do not fully support the leadership position on this bill.

Mr. Chairman, I support a products liability bill. I think the rationale for it is not perfect. I think arguments can be legitimately made against a Federal products liability bill. But I think a case can be made and has been made for the idea that when goods are shipped in interstate commerce and the same good is for sale in different States, that there ought to be a Federal standard for how to handle tort litigation if there is an alleged defect in those goods because it is the same good, whether it is being sold in New Mexico or being sold in Illinois.

However, there is no rationale for the second part of this bill, because as presently written, the first part of this bill deals with products liability, the second part, title II, does not deal with products liability. It deals with all tort litigation, and I am referring specifically to the punitive damages provision.

As written, the bill says that all punitive damages actioned in State court are under the control of Federal legislation. So that if two individuals go out on their front lawns and start a fistfight with each other, Federal legislation will control the punitive damages standard, whatever it might be, in that particular case.

I want to say particularly to my fellow Republicans, it is wrong. It is wrong for two reasons. First of all, it philosophically reverses everything we have been arguing for the last 2 months on everything. From police block grants to child nutrition programs, we have been saying that the States know best how to handle their local problems. Today we are saying, "But they don't know how to set up a tort system within their courts on cases of simply local application."

□ 2145

Second of all it is dangerous practically because Federal preemption is a genie that cannot be put back into the bottle once it is released if we exercise Federal preemption with respect to punitive damages in all cases of whatever kind in the State courts and we do so with a policy of limiting damages. A future Congress of a different philosophical mind can use that preemption and reverse it, not only reverse it, but they can say there will be no caps on punitive damages anywhere in the United States and they can preempt all of those States which have in fact already imposed caps on punitive damages.

I offered an amendment to the Committee on Rules which would have allowed this body a vote on changing the punitive damages provision from applying to every single kind of case in the United States of America, no matter what it is, to limiting it to product liability. The rest of the bill is product liability, the argument in favor of the bill is based on product liability. The only problem is it is not what the bill says. I regret to say the Committee on Rules did not make that in order.

I want to conclude by thanking the gentleman again for the time and by commending our Committee on Rules with respect to my colleagues on the democratic side. I have seen more openness and more fairness to rules granted under our Rules Committee in 2 months than I saw in the previous 6 years I was here, but in this particular case I think the Committee on Rules with respect to them made a mistake in not allowing a vote which is important as an issue and is important to the previous votes by our own party.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3½ minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, I first want to point out that we obviously do not have enough time to debate the issue. As we have seen, Members do not even have time to yield to each other as is customarily.

Second, I wanted to point out since the Girl Scouts have come up, the information I have is that the conference data base uncovered that only one punitive damage award was ever awarded against Little League, Boy Scouts of America, or Girl Scouts of America. This punitive damage award stemming from a sexual molestation claim was subsequently vacated by an appellate court.

Mr. Chairman, the lawsuits we are talking about are designed to empower consumers who are ripped off, maimed or injured, but with the right to go to court every consumer is somebody. And if a corporation thinks about ripping somebody off or recklessly exposing them to serious injuries, because

they want to make a little bit more profit, that corporation has to remember that every consumer has the right to be treated fairly. And they cannot calculate whether or not they can make a little bit more money by exposing someone to serious injuries or danger.

With the changes made earlier this week, Mr. Chairman, we make it harder for individuals to bring suit. Even if they bring a suit and win, if they come in under the amount offered in settlement, a corporation is rewarded by that legislation, but the plaintiff, having had the nerve to challenge a corporate behavior, may end up losing their homes.

Mr. Chairman, there are only a few punitive damage cases in American history. Let me just cite a few which are typical of the kind of cases we are talking about.

We are talking about a 43-year-old teacher who was injured after having being treated with surgical bandages when the company knew that the bandages were contaminated. They had been notified on numerous occasions that the bandages in the warehouse were contaminated. The quality control director had placed a hold on the bandages, and they had nevertheless decided to sell the bandages and dispute the findings of the FDA and others that there was a contamination.

The plaintiff suffered extensive scarring, loss of motion in his back and emotional distress. His medical bills are only $4,200 and that is the kind of behavior that would be protected if we pass this bill. That is Darby versus Western Medical Enterprises, a 1984 California case. And I want to cite that case so we do not get into these wild examples that you can never track down.

Mr. Chairman, in Oglevie versus International Playtex, a significant punitive damage award, they had complied, technically complied with the Food and Drug Administration regulations, but the court found that there was an abundance of evidence that Playtex had deliberately disregarded studies and medical reports linking high-absorbency tampon fibers with increased risk of toxic shock syndrome when other manufacturers were responding to this information by modifying or withdrawing their products. Moreover, there is evidence that Playtex deliberately sought to profit from the situation by advertising their high-absorbency tampons when they knew that other manufacturers were recalling their products.

Mr. Chairman, there are also cases of cotton flannel pajamas that the court found were just about as flammable as newsprint. They were hit with a punitive damage case.

That is the kind of behavior we are trying to prevent.

Mr. BLILEY. Mr. Chairman, I yield myself 30 seconds. I would hope that in the course of this very learned debate some Member on the other side would explain to us since they claim their motives are as pure as the driven snow, why for 20 years the Judiciary Committee refused to allow any bill to come to this floor for any debate or any vote.

Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Mr. Chairman, I rise today in strong support of the bill before the House. And I commend Chairman HYDE and Chairman BLILEY for their efforts to pass real civil justice reform.

This legislation creates uniform product liability laws. It is no news that juries have been out of control over the past decade in awarding punitive damages far in excess of what is necessary to make a plaintiff whole. Part of the blame rests with the system, because it gives juries very little guidance with which to make such awards.

As Supreme Court Justice Lewis Powell has pointed out—

> Courts simply instruct jurors in punitive damages cases to determine what dollar amount between zero and infinity would appropriately serve the States' interest * * * no act of the legislature guides them, nor do any judicial instructions narrow the range of appropriate punishment.

Mr. Chairman, nobody supporting this bill wants to deny injured individuals access to the courts. Those injured by a defective product should have a proper legal remedy. Nothing in this bill would change that.

Moreover, the bill does not place any limits on the size of economic damage awards. Contrary to what the trial lawyers want Americans to believe, injured individuals could still collect every penny to which they are entitled to make up for lost wages, both past and future. The damages would also include past and future medical expenses for the individual. These awards for economic loss would fully compensate the injured party for all of their out-of-pocket expenses.

Trial lawyers would tell you that the provisions relating to punitive damages will deny fairness to injured parties. They could not be more mistaken. This bill does not ban punitive damages. But they are capped at $250,000 or three times economic damages, whichever is greater. In serious injury cases, in which the plaintiffs would have large medical bills and lost wages, the cap on punitive damages can quickly exceed several million dollars.

Mr. Chairman, as Justice Powell has also observed,

> As recently as a decade ago, the largest punitive damages award approved by an appellate court in a product liability case was $250,000. Since then awards more than 30 times as high have been sustained on appeal. It is long past time to bring the law of punitive damages into conformity with our notions of just punishment.

Mr. Chairman, I urge my colleagues to support this bill.

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

Mr. GANSKE. I yield to the gentleman from Ohio.

Mr. OXLEY. I want to commend the gentleman for his statement and to point out the fact that we are making these plaintiffs whole; that is essentially the idea behind the law, is to make them whole. And I appreciate his statement because I think it really highlighted exactly why we are here today and I congratulate the gentleman on his statement.

Mr. TAUZIN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, we live in an age when attorneys are not very popular. That was evident when the movie "Jurassic Park" was such a big hit, and the only person eaten by that monster in "Jurassic Park" was a lawyer, and audiences stood and cheered. I was in one of the movie theaters and witnessed that awesome event.

Having been schooled in the law myself at LSU Law School in Baton Rouge, and having a deep love and appreciation for the art of lawmaking and the general artistry of well-crafted laws and how they can help order our society and make our lives better when they work right, I want to quickly report that there are many lawyers in this body who do support product liability reform, and I am one of them.

When I was a young state legislator in Louisiana, we had a proposition then before the States called no-fault insurance. I and several other young attorney legislators lead the fight for the adoption of a no-fault insurance bill in our State, a bill opposed generally by the Bar Association and the Lawyers Association of our State. We passed it out of the House; 17 of the 31 attorneys in the House voted for it, a majority.

It died in the Senate on a tie vote; never became law. But nevertheless, it illustrated that an attorney can be and should be the most interested in making sure legal systems work. If anybody has a stake in improving the legal systems of our country certainly those who have been trained in the law, who have come to learn to love it and appreciate it as a working instrument of good in our society, have a major responsibility in correcting bad legal systems and making good legal systems out of them.

That is what this effort is all about, and so I rise again tonight in strong support of reforms in our legal system and certainly in product liability reforms, such as we produced in 1988 and such as we are trying to produce on the floor of the House this week.

But I also rise to sound a note of alarm and concern about some of the amendments that will be offered in this debate tomorrow, amendments that would extend so-called fair-share liability and establish a cap on noneconomic

damages to all lawsuits, not just product liability suits.

The combination of those two ideas can be lethal. When you think about a young person, a woman who is a homemaker who does not have economic losses in a lawsuit, or an elderly citizen who is on a fixed retirement income and who gets injured and therefore suffers no real economic losses other than restoration of their medical losses, when you consider the fact that under one of those amendments that person would be limited to several liability to restore their losses for noneconomic damages, and in addition may face a cap on those same damages, you get this kind of a situation. You get a situation where they have not covered any economic losses because they had none, but they have been severely damaged, perhaps incapacitated for the rest of their lives. They may suffer severely both pain and mental distress from a disability for the rest of their lives and yet maybe there is only one defendant standing who may be responsible for only 10 percent, and so they can only collect 10 percent of those damages for pain and suffering and disabilities.

On top of that, an amendment would come forward to put a cap on those damages, so it would be 10 percent of a capped amount.

□ 2200

I would hope my friends on the other side would think very seriously before the combination of those two amendments are adopted. We have adopted a cap on noneconomic losses in our State for medical malpractice, but we allow joint and several liability to make sure that persons can collect the amount of that cap when they have suffered real and severe extended disabilities and pain and suffering and mental distress, and perhaps had no other economic losses.

To combine the loss of joint and several liability with a cap on those noneconomic losses may, indeed, create some real injustice in our society. I would hope my friends on the other side would strongly consider before we adopt those two amendments in tandem.

In short, before we extend these very valuable reforms in product liability to all tort law in America, we ought to think very carefully, and we certainly ought to think about caps and the new system of liability together.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. WHITE], one of our outstanding freshmen.

Mr. WHITE. Mr. Chairman, I thank the gentleman, the esteemed chairman of one of our subcommittees, for his excellent leadership on this bill.

I would like to say, Mr. Chairman, that as I have listened to the debate over the last few days, one thing struck me, the fact is nobody is against tort reform from President Clinton down to the lowliest, most junior, humble member of the freshman class in this House, probably me. Nobody is against legal reform. We all recognize the need to make these changes.

But when the bill comes to the floor, that is the time when we have to separate the sheep from the goats, and I am sorry to say that now that the bill is on the floor and now that we may actually be able to make some of these reforms, we now hear that we are going too far, we are going too fast, we need more empirical data, we need more time.

Mr. Chairman, we have had 40 years for the citizens of this country, who have been crying out for the kind of reform we are hoping to adopt in these next few days. The time is now. We need this bill.

Mr. Chairman, I would like to make one other point: As we listened to the debate, we are told that this bill is for the rich, it is for the corporations, it is not for the average citizen, and I suppose we are going to hear these themes of class warfare for the next several months of this Congress. But, Mr. Chairman, I do not know where these people have been.

I have spent the last 2 years shaking every hand I could find in the First Congressional District of Washington, and I can tell you that the ordinary citizens in my district and probably in all of our districts are begging for this bill, and I will tell you the reason why. It is not because they have got empirical data about how many additional tort suits have been filed over the years, about whether there is an increase or a decrease. They are asking for this bill because they are asking this body to restore some respect for the law of our country. They know and we all know that every day in every court in this country we get results that do not make sense, that offend our sense of right and wrong, and they are asking for us to change that.

Mr. Chairman, the system is out of whack. It desperately needs to be changed. We have an opportunity to do that now, not for the corporations, but for the ordinary citizens of this country, and I hope that every single Member of this House will vote for this bill.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN].

Mr. TAUZIN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

The CHAIRMAN. The gentleman from California [Mr. BERMAN] is recognized for 9 minutes.

Mr. BERMAN. Mr. Chairman, I thank my friend, the ranking member of the Committee on the Judiciary, and I particularly thank the manager for the Committee on Commerce, a committee which I am not on, and to take a position which he does not share, and so I appreciate it.

I would like to follow up on the themes of the last couple of speakers. We have a product liability bill on the floor. Personally I do not find it a bit offensive that the Congress chooses to federalize the whole question of the standards for product liability. I think a very good case can be made for giving the manufacturers uniform rules around the country, it makes sense to federalize it.

I do not even quarrel with all of the features of this bill. A statute of repose, which tells a manufacturer there is a certain period of time after which that manufacturer has procured and sold the product, that will pass, and he will no longer be liable for things that go wrong with that product unless he intentionally misrepresented aspects of that product that he was selling. The Bryant amendment dealt with that slight change in the statute of repose. He was denied a chance to offer that amendment. I think that can make sense.

And I think you can talk about punitive damages in the area of product liability. I personally think once you have left enough incentive for the plaintiff to pursue the punitive damages remedy, the notion that he might get a million or multimillion-dollar windfall is wrong, and that a significant portion of that should be shared with the State or a nonprofit agency or a third party, because the purpose of punitive damages is not to make that person whole. You need enough to go to him to let him have the incentive to pursue it, but the purpose is to punish and deter future conduct, and so amendments which speak to that issue in a fair fashion I find acceptable.

But there are many changes about this bill that make me curious. And first of all, we keep hearing talk about product liability.

The gentleman from Georgia [Mr. BARR] in the committee offered an amendment, findings and purposes, to establish the Federal interest under the commerce clause in doing this. He withdrew that amendment, but the amendment reappeared in a perhaps slightly different form in the bill we are not voting on, and I understand that. That is in title I. But there is not even a plausible effort to provide the constitutional basis for the Federal Government preempting a punitive damages award when Joe Smith hits Bill Jones on the street, and this has historically been a State interest and no Federal interest. All of a sudden the punitive damages for that intentional tort are federalized and capped. There is no premise for this.

I have talked to several constitutional law professors, Professor Van Alstine at Duke and others, since this

bill passed out of committee. They think this whole section is of doubtful constitutionality, and the proponents of the bill do not even make an attempt to justify it on any constitutional ground, a little less on a policy ground, a ground that would say we have an interest in what New Jersey's punitive damages award is against sexual predators or what California says for a lawyer who divulges certain kinds of information or a journalist who violates the shield law in some fashion. These are all, and there are dozens of other State remedies for punitive damages for intentional torts that the Federal Government has no interest in, and are not a cause of any particular problem.

I do not understand why this bill has a provision in here which says a civil action brought for commercial loss shall be governed only by applicable commercial or contract law. Why if the parties to a contract provide for four times actual damages as liquidated damages clause, that is OK, when the only loss is commercial, but if a person is injured, they are capped, and they cannot get anywhere near that amount. It is a funny notion to put damage to property on such a higher pedestal than damage to the human body.

I guess I just want to close my comments by dealing with the comments really made; I thought they were somewhat cheap and tawdry comments made by the gentleman from Ohio that essentially impugned the motives of the Democrats who are opposed to this bill for why they are voting against this bill. Like the gentleman from Texas [Mr. BRYANT], I get contributions from the American Trial Lawyers' Association. I get far more contributions from the corporate and association PAC's that support this legislation.

I have no doubt that my perspective on this bill perhaps is shaped by the fact that I was trained in a law school. I do not think the gentleman from Illinois [Mr. HYDE] is doing this because he is in somebody's hip pocket or the gentleman from Virginia [Mr. BLILEY] or the gentleman from Ohio [Mr. OXLEY]. I think we see the world a little bit differently, and that is what this whole place is supposed to be about, people coming from very different backgrounds. We are all affected by our life experiences and our careers, and we come down in different places, and the notion that everything comes down to who is in whose hip pocket debases the whole place, and while outsiders are always going to talk about it, the notion that people who are inside the process and rely on what is essentially a very cheap argument, I think, is not healthy to this process.

I do not understand why the Republicans, who are against this bill, are they motivated by high motives, but the Democrats who are against this bill are motivated by low motives? I do not think anybody seriously believes that.

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

Mr. BERMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I do not want to trespass on the gentleman's time. I agree with the gentleman. But it really cuts both ways, and I believe it started on the other side with our camaraderie with corporate America and the economic royalists and all that tone was set, that they were our friends and we were doing this because they were telling us to do it. I agree with the gentleman, let us dispense with that line of argument on both sides.

Mr. BERMAN. This does sound like another clean-hands argument, but in the end, four dirty hands really do not help the process.

Mr. HYDE. I was talking about the rules. I was talking about your love affair with really closed rules during the entire last Congress and now complaining that we only gave you eight amendments this time.

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

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

Mr. TAUZIN. I want to commend the gentleman for that comment. It is time that we stopped impugning motives to either side in this debate. Our effort ought to be to build a good legal system. If we concentrate on that, perhaps the American public will appreciate this a lot better.

Mr. BERMAN. I want to make one other point. The gentleman from Virginia [Mr. BLILEY] several times, my friend, said that if there was not some interest in this, why did they kill it for 20 years? For the same reason the House Committee on the Judiciary did not pass a balanced budget amendment or a school prayer amendment or a whole variety of things, because the majority of the committee at that time did not like the bill and we did not want to vote for it, and that is why we killed it, and that is why it did not come out to the House floor. It is no big mystery. It is part of the process. We just had a little change now; all of a sudden certain things we never thought of passing are rushing out here. It is part of the process.

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

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

Mr. CONYERS. I really am impressed by this recognition that some have gone too far, but to tell us that we should not suggest that business is going to benefit, for the chairman of Judiciary to suggest we should also, as we are washing each other's hands, and finding that nobody is guilty and that we are getting contributions from everywhere, that we also suggest that business is not the beneficiary, the clear beneficiary of some of these matters. That now, I say to the gentleman from Illinois [Mr. HYDE] is perfectly obvious, and I am not prepared at this moment, while I had dirty hands on the Committee on Rules, I do not think I am misinforming anybody to suggest to you that the beneficiaries of these restrictions that are being rushed upon us are not the consumers but are, indeed, the business interests of this country.

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

Mr. BERMAN. I yield to the gentleman from Illinois.

Mr. HYDE. I never doubted the business community will benefit from this legislation. I have never said otherwise. But I also do not make the distinction between the common working man and woman and the consumer and corporate America that you do. I think they each need each other, and when one is damaged, the other is damaged, and they should be working together, not at each other's throats.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. BARR], a valued member of the committee.

Mr. BARR. Mr. Chairman, I thank the distinguished chairman of the Committee on the Judiciary, the gentleman from Illinois [Mr. HYDE].

I might point out to the gentleman from California [Mr. BERMAN] that the report of the committee of the House on this legislation very clearly indicates that the amendment that I had proposed stayed in, was voted on, was not withdrawn, and the language, as far as I can tell, on findings and purposes which appears in the report is accurate. If he knows otherwise, I certainly would like to know that.

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

Mr. BARR. I yield to the gentleman from California.

Mr. BERMAN. I agree. It only applies to title I. It does not apply to title II. There is no ostensible constitutional basis for title II.

Mr. BARR. That is fine. I appreciate the gentleman's remarks.

During the debate here this evening, we have heard a great deal of talk, a great deal of sophistry, a great deal of hyperbole about who this legislation, if it is enacted, is going to help. Is it going to help corporations, companies? You bet it is. These are corporations that provide products for consumers. These are corporations and companies, small businesses that provide jobs in our communities. Will it help doctors? You bet it will. Will it help pregnant women? You bet it will.

□ 2215

When I am home, Mr. Chairman, to my district, when I am in my district,

I am like the gentleman from Texas [Mr. BRYANT]. I talk with real people. I do not talk with statisticians. I do not review reports. I do not sit down across a table from a constituent who has a problem, who has had to see their business go under because of the exorbitant costs of liability insurance. I talk with them, and I do not demand to see a report of how many cases there have been in court before I listen to their real problems.

The real people who are harmed by our litigation system being out of balance are pregnant women who in my district sometimes have to drive an additional 30 or 40 miles to find an ob/gyn doctor because there is none in their communities because of the high cost, prohibitive cost, the prohibitive risks of being sued and not be able to get insurance. That is a real problem that is not a statistic. That is not something that may be in a report, but is a real problem involving real people that we are trying to help through reforming and bringing balance back to our system.

When I am in my home district, when I am in Marietta, GA, and I talk with a small business person, and when I talk with a Cub Scout leader who is unable to take a group of Cub Scouts from my own neighborhood on a field trip because he cannot get liability insurance to take that group of Cub Scouts downtown, that is a real problem.

Mr. Chairman, those are real problems.

What we are trying to do here today, Mr. Chairman, is not to revamp, or reinvent, or throw out our legal system. What we are trying to do, Mr. Chairman, is bring it back to what it was intended to be. It was intended to be a system of laws and justice open to people who have really been hurt, not who want to look for responsibility, not in their own selves, but somewhere else where it should not lie. We are bringing balance back to a system that sorely needs balancing being brought back to it. We are not closing out the system. We are making it more responsive to the people who really need it.

I say that, Mr. Chairman, not based on some artificial reports, statistic or book. I say it is based on real life problems that we see out in our communities.

This is not the last word on this, Mr. Chairman. This is the beginning of a process. We will listen to people on the other side, listen to people on this side, read those reports as they are forthcoming to see what further changes need to be made to make sure the system stays in balance, but we have to start, and we should start with this bill.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman very much for allowing me to simply try to bypass all that has occurred maybe this evening in terms of whose fault, who is responsible, and really talk to the American people, business and consumer alike.

