HOUSE OF REPRESENTATIVES—*Wednesday, August 5, 1998*

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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
August 5, 1998.

I hereby designate the Honorable JOHN E. PETERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Reverend James David Ford, D.D., offered the following prayer:

With all the tasks before us and the competing voices that demand attention, may we hear Your still, small voice, O God, that calls us to lift our eyes to see Your vision and to hold fast to our faith to see each day through. We pray, O loving God, that Your grace will be sufficient for all our needs and Your promises will lead us in the way of truth and righteousness. Guide us in the day and protect us all the night through so that we will be good stewards of Your gifts to us. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio (Ms. KAPTUR) come forward and lead the House in the Pledge of Allegiance.

Ms. KAPTUR led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 one-minutes per side.

TRIBUTE TO ILLINOIS VFW MAN OF THE YEAR JOE BERG

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

Mr. SHIMKUS. Mr. Speaker, today I rise in tribute to Illinois VFW Man of the Year, and Collinsville native, Joe Berg. Mr. Berg was selected from nearly 100,000 Illinois Veterans of Foreign Wars to be named the 1997–98 Man of the Year and has been a dedicated leader in both his post and the state VFW organization.

Mr. Berg has held numerous positions with the VFW, most recently serving as a state public relations director, district commander, and chaplain in local post 5691.

Joe also has served the Holy Cross Lutheran Church in many positions and has balanced his life between his church, family, and the VFW. I am proud to recognize this veteran who has answered the call to serve in so many ways throughout his life, and I offer him congratulations and thanks on behalf of all veterans.

It is with the tireless efforts of people like Joe Berg that the memories and deeds of those who fought on foreign soil will not be forgotten.

HOUSE TASK FORCE ON SERIOUS MENTAL ILLNESS

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

Ms. KAPTUR. Mr. Speaker, we all know the name Russell Weston, Jr., and we all know that he tragically took the lives of two fine Americans, Officers Jacob J. Chestnut and John Gibson. But many Americans still do not know that this tragedy could have been avoided, not by installing even more security here, but by improving the state of health care available to the seriously mentally ill among our citizens.

The state of psychiatric care in our country has spawned growing homelessness, more neglect, as well as increasing violence since deinstitutionalization of mental patients occurred over 2 decades ago with no community follow-up.

The gentlewoman from New Jersey (Mrs. ROUKEMA) and I are working hard to establish a special House task force on serious mental illness. This task force would be responsible for examining the state of our mental health system, especially those who are not being adequately treated. This task force would gather testimony about what America can and should do.

Please support our effort to establish a task force on mental illness. Contact the leadership. Urge them to move so we can begin to repair the tattered dreams of millions of American families.

NATIONAL GAMING IMPACT STUDY COMMISSION

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

Mr. GIBBONS. Mr. Speaker, well, here we go again. The counterfeit logic of some Washington bureaucrats is once again putting the sovereignty of every state in this Nation at risk.

On January 22 of this year, the Secretary of the Interior unilaterally made a regulatory decision that would literally strip every state of their most fundamental rights, rights established under the Tenth Amendment to the Constitution. It seems the Secretary's new regulation would give him the sole individual authority to approve Indian gaming in any state. Not the voters, not even the governor, nor the elected officials of that state would have a decision.

This unconscionable trampling of the Tenth Amendment is taking reserved rights from us, from our states, from our governor, from our elected officials and unilaterally vesting them in some Washington bureaucrat.

Fortunately, the nonpartisan National Gaming Impact Study Commission, which was created by Congress to study the impacts of gaming, made a bold but necessary policy decision telling the Secretary to rein in his proposed Indian gaming rules and to reestablish fair and equitable relationships between the States and respective Indian tribes.

DRACULA OF CANVAS LAST OFFERING

(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, David Bowie and Yoko Ono have sponsored Herman Nish's 6-day Orgy Mystery Theater. In the name of art, 3 bulls and 6 pigs will be castrated, disemboweled, then eaten by a live audience.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

A press release says Nish's students will not only paint with the fresh blood of these sacrificed beasts but also their entrails.

Who is this guy teaching? Jeffrey Dahmer? Ridiculous. If that is not enough to massage your Mona Lisa, art critics say this is an improvement over this Dracula of canvas last offering.

My colleagues, this guy decorated beautiful, naked women with the bowels of dead animals. Beam me up. What is next, folks? The Lorena Bobbitt do-it-yourself art expo?