I would not have spent the time in the Committee on the Judiciary attending to detail and working with the entire committee if I did not think, as the gentleman from Louisiana thought, that this is important business. And this business is the challenge for those of us who were trained as lawyers and those of us who are not to propose laws that will work, and, whether or not we have discussed this for some 40 years prior, the key is whether or not this legislation will last 40 years hence and that we can be assured that collectively we have designed legislation that responds to the concern that all of us have raised, the idea of fairness for the litigants who come into the courts of America.

I simply stand here to raise the concerns of women and children, and I dutifully attempted to work through the Committee on Rules to seek an opportunity to raise an amendment that I had raised in committee that talked about exemptions for women particularly with breast implant devices and, as well, children who would have a hard time, as the gentleman from Louisiana, and maybe a homemaker even, of defining or being able to project economic damages because that child obviously has not worked, and I ask my colleagues, "Even though you might not project it, who would know that someone from an inner city like Houston, possibly in a place that you would not expect would turn out to be the rocket scientist, the President of the United States which doesn't get a lot of money, but therefore would, of course, have the future to earn a certain degree of money that is not projected for that individual?"

But how can I tell Marilyn, who is a loving grandmother in my community, the hometown of Houston, whose faulty silicon breast implants have caused her total disability and agony, that she would be limited in recovery? What about Marilyn's daughter, Theresa, also who suffers from severe neurological disorders that have been passed on to her by her mother? And what about Theresa who has breast fed her three children, and that is Marilyn's 5-year-old granddaughter is now showing symptoms of silicon poisoning, too?

My question, as the gentleman from Louisiana raised, is why we could not come together and deal with issues to respond to the concerns of those who would want to put legislation forward that would last 40 years into the future.

I believe this is not a bashing game because I know, as a former corporate lawyer, that a vast majority of American companies want to do what is right. America's manufacturers have tended to be the very best in the world. They can improve further as we move into the 21st century, but, when we have some 80-some amendments offered in good faith, I would hope, and I realize the Committee on Rules has to work in fairness, and then, out of that, the opportunity to discuss breast implant device?

And then we wind up with eight that does not take into consideration, if my colleagues will, the concerns of children and the inability to measure their economic damages and, of course, women who may be having an ongoing problem with devices like breast implant devices.

I think that we are not coming to the table to address this in the fullest measure that we possibly could, and so I think the challenge we have, noting that there are two amendments that were not in any committee, as far as I understand, and now attempting to cap noneconomic damages, that we have the question raised by the honorable gentleman from New Mexico about preemption and whether or not this law will now intrude into the many States across the Nation who are working in good intention to develop tort reform and to do it well according to their State needs, and then, lastly, would we be able to find out for sure as to whether or not the new device of punitive damages standard and the applicability to all civil liability, or civil litigation, is, in fact, fair and is, in fact, responsive to business and consumers alike.

Let me conclude, Mr. Chairman, by simply saying, "What about a bifurcated bill that would have worked for businesses in America? Why not do a bill that really works for Americans and is fair?"

Mr. OXLEY. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I was struck with the discussion we have had this evening and hark back to our hearing on the product liability issue in which the representative trial lawyers testified that they were, of course, opposed to Federal legislation in this area. I reminded him of the time when in Ohio, not too many years ago, the Ohio trial lawyers appeared in testimony before the Ohio General Assembly and said that they felt that it was the province of the Federal Government to deal with a national problem like products liability, and indeed the States, if they were to pass 50 different statutes, would be a hodgepodge that would never solve the problem.

It seems to me a rather interesting dichotomy that we hope to address in this Federal legislation. It is imperative, it seems to me, based on what we have heard in the committee, in the committee of the gentleman from Illinois [Mr. HYDE], to really provide a national standard for those goods that are sold in interstate commerce, and

indeed over 70 percent of the goods that are manufactured in this country are sold in interstate commerce.

And so it behooves us in the Congress to set those Federal standards, and that is exactly what we propose to do in this particular piece of legislation, and I would urge that my colleagues do likewise.

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

Mr. CONYERS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I think the gentleman from Michigan [Mr. CONYERS] has yielded me such time as I may consume because I have gotten the reputation for talking a long time, but I want to surprise people tonight. I know it is late, and I want to make three concise points and sit down.

I think this has been a good debate, not long enough to do justice to this issue, but certainly a good debate.

The first point I want to make, Mr. Chairman, is that this bill is referred to by my colleagues as the Common Sense Legal Reform Act, and I have seen it go through the process over time through the Committee on the Judiciary, and I suspect tomorrow and the next day on the floor it will cease to be a Common Sense Legal Reform Act and become a Nonsense Legal Reform Act. I think it is nonsense because it is contrary to everything I had thought my Republican colleagues stood for in their Contract With America.

I thought they believed in States rights, but here I find in this bill that we are preempting all State law on punitive damages on products liability, and tomorrow an amendment will be offered to preempt State law in a number of other areas that have been traditionally reserved to the States, and I will remind my colleagues that the folks at the State level cannot want conservatives telling them what their values are and imposing their values on them any more than they want liberals doing that.

I thought my colleagues believed in not mandating things to the States. But in this bill, after they have preempted State law on punitive damages, preempted State law even on the burden of proof, which is a procedural issue, I would submit to my colleagues, they have turned around at the end of the bill and said, "We deny you the right to the Federal courts even though we have set the standards by which you must comply."

So I am scratching my head a little bit and wondering if that is not a Federal mandate, then what is?

The second point I want to make is that the chairman of the Committee on the Judiciary, for whom I have the utmost respect, said in general debate earlier that we have the most costly legal system in the world.

□ 2230

I want my colleagues and the American people to know that not only do we have the most costly legal system in the world, but we have the very, very best legal system in the world; we are the envy of the world. Our jury system is something that every person around the world will tell you works, and despite that, with $6 trillion in GNP, we spend less than 1 percent resolving all of the disputes that take place on this issue. All of our disputes, we spend less than 1 percent.

So I do not think we can take this as a justification for the massive revisions that we are undertaking. The justification, it seems to me, is that we are hurting little people at the same time that we are protecting and upping the standards and protections for wealthy people, and that leads me to the third point that I want to make, and by far the most serious point that I will make on this bill. I raise the question with my colleagues, what will the people do when they cannot get justice in the courts? What is their alternative when there is no justice in the courts?

I want my colleagues to contemplate this issue. People go to court because they feel vigorously about issues. You deprive them of that right, it does not do away with the vigor with which they approach these issues. It just means they must direct it in some other way. They must seek their justice in the streets. We used to, I understand, dual and take out our guns and shoot each other. Heaven forbid if we ever get back to that kind of system.

I will close and tell you that I am deeply troubled by the direction of this bill, and I hope that there will be a process for making it better, but it will not happen.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to a valued member of the committee, the gentleman from South Carolina [Mr. INGLIS].

Mr. INGLIS of South Carolina. I thank the gentleman from Illinois for yielding.

I rise tonight in strong support of this legislation and really to make two points. One is a story, and then second, what I believe to be the bottom line of this whole discussion, but the story first.

There is a plant in my district that makes food processing equipment. It is a very successful company that makes very fine food equipment, processing equipment that can grind meat and do all kinds of things like that, high-quality, highly skilled work that is done by very trained people.

Early in my campaign for the Congress of 1992 I visited that plant, and the owner took me on a tour, and he showed me this very sophisticated equipment they can build, and he told me that actually the growth of his business is out of that and into pizza delivery boxes for export to Mexico. The reason, he says, it is a growth industry in Mexico, apparently pizza is selling well in Mexico, but also he cannot afford the liability insurance associated with that food processing equipment. He can no longer afford the multiple lawsuits that are filed against his company, particularly when people alter the product, take off the warnings, and sue him many years later for a product long ago forgotten by his company.

I would submit to my colleagues that that is happening all across this country, and if we want to move out of high-technology, truly specialized equipment, highly sophisticated equipment like this food processing equipment and into making pizza boxes, I guess that is all right, but I think that is the wrong direction to go. We should encourage these manufacturers to make these very skilled products.

The second observation I would make is really the bottom line of all of this, is whether we are a nation that is going to focus on responsibilities and not just rights, and that is really what it boils down to. In this debate, what you are going to hear is a whole lot of discussion about how somebody else is responsible for my actions, somebody else is a guarantor of my health and happiness and that really is not the case.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT].

Mr. TIAHRT. I thank the gentleman from Illinois for yielding me the time.

I just want to speak in support of this, Mr. Chairman, because of the impact that has happened in my district, because of the statute of repose or the produce liability for airplanes. In Independence, KS, in April, we are going to break ground for a new plant. Cessna Aircraft is going to build a plant and bring 1,000 jobs into Independence, KS, the Montgomery County area. There will be another 1,000 jobs that are going to be started in Wichita. The spin-off is going to create 7,000 jobs because of product liability for aircraft.

I heard earlier that we were concerned because there was no measurable impact from product liability, that there were no benefits that could be created from such limitations, that it was only going to hamper individuals, but I am here to tell you tonight that in my district of south central Kansas, we are going to see 7,000 jobs over the next 5 years. And we are excited about that.

The industry tells us that there may be a possibility of 25,000 jobs nationwide from product liability on aircraft. Now, if we expand that beyond aircraft, if we go into other products, we are

going to see that there will be jobs created. But there will be people working, and it is not the rich people or the corporations that are going to benefit. It is the guy that carries a lunch bucket to work. It is the guy that tries to create a safe environment for his kids, he tries to clothe them and to feed them. Those are the people we are benefiting by product liability.

Mr. Chairman, I just want to consider this legislation, pass it out of here in a quick manner, because it is good for the working people of America.

Mr. TAUZIN. Mr. Chairman, I yield my remaining 5 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Chairman, I rise this evening in support of H.R. 956 and will offer an amendment with my colleagues Messrs. OXLEY, COBURN, BURR, TAUZIN, and STENHOLM.

The enactment of this amendment simply exempts the manufacturer or seller of drugs or medical devices which are FDA approved, from punitive damages.

It is important to note that this amendment does not limit actual or noneconomic damages. But, ensures that companies who have acted in good-faith and received FDA approval will not be hit with punitive damages. When this amendment becomes law, lives will be saved.

This country has the most rigorous drug and medical device approval process in the world. Companies which research and develop new treatments spend millions, and sometimes billions, of dollars on developing and testing new treatments in order to meet FDA standards of approval and make these important treatments available to the public.

The out-of-control tort situation in our country is forcing companies to back away from developing and putting on the market many important new treatments related to illnesses such as cancer and AIDS. This amendment would, to a great extent, remedy this situation.

Mr. Chairman, I would like to make a few remarks on the bill itself. I support final passage of H.R. 956. This bill will establish a unified set of standards and procedures for product liability and civil litigation.

The vast array of product liability laws that face manufacturers, businesses, and consumers have suppressed entrepreneurial creativity for fear of frivolous lawsuits.

H.R. 956 will result in predictable and marketable policies to consumers and manufacturers, and enhance job creation and innovation. I encourage my fellow Members on both sides of the aisle to vote in favor of the Oxley amendment and final passage of this critical legislation.

Mr. HYDE. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Minnesota [Mr. RAMSTAD], who is chairman of a task force on the subject of product liability.

Mr. RAMSTAD. I thank the distinguished chairman for yielding me the time, and, Mr. Chairman, as one who chaired the task force which drafted H.R. 10, the Common Sense Legal Reform Act, I rise in strong support of this legislation which derived from that initial legislation.

I want to commend the respective chairmen of the Committees on the Judiciary and Commerce for ensuring that we honor our pledge to the American people to bring this legislation to the full House for a vote within the first 100 days.

Chairman HYDE, Chairman BLILEY, and Chairman OXLEY deserve a lot of credit for their work, as well as their members.

Now, I recognize, Mr. Chairman, that some Members who support tort reform are genuinely concerned about the Federalism issue; that is, whether the issue of tort reform should be left to the States.

Members with this concern, I believe, should find instructive the counsel of three sources: Judge Robert Bork, State Representative Steve Flowers and last but not least, the American people.

First, Judge Bork is certainly no fan of an expansive reading of the commerce clause, but he readily concludes that these reforms are well within the scope of Congress's authority under the commerce clause. I want to quote from a letter dated February 27 to the Speaker in which Judge Bork concludes that Federal intervention for this purpose is not merely constitutionally permissible. It is very important to vindicate the Framer's constitutional design. Judge Bork's basic argument is that it can no longer be disputed that abusive litigation is having a profoundly adverse impact on interstate commerce.

It is, therefore, necessary for Congress to protect interstate commerce from parochial discriminatory regulation by States and localities.

Also, Members should pay particular attention to State Representative Steve Flowers of Alabama. Representative Flowers once believed that tort reform should be left to the States, but not now. Why?

In 1993, the Alabama State supreme court ruled that the State legislature does not have the authority to impose any cap on punitive damages and struck down the tort reform law that Representative Flowers had authored back in 1987. Even George McGovern in the Washington Post, and most Members, I am sure, agree we should cap punitive damages. Since the Alabama's supreme court's decision, Alabama's punitive damage awards have gone through the roof. Forbes magazine recently described Alabama as, "the worst place in America in which to be a civil defendant."

Finally, Mr. Chairman, the American people understand the need for uniformity of liability laws. In a recent survey of 1,000 adults, 84 percent—I mean, 84 percent of the people don't agree whether it is a nice day or not, what the weather is like—but 84 percent of the people agree that because State liability laws often conflict with each other and because so many lawsuits cross State lines, there should be one set of rules for the liability system instead of 50 different sets of rules.

Mr. Chairman, I hope this addresses the concerns of my colleagues regarding Federalism. We must address these national problems, Mr. Chairman, with a national solution and that national solution lies in the legislation brought here tonight. And I urge its support tomorrow.

Mr. BERMAN. Will the gentleman yield?

Mr. RAMSTAD. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I am curious. First of all, was title II of this bill, the preemption of punitive damages in nonproduct liability cases, part of the Republican contract that you were involved in drafting?

□ 2245

Mr. RAMSTAD. Mr. Chairman, it was certainly thought if it applied, the limitation on punitive damages applied to products cases, it should apply to all civil actions.

Mr. BERMAN. Was that in the contract?

Mr. RAMSTAD. The cap on punitive damages was in the contract.

Mr. BERMAN. Was the cap in nonproduct liabilities cases? Because I think the contract was only limited to caps on punitive damages in product liability cases.

Mr. RAMSTAD. The present bill I am sure the gentleman recognizes applies to all civil actions, as it properly should.

Mr. SENSENBRENNER. Mr. Chairman, the current system of product liability law in the United States is detrimental to our Nation's economic prosperity. The cost of insurance and litigation causes manufacturers to increase prices, provides a disincentive for business to create new products, and impedes interstate commerce. Tort liability costs are substantially higher in the United States than any other country and currently represent 2.3 percent of U.S. gross domestic product.

For the past 20 years, the Democrat-controlled Congress has refused to seriously consider obvious problems inherent in our product liability laws. I am pleased that the new Republican majority has made product liability reform a priority and I enthusiastically support H.R. 956, The Common Sense Product Liability and Legal Reform Act.

H.R. 956 will enact several important reforms. It ensures that product sellers will receive reasonable protection against liability for

manufacturer error. A plaintiff whose use of drugs or alcohol is partly responsible for an accident will be prohibited from collecting damages from defendants with lesser degrees of responsibility. Limits are established regarding a defendant's liability for non-economic damages to a proportionate share of responsibility. A 15-year limitation for brining most liability actions will also be enacted. The bill also makes important reforms to the system of awarding punitive damages. It addresses burden of proof, proportionality of awards, and bifurcation of proceedings.

In addition, I support the Cox amendment to H.R. 956 which expands the legislation to include reform of the medical malpractice system. Congress has spent a great deal of time debating elaborate proposals that would control skyrocketing medical costs. This amendment provides a simple first step to reducing the cost of medical care. In my State, Wisconsin, the average physician pays $40,000 a year in medical malpractice insurance premiums, and specialists pay more. If you assume that the average doctor works 2,000 billable hours per year and charges $20 per hour, then the first $10, or the average cost of the first half-hour of the office visit, is the patient's share of the medical malpractice insurance premium. Medical malpractice premiums have been the fastest growing component of physician's costs. This amendment will reduce frivolous malpractice suits and the corresponding increases in insurance premiums. In my opinion, reforming medical malpractice is an essential start to reforming America's health care system.

In the coming months, Congress will debate significant cuts in Government spending for research and development, small business programs, and export promotion. Enactment of this legislation will reduce tort liability costs for American companies and enhance American competitiveness in the world marketplace.

Mr. SANDERS. Mr. Chairman, I am very distressed about some of the proposals that have been considered and passed by the House recently. Although one in three Americans will get cancer and one in four of us will die from it, the proposals we have been passing under the Contract With America are making it substantially easier for big corporations to pollute our environment and bodies with toxic chemicals with complete immunity. They make it extremely difficult, if not impossible, for the Federal Government to protect the public health and take away the financial incentives for private industry to use care when manufacturing products.

Forces who think its appropriate to ignore the public health successfully defeated important amendments I offered to the unfunded mandates reform and the regulatory moratorium bills which would have allowed the Federal Government to protect the public health—especially from cancer-causing toxic exposures. On Monday, under the guise of attorney accountability, these same forces successfully passed a provision that would make it extremely difficult to win a suit against a company that manufactures products that cause toxic injuries. It will likely prohibit evidence of newly discovered injuries that we are discovering in the toxic tort area like chemical sensitivity and immune deficiency syndrome. Obviously, attorney accountability only demands accountability to corporate interests and not accountability to the consumer.

But those of us who want to protect the public health are beginning to win the fight. This legal reform bill was amended so consumers harmed by toxic products like the Dalcon shield, DES, breast implants, and asbestos, can sue for compensatory damages. The bill does not allow suits 15 years after purchase of the product. Yet, in committee the time limit provision was changed to exclude injuries that do not ordinarily appear within 15 years of exposure. Although this provision addresses latent injuries like cancer and asbestosis, it is badly written and could leave many seriously injured consumers without legal recourse. Which injuries ordinarily appear more than 15 years after exposure? Which types of cancer? How about AIDS? And chemical sensitivity? What if an injury usually arises within 10 years, what happens to the victims who were lucky enough to have a longer latency period? Will they not be able to sue? Clearly this bill does not adequately protect consumers from cancer-causing and other toxic products.

Mr. Chairman, there is one other serious flaw in this bill I would like to address. It is extremely regressive. The cap on punitive damages is based, in part, on the victim's income. Not only does this allow wealthier victims to win larger recoveries, but it also creates an incentive to use less care when developing and manufacturing products that are typically used by low-income consumers.

This bill is a badly written bill that puts consumers' rights in serious jeopardy and I strongly urge you to vote "no" on final passage.

Mr. PACKARD. Mr. Chairman, the House is moving forward with common sense legal reforms. We restored attorney accountability and curbed nuisance securities lawsuits. Now we must work to restore fairness to the legal system by ensuring that real victims are rewarded.

Polls show that 72 percent of American workers and consumers favor legislation that places tighter limits and restrictions on an individual's ability to sue another person or company. Americans are tired of paying the tab for lawsuit abuse and litigation greed. They want a civil justice system that protects their rights and restores fairness, not one that promotes unfair behavior.

Lawsuit abuse has taken on a life of its own. It clogs our courts, dampens job growth, promotes slick lawyer tactics, produces higher prices, inflates insurance premiums and keeps Americans out of the competitive world market. We must stop this trend. American consumers, workers, and producers work too hard to suffer the economic consequences promoted by a greed driven legal system.

Our Republican Common Sense Product Liability and Legal Reform Act, H.R. 956, restores fairness and deters frivolous lawsuits by placing caps on punitive damage awards and reforming product liability laws. H.R. 956 represents a legitimate effort to stem the tide of costly and trivial lawsuits. Reforming our product liability laws will strengthen the economy and the free market by encouraging and promoting manufacturer innovation, in turn creating new jobs and more consumer products.

Mr. Chairman, I strongly support passage of the Common Sense Product Liability and Legal Reform Act. It is time to end out of control lawsuit abuse. Americans want a legal system that works for them—a system where legitimate grievances will be addressed and not overshadowed by baseless, costly litigation.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to H.R. 956, the Common Sense Legal Standards Reform Act of 1995. While I agree that some reform of our Nation's product liability laws may be appropriate, this legislation goes too far, favors producers of dangerous products too much and provides too little protection for ordinary citizens. I cannot support this effort to significantly curtail Americans' rights to seek redress in the courts when they have been needlessly injured, maimed, or killed by dangerous products.

This dangerous and hurried legislation will not only fail to truly reform the product liability litigation laws that need reforming, but will endanger the American public by stripping away the most important checks and balances system Americans have—the American judicial system. It would be the height of irresponsibility for Congress to take from the American people their ability to protect themselves, their families and loved ones from dangerous products.

The bill before us today, the Common Sense Legal Standards Reform Act of 1995, will not only attempt to undo many of the important accomplishments of the U.S. Congress, Federal agencies and over 200 years of American common law, but also seeks to undermine many of our Nation's most important mechanisms to enhance safety for all Americans.

The stated purpose of the Common Sense Legal Standards Reform Act is to impose on State and Federal juries limits on the amount of punitive damages of $250,000. It also imposes on States, Federal standards for all product liability lawsuits. Additionally, the bill contains several special interest exceptions for drug companies and aircraft manufacturers in addition to other friends of the new majority.

While I agree that Congress should investigate reforming products liability litigation, this proposed measure goes well beyond the legitimate objective of balancing responsibilities and risks. In fact, this bill is specifically designed to inhibit the will of the people by creating artificial special interest exceptions, and obstacles for injured and maimed citizens who seek redress in the courts. The current majority has long sought to weaken, if not totally eliminate, Americans ability to protect themselves in the courts.

Supporters of H.R. 956 have argued, and I agree, that most products produced in this Nation are the safest, highest quality products

produced in the world. Yet, the fact remains that too many dangerous products exist. When injured by one of these dangerous products, Americans' last recourse is the American judicial system.

Proponents of this bill have argued that curtailing citizens' rights to open access to the courts is justified because there has been an explosion of product liability litigation. This argument is simply not supported by the facts. According to the "1992 Annual Report of the National Center for State Courts," the actual number of product liability claims is extremely low, a mere 4 percent of all personal injury cases. The evidence shows that products liability cases represent only .0036 percent of the total civil caseload in State and Federal courts.

There has been no explosion in products liability lawsuits as republicans assert. Excluding asbestos cases, the number of product liability cases filed in Federal courts between 1985 and 1991 actually declined by approximately 35 percent, from 8,268 to 5,263. The only significant increase in litigation over the past few years has not taken place in the area of products liability. It has been caused instead by large corporations suing other large corporations. A 1990 study reveals that corporate contract cases increased 232 percent and make up more than 18 percent of all civil cases as opposed to .0036 percent for product liability cases.

Another artificial justification for passage of H.R. 956 has been the alleged explosion in the frequency and size of punitive damages awards. The fact is, courts rarely award punitive damages. A 1993 Suffolk University law school and Northeastern University study found that only 355 punitive damage awards were granted in product liability cases between 1965 and 1990. Only 20 percent of those 355 cases were affirmed on appeal. The research also shows that the vast majority of companies subject to punitive damages awards between 1965 and 1990 took some post-litigation steps to make their products safer. Without punitive damages many products would simply be more dangerous. Clearly, the current system of checks and balances system is working.

H.R. 956 will have a devastating impact on the children and elderly of this Nation. The limitation of damages awards places children and elderly at an especially significant disadvantage. Since compensatory damage awards are based solely on economic loss, these individuals can prove few tangible economic damages because they generally do not work, or work for small salaries, and would therefore not receive nearly as much compensation as the rich, who bring home big paychecks. This result would be fundamentally unfair to thousands of Americans, and would constitutes an extreme injustice to the youth and elderly of our Nation.

I hope that no one in this House would want to increase the risk of disease, injury, and premature deaths caused by exposure to dangerous products. But that is exactly what H.R. 956 would do. This bill, in concert with H.R. 988, the Attorney Accountability Act of 1995, would slam the doors of the courthouses of this Nation in the faces of the American public. In my 27 years in congress I have seen few more obnoxious measures, that so cruelly and unfairly places a substantial burden on the American public.

This bill will also compromise citizen and worker safety. Last year, over 10,000 American workers died in the workplace. Another 70,000 were permanently disabled, and more than 100,000 contracted fatal occupational illnesses. H.R. 956 will greatly inhibit our citizens' ability to protect themselves from unsafe products, dangerous working conditions and avoidable disasters. I cannot in good conscience endanger American workers by supporting this bill.

In addition to endangering the health and lives of Americans, approval of H.R. 956 would not result in additional enhancement in competitiveness or innovation. The differences between the U.S. product liability system and the legal systems in other countries do not provide foreign manufactures with a competitive advantage. All companies are subject to the liability laws of the country where a product is sold or where the injury is incurred. Therefore, there is no significant harmful effect on American competitiveness as a result of the American products liability system.

Contrary to representations of proponents of H.R. 956, no real evidence has ever been presented that supports the claim that products liability laws have a chilling effect on business innovation. In fact, the current products liability system enhances innovation by providing a significant incentive for companies to develop safe products.

Mr. Speaker, this legislation is unprecedented in its scope and cynicism. Few areas of State and Federal products liability litigation will be unaffected by this measure, yet, with very little opportunity for open hearing, and with severely limited debate, this act has been placed before us. The rule under which this bill has come before us is so draconian that many members with reasonable and bi-partisan amendments will not be heard. A measure of this kind requires detailed analysis of the impact it may have on the American people, but no such review has or will take place. In the current rush to force this bill to the floor of this House, the will of the American people will certainly be compromised.

Furthermore, this legislation would remove from the wise discretion of State and local governments the determination of how to handle products liability litigation. My colleagues on the other side of the aisle have often claimed that they favor retracting the tentacles of the Federal Government from local people, who best know and understand the issues they face. Yet, this bill flys in the fact of this often touted Republican ethic. H.R. 956 strips from local communities the ability to establish products liability standards. This modification of the products liability laws by Federal mandate is unjustified, ill-advised and will lead to injustice for working and middle-class Americans.

Mr. Speaker, it is my belief that H.R. 956 and the circumstances under which it is presented in this house is an attempt to mislead the American people to believe that meat cleaver, simplistic solutions will end the fictional "avalanche of litigation" so often mentioned by supporters of this bill. As the facts have shown, evidence clearly establishes that this bill has been pushed on us all under tragically false premises.

As our Nation faces an epidemic of joblessness, poverty, and economic troubles, the solution to these problems will not be found in quick fixes like H.R. 956. The American people elected us to act in their best interest, not compromise their welfare because congress does not have the will to permit Americans to protect themselves from dangerous products. I urge my colleagues to vote against this bill.

Mr. BUYER. Mr. Chairman, in the past 50 years, the cost of torts—personal injury, product liability, and medical malpractice cases—have grown at 4 times the rate of the overall economy. Currently, the cost of this system is in the neighborhood of $132 billion.

Other than diversity jurisdiction in Federal court, predominately, tort actions have been tried in State courts. Historically, consumers bought goods and services locally—intrastate—where many companies primarily conducted commercial trade locally. State rules for tort actions were probably quite appropriate. In the last half century, however, interstate commerce has dominated the market. Consumers buy products that are manufactured in other States, with company headquarters in still another State. Companies no longer serve local markets, but sell products nationally, even internationally. The mechanism by which civil disputes are settled has not kept pace with a changing world and its economy.

From 1973 to 1988, product liability suits in Federal courts increased 100 percent; in State courts the increase was between 300 and 500 percent.

This increase in litigation has not come without a price. Because 70 percent of products manufactured in any one State cross State borders before the point of final sale, American manufacturers must contend with the uncertainty of 50 different civil justice systems. The awards for damages in one State affect the prices to consumers, insurance rates, and job market in other States. According to surveys reported by Pace University Professor of Law M. Stuart Madden, because of liability costs, 36 percent of American manufacturers have withdrawn products from the world market, 47 percent have withdrawn products from the domestic market, 30 percent have decided not to introduce new products, and 25 percent have discontinued new product research.

It can be argued that our tort system is already federalized, except that no consistent standards apply. Even criminals in our criminal justice system face a clear definition of what constitutes crime and there is a limit on what punishment is deemed to be just.

For the average American, the current tort system denies the right of free choice in the marketplace and inflates the prices for available products. It also discourages innovation, retards

capital formation and creates a distinct competitive disadvantage in the world market, affecting ability of the economy to create and maintain jobs.

The chief flaws of the existing system is that it is unpredictable and there is little individual responsibility where all are considered victims.

Article I, section 8 of the Constitution gives Congress the power to regulate interstate and foreign commerce. The intent of H.R. 956, the Common Sense Product Liability and Legal Reform Act, is to return a sense of reasonableness and predictability to this system.

H.R. 956 would: First, limit the liability of product sellers; second, limit the liability of manufacturers for injuries due to drug or alcohol abuse, or to the misuse or alteration of their product; third, institute a 15-year statute of repose on product liability; fourth, impose sanctions for bringing frivolous product liability suits; fifth, eliminate joint liability for noneconomic damages in product liability suits; sixth, require a higher standard of proof for punitive damages in all civil suits; seventh, cap punitive damage awards in all civil suits at $250,000 or 3 times economic damages, whichever is greater, and eighth, require strict standards of proof for claims against biomaterial suppliers.

In no way does H.R. 956 limit the ability of a plaintiff to recover actual economic loss—medical bills, lost wages, and the like.

This legislation will help benefit many of the small businesses in the 5th District of Indiana. Let me site just two examples.

Whallon Machinery of Royal Center, IN, manufacturers industrial material handling machines. The machines incorporate hydraulic and pneumatic components as well as sophisticated electronics. This equipment can be found in nearly every State and many foreign countries. In nearly 30 years of business, over 83 percent of all machines built are still in use. In 1993, Whallon received notice of an incident involving their equipment. Previous to this, Whallon had no product liability claims. A customer modified a Whallon machine to the extent that an operator could place himself into the working mechanism of the equipment while the machine was still in automatic operation. An operator, without first hitting the emergency stop button, as instructed by the owner of the machine, entered the machine while it was running and sustained injuries. Whallon ultimately settled out of court.

Whallon was quickly affected by this. First, its insurance carrier decided to not renew Whallon's policy. New insurance was found but at nearly 4 times its 1993 premium. The company had to alter plans for plant improvements and expansion, which meant neither additional hiring nor improvement in employee benefits.

In another example, medical device manufacturers, such as BIOMET, Zimmer, DePuy, and Danek in Warsaw, IN, provide critically needed products to patients across the country and in the world. Medical device manufacturers have improved the quality of life for countless individuals, through pacemakers, heart valves, artificial blood vessels, hip and knee joints.

Three major suppliers—DuPont, Dow Chemical, and Dow Corning—recently announced that they would limit, or cease altogether, their shipments to medical implant manufacturers. Under current law, suppliers of the raw materials used in implantable devices may be brought into the litigation process. Huge damage awards are often sought from these biomaterial suppliers, even though suppliers have no role in the design, manufacturer, or sale of the implantable device. The courts are not finding the suppliers liable—one supplier has a record of 258 to 1. Nevertheless, it can cost millions to defend and win these lawsuits. The risks and costs of responding to product liability suits far exceeds the limited revenues generated from the sale of these materials and it is driving suppliers away from the medical device industry.

Alternate suppliers have been identified for certain of the materials, but they have expressed similar liability fears. In many cases, no other supplier exists. Alternate suppliers will likely sell materials only to those medical implant companies with the financial ability to back stringent indemnification agreements. According to Dane Miller, president of BIOMET, he is having to look at offshore biomaterial suppliers and the substitute materials made available may be substantially different and require quality assurance and new testing. Small implant manufacturers and start-up companies, however, are not in a financial position to guarantee adequate indemnification to suppliers. Small medical technology manufacturers are a primary source of innovation in the medical technology industry.

By limiting liability to instances of genuine fault, H.R. 956 will enable lifesaving and life-improving medical devices to remain on the market.

We must return a sense of reasonableness to ensure that injured parties are compensated in a manner that protects all consumers and America's competitiveness. H.R. 956 is a good start in that direction.

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

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

The CHAIRMAN. All time has expired for general debate.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DICKEY) having assumed the chair, Mr. DREIER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes, had come to no resolution thereon.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

COMMONSENSE PRODUCT LIABILITY REFORM NEEDED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, I want to carry on with what we talked about earlier this evening. It is natural for each of us to feel sorry for a person who suffers in an accident or mishap. One of our fundamental freedoms is the ability to bring suit in order to receive justice. When big corporations get sued, we often side with the individual against the companies. We think "big bad corporation" and "poor individual." And when the big companies pay millions of dollars in settlements, we pretty much shrug and say, "Well, they can afford it."

But that is not really true, Mr. Speaker, because the people who pay the price for those big settlements are the working people of America, and they pay it at the cash register. When companies are forced to pay outrageously high settlements, they eventually have to cut jobs, raise prices, and pass the costs on to the American people. This does not affect the rich as much as it affects the hard-working families who have to pay this price.

Mr. Speaker, in 1994 Congress passed the General Aviation Revitalization Act. This act implemented a statute of repose of 18 years on suits involving single engine airplanes, product liability for airplanes. That means that after 18 years, the legal liability of a manufacturer is greatly diminished. This act applies to planes with seating capacity of 20 or less. Cessna Aircraft Co. which is headquartered in Wichita, KS, was for years the world's leading producer of single engine aircraft. But because of aging airplanes and the litigation explosion that followed, America lost its aviation manufacturing advantage.

In 1977, the single engine aircraft industry was producing over 13,000 airplanes per year. But with the onslaught of the legal tidal wave, Cessna completely stopped manufacturing these planes by 1986. By 1994, the entire industry produced less than 600 aircraft, less than 5 percent of what was

previously produced, and many of them came from outside America.

Mr. Speaker, this is just not about making fewer airplanes, it is about losing American jobs. When the company is forced to pay sky-high legal judgments in cases where their legal liability is at best suspect, the working families are taking the hit and we are lining pockets of rich lawyers. What has happened to Cessna and other companies was that judges were holding them accountable and liable for aircraft malfunctions that could be reasonably accounted for in pilot error, maintenance failure, or simply just an old airplane

Mr. Speaker, there comes a time when a plane is just old. Those who are flying these old airplanes were simply taking a risk. How can you blame the manufacturer for a properly designed airplane and properly built airplane?

For the last 2 days we have been debating legal reform on the floor, and some have stated that this reform is unnecessary, that the system works fine the way it is. As we talk about product liability, I would like to offer what is happening in Independence, KS, as an example of what could happen in other industries if we could just pass the much-needed product liability reform.

Because we passed the statute of repose containing the General Aviation Revitalization Act in 1994, Cessna Aviation has announced it will build a new manufacturing plant in Independence, KS. Groundbreaking will be this April. Cessna intends to invest over $75 million in this community, and it is all the result of placing a reasonable limit on product liability.

Cessna's production of single engine aircraft was destroyed in 1986, but because Congress took action in the next 2½ years, Cessna estimates they will produce 2,000 airplanes per year. Once again, this is not about more planes as much as about hope for southeast Kansas and for 7,000 people who are going to be employed over the next 5 years. The benefits of this plant will also be felt in Oklahoma and nationally. All told, it is predicted over 25,000 jobs will be created from product liability reform for airplanes. This is just one example that can happen when you rein in the lawyers and give manufacturers a chance to pass laws.

This is clear Congress should pass commonsense product liability reform. Jobs and security for people across the Nation will be the result. People should have the right to sue. That is not the question here. The question is should there be reasonable limits on product liability, and the answer is "yes."

SUPPORT FOOD STAMP PROGRAM AND COMMODITY DISTRIBUTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

Mr. BRYANT of Tennessee. Mr. Speaker, I would like to talk about something we did last night on the Committee on Agriculture on which I serve, but first, before I get into that, I would like to address briefly some of the remarks I have heard on the debate this evening concerning the tort reform bill, and particularly the punitive damages aspect of that bill, the claims being made on one side that sexual predators and drug dealers will no longer be subject to punitive damages.

Certainly as an emotional issue as this type of conduct, these types of conduct are, I wanted to clarify from my viewpoint and from my experience as a civil attorney for about 20 years, which included about 2 years as a U.S. attorney as a Federal prosecutor, my experience in the area of punitive damages and this type of conduct which I find was not really connected.

I never saw, in my experience, a sexual predator suit in civil court, but rather the more likely remedy the law has there is a criminal prosecution, the aggressive criminal prosecution of people who sexually pray on children.

Likewise with drug dealers, what we come out there with drug dealers is they are arrested and prosecuted under the criminal law, not suing them civilly, where we put these types of people in jail for their conduct. Certainly in the area of drug dealers' civil forfeiture, that was available to us as prosecutors, to seize the ill-gotten gains that these people had, their assets, their homes and cars, things that were gained through the sale of drugs. It was certainly valid forfeitures. But not again in my experience have I seen the use of punitive damages in either one of those cases, but rather the more appropriate remedies of putting these people in jail.

Mr. Speaker, I would now like to talk about the Committee on Agriculture, on which I serve.

Last night, the House Agriculture Committee passed H.R. 1135, the Food Stamp Program and Commodity Distribution Act.

This legislation is a big first step in the direction of real welfare reform.

For 2 years now, Americans have been waiting for the current administration to end welfare as we know it.

Last night, that process began.

What this legislation will do is give those States the choice to determine how they want to run their Food Stamp Program.

One of the most important aspects of this legislation is that it would require food stamp recipients must work to be eligible to receive food stamps.

The hard-working taxpayers of my district in Tennessee would agree that if an able-bodied person is going to receive food stamps, then they should be required to work to receive them.

It simply is not fair to stay on the rolls and make no effort to better one's self and try to become a productive, tax paying citizen of society.

Another important part of this legislation is that it contains stiffer penalties for those caught abusing food stamps.

The Federal Government will now be allowed to seize property and proceeds from illegal food stamp traffickers without having to go through mountains of red tape.

As a former U.S. attorney, I once prosecuted an individual who tried to purchase a vehicle with food stamps.

So I know firsthand that we must crack down hard on waste, fraud, and abuse in the Food Stamp Program.

Mr. Speaker, the welfare reform process has indeed begun.

The welfare system of the past and present has been a tragic failure.

It has encouraged dependency, discouraged self-reliance, and created a burden for those of us who choose to be productive.

Only until our welfare system encourages work and self-dependence will it be truly beneficial to society.

H.R. 1135 will do this.

I urge my colleagues to support H.R. 1135 when it comes to this Chamber for consideration.

DISCUSSION ON NEWSPAPER STORIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, earlier today it was my privilege to appear on C-SPAN with one of our colleagues on the other side of the aisle from Illinois to discuss the morning newspapers, and a rather lively discussion ensued, and it was very interesting to go over many different articles in the Nation's press.

One article, however, we failed to get to, and I would bring to your attention, Mr. Speaker, and indeed the attention of the American people, on the editorial page of the Wall Street Journal, an article entitled "Protest, Washington Style." Quoting from the article now:

> Newt Gingrich and other speakers were prevented from addressing the National Association of Counties in Washington on Monday after 500 shouting protesters invaded the hotel ballroom and used megaphones to call for higher school lunch funding. Many of the protesters had been bused in from out of town, prompting Mr. Gingrich to ask some pointed questions. Why weren't they at work? Who are they? Who paid them? Well, it turns out the protest was organized by the left wing activist group, ACORN, a frequent recipient of Federal and state grants.
>
> The Washington Times reports that 42 participants in President Clinton's new national service program are working for ACRON at a cost to taxpayers of more than $1.1 million. Several operate out of ACORN's Washington,

D.C. offices. We may never know if federally funded 'volunteers' helped ruin meetings for 2,000 county officials, but we hope Congress plans some oversight hearings on the groups involved in Mr. Clinton's service program.

□ 2300

It was interesting today, Mr. Speaker, to see yet more protesters arrive here on Capitol Hill. And I find it especially interesting that it appears that some of these protesters are subsidized with tax money from you and me and from the American people, so now we have really reached a new low in the concept of protest.

And please don't misunderstand. I uphold the first amendment and applaud the first amendment, and certainly people have a right to peaceably assemble and petition the Government for redress of grievances. But the problem comes as certainly there is a cloud of suspicion that what we have now are protesters subsidized with tax money here to champion the tired old policies of the past.

And what is even more true, and I will come back to this fact until the American people have it clear in their minds, all this talk about cutting the school lunch programs, about cutting the Federal nutrition programs, can only be characterized as false.

Again, the numbers speak for themselves. This new Republican majority is willing to fund these programs $200 million in excess of what President Clinton has called for this year. And moreover, we called for increases of 4.5 percent.

Now the guardians of the old order bankrupt of any new ideas come here and march to the will of this House and say, No, no, those are cuts. Again, only in Washington can it be considered a cut when you reduce a future planned increase.

My friends on the other side are upset because the increase will not be 5.1 percent. Instead, the increase is only 4.5 percent. But I would ask, amidst all of these allegations, amidst the misreading of numbers, amidst this phantom number of $7 billion with imaginary money that is not even there, who has been harmed?

We know who has been scared. Name for me the school children, show me the schools that are being deprived of lunches. They are not there. Again, it is the policy of this new majority to empower people, to enfranchise people and not to hold down people in the form of a permanent underclass but to truly feed the needy and to give the opportunities to feed the needy in the classrooms, the people who really need it, to have that opportunity at the local level. But the money is not being taken away.

And with reference to people coming to lobby us, to come to see us, I thought it was very interesting that in previous weeks folks would come bringing cut-out dolls of this nature and they would list names of very, very small children. Now, look, it is obvious a 3-year-old, precocious though she might be, did not assemble this doll. This was something done by adults, from government bureaucrats who have paid money into political action committees that have funded the tired old order 10 to 1 over Republicans. That is part of the problem. That is the real story. That is what we will move to correct.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILBRAY (at the request of Mr. ARMEY) after 3:30 p.m. today, on account of illness.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE) to revise and extend their remarks and include extraneous material:)

Mr. WYNN, for 5 minutes, today.
Mr. GUTIERREZ, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Mrs. LOWEY, for 5 minutes, today.
Mr. GENE GREEN of Texas, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Mr. SCOTT, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. TIAHRT, for 5 minutes, today.
Mr. ENSIGN, for 5 minutes, today.
Mr. BATEMAN for 5 minutes on March 13, 14, and 15.
Mr. TALENT for 5 minutes on March 9 and 15.
Mr. HAYWORTH for 5 minutes, today.
Mr. KINGSTON for 5 minutes, today.
Mr. BRYANT of Tennessee for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mrs. MEEK of Florida.
Mr. KILDEE.
Mr. FOGLIETTA.
Mrs. SCHROEDER.
Mr. UNDERWOOD.
Mr. MENENDEZ.
Mr. DEAL of Georgia.
Ms. ESHOO.
Mr. FILNER.
Mr. SANDERS.
Mr. STOKES.
Mr. ROMERO-BARCELÓ.
Mr. TRAFICANT.
Ms. LOFGREN.

(The following Members (at the request of Mr. TIAHRT) and to include extraneous matter:)

Mr. CRAPO.
Mr. SMITH of New Jersey.
Mr. GOODLING.
Mrs. GALLEGLY.
Mr. GOODLATTE.
Mr. PACKARD in two instances.
Mr. BLILEY.
Mr. FIELDS of Texas.
Mr. BAKER of California.
Mr. STUMP.
Mr. PORTER.
Mr. FOLEY in four instances.
Mr. RAMSTAD.
Mr. DAVIS.
Mr. EMERSON.
Mr. SHAW.
Mr. SOLOMON.
Mr. CHRISTENSEN.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 9, 1995, at 10 a.m.