This art business is out of control. We have gone from Michelangelo and Picasso to Herman Nish and Charlie Kruger. I yield back any body parts left after this expo.

PLIGHT OF PRAIRIE DOGS

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

Mr. HEFLEY. Mr. Speaker, this week the National Wildlife Federation of Vienna, Virginia has petitioned to have the Black Tail Prairie Dog listed as an endangered species in 10 western states.

Understand, this was not your run-of-the-mill petition but a request for an emergency listing due to the loss of habitat. While supporters of the petition admit that the prairie dog population is not critically low, the logic seems to be that we should protect them now because some day they might be endangered.

Let me tell my colleagues about the prairie dog. They are everywhere in the West. If they want habitat, come west, we specialize in habitat for prairie dogs. With all the growth we have had along the front range of Colorado, they are still in abundance.

If we fly over the West, we see the ground plowed as if it were plowed by a steel plow. But it is not. It is by prairie dogs. If my colleagues are familiar with the West, they know that the prairie dog is no more endangered than the fly or the gopher.

Maybe we should arrange a trade: We will protect the prairie dog if the East Coast agrees to protect the gopher and the terribly endangered house fly.

By the way, prairie dogs, not dogs. They are rats.

RENO THREE

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

Mr. BALLENGER. Mr. Speaker, yesterday the House Government Reform and Oversight Committee asked questions about a scandal that is even more serious than Filegate, even more outrageous than Travelgate, and even more troubling than Whitewater.

This Oversight Committee asked the Justice Department's two top investigators why an independent counsel has not been named to investigate mountains of evidence that the Democrat Party took nearly $3 million in illegal campaign contributions from Communist China.

One would think that the penetration of the American electoral system by a foreign power, a communist dictatorship with 13 nuclear missiles aimed at our shores no less, would not be a partisan issue.

What are we to conclude from the other side's total lack of interest in getting to the bottom of this shocking scandal? What are we to conclude from the other side's silence, total silence, in the face of FBI Director Louis Freeh and Justice Department investigator Charles LaBella's public pleas for an independent counsel to investigate this matter?

I really would hate to even speculate.

WESTERN SAHARA

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

Mr. PITTS. Mr. Speaker, I rise today to urge all parties involved in the 20-year conflict over Western Sahara to fulfill their commitments under the Houston Agreement and the United Nations mandate.

The parties negotiated a cease-fire with the understanding that the people of Western Sahara themselves could participate in a free, fair, and transparent referendum to decide their own future either as a part of Morocco or as an independent country.

However, the July 10 report by Secretary General Kofi Annan raises particular issues of concern about the referendum process: Obstructions to the UN opening an office in the territory, the lack of progress in the demining of the territory, and the refusal of Morocco to identify 2,000 individuals to vote in the referendum.

Mr. Speaker, a free, fair and transparent referendum is vital to lasting peace and increased stability in North Africa. All parties involved in the referendum process should maintain their commitments to the utmost.

A failure to hold a referendum would be a failure to all parties involved, including the international community.

VIOLATED CAMPAIGN FINANCE LAWS

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

Mr. COOK. Mr. Speaker, I am not in the habit of always quoting from the New York Times editorials because they are often reliably hostile to conservative values and to the Republican Party. But I think that is what makes this New York Times July 23 editorial so remarkable, which I invite everyone to consider carefully.

Charles LaBella, Attorney General Janet Reno's hand-picked investigator to oversee the campaign finance probe, has joined FBI Director Louis Freeh in calling for an independent counsel to find out the truth about Communist Chinese money funneled into the Democratic Party during the 1996 elections.

Of all the independent counsel matters currently under investigation, this particular allegation is perhaps the most serious one of all. If one party systematically violates the campaign finance laws, compromised national security with respect to our relations with Communist China, and then lied about doing any such thing, that is an attack on democracy.

If Janet Reno continues to block this investigation, in the words of the New York Times, "this will go down as a black mark against justice every bit as historic as any in our history."

JANET RENO'S FAILURE TO UPHOLD THE LAW

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

Mr. STEARNS. Mr. Speaker, I think most of us can agree this morning that the one basic task for the Attorney General is to uphold the Nation's laws. Yet, Janet Reno is refusing to do that by not appointing an independent prosecutor to investigate campaign abuses by officials in the Clinton administration.