EXECUTIVE COMMUNCIATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

493. A letter from the Director of Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's fiscal year 1994 annual report on the operations of the Office of General Counsel, pursuant to 42 U.S.C. 2000e–4(e); to the Committee on Economic and Educational Opportunities.

494. A letter from the President, U.S. Enrichment Corporation, transmitting the Corporation's annual report for fiscal year 1994, pursuant to Public Law 102–486, section 901 (106 Stat. 2929); to the Committee on Commerce.

495. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–23, "Recycling Fee and Illegal Dumping Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

496. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–24, "Litter Control Fine Increase Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

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497. A letter from the Chairman, Consumer Product Safety Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

498. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

499. A letter from the Secretary, Federal Trade Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

500. A letter from the Freedom of Information/Privacy Officer, Interstate Commerce Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

501. A letter from the President, National Endowment for Democracy, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

502. A letter from the Acting Director of Legislative and Public Affairs, National Science Foundation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

503. A letter from the Director, Office of Personnel Management, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

504. A letter from the Director, Office of Science and Technology Policy, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

505. A letter from the Librarian of Congress, transmitting the report of the activities of the Library of Congress, including the Copyright Office, for the fiscal year ending September 30, 1993, pursuant to 2 U.S.C. 139; to the Committee on House Oversight.

506. A letter from the Administrator, General Services Administration, transmitting informational copies of prospectuses for three U.S. courthouses located in Jacksonville, FL, Albany, GA, and Corpus Christi, TX, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

507. A letter from the Secretary of Energy, transmitting notification that the report on coal research, development, demonstration, and commercial application activities regarding coal-based technologies is expected to be submitted by June 30, 1995; to the Committee on Science.

508. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to reduce costs and make improvements in the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee on Appropriations, H.R. 1158. A bill making emergency supplemental appropriations for additional disaster assistance and making rescissions for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104–70). Referred to the Committee of the Whole House on the State of the Union.

Mr. LIVINGSTON: Committee on Appropriations, H.R. 1159. A bill making supplemental appropriations and rescissions for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104–71). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules, House Resolution 109. Resolution providing for further consideration of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104–72). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 1157. A bill to restore families, promote work, protect endangered children, increase personal responsibility, attack welfare dependency, reduce welfare fraud, and improve child support collections; to the Committee on Ways and Means, and in addition to the Committee on Economic and Educational Opportunities, Commerce, the Judiciary, National Security, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LIVINGSTON:

H.R. 1158. A bill making emergency supplemental appropriations for additional disaster assistance and making recissions for the fiscal year ending September 30, 1995, and for other purposes; to the Committee of the Whole House on the State of the Union.

H.R. 1159. A bill making supplemental appropriations and recissions for the fiscal year ending September 30, 1995, and for other purposes; to the Committee of the Whole House on the State of the Union.

By Mr. BROWDER:

H.R. 1160. A bill to amend the International Code of 1986 to provide that new income tax deductions, credits, exclusions, and other benefits shall be allowed only if the projected Federal budget deficit meets certain deficit targets; to the Committee on Ways and Means.

By Mr. CAMP (for himself and Mr. MCDERMOTT):

H.R. 1161. A bill to amend the Internal Revenue Code of 1986 to provide an exclusion from unrelated business taxable income for certain sponsorship payments; to the Committee on Ways and Means.

By Mr. CRAPO (for himself, Ms. HARMAN, Mr. HASTERT, Mr. SCHUMER, Mrs. MORELLA, Mr. BREWSTER, Mr. SHAYS, Mr. EDWARDS, Mr. INGLIS of South Carolina, Mr. STENHOLM, Mr. KASICH, Ms. MOLINARI, Ms. DUNN of Washington, Mr. ACKERMAN, Mr. FROST, Mr. KLUG, Mr. WELDON of Pennsylvania, Mr. WELLER, Mr. MEEHAN, Mr. MINGE, Mr. POSHARD, Mr. HANCOCK, Mr. LIPINSKI, Mr. ORTON, Ms. ESHOO, Mr. CASTLE, Mrs. LINCOLN, Mr. GREENWOOD, Mr. BURTON of Indiana, Mrs. WALDHOLTZ, Mr. BEREUTER, Mr. BARRETT of Wisconsin, Mr. BUYER, Mr. BROWDER, Mr. BURR, Mr. DEAL of Georgia, Mr. NEUMANN, and Mr. BROWN of Ohio):

H.R. 1162. A bill to establish a deficit reduction trust fund and provide for the downward adjustment of discretionary spending limits in appropriation bills; to the Committee on the Budget and in addition, to the Committees on Government Reform and Oversight, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 1163. A bill to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, NY; to the Committee on Resources.

H.R. 1164. A bill to direct the Secretary of Transportation to convey to the Montauk Historical Society light station located at Montauk, NY; to the Committee on Transportation and Infrastructure.

By Mr. GOODLATTE (for himself and Mr. BOUCHER):

H.R. 1165. A bill to amend the Appalachian Regional Development Act of 1965 to include Montgomery, Roanoke, and Rockbridge Counties, VA, as part of the Appalachian region; to the Committee on Transportation and Infrastructure.

By Ms. LOWEY (for herself and Mr. WYDEN):

H.R. 1166. A bill to require the Secretary of Health and Human Services to develop recommendations for proposed model adoption legislation and procedures; to the Committee on Economic and Educational Opportunities.

H.R. 1167. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for certain adoption expenses; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 1168. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to employers who employ members of the Reserve components of the Armed Forces of the United States and to self-employed individuals who are members of such Reserve components; to the Committee on Ways and Means.

By Mr. MORAN:

H.R. 1169. A bill to amend the Truth in Lending Act to prohibit issuers of credit cards from limiting the ability of Federal, State, and local government agencies to impose fees for honoring credit cards, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. BONO (for himself, Mr. HYDE, Mr. MOORHEAD, Mr. SENSENBRENNER, Mr. GALLEGLY, Mr. COBLE, Mr. GEKAS, Mr. CANADY, Mr. GOODLATTE, Mr. HOKE, Mr. COX, Mr. MCCOLLUM, Mr. DREIER, Mr. PAXON, Mr. RIGGS, Mr. LEWIS of California, Mr. ROHRABACHER, Mr. SCHIFF, Mr. CALVERT, Mr. PACKARD, Mr. SMITH of Texas, Mr. BAKER of California, Mr. HERGER, Mr. HUNTER, Mr. DORNAN, Mr. THOMAS, Mr. HEINEMAN, Mr. CUNNINGHAM, Mr. POMBO, Mr. INGLIS of South Carolina, Mr. MCKEON, Mr. DOOLITTLE, Mr. KIM, Mr. BUYER, Mr. ROYCE, Mr. FLANAGAN, Mr. BARR, Mr. HORN, Mr. BRYANT of Tennessee, Mr.

BILBRAY, Mr. CHABOT, Mr. RADANOVICH, and Mrs. SEASTRAND):

H.R. 1170. A bill to provide that cases challenging the constitutionality of measures passed by State referendum be heard by a three-judge court; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. RANGEL, Mr. CRANE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMAS, Mr. HANCOCK, Mr. NEAL of Massachusetts, Mr. ENGLISH of Pennsylvania, Mr. SAM JOHNSON, and Mr. HERGER):

H.R. 1171. A bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain leasehold improvements; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. HOYER, Mr. GILMAN, Mr. BONIOR, Mr. MARKEY, Ms. MOLINARI, Mr. WOLF, Mr. ROYCE, Mr. CARDIN, Mr. TORRICELLI, Mr. ROHRABACHER, Mr. MORAN, Mr. WYNN, Ms. DELAURO, Mr. ENGEL, Mr. GALLEGLY, and Mr. MENENDEZ):

H.R. 1172. A bill to terminate the United States arms embargo applicable to the Government of Bosnia and Herzegovina; to the Committee on International Relations.

By Mr. STUMP (for himself, Mr. ROBERTS, Mr. CALLAHAN, Mr. BACHUS, and Mr. EVERETT):

H.R. 1173. A bill to prohibit the expenditure of Federal funds for constructing or modifying highway signs that are expressed only in metric system measurements; to the Committee on Transportation and Infrastructure.

By Mr. UPTON:

H.R. 1174. A bill to provide additional flexibility for the Department of Energy's program for the disposal of spent nuclear fuel and high level radioactive waste, and for other purposes; to the Committee on Commerce.

By Mr. YOUNG of Alaska:

H.R. 1175. A bill to amend Public Law 89-454 to provide for the reauthorization of appropriations; to the Committee on Resources.

By Mr. GOODLING (for himself, Mr. FAWELL, Mr. BALLENGER, Mr. HOEKSTRA, Mr. CUNNINGHAM, Mr. MCKEON, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. BARRETT of Nebraska, Mr. CASTLE, Mrs. MEYERS of Kansas, Mr. SAM JOHNSON, Mr. GREENWOOD, Mr. HUTCHINSON, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. WELDON of FLorida, Mr. FUNDERBURK, Mr. SOUDER, Mr. NORWOOD, Mr. BOEHNER, Mr. STENHOLM, Mr. DOOLEY, Mr. PARKER, Mr. DEAL of Georgia, Mr. BREWSTER, Mr. HANCOCK, Mr. ZELIFF, Mr. ROHRABACHER, and Mr. EWING):

H.R. 1176. A bill to nullify an executive order that prohibits Federal contracts with companies that hire permanent replacements for striking employees; to the Committee on Economic and Educational Opportunities.

By Mr. HILLEARY (for himself, Mr. NETHERCUTT, Mrs. MYRICK, Mr. MCINTOSH, Mr. BRYANT of Tennessee, Mr. GRAHAM, Mr. ROYCE, Mr. LATOURETTE, Mr. KINGSTON, Mr. WAMP, Mr. TATE, Mr. SALMON, Mr. WELLER, Mrs. WALDHOLTZ, Mr. LATHAM, Mr. CHRISTENSEN, Mr. NORWOOD, Mr. BROWNBACK, Mr. BASS, Mr. NEUMANN, Mrs. SMITH of Washington, Mr. THORNBERRY, Mr. LARGENT, Mr. COBURN, Mr. TIAHRT, Mr. HUTCHINSON, Mr. STOCKMAN, Mr. PAXON, Mr. DICKEY, Mr. KLUG, and Mr. PETERSON of Minnesota):

H.J. Res. 76. Joint resolution proposing an amendment to the Constitution of the United States limiting the terms of office of Senators and Representatives; to the Committee on the Judiciary.

By Mr. MCCOLLUM (for himself, Mr. HOKE, Mr. WAMP, and Mr. FOLEY):

H.J. Res. 77. Joint resolution proposing an amendment to the Constitution of the United States with respect to the terms of Senators and Representatives; to the Committee on the Judiciary.

By Mr. GILCHREST:

H. Con. Res. 34. Concurrent resolution authorizing the use of the Capitol Grounds for the Ringling Bros. and Barnum & Bailey Circus anniversary commemoration; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII:

Mr. BARTLETT of Maryland introduced a bill (H.R. 1177) for the relief of Debra Bargeski; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 24: Mr. BUNN of Oregon.

H.R. 78: Mr. BURR and Mr. MCKEON.

H.R. 104: Ms. MOLINARI.

H.R. 110: Mr. SERRANO.

H.R. 120: Mr. PARKER.

H.R. 123: Mr. DEAL of Georgia, Mr. CRANE, Mr. COOLEY, Mr. GRAHAM, Mr. SOUDER, Mr. SANFORD, Mr. GEKAS, Mr. WELDON of Florida, Mr. NETHERCUTT, Mr. ALLARD, and Mr. STOCKMAN.

H.R. 240: Mr. STEARNS and Mr. SMITH of New Jersey.

H.R. 373: Mr. TAYLOR of Mississippi.

H.R. 375: Mr. TAYLOR of Mississippi.

H.R. 394: Mr. RAHALL, Mrs. LINCOLN, Mr. CALVERT, Ms. Lowey, Mrs. SMITH of Washington, Mr. GEJDENSON, Ms. FURSE, Mr. HALL of Texas, Mr. WILSON, Mr. KING, and Mr. LIVINGSTON.

H.R. 398: Mr. FATTAH.

H.R. 470: Mr. SCHUMER, Mrs. ROUKEMA, Mr. NADLER, and Mr. TORRICELLI.

H.R. 580: Mr. DAVIS and Mr. WATTS of Oklahoma.

H.R. 612: Mr. SERRANO.

H.R. 645: Mr. BENTSEN and Ms. JACKSON-LEE.

H.R. 658: Ms. SLAUGHTER.

H.R. 662: Mr. FILNER, Mr. PARKER, Mr. FRANKS of Connecticut, and Mr. BURTON of Indiana.

H.R. 699: Mr. STENHOLM and Mr. LARGENT.

H.R. 709: Mr. PARKER, Mr. FATTAH, Mr. HINCHEY, and Mr. SERRANO.

H.R. 739: Mrs. CHENOWETH, Mr. LAHOOD, Mr. BAKER of California, and Mr. LIVINGSTON.

H.R. 759: Mr. LIVINGSTON, Ms. MOLINARI, and Mr. EHLERS.

H.R. 789: Mr. CHRISTENSEN.

H.R. 791: Mr. FORBES, Mr. KINGSTON, Mr. SKEEN, Mr. BILBRAY, and Mr. PARKER.

H.R. 793: Mr. CLINGER.

H.R. 839: Mr. FORBES.

H.R. 860: Mr. WICKER and Mr. HANCOCK.

H.R. 873: Ms. DELAURO, Ms. LOWEY, Mr. GANSKE, and Ms. SLAUGHTER.

H.R. 882: Mr. MCDERMOTT, Ms. ESHOO, Ms. SLAUGHTER, Ms. PELOSI, Ms. HARMAN, Ms. RIVERS, Mr. WALSH, and Ms. FURSE.

H.R. 930: Mr. ORTON.

H.R. 941: Mr. WAXMAN, Mr. OBERSTAR, Mr. MARTINEZ, Mr. BONIOR, Mr. CALVERT, Mr. HINCHEY, Ms. FURSE, Mr. FOGLIETTA, and Mr. SERRANO.

H.R. 958: Mr. BONIOR, Ms. LOFGREN, Mr. WYNN, Mr. FALEOMAVAEGA, Mrs. THURMAN, Mr. SCOTT, and Ms. WOOLSEY.

H.R. 995: Mr. CUNNINGHAM, Mr. WELLER, Mr. MCHUGH, and Mr. CALVERT.

H.R. 996: Mr. CUNNINGHAM, Mr. WELLER, Mr. MCHUGH, and Mr. CALVERT.

H.R. 1021: Mr. CANADY.

H.R. 1023: Mr. TOWNS and Mr. CAMP.

H.R. 1058: Mr. BREWSTER.

H.R. 1077: Mr. SKEEN and Mr. CREMEANS.

H.R. 1085: Mr. WALSH and Mr. LOBIONDO.

H.R. 1094: Mr. MINGE.

H.R. 1111: Mr. TIAHRT.

H.R. 1114: Mr. SISISKY.

H.R. 1138: Ms. DUNN of Washington.

H.R. 1145: Mr. ENGLISH of Pennsylvania, Mr. INGLIS of South Carolina, Mr. BEREUTER, Mr. TOWNS, Mr. KING, Mr. SMITH of Texas, Mr. FROST, Mr. LAHOOD, Mr. CANADY, Mr. MCHUGH, Mr. FRANK of Massachusetts, Mr. HEINEMAN, Mr. BRYANT of Tennessee, and Mr. LIVINGSTON.

H.J. Res. 61: Mr. KING.

H.J. Res. 72: Mr. BUNN of Oregon.

H. Con. Res. 12: Mr. LAZIO of New York, Mr. HYDE, Mr. CLYBURN, Mr. KNOLLENBERG, and Mr. MICA.

H. Con. Res. 23: Ms. FURSE, Mr. FAZIO of California, Mr. GUTKNECHT, Mr. FATTAH, Mr. LAUGHLIN, Mr. GILMAN, Ms. RIVERS, Ms. DUNN of Washington, Mr. METCALF, Mr. VOLKMER, Mr. KING, Mr. SERRANO, Mr. GILLMOR, and Mr. SPENCE.

H. Res. 59: Mr. PALLONE, Mr. DURBIN, Mrs. MINK of Hawaii, Mr. BEVILL, Mr. TORRICELLI, Mr. PICKETT, Mr. FROST, Mr. UNDERWOOD, Ms. RIVERS, Mr. GENE GREEN of Texas, Mr. LIPINSKI, Mr. MILLER of California, Mr. ROMERO-BARCELO, Mr. VENTO, Mr. COLEMAN, Mr. FILNER, Mr. JOHNSON of South Dakota, Mr. TORKILDSEN, Mr. EVANS, and Mr. MCDERMOTT.

H. Res. 98: Mr. FRANK of Massachusetts, Mr. GENE GREEN of Texas, Ms. VELAZQUEZ, Mr. MFUME, Mr. GORDON, Mr. ROSE, Mr. CLYBURN, and Mr. BARRETT of Wisconsin.

H. Res. 99: Mr. KANJORSKI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 56: Mr. WELLER, Mr. FUNDERBURK, Mr. MINGE, Mr. HOLDEN, Mr. CRAPO, Mr. KNOLLENBERG, Mr. MCDADE, Mr. BRYANT of Tennessee, Mr. BASS, Mrs. WALDHOLTZ, and Mr. OXLEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. RES. 2

OFFERED BY: MR. BROWNBACK

AMENDMENT NO. 10: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents

and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives five times shall be eligible for election to the House of Representatives.

"SECTION 2. No person who has served as a Senator for more than three years of a term to which some other person was elected shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than five times.

"SECTION 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 4. A State may impose term limits shorter than those provided under this article.".

H.J. RES. 2

OFFERED BY: MR. DEAL OF GEORGIA

AMENDMENT NO. 11: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected to the Senate two times after the date of the ratification of this article shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times after the date of the ratification of this article shall be eligible for election to the House of Representatives.

"SECTION 2. A State may establish limitations on the length of service for Members of Congress from that State that do not exceed the limits set forth in this article.".

H.J. RES. 2

OFFERED BY: MR. DEAL OF GEORGIA

AMENDMENT NO. 12. Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected to the Senate two times after the date of the ratification of this article shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times after the date of the ratification of this article shall be eligible for election to the House of Representatives.

SECTION 2. A State may establish limitations on the length of service for Members of Congress from that State that do not exceed the limits set forth in this article, whether enacted before, on, or after the date of the ratification of this article.".

H.R. RES. 2

OFFERED BY: MR. DINGELL

AMENDMENT NO. 13. Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate for a third consecutive term. No person who has been elected for a full term to the House of Representatives six consecutive times shall be eligible for election to the House of Representatives for a seventh consecutive term.

"SECTION 2. Service as a Senator or Representative for more than half of a term to which someone else was originally elected shall be considered an election for the purposes of section 1.

"SECTION 3. This article shall be inoperative unless it shall have been ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

SECTION 4. Any election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 5. No provision of any State statute or constitution shall diminish or enhance, directly or indirectly, the limits set by this article,".

H.J. RES. 2

OFFERED BY: MR. DINGELL

AMENDMENT NO. 14: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States:

"ARTICLE—

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate for a third consecutive term. No person who has been elected for a full term to the House of Representatives three consecutive times shall be eligible for election to the House of Representatives for a fourth consecutive term.

"SECTION 2. Service as a Senator or Representative for more than half of a term to which someone else was originally elected shall be considered an election for the purposes of section 1.

"SECTION 3. This article shall be inoperative unless it shall have been ratified by the legislature of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 4. Any election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 5. No provision of any State statute or constitution shall diminish or enhance, directly or indirectly, the limits set by this article.".

H.J. RES. 2

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 15: Strike all after the resolving clause and insert the following:

"ARTICLE—

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate for a third consecutive term. No person who has been elected for a full term to the House of Representatives six consecutive times shall be eligible for election to the House of Representatives for a seventh consecutive term."

"SECTION 2. Service as a Senator or Representative for more than half of a term to which someone else was originally elected shall be considered an election for the purposes of section 1.

"SECTION 3. This article shall be inoperative unless it shall have been ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 4. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 5. No provision of any State statute or constitution shall diminish or enhance, directly or indirectly, the limits set by this article.".

H.J. RES. 2

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 16: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives six consecutive times shall be eligible for election to the House of Representatives.

"SECTION 2. No person who has served as a Senator for more than 3 years shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than 1 year shall subsequently be eligible for election to the House of Representatives more than five times.

"SECTION 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.".

H.J. RES 2

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 17: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE—

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives six consecutive times shall be eligible for election to the House of Representatives.

"SECTION 2. No person who has served as a Senator for more than three years shall subsequently be eligible for election to the Senate more than once. No person who has

served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than five times.

"SECTION 3. No election or service occuring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 4. Nothing in the Constitution or law of any State shall diminish or enhance, directly or indirectly, the limits set by this article.".

H.J. RES 2

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 18: Strike all after the resolving clause and insert the following:

"ARTICLE—

"SECTION 1. No person who has been elected to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times shall be eligible for election to the House of Representatives.

"SECTION 2. Election as a Senator or Representative before this Article is ratified shall be taken into account for purposes of section 1. Any State limitation on service for Members of Congress from that State, whether enacted before, on, or after the date of the ratification of this Article shall be valid, if such limitation does not exceed the limitation set forth in section 1.".

H.J. RES. 2

OFFERED BY: MR. GOSS

AMENDMENT NO. 19: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times shall be eligible for election to the House of Representatives.".

"SECTION 2. No person, upon becoming ineligible under this article shall again be elected or appointed to the House with respect to which that ineligibility applies, until at least 4 years have passed from the end of that person's most recent term in that House.

"SECTION 3. A State may impose a shorter, but not a longer, limit on the terms than that imposed by this article.".

H.J. RES. 2

OFFERED BY: MR. HALL OF TEXAS

AMENDMENT NO. 20: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States to be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the House of Representatives three consecutive times shall be eligible for election to the House of Representatives for a fourth consecutive term.

"SECTION 2. Service as a Representative for more than half of a term to which someone else was originally elected shall be considered an election for the purposes of section 1.

"SECTION 3. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 4. No provision of any State statute or constitution shall diminish or enhance, directly or indirectly, the limits set by this article.".

H.J. RES. 2

OFFERED BY: MR. HEFLEY

AMENDMENT NO. 21: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States.

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate for a third consecutive term. No person who has been elected for a full term to the House of Representatives six consecutive times shall be eligible for election to the House of Representatives for a seventh consecutive term.

"SECTION 2. Service as a Senator or Representative for more than half of a term to which someone else was originally elected shall be considered an election for the purposes of section 1.

"SECTION 3. This article shall be inoperative unless it shall have been ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"SECTION 4. No election or service occurring before this article becomes operative shall be taken into account when determining eligibility for election under this article.

"SECTION 5. No provision of any State statute or constitution shall diminish or enhance, directly or indirectly, the limits set by this article.

"SECTION 6. Any judge appointed to a court ordained and established by Congress under article III of this Constitution after the adoption of this article of amendment shall cease to hold office unless reconfirmed by the Senate before the end of each successive 12-year period of service.".

H.J. RES. 2

OFFERED BY: MR. HILLEARY

AMENDMENT NO. 22: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected to the House of Representatives six times shall be eligible for election to the House of Representatives.

"SECTION 2. Election as a Senator or Representative before this Article is ratified shall not be taken into account for purposes of section 1, except that any State limitation on service for Members of Congress from that State, whether enacted before, on, or after the date of the ratification of this Article shall be valid, if such limitation does not exceed the limitation set forth in section 1.".

H.J. RES. 2

OFFERED BY: MR. HILLEARY

AMENDMENT NO. 23: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the Senate two times shall be eligible for election or appointment to the Senate. No person who has been elected for a full term to the House of Representatives six times shall be eligible for election to the House of Representatives.

"SECTION 2. No person who has served as a Senator for more than three years of a term to which some other person was elected shall subsequently be eligible for election to the Senate more than once. No person who has served as a Representative for more than one year shall subsequently be eligible for election to the House of Representatives more than five times.

"SECTION 3. Election as a Senator or Representative before this Article is ratified shall not be taken into account for purposes of this article, except that any State limitation on service for Members of Congress from that State, whether enacted before, on, or after the date of the ratification of this Article shall be valid, if such limitation does not exceed the limitation set forth in section 1.".

H.J. RES. 2

OFFERED BY: MR. LIVINGSTON

AMENDMENT NO. 24: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several states within seven year from the date of its submission to the States by the Congress:

"ARTICLE —

"Each State may prescribe the number of terms a person may be elected or appointed to the Senate or the House of Representatives from that State.".

H.J. RES. 2

OFFERED BY: MS. WATERS

AMENDMENT NO. 25. Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"SECTION 1. No person who has been elected for a full term to the Senate two consecutive times shall be eligible for election or appointment to the Senate for a third consecutive term. No person who has been elected for a full term to the House of Representatives six consecutive times shall be eligible for election to the House of Representatives for a seventh consecutive term.

"SECTION 2. In the application of section 1 to a Representative whose service as a Representative began after 1990 but before the

ratification of this article, "five" shall be substituted for "six" and "sixth" shall be substituted for "seventh". In the application of section 1 to a Representative whose service as a Representative began after 1980 but before 1990, "four" shall be substituted for "six" and "fifth" shall be substituted for "seventh". In the application of section 1 to a Representative whose service as a Representative began after 1970 but before 1980, "three" shall be substituted for "six" and "fourth" shall be substituted for "seventh". In the application of section 1 to a Representative whose service as a Representative began after 1960 but before 1970, "two" shall be substituted for "six" and "third" shall be substituted for "seventh". In the application of section 1 to a Representative whose service as a Representative began after 1950 but before 1960, "one" shall be substituted for "six" and "second" shall be substituted for "seventh".

"SECTION 3. Service as a Senator or Representative for more than half of a term to which someone else was originally elected shall be considered an election for the purposes of this article.

"SECTION 4. No provision of any State statute or constitution shall diminish or enhance, directly or indirectly, the limits set by this article.".

EXTENSIONS OF REMARKS

END THE ARMS EMBARGO ON BOSNIA-HERZEGOVINA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. SMITH of New Jersey. Mr. Speaker, I am introducing today a bill which would terminate the United States arms embargo applicable to the Government of Bosnia-Herzegovina.

The situation in Bosnia-Herzegovina today is dismal. After three winters of war, there is still no end in sight. The contact group plan of last summer, which had been offered with a 2-week deadline for an unconditional response, has been held open indefinitely to the Bosnian Serbs to accept. The Bosnians, who accepted the plan on time and without condition, have watched the international community subsequently ease sanctions on Serbia, despite the fact that it was Serbian President Slobodan Milosevic that instigated this conflict and sustains the aggressors who rejected the plan. The Bosnians have heard our Secretary of State explain how the contact group formed to respond to the Bosnian conflict is somehow more important than the conflict itself, and that preserving NATO is more important than meeting the challenges Europe faces today.

Meanwhile, the Bosnians feel the human suffering and the injustice of continuing conflict. That is their reward for working with the international community, human suffering, and injustice.

The problem we now confront in Bosnia-Herzegovina is quite straightforward. The Serb militants occupy over 70 percent of Bosnia-Herzegovina, while the contact group settlement grants the Serbs 49 percent of the country. Mr. Speaker, the international community has absolutely no plan for getting the Serbs to relinquish control of and return that one-third of the territory they seized by force.

Yes, the contact group countries meet with each other, with the Bosnians, with the Serb militants. They convene additional conferences to bring the sides together. We have seen this for nearly 3 years, a farcical display of resolve in contrast to the horrible tragedy on the ground. This approach has not worked, and there is no reason to believe it will now.

As many have said from the beginning, a unilateral lifting of the arms embargo on Bosnia-Herzegovina is a last option. Until now, the international community, including the United States, has not taken genuine action to enforce U.N. Security Council resolutions regarding Bosnia-Herzegovina, despite having the authority to do so. It has not intervened to stop Serb aggression with punitive air strikes or other measures, despite the fact that the genocidal nature of this aggression should have compelled us legally and morally to do so. And the United States has not sought—really and formally sought—a multilateral lifting of the arms embargo on Bosnia-Herzegovina, despite that U.N. member's inherent right to its own self-defense. Absent these other measures, Mr. Speaker, we have no other recourse than at least to lift the U.S. arms embargo on Bosnia-Herzegovina.

Of course, until such time that this bill is passed and its provisions go into effect, President Clinton can seek to make the lifting of the embargo a multilateral action at the United Nations. He can also take other decisive steps to compel the Bosnian Serb militants to accept the contact group plan. But time is running out. The present course is untenable, and to support its continuation—even implicitly by our own inaction—would be irresponsible.

It is therefore my hope, Mr. Speaker, that the Clinton administration will take the time they are now using to defeat congressional efforts to lift the embargo, and use it instead to get others to agree to what we all would prefer, a multilateral lifting. After all, it was 2 years ago last Friday that Secretary of State Christopher, unveiling the administration's Bosnia policy, lamented the fact that the West had repeatedly missed earlier opportunities to effectively address the conflict and prevent it from deepening. The Secretary said: "Our conscience revolts at the idea of passively accepting such brutality. It tests our commitment to the nurturing of democracy." Recognizing the implications of the Bosnian crisis he warned, "The world's response to the violence in the former Yugoslavia is an early and crucial test of how it will address the concerns of ethnic and religious minorities in the post-cold-war world."

One year ago, in the aftermath of the market place massacre in Sarajevo, President Clinton himself echoed this view when he said, "This century teaches us that America cannot afford to ignore conflicts in Europe. And in this case, our Nation has distinct interests." He concluded, "While the cold war may be over, the world is still full of dangers and the world still looks to America for leadership." And let us not forget his inaugural address, when he vowed that, "When our vital interests are challenged or the will and conscience of the international community is defied, we will act, with peaceful diplomacy whenever possible, with force when necessary."

Let the Congress be clearly understood, the issue of Bosnia's survival is important and must be addressed. It is a bipartisan issue, where the most conservative and the most liberal share a common outrage over the inhumanity that has been allowed to take place in that country.

This applies as well to the Senate, where Senators DOLE and LIEBERMAN have already introduced an identical bill. I hope, Mr. Speaker, for the opportunity to move on this legislation quickly, and today I am joined by the ranking minority member of the Helsinki Commission, Mr. HOYER, Commission members, Mr. MARKEY, Mr. WOLF, Mr. CARDIN, and Mr. BONIOR, Ms. MOLINARI, Mr. ROYCE, Mr. TORRICELLI, Mr. ROHRABACHER, Mr. MORAN, and Mr. WYNN.

RESTORING ATTORNEY ACCOUNTABILITY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. PACKARD. Mr. Speaker, our civil justice system is caught in a web of abuse. It is time to stop unscrupulous lawyers who rig the system to generate profits rather than justice. Excessive legal claims, frivolous lawsuits, and overzealous lawyers overburden our justice system. Republicans know this and are working to restore fairness to our legal system.

Our civil justice system is a lawyer's paradise. We sue each other too often and too easily. Excessive litigation and jury awards alone cost Americans $130 billion.

Instead of a legal system that citizens trust and rely upon, ours remains dominated by savvy experts that grow rich from confusion, greed and fear. Republicans pledge to reverse this trend by passing meaningful civil justice reform. Our Attorney Accountability Act, H.R. 988, works to creates a fair legal system that recognizes lawsuits with merit and rewards real victims rather than rewarding greedy lawyers.

This bill's "loser pays" provision curtails frivolous lawsuits, opening the system to legitimate grievances. It ensures that expert witnesses will be unbiased and reliable. Furthermore, this bill will sanction unethical attorneys who abuse the system for their benefit. H.R. 988 helps restore sensibility and efficiency to our litigation madness.

Mr. Speaker, the courts are supposed to protect the consumers and workers in our society, not the lawyers. Frivolous lawsuits and outlandish damage awards make a sham out of our civil court system. H.R. 988 injects common sense into our legal system by closing the door to people who use our courts in an abusive way.

HELP FIRST TIME HOMEBUYERS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. GOODLING. Mr. Speaker, today I am introducing the First Time Homebuyers Assistance Act which will make the American Dream of owning a home a reality for thousands of renters. Today's renters often pay as much for rent as homeowners pay for a monthly mortgage payment. It is not surprising that the

1994 Fannie Mae National Housing Survey found 86 percent of renters believe they would be better off owning a home. And with interest rates on the rise again, buying a home isn't getting any easier.

To many Americans, homeownership means financial psychological, and familial security particularly for minorities, younger Americans, and those with lower incomes. It means a stronger economy, safer neighborhoods, and a better quality of life. Mr. Speaker, given such an optimistic view of homeownership, why do so many renters continue to rent? According to the Fannie Mae survey, an overwhelming 65 percent of renters rank the downpayment as their primary obstacle to owning a home.

Several years ago, I visited a home builder in York, PA, located in my congressional district, who developed a unique and innovative arrangement in which moderately priced single-family homes are constructed for purchase with no downpayment. A local financial institution finances 80 percent of the loan, while the remaining 20 percent, in the form of a second mortgage, is financed by the local builder. This creative financing plan makes the purchase of a home affordable for financially, hard-working people who want to buy a home, but cannot afford a downpayment.

However, the Tax Code penalizes builders who finance the downpayment on behalf of the purchasers. Currently, the Tax Code limits a builder's ability to finance second mortgages because it assumes that buyers are paying the entire balance of their tax obligations in the year the property is purchased. The law also requires builders to pay taxes on the entire amount of the income received from a mortgage in the year the purchase is made. For a builder, it becomes almost impossible to pay these taxes, not having cash on hand to do so until the balance of the mortgage payment is received at a future date. In other words, the Tax Code prohibits a builder from using the installment method to calculate his tax liability. This situation places a builder in a financial bind and jeopardizes the future of this and similar housing programs.

The First Time Homebuyers Assistance Act will enable a builder to use the installment method to calculate his tax liability under certain specific circumstances. The bill applies to any one family, owner-occupied unit. The purchaser must be a first-time homebuyer who qualifies for 100 percent of the loan. Further, the legislation directs that a second mortgage on the property be no more than 20 percent of the sale price and applies only to single-family homes costing no more than 75 percent of the median home price for newly constructed one-family residential real property in a given area.

Mr. Speaker, I urge my colleagues to cosponsor this legislation which is specifically geared to helping those who need the most assistance in buying a home. With your support, the First Time Homebuyers Assistance Act can make the American Dream an American reality.

IN HONOR OF JOHN HUGHES 25 YEARS AS SCOUTMASTER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Scoutmaster John Hughes of Bayonne for his 25 years of service to Boy Scout Troop 25. There will be a ceremony honoring Mr. Hughes on March 11, 1995, for his dedication and leadership.

Mr. Hughes has served the community in many different ways. There are not many people who can juggle a successful career, and find time to work with our children on a regular basis. Yet, Mr. Hughes has made the time, because he realizes the importance of helping our youth. These children are our future leaders. Mr. Hughes investment in them is a great service to our Nation, and the city of Bayonne.

In 1970, Mr. Hughes took control of Troop 25 as scoutmaster. He worked with each Scout individually helping to make them better Scouts and citizens. Mr. Hughes has taught them a priceless lesson in dealing with some of life's obstacles. He has acted as a guardian angel for each Scout by showing interest in their personal lives. His efforts show what an excellent role model he is for the community as well as for Boy Scout Troop 25. In 25 years, Mr. Hughes has taken the Scouts on camping trips, and excursions throughout the United States and Canada. During these trips Scouts have been exposed to various learning experiences, people, and their customs.

Mr. Hughes has established a successful partnership in the law firm of Hughes & Finnerty, located in Bayonne. In the past he has served the community in a wide variety of functions. He has served as president of the Bayonne Council, and has worked as an assistant prosecutor for Hudson County. Mr. Hughes has dedicated his time to raising money for the City Youth Fund, and currently serves as president of the Hudson United Soccer Club, which he founded in 1976. At the current time he is serving as public defender for the city of Bayonne.

Mr. Hughes has been a dedicated businessman and scoutmaster. He is a model citizen who embodies qualities of an outstanding community leader. I am proud to have Mr. Hughes as one of my constituents. I ask that you please join me in honoring Mr. Hughes for his great tasks as scoutmaster of Troop 25.

STATES RIGHTS AMENDMENT TO HOUSE JOINT RESOLUTION 2

HON. NATHAN DEAL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. DEAL of Georgia. Mr. Speaker, I am submitting for the RECORD a substitute amendment that I, along with MARTY MEEHAN, JACK KINGSTON, DAVID MINGE, SCOTT KLUG, and others wish to offer to House Joint Resolution 2, the term limits legislation that the House will consider next week. This amendment will clearly resolve the issue of State preemption by explicitly providing that States may enact limits on the time a Federal legislator may serve that are shorter than the Federal limits in the amendment. Our amendment is based on House Joint Resolution 66, legislation which we introduced on January 27. This legislation has received bipartisan support.

As is the case on many issues, the States are moving ahead of the Federal Government on political reform. Twenty-two States have approved limits on the number of terms to which Members of Congress can be elected. Just as in the House, the States disagree among themselves as to the number of years a person should serve in Congress. Nineteen States have enacted limits of less than 12 years for Members of the House. Several other States are considering enacting term limits proposals on their own.

There is considerable doubt about whether the States have authority under the Constitution to enact term limits. Article I of the Constitution establishes three qualifications for Members of Congress: age, citizenship, and residency. In Powell versus McCormack, the Supreme Court held that the House's power was limited to judging a Member's compliance with the qualifications in Article I of the Constitution. The Court's holding in Powell was grounded upon its conclusion that the qualifications established in the Constitution are exclusive. Based on this precedent, I am concerned that the Court may not uphold the limits on terms established by the individual States.

The amendment we are offering would lay to rest these constitutional questions by explicitly stating that the States have the authority to enact more limited terms. Allowing the States to set limits on terms of Members of Congress would be a step toward restoring the federalism envisioned by the Framers of the Constitution. As a strong supporter of States' rights, I believe that the efforts in the States to enact term limits are healthy for our democracy. We should foster this development by explicitly granting the States authority to limit terms of Federal legislators.

Beyond the constitutional issues, the principal criticism of allowing individual States to set limits on terms for Members of Congress is that it could result in a disparity in power in Congress among States. For example, voters in Washington State rejected term limits in 1991 largely in response to concerns that limiting the terms of legislators from Washington would give California greater power in relation to Washington State.

Our amendment would address this concern by establishing a uniform Federal limit of no more than 12 years in Congress, while allowing States to set lower limits within this overall limit. By providing that no Member of Congress may serve more than 12 years, this proposal would prevent legislators in any State from amassing disproportionate power. Secure in the knowledge that no State would be able to send legislators to Congress for more than 12 years, any State would be able to decide whether its interests would be better served by more rapid turnover in its State delegation to Congress or by allowing its Members of Congress to build experience and effectiveness by serving for up to 12 years.

In addition to resolving the issue of State preemption, the amendment seeks to resolve the conflict among supporters of term limits in Congress regarding the appropriate length in terms. As you know, there is a disagreement between those who support a 12-year limit and those who prefer a limit of 6 or 8 years. Although there is stronger support for a 12-year limit, several Members and organizations have threatened to oppose legislation establishing term limits of more than 6 years. I believe it would be truly unfortunate if a difference over the ideal term limit proposal prevents us from enacting any term limits.

Our amendment would establish a Federal limit of 12 years in the House, 12 years in the Senate, and would explicitly give the States the authority to set lower limits if they choose to do so. The amendment seeks to capitalize on the support in Congress for a 12-year limit, while empowering States to enact shorter limits if they desire to do so.

I believe this compromise will improve the prospects for passage of the legislation in Congress as well as the chances for ratification by the States while, at the same time, accommodating the varied opinions on the exact length of limited terms. I ask my colleagues to join me in supporting this balanced approach to the issue of term limits.

SALUTE TO AMGEN AND TO THE AMERICAN BIOTECHNOLOGY INDUSTRY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. GALLEGLY. Mr. Speaker, I rise today to salute the American biotechnology industry, which continues to dominate the world market in producing breakthrough medicines based on cellular and molecular biology—bringing relief and cures to millions of patients around the world.

Although other nations, notably Germany, Great Britain and Japan have renewed their efforts to narrow the biotech gap, America's leadership in this vital field continues to be overwhelming.

Although it has existed for little more than a decade, the biotechnology industry has already made tremendous advances in science and research. Today, there are more than 1,000 biotech companies in the United States, most in the research stage of their development.

Many of these companies are located in my home state of California and one, Amgen Inc. of Thousand Oaks, is located in an area that was formerly part of my congressional district.

It is through Amgen that I first became aware of this burgeoning industry and that I continue to stay apprised of its development and progress. We in California are especially proud of this industry, which brings so much hope and promise to the economy of our state and nation. In fact, in the face of military and corporate cutbacks that have truly challenged the state of California and its residents, biotech represents one of the few industries to actually grow over the past decade.

Mr. Speaker, in a recent column in the Los Angeles Times, An American Upbringing for Promising Industry, February 12, 1995, James Flanigan detailed the dynamics of the biotechnology industry and explained some of the reasons why it holds so much potential for real gains in medicine and is expected to have such a positive influence on the nation's economic growth.

In his article, Mr. Flanigan singled out Amgen as an example of the awesome medical potential of biotechnology, both in the immediate and long-term future.

As someone who is acutely aware of the progress Amgen has made in this truly progressive field, I find this recognition quite appropriate. Just this past December, Vice President AL GORE presented Amgen with a Presidential National Medal of Technology for its pioneering role in this new industry and its success in bringing remarkable medicines to patients around the world.

Mr. Speaker, I would like to include Mr. Flanigan's article in the RECORD to share with you and my colleagues information about an industry that will surely play a larger role in all of our lives in the coming years.

[From the Los Angeles Times, Feb. 12, 1995]

AN AMERICAN UPBRINGING FOR A PROMISING INDUSTRY

(By James Flanigan)

With professional investors pumping billions of dollars into Amgen Inc. stock last week on rumors—later denied—of a takeover that would have cost at least $12 billion, ordinary folks must wonder what connection there could be between mega-deal speculation and lower prices for prescription drugs and medical treatments.

But there is a connection, just as there is a more obvious link to fresh investor interest in biotechnology, an industry scarcely 20 years old that speaks volumes about U.S. methods of financing discoveries and innovations.

In fact, dozens of biotech companies are starting up these days, thanks to a new research technology.

And in a larger context, though there may be no single cure for cancer, the outlook for Amgen and the biotech industry says remedies to alleviate cancer symptoms and those of AIDS. Alzheimer's and other afflictions are in the works.

Amgen's stock shot up 21% in two days last week, from under $63 a share to more than $76, on rumors that Bristol-Myers Squibb, maker of Bufferin and other such products as well as prescription medicines, would offer $90 a share for Amgen's stock.

Amgen's price fell back when Bristol denied the rumor—it closed at $68.44 on Friday. But speculation about buyouts is sure to continue in an atmosphere in which Glaxo Holdings recently paid $500 million for Affymax, a biotech company, and is offering $14 billion for Wellcome, which makes a leading AIDS treatment.

The big companies' intent is to acquire research capabilities and the rights to promising drugs at a time when hard bargaining by corporate benefit managers are driving down drug prices and big company laboratories are becoming expensive luxuries.

"The big companies are well equipped to handle worldwide marketing and clinical trials for the Food and Drug Administration," says Viren Mehta, managing partner of Mehta & Isaly, an investment firm specializing in health issues. "But their research laboratories have been less productive of successful new drugs."