She is acting a lot like Rip Van Winkle, who was asleep for over a year. She has been asleep for the last year as her two top investigators, FBI Director Louis Freeh and the head of the Justice Task Force Charles LaBella have recommended an appointment of an independent prosecutor.

The law is clear. The appointment of an independent counsel should be automatically triggered with just the hint of laws being broken by such officials. What more does she need?

But meanwhile, the Attorney General Janet Reno keeps sitting on her hands blind to the evidence and, Mr. Speaker, blind to the law.

ONE-YEAR ANNIVERSARY OF TAXPAYER RELIEF ACT

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

Ms. DUNN. Mr. Speaker, today marks the 1-year anniversary of the Taxpayer Relief Act, an historic piece of legislation that consisted of the first significant tax cut since the Reagan tax cuts of the early 1980s.

Let us face it, the Taxpayer Relief Act would never have passed had it not been for a Republican Congress. Let us remember that the idea we could balance the budget and pass tax relief was ridiculed by our worthy opponents on the other side right here in this body almost daily not too long ago.

Let us also remember that welfare reform would never have happened had it not been for the Republican takeover of Congress in 1994. The IRS reform bill passed this summer. Not a chance if the Republicans had not held the majority. And last summer's Medicare reform legislation, which postponed bankruptcy from 2001 and 2010, it took a Republican Congress to push for Medicare reform in the face of the most constant, shameless demagoguery about good-faith efforts to reform Medicare.

Mr. Speaker, elections do matter. Balanced budgets, tax cuts, welfare reform, IRS reform, and Medicare reform. That is the reality of the Republican Congress.

□ 1015

NATIONAL TRUCK DRIVER APPRECIATION WEEK

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

Mr. BARTLETT of Maryland. Mr. Speaker, I hope Americans will take time during the week of August 9 to note the accomplishments and contributions that truck drivers and the trucking industry have made to our lives and the prosperity of the American economy.

Consider:

From 1986 to 1996, the fatality rate for large trucks fell by 35 percent, while large truck mileage increased by 40 percent. The trucking industry employs nearly 9.5 million Americans. More than 423,000 companies in the United States are involved in trucking. In 1996 the trucking industry generated $346 billion in gross revenues, hauling 6.5 billion tons of freight. Incidentally, that represents 82 percent of the Nation's freight bill.

I encourage everyone to celebrate the great safety record and the contribution to our well-being of America's truckers by making August 9 to August 15 National Truck Driver Appreciation Week.

MENTAL HEALTH

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

Mrs. ROUKEMA. Mr. Speaker, last week two members of the Capitol Police force here were killed in the line of duty here at the Capitol. The senseless death of those two police officers has proved to the world what many of us already knew namely that there are gaping holes in the network of services designed to identify and treat people with mental illness. But I tell my colleagues something good must come from this tragedy, and we must work towards a lasting memorial for these valiant officers.

More and more Americans are witnessing in their communities every day the violence resulting from the failed policy of deinstitutionalization and untreated mental illness. Last year alone, over 1,000 homicides were directly attributable to improperly treated mental illness.

I therefore call the attention of my colleagues to the initiative that the gentlewoman from Ohio (Ms. KAPTUR) and I are taking, urging that Speaker GINGRICH and the House leadership appoint a task force to have a serious evaluation, including public hearings, on the failures of the system that result in violence in every community in this country that results from untreated mental illness.

I ask again, join us. Something good must come from this tragedy.

MANAGED CARE REFORM

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

Mr. BROWN of Ohio. Mr. Speaker, today the Committee on Commerce will consider legislation reauthorizing the Mammography Quality Standards Act, a program which has saved countless lives by improving the quality and accuracy of life-saving breast cancer screenings. While we improve early detection and screening of this deadly disease, women who suffer from breast cancer continue to be denied the best medical treatments available because medical decisions are too often made by insurance company HMO bureaucrats.

The bipartisan Patients Bill of Rights would ensure that women could stay in the hospital overnight following radical breast surgery. The Republican bill does not. The bipartisan Patients Bill of Rights would ensure that women can receive reconstructive surgery following mastectomy. The Republican bill does not.

This House has passed the Republican Insurance Company Bill of Rights. I urge my colleagues to do the right thing. Insist on a real Patients Bill of Rights, legislation which provides real protections for women.

2000 CENSUS

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

Mr. EWING. Mr. Speaker, I rise today to ask a simple question: Why would the President want to shut down the government over the census? He once said, "It is deeply wrong to shut down the government while we negotiate." Now he says he will veto a bill that would in fact close down the FBI, close down the courts, and bring home the Border Patrol unless Congress gives him his plan for the 2000 census. That plan is one to be done by polling, not counting individual citizens. We all know the margin of error in polling.

Mr. Speaker, the Republican Congress wants to save the 2000 census. The GAO and the Commerce Department's own Inspectors General have warned that we are headed toward a failure in the census. We believe that before America spends $4 billion on the census done by polling, we should find a way to do it the way we have for 200 years, by counting each American.

MANAGED CARE REFORM

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

Mr. GREEN. Mr. Speaker, I want to share with my colleagues a letter I recently received from two Republican State legislators from Texas.

Representative John Smithee, Chairman of the House Committee on Insurance, and Senator David Sibley, Chairman of the Committee on Economic Development opened their letter with a plea to Congress not to disturb the substantial progress already achieved in Texas on managed care reform. Their letter is written because the two Republican leaders of the legislature in Texas read the Gingrich Insurance Protection Act that was passed by the House and they know what it would do to the protections already passed by the Texas legislature. It would render them useless.

In place of the strong patient protections passed in Texas, which include HMO accountability, binding independent reviews, coverage for emergency care and the elimination of gag clauses, Texas would be left with a sham bill that for every patient protection, it gives the insurance companies a loophole they can drive a truck through because of the bill that passed on this floor.

Like many States around the country, Texas has passed laws that meet the needs of its citizens to deal with insurance companies licensed by the State. We should not undermine their work, we should complement it on a national basis.

THE FIRESTORM COMETH

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

Mr. KINGSTON. Mr. Speaker, a lot of people criticize the current scandal,

the most visible, the most popular scandal at the White House as being overblown and overdiscussed and so forth. I think perhaps that they have something to say. I think there is a lot of validity in that statement.

I for one frankly am a lot more concerned about why the Chinese communists funneled into the Democrat National Party $3 million in illegal contributions during the last election. What was that all about? And why suddenly after that did we give them unprecedented missile technology, transfers from Loral Corporation, whose CEO Bernie Schwartz gave $600,000 personally to the reelection efforts of the Democrats and the President.

But this is something that is not just Republicans getting mad at Democrats. This is what the liberal-leaning, Democrat-endorsing New York Times said, that Charles LaBella, who has been leading the Department of Justice campaign finance investigation, has now advised Attorney General Janet Reno that under both the mandatory and discretionary provisions of the Independent Counsel Act, she must appoint an outside prosecutor to take over this.

I agree with Mr. LaBella. It is time to have an outside prosecutor to figure out why 3 million illegal contribution dollars went to the Democrat Party.

CENSUS

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

Mr. MILLER of Florida. Mr. Speaker, later this morning we will be having a debate over the upcoming decennial census concerning an amendment by the gentleman from West Virginia (Mr. MOLLOHAN). Unfortunately this issue has become very politicized, and that is wrong because the census should not be part of the political debate here, it should be just counting people in this country, not speculating and guesstimating by utilizing polling techniques. That is what exactly has been proposed by the President.

What the gentleman from Kentucky (Mr. ROGERS), the chairman of the committee, has proposed is that the decision be made next spring. That is under agreement by the President, by the Census Bureau, the decision should be made next spring. That is when we should face the decision.

Unfortunately the gentleman from West Virginia (Mr. MOLLOHAN) says, "Congress, you're not relevant in this decision. We think only the President knows best to decide and we'll let the President decide next spring and we're not interested in what Congress has to say on the issue." What we believe is it should be a bipartisan decision next spring when all the facts are in, we can make the decision, not now, and we should have an agreement with Congress, the Democrats and the Republicans and the Administration. That is what we want to do. I hope everybody will vote down the Mollohan amendment.

PROVIDING AMOUNTS FOR FURTHER EXPENSES OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. NEY. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 506) providing amounts for further expenses of the Committee on Standards of Official Conduct in the second session of the One Hundred Fifth Congress, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. PETERSON of Pennsylvania). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 506

Resolved,

SECTION 1. FURTHER EXPENSES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

For further expenses of the Committee on Standards of Official Conduct (hereafter in this resolution referred to as the "committee"), there shall be paid out of the applicable accounts of the House of Representatives not more than $200,000.