Thus Amgen is particularly attractive because it has two of the most successful new compounds: Epogen, which stimulates production of red blood cells to alleviate anemia in kidney patients on dialysis, and Neupogen, which stimulates white blood cell production to guard against infections in cancer patients undergoing chemotherapy.

On growth and development of those two products alone, Amgen's earnings could rise 13% a year for the next five years, says Eric Hecht, a physician and a security analyst for Morgan Stanley.

The drugs are economically effective because they reduce the need for costly blood transfusions and medically effective because they bolster the immune systems of patients, thus reducing risk of often fatal infections.

And they are called biogenetic because they use synthesized genes to stimulate the body's own curative processes—blood cell production from the bone narrow, for example.

Biotechnology, though a young industry, already contains some 700 companies, most of them in the United States, and already has gone through several cycles of exaggerated hopes—and sky-high stock prices—followed by returns to realistic expectations.

Born in the wake of President Richard Nixon's War on Cancer, biotech's first aim was to find a single cure, a "silver bullet" to cure the dread disease. But through the years, a growing realization that cancer and AIDS and afflictions of the brain such as Alzheimer's are complex, changeable and unpredictable has humbled drug companies and investors.

Now efforts are undertaken one step at a time. For example, Amgen, in partnership with a small company named Regeneron, is in clinical trials with a genetic compound intended to slow the degenerative processes of Lou Gehrig's disease. Hopes of finding compounds to restore lost functions due to sclerosis or stroke are for the future.

The very fact that biotech research is at the frontier of science has made it difficult for big company laboratories with corporate budgets and procedures. So biotech has grown as a decentralized industry, encouraging university and medical center researchers to join business managers in entrepreneurial companies.

That's why major biotech centers are clustered near university complexes—in the San Francisco Bay Area and San Diego, in Cambridge and Boston, Mass., Princeton, N.J., and the Texas Medical Center in Houston.

Venture capital firms offer initial financing in such places and, when markets are receptive, bring companies public with new stock. But it's a tough field to predict. Even the renowned scientist Jonas Salk's company, Immune Response Corp., has been plagued by worsening losses and a sinking stock price.

Yet new companies are being formed at a furious pace in California and elsewhere. The reason is a technological mouthful called combinatorial chemistry. It uses the techniques of semiconductor manufacturing and super-computing to screen thousands of molecules for potential sources of new genetic drugs.

The effects could be dramatic. "Combinatorial chemistry will make it much quicker and cheaper to identify attractive new drugs," writes James McCamant, editor of Berkeley's Medical Technology Stock Letter. "Over the next 10 years it will

change the nature of the pharmaceutical industry."

Drug companies are aware of that: Marion Merrell Dow has already acquired Selectide and Glaxo has bought Affymax, two pioneers in combinatorial chemistry.

There will be many more buy-outs and start-ups to come in the normal ferment of a new industry. The promise is that biotechnology will bring down the costs of prescription drugs and medical treatments as it brings entrepreneurs and investors opportunities in small companies as well as large ones like Amgen.

A good example of the ability of U.S. industry, academia and government to adapt to scientific discovery and changing circumstances, biotech is a field to watch.

TRIBUTE TO BERNARD M. BOUR

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Bernard M. Bour who is retiring after 20 years as the editorial page editor of the San Mateo Times in California.

Bernard Bour has been an opinion leader in the San Francisco Bay Area since joining the Times in 1975. His thoughtful editorials have raised the level of public discourse and have bettered both our community and our country. During his remarkable career, Mr. Bour has provided his readers with valuable insights on a vast array of subjects, from local to world affairs, and many topics in between. He has been a particularly persistent voice for better government and campaign reform, and I have come to cherish his reflections on these matters.

During the many years I have known Mr. Bour, I have been struck by his respectful manner and always appreciated his courteous disposition. He is both a gentleman and a gentle man whose unparalleled professionalism have made him a treasure to his loyal readers.

Prior to arriving at the Times, Mr. Bour worked for the Asia Foundation in San Francisco and the U.S. Mission to the United Nations in New York. Now he is returning to these earlier interests by spending part of his retirement assisting with the noble effort to commemorate the 50th anniversary of the signing of the U.N. Charter.

Mr. Speaker, Bernard Bour has graced the pages of the San Mateo Times for two decades with flair and distinction. I ask my colleagues to join me in saluting this outstanding writer and wishing him the best of everything in his well earned retirement.

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDED TO INCLUDE MONTGOMERY, ROANOKE, AND ROCKBRIDGE COUNTIES, VA

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. GOODLATTE. Mr. Speaker, my fellow Virginian, Congressman RICK BOUCHER, and I join once again to introduce legislation which would include the counties of Roanoke, Rockbridge, Montgomery, and the contiguous, independent cities of Roanoke, Salem, Radford, Lexington, and Buena Vista as part of the Appalachian Regional Commission. Our bill amends the Appalachian Regional Development Act of 1965 and is identical to legislation we introduced in the 103d Congress which passed the House but was not acted upon by the Senate in the end of the session rush.

The Appalachian Regional Commission [ARC] was established in 1965 as a Federal-State partnership in economic and social development. ARC's goals have been to encourage the economic development and growth of the Appalachian region.

ARC's mission has been to develop an infrastructure to help Appalachia become economically viable and competitive. It has done so by constructing some 2,100 miles of highways, implementing recycling programs, creating vocational education facilities, and building reliable waste disposal facilities, water, and sewer systems.

Already a part of the Appalachian region both geographically and culturally, Roanoke, Rockbridge, and Montgomery Counties were asked to join ARC when it was created over 25 years ago. At that time the local officials decided not to become members.

In hindsight, this decision was a mistake, not only for the three counties, but also for the area counties which are members. Many economic development projects require the participation of adjoining counties. Yet, Roanoke, Rockbridge, and Montgomery Counties are excluded from any project funded by the ARC.

If the counties and the contiguous independent cities are designated as part of the ARC region there will be an enhanced opportunity to pursue joint programs. The potential for combined efforts in tourism, infrastructure projects, and strengthening competitiveness in attracting new businesses would be tremendous.

The three counties which we propose to add are all vital to the ultimate success of the ARC. One of them, Montgomery County, along with the independent city of Radford, is in Mr. BOUCHER'S district to the south of Roanoke County which is the southern most part of my district.

Montgomery County, which has a total population of 74,000 people, is geographically part of the Appalachian region. Although it is blessed with an abundance of natural resources and creative people, it is plagued with cyclical unemployment. Despite being home to Virginia Tech and possessing the fourth highest concentration of Ph.D.'s per capita in the Nation, 26 percent of all Montgomery County residents aged 25 and over do not have a high school education. In some areas of the county, that figure exceeds 50 percent.

Rockbridge County, and the independent cities of Lexington and Buena Vista, which occupy the central portion of my congressional district, are bordered on the west by the counties of Allegheny, Bath, and Highland, and the cities of Clifton Forge and Covington. Lexington is home to the Virginia Military Institute and Washington and Lee University. Despite benefiting from these universities and an impressive tourism industry, the area has been plagued by layoffs and plant closing. Rockbridge is surrounded by counties that are members of ARC and has been cooperating with its neighbors on a number of projects including a regional landfill. Rockbridge continues to explore the concept of regionalism and would like to become involved in the Appalachian Regional Recycling Consortium [ARRC]—an ARC project.

However, Rockbridge has been denied involvement in ARRC because it is not a member of ARC. As a result, the recycling effort has suffered because the participating counties are unable to supply a large enough volume of recyclable material to make the program cost-effective. The addition of Rockbridge County to the ARC could help the recycling effort become a reality.

Roanoke County and the independent cities of Roanoke and Salem could well be the lynch-pin between success of the ARC and its failure. With a population of approximately 200,000, the Roanoke, Valley has a history of cooperative agreements and joint ventures with surrounding counties. Some of the joint opportunities the Roanoke area governments have pursued include, the further development of tourism and industrial sites along the I–81 and I–581 corridors, educational/vocational training projects, and the enhancement of water and sewer infrastructure. If admitted to the ARC, Roanoke County could combine its resources and economic vitality with its less urban neighbors to help facilitate much-needed ARC regional projects.

In addition, for the ARC to ultimately succeed in its mission to provide Appalachia with the infrastructure it needs to develop into an economically viable region, it only makes sense that these three important counties be added to its membership.

Their addition will provide an essential sense of regionalism with the countries already within ARC, allowing them to work together to solve the many problems of the area. It's time to realize that city, county and even States lines are becoming less and less a barrier to cooperation.

Finally, by designating the Roanoke Valley, Rockbridge County, and Montgomery County as a part of ARC, Congress will be strengthening the partnership between western and southwestern Virginia.

I urge my colleagues to support this much needed legislation.

COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. PACKARD. Mr. Speaker, our courts have become a lucrative feeding ground for unscrupulous lawyers and greedy plaintiffs who abuse the system. Litigation is spinning out of control when a woman can file suit over spilt coffee and walk away millions richer. Republicans will work to curb this lucrative feeding frenzy by passing a commonsense product liability and legal reform bill.

In our civil justice system the very laws which are supposed to protect American workers and consumers hurts them the most. Our current legal system imposes a "litigation tax" on every hardworking American. Higher prices, higher insurance premiums, and stifled productivity dampen job creation and deny consumers new, safer, and less expensive products. The American people should not be forced to pay the tab for baseless litigation and unsettling jury awards.

Our Commonsense Product Liability and Legal Reform Act, H.R. 956 takes a balanced approach to provide fairness to consumers, products sellers and manufacturers alike. Increased uniformity and certainty in civil law will encourage settlements before trial—reducing legal costs and helping to speed just compensation to victims.

The American people are fed up with a senseless civil justice system that works against them. They want a legal system that works to protect their rights as workers and consumers. H.R. 956 restores accountability and responsibility to a legal system currently mired in abuse.

REINTRODUCTION OF THE BIPARTISAN DEFICIT REDUCTION LOCK-BOX

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. CRAPO. Mr. Speaker, I rise today with Representative JANE HARMAN and 35 of our colleagues in favor of a critical budget process reform in the 103d Congress. As you know, the Nation finds itself saddled with ever more Federal debt. If the debt were to be paid off today, some estimate that each person's share would be over $17,000. Addressing this debt, and exploring ways of cutting this debt through budget process reform, has been one of my primary goals as a Member of Congress.

Today, I would like to speak on a budget process reform that is included in a bill which I am pleased to have engineered with my colleagues from both sides of the aisle: The Deficit Reduction Lock-Box Act. In the 103d Congress, this legislation (H.R. 4057) garnered the support of over 150 cosponsors almost evenly divided between party affiliation.

Congress debates on numerous amendments that are designed to reduce spending for specific Federal programs or agencies. Unfortunately, passage of these amendments does not guarantee or mandate real spending cuts.

We need to begin the process of bringing truth to the budget process and make our cuts count. When Congress votes for cuts they should be just that—cuts. Only by finding a method to reduce the spending caps and the related subcommittee allocations will we be certain that spending cuts to appropriations bills will ever be realized. This is what the deficit reduction lock-box addresses. And these spending cuts would be self-initiating, unless otherwise specifically designated or transferred.

Endorsing this legislation since the 103d Congress are several national groups including the U.S. Chamber of Commerce, Citizens Against Government Waste, the National Taxpayers Union, and Citizens for a Sound Economy. It should be stressed that this bill is a truly bi-partisan product that would lead the way to making discretionary cuts count.

I have a strong interest in proposals to require appropriations bill cuts to be translated into actual budget reductions. The lock-box must be considered as a stand-alone budget process reform measure, and a first-step in passing other necessary budget process reforms. It is an independent effort that does not seek to block other worthy budget process reforms. If anything, this budget process reform would complement other necessary efforts in this arena. Based on its proven bi-partisan in Congress since its introduction early this year, I feel it deserves a vote this year on the House floor.

As I mentioned already, the House and Senate do not save money when they vote against approval of a specific program. What this means is that the whole Congress has no way to cut discretionary spending without the cooperation of the committees that appropriate Federal funds. Even when both Houses of Congress vote to defund a program, the committees that control appropriations are free to design new ways to spend the Federal money that they control.

After repeated exhortations on the necessity for thrift in an age of deficit financing by, for example, the space station's political opponents, defenders like myself argued that its elimination is not going to give one penny of deficit reduction. The spending that has already been appropriated would merely be plowed back into other programs.

The lock-box bill is geared toward finally doing what we constantly tell the American people that we're supposedly doing. Many people think that when we vote to make cuts and when we have success, that cuts are actually going to take place. Under present law, these dollars are reallocated. This proposal would ensure that we can actually address the deficit, which the American people want us to do.

When Congress votes to cut Federal spending but the Treasury doesn't really save any money, it harms both American taxpayers and representative democracy. Congress should reform spending procedures to make its cuts count. When it votes against Federal spending, there should be a way to create opportunities for savings that are both substantial and mandatory. That way, money would in effect be deposited in the Federal treasury for deficit reduction, not just retreat a step back in the spending pipeline. Until Congress changes the way it approves Federal spending so cuts can really count, even if rank-and-file Members vote to cut every program in the world, conference committees can simply reallocate the money.

Ensuring real spending cuts through this lock-box bill is a necessary first step in this process of spending reform. Members of Congress must seriously consider listening to their constituents about spending cuts and place good government over the self-interest of specific projects by indicating their support for this lock-box bill. Only through budget process reforms like this will Members be able to vote for cuts and be able to communicate the authenticity of these cuts honestly to the public. I am proud to reintroduce this key legislation today.

RETIREMENT OF JUDGE JOAQUIN V.E. MANIBUSAN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. UNDERWOOD. Mr. Speaker, I would like to take this occasion to commend and congratulate a distinguished public servant, Judge Joaquin V.E. Manibusan, who is retiring from the superior court of Guam. Judge Manibusan is a loyal citizen who has dedicated over 50 years of service to the government, the island, and the people of Guam.

Judge Manibusan was born on March 23, 1921, in the city of Agana. He is the son of the late Judge and Mrs. Jose C. Manibusan. After his graduation from George Washington High School in 1940, he pursued legal studies through correspondence. This established his foothold on Guam's judicial institution.

His distinguished government career dates back to the days prior to World War II. He began working for the civil affairs department in the machine shop at the naval air station on February 1941. He stayed there until the outbreak of the war the following December. Japanese occupation of the island put things on hold for him until 1944 when he was again hired by the civil affairs department to work at the Anigua refugee camp.

Currently Guam's senior judge on the bench, his affiliation with the island's court system can be traced back to February 1945 when he was hired as a clerk typist for the island court. He was promoted to senior clerk in 1948 and, later that year, he was appointed as deputy clerk of the island court by Governor C.A. Pownhall. The Honorable Joaquin C. Perez, chief judge of the island court of Guam, reaffirmed this appointment in February 1952 and, in December 1963, appointed him to the post of clerk of the island court.

Gov. Manuel F.L. Guerrero, on June 24, 1969, submitted Judge Manibusan's appointment to the Guam Legislature for confirmation as judge of the police court of Guam. When the superior court of Guam was created, Judge Manibusan was sworn in as a judge in the court assigned exclusively to the traffic division. The following year, he was reappointed by Gov. Ricardo J. Bordallo as a judge in the superior court of Guam's traffic division. The people of Guam expressed their approval when he went before the voters and was retained as a judge of the superior court back in 1982.

Outside the courtroom, the good judge has played an active role in community organizations. This is something that he has done throughout his career. Judge Manibusan's participation as a delegate to the Guam Constitutional Convention of 1969 and his chairmanship of the grand opening of the Guam Judicial Center in 1991 are great indications of his civic mindedness. He has also been a member of the Holy Name Society as well as a

charter member of the Sinajana Civic Improvement Club. This is all in addition to his participation in Christmas Seal drives and active involvement in Guam's sports, particularly in baseball.

The more than 50 years of service dedicated by Judge Joaquin Manibusan to the island of Guam and its people has truly earned him a place in our hearts. The judge's wife, Alejandrina, and his children, Marilyn, a former senator, Joaquin, Thomas, and Geraldine certainly have every right to celebrate and be proud of the man who has always been a father to the island. On behalf of the people of Guam, I say Si Yu'os Ma'ase to a distinguished public servant and community leader in the Territory of Guam.

HONOR INTERNATIONAL WOMEN'S DAY BY STOPPING FEMALE GENITAL MUTILATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mrs. SCHROEDER. Mr. Speaker, it is unusual for holidays originating in this country to be widely adopted and observed in other nations, including socialist countries. But that is the case with International Women's Day, which had its origins in an 1857 New York City march by female garment and textile workers and went on to become an international event honoring women. But just as this holiday transcends national lines, so do human rights. And so does female genital mutilation, a painful ritual that involves cutting off of all or part of a female's genitalia. It is estimated that more than 100 million females of all ages in more than 30 countries have been subjected to female genital mutilation. About 10,000 of them migrate to this country annually, and some of them bring this practice with them. People ask me in disbelief if FGM happens in this country. Based on the calls I receive, the answer is "yes." But we need to know more about its practice here, as part of an effort to stop it and educate communities about its devastating effect on female health. I invite my colleagues to cosponsor my bill, H.R. 941, which would do just that. And I remind them of the declaration made by the United Nations conference on population last year in Cairo, which urged governments to prohibit FGM and vigorously support efforts to eliminate it.

SALUTE TO MABEL CLEMENTS

HON. THOMAS M. FOGLIETTA

OF PENSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise to salute Mrs. Mabel Clements whose 75th birthday will be celebrated on March 18, 1995, at the St. Luke C.C. Church Center in Chester, PA. Born on March 20, 1920, Mrs. Clements, a resident of Chester, has contributed a great deal to her church and her community throughout her lifetime.

Mrs. Clements has given endless support, love, dedication, and spiritual commitment to her family, friends, and church throughout her lifetime. Her steadfast dedication and commitment, combined with her gentle and delightful sense of humor has earned her the respect and admiration of her church and the entire community.

Mr. Speaker, I join with Ms. Norma Jordan and the family and friends of Mrs. Clements in wishing her a very happy 75th birthday.

COMMUNITY COLLEGES: PART OF THE SOLUTION

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mrs. MEEK of Florida. Mr. Speaker, an established resource for Florida's future economic security is in jeopardy due to lack of adequate State and Federal support. This resource is the community college system which is the access point to higher education, skills training, and successful employment for a growing underclass and increasingly diverse State population. As funding for public educational institutions, in Florida and elsewhere, is steadily declining, community colleges are faring most poorly of all as demands for their services continue to increase.

While it has long been recognized that the community colleges play a crucial role in helping dependent individuals become self-sufficient, the financial commitment to this longer term, solid solution is being abandoned to cover prison expenditures, law enforcement, and immediate public assistance. The continued funding of these escalating programs results in a starving of the ultimate solution to these runaway problems, and I am sure that the State of Florida is not unique in this experience. As a former faculty member of Miami-Dade Community College, I am directly familiar with the fine educational and training services the school provides and its value to the greater Miami area.

I would like to share with my colleagues the following statement by Dr. Robert H. McCabe, president of Miami Dade Community College, which points out the value of this Nations community college.

Mr. Speaker, funding for community colleges is an investment in our future.

STARVING THE SOLUTION

(By Robert H. McCabe)

The growing underclass of individuals who are dependent on society is threatening the well-being of all Floridians. Our state is becoming overwhelmed by the cost of sustaining this dependency. The number of persons receiving Aid to Families with Dependent Children (AFDC) has been rising at a rate of 20% a year since 1988. The state's Medicaid expenditure skyrocketed to almost two billion dollars by 1990 and over $4.1 billion by 1993. This was equal to the state general revenue budget in 1980–81. Expenditures on prison and law enforcement are escalating exponentially, in Dade County alone, nearly one quarter of our citizens are receiving public assistance—in housing, health care, or food stamps.

Florida has exceptional prospects for a bright economic future as the business connector to the emerging nations of the Caribbean and Central and South America. However, the loss of our human resources, because of lack of skills, and the cost of sustaining growing numbers of individuals in a dependent status, threatens to destroy that potential.

Florida's productive and efficient community colleges have been the primary access to college and post-secondary education for our residents. Community colleges are uniquely positioned to help dependent individuals gain the skill and become self-sufficient, thus providing business and industry with a much needed quality work force and saving Floridians literally billions of dollars. Despite the community colleges' excellent record of performance, reduced resources are provided to the community colleges to support essential services to our communities. Over the history of the community college system, the income per student has been reduced from 50% more to 22% less than that provided for public schools, grades K through 12. In 1994–95, community colleges received just over half as much per lower division student as the state universities.

The current level of funding for community colleges threatens their capacity to carry out their mission—Florida is, in effect, starving the most promising solution to the problem of reducing the number of dependent individuals by denying the colleges the resources they need to help these individuals gain the skills they need to be productively employed.

VIRGINIA NATIONAL PARKS ACT

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. BLILEY. Mr. Speaker, today I am pleased to introduce legislation that responds to the concerns of Virginians regarding national parks in the Commonwealth. The Virginia National Parks bill confronts a number of Virginia's pressing park issues, addressing Shenandoah National Park, Richmond National Battlefield Park, Shenandoah Valley National Battlefields, and Colonial Parkway.

First, my bill addresses constituent concerns about the expansion of Shenandoah National Park and Richmond National Battlefield Park. These two parks share an unusual status in that they are each a relatively small park with a much larger authorized boundary. The result of this situation is that, unlike the vast majority of national parks, these parks can expand whenever they want, without congressional approval or proper representation of local communities' interests.

While Shenandoah National Park includes 196,000 acres of land, its enormous 1926 authorized boundary includes 521,000 acres, enveloping parts of many surrounding communities. Similarly, while Richmond National Battlefield is composed of several small sites surrounding Richmond, its sprawling 1936 authorized boundary includes about 250 square miles of the metropolitan area.

Many citizens and local governments within the authorized boundaries of both the Shenandoah and Richmond parks fear that there is a cloud hanging over local property titles and that the parks could expand without a fair consideration of the local communities' concerns.

My bill would put to rest these fears by amending the two parks' authorized boundaries to conform to the land that the National Park Service currently owns. This legislation doesn't preclude future expansion of these parks. It simply gives the people most affected by park expansion a proper voice in the decision. I believe that these provisions will relieve the long-standing tensions between these parks and their neighbors and promote more cooperative and fruitful relationships.

Another provision of my bill responds to a Virginia General Assembly resolution asking for legislation to allow for the maintenance of secondary roads inside Shenandoah National Park. Since the park's inception in 1935, Virginia has maintained and operated secondary roads in the park under a series of temporary-use permits. These permits have recently expired and the National Parks Service has not renewed them, leaving the State without permission to maintain the roads. Many of these secondary highways are regularly traveled by school buses and are badly in need of repairs and safety improvements. My bill returns these roads to the State so that they can be properly maintained.

This legislation I introduced today also incorporates the provisions of the Shenandoah Valley National Battlefields Partnership Act, legislation sponsored by Congressman WOLF, which passed the other body last year. This legislation conserves for future generations 10 Civil War battlefields of the Shenandoah Valley. Importantly, the act accomplishes these goals without infringing on the rights of private property owners. This legislation establishes partnerships between Federal, State, and local governments and the private sector to conserve and interpret the legacy of some of the most vital battlefields of the Civil War.

Another provision of my bill authorizes the National Parks Service to buy a small plot of land for the Colonial Parkway near Jamestown.

The Virginia National Parks bill addresses the concerns of Virginians on a variety of issues pertaining to national parks and I welcome the support of my colleagues in cosponsoring this legislation.

THE 125TH ANNIVERSARY OF IMLAY CITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in paying tribute to a great city in Michigan's Ninth Congressional District. Imlay City is celebrating its 125th anniversary during the week of August 2–6, 1995.

Imlay City, located at the intersection of I–69 and M–53—the Gateway to the Thumb Area of Michigan from Detroit—was named after William Imlay, an Eastern Seaboard capitalist who moved to the area in 1828. The village was settled in 1870 when the construction of the Port Huron and Lake Michigan Railway was completed as far as Attica, MI.

The chief engineer of the railroad, Charles Palmer, selected Imlay City as a likely produce market between Lapeer and Capac. He then purchased 240 acres of land which he surveyed and proceeded to plot. Since the township was called Imlay, he decided to name this site Imlay City.

The city celebrated its 100th anniversary in 1970. Also in that year a change was made from a village home rule to a city form of government. Today, this eastern Lapeer County community is home to several farming operations, commercial facilities and industries. The city is continuing to grow and prosper as many people move into the area from throughout the State of Michigan.

I have had the privilege of representing this area for many years. I have come to know many fine people in this community and consider them to be friends and advisors. The area surrounding Imlay City is rich with agricultural history. Businesses and industries have seen the potential for this area and have located their factories in this area, creating great economic opportunities for Imlay City. But throughout the years, with all the growth, Imlay City has retained the best features of a small town, with an excellent educational system and a friendliness that has remained constant though those 125 years.

Mr. Speaker, it is indeed an honor and a privilege for me to rise before my colleagues in the House of Representatives to honor this great community for celebrating its 125th anniversary. It is a shining jewel in the Ninth Congressional District of Michigan.

HONORING THE 1995 VALOR AWARD WINNERS

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. DAVIS. Mr. Speaker, I rise today to pay tribute to the 1995 Prince William County, VA Annual Valor Award winners. On Friday, March 10, 1995, the Prince William County Chamber of Commerce and the Prince William County-Greater Manassas Chamber of Commerce will present the Annual Valor Awards at the FBI Academy, Quantico Marine Base.

The Valor Awards honor public service officers who have demonstrated extreme self-sacrifice, personal bravely, and ingenuity in the performance of duty. There are five categories: The Gold Medal, The Silver Medal, The Bronze Medal, Certificate of Valor, The Lifesaving Award.

The Valor Awards is a project under the Prince William County Chamber of Commerce's Education and Safety Committee and the Prince William County-Greater Manassas Chamber of Commerce's Valor Committee. This is the ninth year the Prince William County Chamber of Commerce has held the Valor Awards and the first year that the Prince William County-Greater Manassas Chamber has participated.

The Gold Medal Award is the highest award for bravery and heroism. Awarded in cases in which a public safety official knowingly places his/her life in peril of death or extreme serious bodily harm while saving or attempting to save the lives of others who are clearly at risk.

The Gold Medal Winners for 1995 are: Richard R. Kassler and Dwayne A. Palermo.

The Silver Medal is the second highest award for bravery and heroism. Awarded in situations when a public safety official knowingly exposes himself/herself to great personal risk in the performance of an official act.

The Silver Medal Award Winner for 1995 is: Dwayne K. Moyers.

The Bronze Medal is awarded in situations where during the course of an emergency, a public safety official demonstrates judgment, ingenuity, or performance at a level that clearly exceeds that required and expected in the performance of his/her duties. This may include the saving of a life that is threatened by medical or physical reasons.

The Bronze Medal Award Winners for 1995 are: Charles P. Gardiner, Heidi D. Greaves, Franklin Ray Osborne, Bernard R. Rfluger, Brian F. Wing, and Mark K. Fleming.

The Certificate of Valor is awarded for acts involving personal risk and/or demonstration of judgment, zeal, or ingenuity above what is normally expected in the performance of duty.

The Certificate of Valor Award Winners for 1995 are: William A. Lawrence, Carter M. Boston, Wesley K. Brown, Douglas J. Buchanan, and Douglas H. Litton.

The Lifesaving Award is awarded in recognition of acts taken in a life-threatening situation where an individual's life is in jeopardy, either medically or physically.

The Lifesaving Award Winners for 1995 are: Lori A. Kiley and Michael T. Neary.

Mr. Speaker I know my colleagues join me in commending these fine citizens who are truly deserving of the title, hero.

BAN WASTEFUL SPENDING ON METRIC CONVERSION OF OUR HIGHWAYS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. STUMP. Mr. Speaker, today I am introducing legislation which will prohibit the use of Federal funds to require States to construct or modify highway signs using metric measurement.

In 1977, the Federal Highway Administration [FHA] attempted to convert all road signs to solely metric measurement. The plan was scrapped because 98 percent of the public comments received by the agency opposed the idea. However, some FHA bureaucrats are not getting the message. They believe that a section of the 1988 Omnibus Trade and Competitiveness Act which required Government agencies to use the metric system in procurement, contracts, and grants to enhance our international competitiveness gives them the authority to demand all U.S. highway signs be in metric. In 1993, the FHA again published a mandatory metric transition plan in the Federal Record. Again, the vast majority of public responses received were negative. Exactly how metric highway signs in the United States will aid us in overseas markets eludes me.

Clearly, there is widespread public opposition to a heavy handed Government attempt to impose the use of metric measurement on our highways. We cannot afford to waste money on such nonsense. Not only would the American people be made to suffer with the inconvenience brought about by changing to a system currently unknown to many of them, but would be forced to pick up the enormous price tag. Think of it—in addition to highway signs, such items as road maps, manuals, speedometers, odometers, and machinery would have to be changed and workers would need to be retrained.

Let me make it clear that I do not oppose the voluntary use of the metric system. Those who wish to use metric measurement or stand to benefit from it, can and should use it. What I do strongly oppose is the Government's unwarranted and costly imposition of metric on our highways. The American people do not want it and stand to gain nothing from it.

As we are fighting to cut Federal spending and get the budget deficit under control, converting our highway signs to metric measurement is an inexcusable waste of tax dollars.

AMERICAN LEGION POST 114, SIKESTON, MO

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. EMERSON. Mr. Speaker, over the course of my years as a private citizen and public servant I have been witness to a great, unfolding story. That story is one of pride and principle, enterprise and excellence, and perhaps more than anything else, life and liberty. It is the story of the American people and the right and true Nation that they have struggled to forge.

Without the brave Americans who responded to our country's need and who pledged themselves to the banner of freedom and democracy, the United States might not be what it is today; might not, in fact, even be at all. I would like to reverently pay tribute to all of the American men and women who have served in our Armed Forces—they truly represent uncommon and unsurpassed devotion. I am further honored to be able to present to you a shining example of the fine caliber of those who wore America's uniform in World War II.

Sikeston, MO, in my congressional district, is home to a group of veterans worth this special attention. I would like to recognize the active members of American Legion Post 114 who served under President Franklin Roosevelt and Missouri's own Harry Truman when the fate of the world's democracies was in the balance during World War II. America asked these sons and daughters to throw back the tide of despotism and injustice and Post 114 answered without pause.

May it be entered into the U.S. CONGRESSIONAL RECORD that the courageous members of Post 114 of Sikeston, MO, are hereby recognized for their selfless service to their country. We applaud you, we honor you, we thank you.

The members of Post 114: James W. Abernathy, Marcus W. Abernathy, Ray Alberson, Hugh Aldrich, Ralph Armour, James A. Armstrong, James A. Baker, James M. Beaird, J.D. Bearden, Eli Beason, Gaines B. Beck, C.C. Beason, John Beetrum, William W. Bess, and Howard E. Billman.

David E. Blanton, Lee A. Bowman, Woodrow Brashears, L.V. Brothers, Phonzie W. Brown, Reece Brown, Arthur O. Bruce, Joel G. Buchanan, Arthur Bunch, Ray Burnett, Henry S. Bussey, Cline Carter, Ray Cathey, Mark L. Childs, and Lewis H. Conley.

Marshall Craig, Francis E. Crenshaw, William L. Crowden, Don Culbertson, Edgar Culbertson, B.G. Daugherty, Jr., John W. Davis, Joseph H. Davis, Eugene Dawson, Marion K. Day, Dan Delplane, Robert Dempster, Richard Dillender, Pete Dominquez, Sr., Durwood Dover, and Elmer Elfrank.

Leonard Etienne, Lloyd B. Evans, John F. Ferrell, Ulie F. Fitts, Glenn Forbis, Morris E. French, Jeremiah Fulton, Gene Gadberry, Arthur J. Gall, Jerry Gilliland, Gilbert Gilmore, Woodrow Glass, Brewer Glenn, William A. Gnann, and Kelly B. Goza.

Frank E. Grimms, William A. Guess, Charles R. Hammock, Douglas L. Hammock, Billie J. Harp, Lloyd G. Harris, James H. Hart, Gorman Hartlein, Everetta W. Hays, Sr., Tommie N. Hefner, Benjamin R. Heil, James T. Hensley, Hubert Hill, Glen Hines, and Jewell R. Hinkle.

R.H. Hodge, Bill Holleman, Cecil O. Holman, J.W. Homes, Lynn Ingram, Z.T. Jackson, Forrest Johnson, Sol D. Johnson, Jerry Kellum, L.E. King, Hugh Klasing, Leo J. Klekamp, James W. Lackey, Raymond C. Landers, Dayton A. Lasater, and Onis H. Learue.

Harry S. Littleton, George Mannon, Johnny Marshall, Joseph D. Martinez, Jr., Edward C. Matthews, Jr., Ruby Maynard, James E. Mayo, Alfred H. McCutchen, Sr., Willard McDaniel, Dean McDonald, James E. McGarity, Mary M. McNay, Charlie Meunier, Vincent R. Michelena, and Ray A. Moll.

William C. Moore, Jr, Joel A. Montgomery, Kenneth R. Morgan, Charles W. Myers, Claude A. Myracle, Paul Nugent, John R. O'Neal, George W. Orr, William K. Parker, Ishmael T. Payne, Carl H. Phillips, James V. Phillips, Martha S. Pickett, Rachael R. Pierce, and Irick A. Poe.

Vincent J. Polito, Charles F. Powell, Otto W. Pratt, Arnold Raburn, Patrick Regan, Paul Rennier, Carroll Robertson, Leo Rofkahr, Walter J. Rogers, Herbert Rowell, William P. Sappenfield, William L. Scarbrough, Billy G. Schock, Ellavyn Schubert, Harold H. Schultz, and Bernie L. Seagraves.

Albert Seiler, Charles Shelby, Paul Scherrard, Earl Sloan, Nat M. Snider, Walter B. Spence, Jr., Burleigh Spitler, R.L. Stalcup, Hank F. Switala, Goble Trail, Jr., Charles M. Trucks, Charles W. Tucker, Lynn Twitty, Russel Walker, and Linzy Walls.

Leroy Wamble, Charles Watson, Manuel F. Whitener, Oren Whiteside, Curtis Wilborn, Denzel W. Williams, George Williams, Charles D. Wood, Edgar L. Woodard, and James S. Woods.

We, as Americans, have ample reason to be proud of these World War II veterans and the country they helped build for us today. Our economy is invigorated, our cities and communities are prospering, and our democracy is strong and secure. In these good times, we must never forget who paved the trail before us; it is precisely to forestall and combat such a happenstance that I wanted to honor American Legion Post 114.

Now, more than ever, we should recall the struggles and sacrifices of these patriots who responded to our country's need and pledged themselves to defend the causes of freedom and democracy. When dark shadows threatened to strike down that which is good, the members of post 114 rallied and brought with them grit, fortitude, and ultimately triumph. Because they exceeded the call of duty, stood in harm's way, and met each challenge without wavering: America continues to be free.

TAX LEGISLATION

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. SHAW. Mr. Speaker, I am pleased to introduce, along with my Ways and Means Committee colleague Mr. RANGEL, long overdue tax legislation to reform the cost recovery rules associated with leasehold improvements. Simply stated, our legislation would enable building owners to more closely match the expenses incurred to construct these improvements with the income the improvements generate under the lease.

Office, retail, or other commercial rental real estate is typically reconfigured, changed or somehow improved on a regular basis to meet the needs of new and existing tenants. Internal walls, ceilings, partitions, plumbing, lighting and finish each are elements that might be the type of improvement made within a building to accommodate a tenant's requirements, and thereby ensure that the work or shopping space is as modern, efficient, and environmentally responsible as possible.

Logically, the time period during which the costs associated with constructing leasehold improvements are recovered, through depreciation deductions, should match the time period during which the improvement is useful. Unfortunately, today's depreciation rules do not differentiate between the economic useful life of a building improvement—which typically corresponds with a tenant's lease-term—and the life of the overall building structure. The result is that current tax law dictates a depreciable life for leasehold improvements of 39 years—the depreciable life for the entire building—even though most commercial leases typically run for a period of 7 to 10 years. Correcting this mismatch between income and expense is the goal of our legislation.

Compounding this problem is confusion in the marketplace today concerning whether a building owner may close out and deduct currently any unrecovered costs remaining at the time a leasehold improvement is destroyed. It seems almost absurd, but the current rules are in some cases being interpreted to deny the ability of a building owner to "close out" its investment for tax purposes even though the improvement has been scrapped, demolished

or otherwise permanently retired from service. Theoretically, in 30 years a building owner could have had 6 different 5-year tenants, each requiring different improvements to accommodate their individual business needs. Because of the current confusion, the owner may be required to depreciate improvements that in fact no longer exist. In addition to more closely recovering the costs of the improvements with the income generated by them, this close out issue needs to be addressed.

As a result of today's flawed depreciation rules in this area, the after-tax cost of reconfiguring, or building out, office, retail, or other commercial space to accommodate new tenants or modernizing work places is artificially high. This is because building owners are unable to fully deduct the economic costs expended on leasehold improvements over the period in which the improvements actually generate income.

In addition, the current policy hinders urban reinvestment and construction job opportunities as improvements are delayed or not undertaken at all. Especially given the absence of new building construction in many markets, opportunities for the Nation's 7 million construction and building trades workers in the remainder of the decade will largely be tied to the renovation and rehabilitation of existing commercial space.

Moreover, a widespread shift to more energy-efficient, environmentally sound building elements is discouraged by the current tax system because of their typically higher expense. For example, the Natural Resources Defense Council notes that commercial lighting alone consumes more than one-third of the electrical energy produced in the United States. If a greater conservation potential of energy-efficient lighting were to be realized, the demand for the equivalent of one hundred 1,000-mega-watt power plants could be eliminated, with corresponding reductions in air pollution and global warming.

To address this issue, our legislation would establish a new depreciation recovery period of 10 years for a carefully defined category of interior building improvements. In general, to qualify under the legislation the improvement must be constructed by a lessor or lessee in the tenant-occupied space. In an effort to ensure that the legislation is as cost efficient as possible, improvements constructed in common areas of a building, such as elevators, escalators, and lobbies, would not qualify; nor would improvements made to new buildings.

Equally important, our legislation would clarify that building owners are permitted to fully deduct and close out any unrecovered leasehold improvement expenses remaining at the time a lease expires and the improvement is demolished.

Our legislation should be enacted this year. This would acknowledge the fact that improvements constructed for one tenant are rarely suitable for another, and that when a tenant leaves, the space is typically built-out all over again for a new tenant. It is important to note that prior to 1981 our tax laws allowed these improvement costs to be deducted over the life of the lease. Subsequent legislation, however, abandoned this policy as part of a move to simplify and shorten building depreciation rules in general to 15 years. Given that buildings are now required to be depreciated over 39 years, it is time to face economic reality and reinstate a separate depreciation period for building improvements to tenant occupied space.

I am pleased that several members of the Ways and Means Committee have joined me today in introducing this legislation. I urge all members of the House to review and support this important job producing, urban revitalization legislation, and I look forward to working with the Ways and Means Committee to enact this bill.

SALUTING THOMAS JOE HARRIS OF THE WOODLANDS, TX—WESTINGHOUSE SCIENCE TALENT SEARCH FINALIST

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. FIELDS of Texas. Mr. Speaker, this evening, I will have the privilege of meeting a constituent—Thomas Joe Harris of The Woodlands, TX—who is a finalist in the Westinghouse Science Talent Search competition. At a time when too few young people use their high school years to explore the world around them, Thomas Harris is an exception—and has proven himself to be a young man of exceptional intelligence and potential.

Thomas is the son of Jeff and Aletha Harris of Falling Start Court in The Woodlands.

The Westinghouse Science Talent Search brings together the brightest, most creative science students from across the country. Each talent search hopeful is required to submit a written description of the student's research, plus a completed entry form that is designed to measure a student's creativity and interest in science.

Many of our Nation's top scientists and mathematicians share the common bond of having participated in the talent search when they were students. The 54th annual Westinghouse Science Talent Search caps more than a half century of remarkable achievements by more than 1,500 semifinalists and 2,000 finalists who have participated in this, America's most highly regarded precollege science competition.

In his science project, Thomas looked at ways to increase the population of red-cockaded woodpeckers—an endangered species. Thomas studied the red-cockaded woodpecker's feeding habits and determined whether or not the birds would accept artificial nests in established colonies.

As a result of his innovative research, Thomas concluded that protecting the birds' specialized feeding niche in older pine forests, as well as private property owners providing artificial nests on their land, are essential for the survival of the red-cockaded woodpecker.

Thomas attends the Academy of Science and Technology in Conroe, where he is student council president and a member of the math club. Additionally, he is an environmental speaker for the Boy Scouts, and a basketball coach for the YMCA youth league.

First-place winner in a dozen science competitions, Thomas also has won the U.S. Navy Honors Academic Award and was an invited guest at the Texas Endangered Species and Wildlife Conference.

Mr. Speaker, I know you agree that Thomas Joe Harris personifies the qualities we all seek in our high school students: a thirst for knowledge, an interest in science, and an eagerness to learn new ways to solve old problems. In this age of high-technology and nonstop scientific advances, the United States will need the skills and imagination of Thomas Joe Harris—and the other Westinghouse Science Talent Search finalists—if we are to remain the most advanced nation in environmental research and other sciences. And I know you also join with me in congratulating this remarkable young man on being named a finalist in the Westinghouse Science Talent Search.

1995 YEAR OF THE VETERAN

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise today to join the county of San Diego in honoring our Nation's veterans. The following resolution by the county of San Diego designates 1995 as the "Year of the Veteran":

Whereas, on May 8, 1995, America will observe the 20th anniversary of the end of the Vietnam war; and,

Whereas, on September 2, 1995, our Nation will celebrate the 50th anniversary of the end of World War II; and,

Whereas, San Diego County has the highest retired military population in the state of California; and,

Whereas, San Diego County has the second largest veteran population in the Nation; and,

Whereas, the county homeless veteran population is double the national percentage, and others are at risk of becoming the "News" homeless; and,

Whereas, veterans of all eras are still facing the aftermath and reconstruction of their lives after military service; and,

Whereas, these veterans, their families, their widows and their survivors continue to be adversely affected by military downsizing, base closures, massive defense industry cutbacks; and,

Whereas, a concerted effort to assist these worthy citizens and former soldiers with decent jobs adequate housing and economic, self-empowering opportunities, will demonstrate our concern and gratitude; and,

Whereas, as the County of San Diego is committed to finding new and creative solutions and programs, that provide "continuum of care" solutions to combat and reverse this national and local tragedy that has befallen our veterans: Now, Therefore, Be it

Resolved, That the County of San Diego designates 1995 as the "Year of the Veteran." We call upon our citizens, the business community, non-profit groups, service providers, our individual cities and others throughout the county to join together for the purpose of focusing on providing effective solutions to those who have not overcome the effects of their military service and still need our help.

Mr. Speaker, I submit this resolution to recognize the tremendous debt of gratitude we

owe to our Nation's veterans for their valor and service to our country. Let us resolve to make 1995 not only the Year of the Veteran, but more importantly, the year we begin to make real strides toward keeping our contract with these brave men and women.

TRIBUTE TO FRANK GANDOR

HON. MARK FOLEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. FOLEY. Mr. Speaker, today, I rise to salute an exceptional member of the south Florida Polish-American community as he celebrates his 80th birthday, Mr. Frank Gandor of Lantana, FL. I would like to share with the Nation some information about this outstanding individual.

Frank Gandor was born in 1915 in Bielsko, Poland, the youngest of six children. While in the Polish Army Corps he fought the Germans in World War II and helped liberate Bologna in Italy. He was awarded a Certificate of Recognition by the United States Army for his employment in the Polish Labor Service in the years following the war.

An exceptionally gifted lyric tenor, Mr. Gandor has devoted his life to music, from singing solo in the church choir at age 9 to directing the Chopin Choir of the American Polish Club for the past 10 years in Lake Worth, FL. Today the songs of his homeland and the patriotic renditions of his adopted country, these United States, are still sung with pride and vigor at the age of 80. He is an active citizen in his community and is always busy with musical and veterans activities.

Mr. Speaker, the heart of this honorable man and gifted maestro surely beats with the "Sound of Music." I am proud today to recognize Mr. Frank Gandor on his 80th birthday and the contributions he has made to his community and to America.

RESULTS OF MUNICIPAL ELECTION IN BURLINGTON, VT

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. SANDERS. Mr. Speaker, at a time when the congressional leadership is proposing huge tax breaks for the wealthy, an increase in military spending and major cutbacks in a wide variety of programs which tens of millions of low and moderate Americans desperately need, I am happy to tell you about the results of the municipal election yesterday in Burlington, VT—the State's largest city.

Peter Clavelle, a Progressive, won the mayoral election with 5,055 votes. Peter Brownell, the Republican incumbent, came in second with 4,815 and Paul Lafayette, the Democrat, came in third with 1,793. Further, Progressives and Independents held their seats on the city council which will give the Progressives more voting power than they have ever had before.

Mr. Clavelle, in opposing the Republican and Democratic candidates, called for property tax reform and a progressive tax system which is based on ability to pay. He also called for keeping Burlington's waterfront open for all the people—not just the wealthy. He indicated that the goal of his administration would be to make government work for the average citizen—not just those who have a lot of money. Mr. Clavelle had the support of city unions, women's groups, environmentalists, and many low income citizens.

I should also mention to you that Mr. Clavelle and the Progressives did their best in the low and moderate income wards of the city. In ward 2 he received 65 percent of the vote in the 3-way race, and in ward 3 he received 58 percent of the vote. The voter turnout was also significantly higher than the 38 percent by which the Republican's won their national mandate on November 8, 1994.

While the results of this municipal election have almost everything to do with local issues and local personalities, I do believe that national politics played a role. In Burlington, VT, as in other communities across America, middle income and working people are becoming increasingly concerned about the class warfare which is going on in Washington. They want to see Government represent all the people—not just big money interests. They want to see Government protect the elderly, the children, women, and the poor—rather than just those who make large campaign contributions.

IN HONOR OF THE STEVENSON PATRIOTS, 1994–95 WOMENS' BASKETBALL CLASS AA STATE CHAMPIONS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. PORTER. Mr. Speaker, it gives me great pleasure to rise today to salute the Adlai Stevenson High School Patriots Womens' Basketball Team, who last weekend won the Class AA State Championship. This is a wonderful achievement for the team, for their school, and for all the people of our area, as this is the first-ever State championship for Stevenson High and the first-ever basketball State championship for any Lake County high school.

The Patriots cruised to victory over Mother McAuley, their highly regarded opponent, by a final margin of 77 to 47. In the process, they showed why they are ranked No. 1 in the State. They jumped out to an early 12-point lead and never let Mother McAuley come closer than 7 points throughout the game.

All of the people involved with this remarkable team have earned special recognition. We should begin with head coach Frank Mattucci and assistant coach Tom Kelly, athletic director John Martin and assistant athletic director Pete Weber, junior varsity coaches Mike Fitzgerald and Tim Tomaso, freshman coaches Trish Betthauser and Renee Gates, managers Jenny Mendigutia and Romy Rosenbaum, scorer Willis Wudtke and equipment manager Cathy Coradini.

The players who were part of the championship roster are Aarin Bartelt, Ashley Campbell, Kim Carter, Tamika Catchings and her sister, Tauja Catchings, Amy Chaness, Kelly Cole, Katie Coleman, Trish DeClark, Rebekah Ford, Noelle Medenwaldt, Christy Miller, Felice Rosenzweig, Carolyn Roth, Jamie Smith, and Jennifer Warkins.

Yes, this was a magical year for Stevenson, but there was nothing mysterious about their championship. Their team motto highlights three words that are at the heart of their winning season: pride, hustle, and dedication. In other words, they didn't win just because they had the talent—they won because they worked hard, they had the desire to succeed, and they were dedicated to one another. The Patriots have reminded us what character and teamwork are all about.

That's why, Mr. Speaker, I am proud to salute the women of the Stevenson High School Patriots, who gave their school and our area a State basketball championship and so much more. They are the pride of all Illinois and we can't wait for next season.

IN SUPPORT OF H.R. 1119

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. RAMSTAD. Mr. Speaker, last Friday I introduced H.R. 1119 to improve section 457 pensions for police officers, firefighters, and other public employees.

Currently, these public servants are not eligible for 401(k) pension plans, but may elect to contribute to employee-funded plans governed by section 457 of the Internal Revenue Code [IRC]. Unfortunately, these deferred compensation plans have been left out of many of the improvements that have been made over the years to the more well-known 401(k) plans.

My legislation will make three important improvements to 457 pension plans. First, it will index the maximum contribution amount to account for inflation. While maximum contributions to 401(k) plans are indexed for inflation, the maximum contribution for 457 plans is set at $7,500 a year and can only be increased by Congress.

Second, H.R. 1119 will allow participants to make a one-time change in the date when benefits are received. Currently, participants must make an irrevocable, one-time decision about the exact date they want to begin receiving benefits. This decision is a difficult one, especially for police and other public safety officers, because they often retire at relatively young ages and might pursue other careers.

Third, my bill will allow plans to be cashed out if they contain less than $3,500 and have been inactive for at least 2 years. Currently, some enroll in 457 plans and find, for one reason or another, that they cannot make payments. Maybe they have gotten married, had children or bought a home, and simply cannot afford to make the necessary contributions. For whatever reason, these accounts can lie dormant for long periods of time. Yet, plan administrators must continue to maintain records on them. My bill will allow these accounts to

be cashed out and taxed at the usual rate for income.

The important changes H.R. 1119 makes to 457 plans will help public employees enrolled in these pensions contribute more to their retirement savings and better plan for their retirement years. I encourage all of my colleagues to cosponsor H.R. 1119.

SCHODACK, NY CELEBRATES BICENTENNIAL ON MARCH 18

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. SOLOMON. Mr. Speaker, our smaller municipalities exhibit the small-town virtues that make this country the greatest nation on Earth. I'd like to say a few words today about one of them.

The town of Schodack is celebrating its bicentennial this year. It occupies 63 square miles in a picturesque spot along the east bank of the Hudson River in the southwest corner of Rensselaer County. Indian tribes warred over the region until Dutch settlers arrived in 1630. The town of Schodack was formed on March 17, 1795. Farming spread from the river banks to the interior, and Schodack became important as a trading and shipping port. The abundant waterpower opened the door for paper factories and other industries. One of the paper mills, the Fort Orange Paper Co., is still operating today. Such industries as ice harvesting during the winter linked the town to larger metropolitan areas such as New York.

Schodack was a frequent crossroads for colonial armies, including the caravan taking captured cannon from Ticonderoga to Boston. In 1777, thousands of British prisoners captured in Saratoga were marched through Schodack to prisons in New England.

Many of the houses still standing in the town were built in the 18th century. One structure, the Staats house, has been occupied by the same family for 12 consecutive generations, and is on the National Register of Historic Places.

Today, despite the accelerating changes of 20th century life, Schodack has preserved its smalltown charm, making it a great place to live and raise families.

On March 18, town officials and residents are celebrating with a grand gala-dinner dance.

With that in mind, Mr. Speaker, I ask all Members to join me in wishing the town of Schodack all the best on this proud occasion of its bicentennial, and all the best as it enters its third century.

COAST GUARD AUTHORIZATION LEGISLATION

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. TRAFICANT. Mr. Speaker, yesterday I introduced H.R. 1151 to authorize appropriations for the U.S. Coast Guard. This bill was developed by the Coast Guard and represents the Clinton administration's legislative goals and approach for the Coast Guard.

I serve as the ranking Democrat on the Subcommittee on Coast Guard and Maritime Transportation. Subcommittee Chairman HOWARD COBLE and I are working in a bipartisan fashion to develop a Coast Guard authorization bill that we plan to mark up in the subcommittee next week.

We will be drawing heavily from the administration's bill as we develop our own as it has many useful legislative proposals. I commend the Coast Guard and the administration for the work and thought that went into their legislation. It has been most useful to have it before us.

INTERNATIONAL WOMEN'S DAY

HON. CARLOS A. ROMERO-BARCELÓ

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. ROMERO-BARCELÓ. Mr. Speaker, I take this opportunity to salute women as we commemorate the International Women's Day. On this most special day, I would like to salute American women, including my fellow Puerto Rican women. Women of courage who are seeking better opportunities, women who refuse to be second-class citizens, women who are eager to build a new society but have been denied their opportunity.

Unfortunately, in some instances, our legal system has entrenched the subordinate status of women. These attitudes have contributed to the perpetuation of stereotypes which must be eliminated for they only contribute to all types of violence against women. On this day, I invite you to join women in their request to live in peace and to be recognized as equal citizens with equal rights to equal opportunities. Their claim is nothing more than what they deserve. This is simply an issue of human rights.

I commend the Organization of American States for its approval of a convention holding nations responsible for violence against women. I believe this groundbreaking convention should be followed by other international organizations.

This is the first convention in the world to focus exclusively on a woman's human right to be free from violence. Moreover, it is the first convention to provide a mechanism for individual women to file complaints with an international body, charging their governments with failing to protect them from violence. Although the Organization of American States has no direct enforcement power, its decisions would be intended to trigger legal and policy reforms so necessary in member states.

Today, I urge Congress to sustain our commitment to women. Today, I remind the nations of the world to continue to build a gender-respectful society.

On the threshold of the 21st century, it is imperative to recognize women's rights. Let us not forget that all men and women are created equal and they are both moral and accountable human beings.

H.R. 1058

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Ms. LOFGREN. Mr. Speaker, today I voted for H.R. 1058 even though I continue to have concerns about some provisions of the bill. Because the bill has been significantly improved and moderated, I was willing to support it as a vehicle for the Senate to complete the improvements.

I oppose loser pays or the English rule and I note that the provisions in H.R. 1058 allow judges for good cause to order the loser to pay what that result would not be unjust. In fact, to some extent the language in the bill tracks language found in section IIe of the Securities Act of 1933. Nevertheless, I believe that section 20(B)(c) could be improved. I continue to have concerns about section 20(B)(c)(2) of the bill. I realize that this provision has been moderated considerably and may, in actual practice, prove to be workable. Nevertheless, it is my hope that the Senate will further revise this section so that it might substitute rule II on a mandated basis. I understand that existing pleadings requirements may need reform, but have concerns that the pleading language in the bill may go to far. This is one area where a more deliberative legislative process would have been extremely helpful in shedding light on what changes should be made.

My colleague, ANNA ESHOO, prepared a thoughtful amendment to the recklessness standard that was superior to the changes adopted in the bill. Nevertheless, the amendment adopted is an improvement over the original language.

Over the past year of study, I have reached the conclusion that, especially for high technology companies, there is a problem of strike lawsuits that requires remedy. While H.R. 1058 is considerably better than H.R. 10, I have concerns about some provisions as I have outlined here. Had I had the opportunity to provide meaningful input into this legislation, I would have written something different. But that luxury is not available to me.

Because I am convinced there is a problem requiring remedy, I voted for H.R. 1058. Some vehicle for reform must be passed in order to allow the Senate to act and, I hope, to correct the remaining problems that exist in this bill, when it comes before me again after the conference committee. My standard for judging the Senate's efforts will be, does this prevent abusive lawsuits while preserving the rights of legitimate victims of fraud in the securities arena?

I know that the Senate will proceed more deliberately than has the House of Representatives in reviewing this bill. It is a shame that the current processes in this body preclude more thoughtful action and consideration of laws here. It is a shame, indeed, that useful amendments offered by knowledgeable people to improve the bill have not been permitted because of arbitrary time constraints. Had we taken the time, I am convinced we could have crafted a bill that would have attracted broad bipartisan support. I am hopeful yet that we

will see a final product out of conference committee that allows for that to occur.

TRIBUTE TO JERRY MILLER, SR.

HON. JON CHRISTENSEN

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. CHRISTENSEN. Mr. Speaker, we have lost a good friend, the country has lost a good man, and the family of Jerry Miller, Sr., has lost a husband and father.

On Saturday, March 4, 1995, Jerry lost his fight with cancer at the age of 74 and he will be missed by all who knew him and loved him.

A lifelong resident of the community of Omaha, Jerry graduated from Creighton Prep in the class of 1939 and took with him a celebrated record as a varsity football and baseball squad member.

Jerry also served with the U.S. Navy during the Second World War and saw action in the Pacific theater before returning home to Omaha.

As founder and president of Kiess/Kraft Dental Laboratories, Inc., in Omaha, Jerry was a significant member of the community. He devoted his entire life to his business and literally ran it until he was physically unable to continue to do so. Over the years, he turned his business into one of the most respected technical dental laboratories in the country.

As a war veteran, a responsible community leader, and a man who loved his family, Jerry Miller will be sorely missed. Condolences go to his extensive family circle in the loss of this member of the Omaha community.

NOTING THE PASSING OF BLANCHE RANGEL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 8, 1995

Mr. STOKES. Mr. Speaker, I rise with sadness today upon learning of the passing of Mrs. Blanche Rangel, the mother of our good friend and colleague, CHARLIE RANGEL. Mrs. Rangel was called to rest on Monday, March 6, 1995, at the age of 90. Our thoughts and prayers are with CHARLIE and his family during this time of sorrow.

With the passing of this devoted human being, CHARLIE has lost a good friend and close confidant. Like many of us, his mother occupied a special place in his heart and played a very special role in his life.

Blanche Rangel was born in New York on March 20, 1904. She worked in the garment industry until 1965 and was an active member of the International Ladies Garment Workers Union.

During her lifetime, Mrs. Rangel was a person who took great pride in her family and their achievements. We can envision her joy many years ago when her son, CHARLIE RANGEL, was elected to the United States Congress. She was a devoted mother, an affectionate grandmother and a proud great-grandmother.

Blanche Rangel was married to the late Ralph Rangel, and raised three children. Ralph Rangel, Jr. passed away in 1975. Mrs. Rangel is survived by our colleague, CHARLIE RANGEL, and a daughter, Mrs. Frances McDermott. She also leaves to mourn her passing two daughters-in-law, Mrs. Alma Rangel and Mrs. Dolores Rangel; a son-in-law, Mr. Donald McDermott; a brother, Mr. Percy Wharton; a sister, Mrs. Sylvia Curtis; seven grandchildren and seven great-grandchildren.

Mr. Speaker, for many years my wife, Jay, and I have enjoyed a very close friendship with CHARLIE and Alma Rangel and their family. It is out of that deep friendship that I ask my colleagues to join me in extending our deepest sympathy to CHARLIE RANGEL on this occasion.

We pray that the Rangel family will find comfort in knowing their mother has left behind a legacy of love that will endure forever.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 9, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 10

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the National Science Foundation, and the Office of Science and Technology Policy.

SD-138

Environment and Public Works

Superfund, Waste Control, and Risk Assessment Subcommittee

To hold oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act.

SD-406

Joint Economic

To hold hearings to examine the employment-unemployment situation for February.

SD-562

10:00 a.m.

Finance

To continue hearings to examine welfare reform proposals, focusing on the Administration's views.

SD-215

MARCH 13

9:30 a.m.

Finance

To hold hearings to examine the status of the consumer price index.

SD-215

MARCH 14

9:00 a.m.

Judiciary

To hold hearings to examine proposals to reduce illegal immigration and to control financial costs to taxpayers.

SD-226

9:30 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on wetlands and farm policy.

SR-332

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Energy Office of Energy Research.

SD-192

Finance

To resume hearings to examine welfare reform proposals, focusing on teen parents receiving welfare.

SD-215

10:00 a.m.

Banking, Housing, and Urban Affairs

Housing Opportunity and Community Development Subcommittee

HUD Oversight and Structure Subcommittee

To hold joint hearings to examine proposals to reorganize the Department of Housing and Urban Development.

SD-538

Foreign Relations

To hold hearings on the nominations of Jacquelyn L. Williams-Bridgers, of Maryland, to be Inspector General, Philip C. Wilcox, Jr., of Maryland, for the rank of Ambassador during his tenure of service as Coordinator for Counter Terrorism, and Ray L. Caldwell, of Virginia, for the rank of Ambassador during his tenure of service as Deputy Assistant Secretary for Burdensharing, all of the Department of State.

SD-419

Governmental Affairs

To hold hearings to examine nuclear non-proliferation issues.

SD-342

Labor and Human Resources

To hold hearings to examine health care reform issues in a changing marketplace.

SD-430

2:00 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
Business meeting, to consider pending calendar business.
Room to be announced

2:30 p.m.
Armed Services
Acquisition and Technology Subcommittee
To hold hearings on the technology base programs in the Department of Defense.
SR-222

MARCH 15

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Smithsonian Institution.
SD-116

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To continue hearings to examine health care reform issues in a changing marketplace.
SD-430

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for farm and foreign agriculture services of the Department of Agriculture.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Justice.
Room to be announced

Judiciary
To hold hearings on proposed legislation to reform the Federal regulatory process.
SD-226

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bonneville Power Administration.
SD-192

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

2:30 p.m.
Indian Affairs
To hold hearings on S. 349, to authorize funds for the Navajo-Hopi Relocation Housing Program.
SR-485

MARCH 16

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on taxpayers' stake in Federal farm policy.
SR-332

Rules and Administration
To hold hearings to examine Architect of the Capitol funding authority for new projects.
SR-301

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Bureau of Investigation and Drug Enforcement Agency, both of the Department of Justice.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Highway Administration, Department of Transportation.
SD-192

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Education.
SD-192

Armed Services
Personnel Subcommittee
To hold hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, focusing on manpower, personnel, and compensation programs.
SR-222

MARCH 22

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Fish and Wildlife Service, Department of the Interior.
SD-192

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Natural Resources Conservation Service, Department of Agriculture.
SD-138

2:30 p.m.
Indian Affairs
To hold hearings on S. 441, to authorize funds for certain programs under the Indian Child Protection and Family Violence Prevention Act.
SR-485

MARCH 23

9:30 a.m.
Governmental Affairs
Oversight of Government Management and The District of Columbia Subcommittee
To hold oversight hearings to examine initiatives to reduce the cost of Pentagon travel processing.
SD-342

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Railroad Administration, Department of Transportation, and the National Passenger Railroad Corporation (Amtrak).
SD-192

2:00 p.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Alcohol, Tobacco and Firearms and the United States Customs Service, Department of the Treasury.
SD-192

3:00 p.m.
Appropriations
Labor, Health and Human Services, and Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Institutes of Health, Department of Health and Human Services.
SD-138

MARCH 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Housing and Urban Development.
SD-138

MARCH 27

2:00 p.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Executive Office of the President, and the General Services Administration.
SD-138

MARCH 28

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Land Management, Department of the Interior.
SD-116

MARCH 29

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Food Safety and Inspection Service, Animal and Plant Health Inspection Service, Agricultural Marketing Service, and the Grain Inspection, Packers and Stockyards Administration, all of the Department of Agriculture.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Judiciary, Administrative Office of the Courts, and the Judicial Conference.
S-146, Capitol

10:30 a.m.
Indian Affairs
Business meeting, to consider pending calendar business.
SR-485

MARCH 30

9:30 a.m.
Rules and Administration
To hold hearings to examine the future of the Smithsonian Institution.
SR-301

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to review the legislative recommendations of AMVETS, American Ex-Prisoners of War, Vietnam Veterans of America, Blinded Veterans Association, and the Military Order of the Purple Heart.
345 Cannon Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Aviation Administration, Department of Transportation.
SD-192

MARCH 31

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on agricultural credit.
SR-332

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Veterans Affairs, the Court of Veteran's Appeals, and Veterans Affairs Service Organizations.
SD-138

APRIL 3

2:00 p.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Internal Revenue Service, Department of the Treasury, and the Office of Personnel Management.
SD-138

APRIL 4

9:30 a.m.
Agriculture, Nutrition, and Forestry
To resume hearings on proposed legislation to strengthen and improve United States agricultural programs, focusing on market effects of Federal farm policy.
SR-332

Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Park Service, Department of the Interior.
SD-138

APRIL 5

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the National Aeronautics and Space Administration.
SD-192

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Agricultural Research Service, Cooperative State Research, Education, and Extension Service, Economic Research Service, and the National Agricultural Statistics Service, all of the Department of Agriculture.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Immigration and Naturalization Service, and the Bureau of Prisons, both of the Department of Justice.
S-146, Capitol

APRIL 6

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Emergency Management Agency.
SD-138

Rules and Administration
To resume hearings to examine the future of the Smithsonian Institution.
SR-301

2:00 p.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Treasury and the Office of Management and Budget.
SD-116

APRIL 26

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for energy conservation.
SD-116

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Food and Consumer Service, Department of Agriculture.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Legal Services Corporation.
S-146, Capitol

11:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for fossil energy, clean coal technology, Strategic Petroleum Reserve, and the Naval Petroleum Reserve.
SD-116

APRIL 27

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Federal Transit Administration, Department of Transportation.
SD-192

MAY 2

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Forest Service of the Department of Agriculture.
SD-138

MAY 3

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Environmental Protection Agency, the Council on Environmental Quality, and the Agency for Toxic Substances and Disease Registry.
SD-192

10:00 a.m.
Appropriations
Agriculture, Rural Development, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Agriculture.
SD-138

MAY 4

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the United States Coast Guard, Department of Transportation.
SD-192

MAY 5

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for Environmental Protection Agency science programs.
SD-138

MAY 11

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Bureau of Indian Affairs, Department of the Interior.
SD-116

1:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Indian Health Service, Department of Health and Human Services.
SD–116

MAY 17

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of the Interior.
SD–192