SEC. 2. VOUCHERS.

Payments under this resolution shall be made on vouchers authorized by the committee, signed by the chairman of the committee, and approved in the manner directed by the Committee on House Oversight.

SEC. 3. LIMITATION.

Amounts shall be available under this resolution for expenses incurred during the period beginning at noon on January 3, 1998, and ending immediately before noon on January 3, 1999.

SEC. 4. REGULATIONS.

Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

SEC. 5. ADJUSTMENT AUTHORITY.

The Committee on House Oversight shall have authority to make adjustments in amounts under section 1, if necessary to comply with an order of the President issued under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section 1.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the further consideration of the bill, H.R. 4276, and that I may include tabular and extraneous material.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 508 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. 4276.

□ 1025

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. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, August 4, 1998, a request for a recorded vote on amendment No. 8 by the gentleman from Missouri (Mr. TALENT) had been postponed and the bill was open from page 38, line 4 through page 115, line 8.

Pursuant to the order of the House of that day, no further amendment to this portion of the bill is in order except:

(1) an amendment by the gentleman from Kentucky (Mr. ROGERS) related to NOAA for 10 minutes;

(2) an amendment by the gentleman from Alabama (Mr. CALLAHAN) related to NOAA for 10 minutes;

(3) an amendment by the gentleman from Alabama (Mr. CALLAHAN) related to a general provision regarding fisheries for 20 minutes;

(4) an amendment by the gentleman from Maryland (Mr. GILCHREST) to strike section 210 for 15 minutes;

(5) an amendment by the gentleman from Florida (Mr. STEARNS) relating to U.N. arrears for 15 minutes; and

(6) an amendment by the gentleman from West Virginia (Mr. MOLLOHAN) regarding the census for 2 hours.

AMENDMENT OFFERED BY MR. MOLLOHAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment printed in House Report 105–641 offered by Mr. MOLLOHAN:

Page 45, strike lines 9 through 19 and insert the following: *Provided,* That the Bureau of

the Census may use funds appropriated in this Act to continue to plan, test, and prepare to implement a 2000 decennial census that uses statistical sampling methods to improve the accuracy of the enumeration, consistent with the recommendations of the National Academy of Sciences made in response to Public Law 102–135, unless the Supreme Court of the United States rules that these methods are contrary to the Constitution of the United States or title 13 of the United States Code: *Provided further*, That the Bureau of the Census shall also continue to plan, test, and become prepared to implement a 2000 decennial census without using statistical methods, in accordance with the first sentence of section 209(j) of Public Law 105–119, until the Supreme Court has issued decisions in or otherwise disposed of all cases brought pursuant to section 209(b) of Public Law 105–119 and pending as of July 15, 1998 (or the time for appealing such cases to the Supreme Court has expired), and shall continue such preparations beyond that date only if the Supreme Court has held statistical sampling methods to be contrary to the Constitution or such title 13: *Provided further*, That the National Academy of Sciences is requested to review the current plans of the Bureau of the Census to conduct the decennial census using statistical sampling methods and report to the Congress, not later than March 1, 1999, regarding whether these plans are consistent with past recommendations made by the Academy, and whether, in the judgment of the Academy (or an appropriate expert committee thereof), these plans represent the most feasible means of producing the most accurate determination possible of the actual population.

The CHAIRMAN. Pursuant to House Resolution 508 and the order of the House of Thursday, July 30, 1998, the gentleman from West Virginia (Mr. MOLLOHAN) and a Member opposed each will control 1 hour.

The Chair recognizes the gentleman from West Virginia (Mr. MOLLOHAN).

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

Mr. Chairman, the purpose of my amendment is to again focus the census debate on the issues of science and accuracy and remove, to the extent possible, the political influences which have become so overbearing with regard to this issue.

The bill before us today would seriously jeopardize the 2000 census. The good news is that the bill provides $107 million more for census preparation than the President requested. The bad news is that what the bill gives with one hand, it takes away with the other. How?

First, it cuts off funding for the preparation of the 2000 census in the middle of the fiscal year, and any expenditure thereafter would be dependent upon passage of additional legislation. This language could cause a sudden shutdown of census preparations with irreversible consequences, in the not unlikely event that Congress and the President are unable to agree on the terms of that subsequent legislation.

Second, the reason this bill takes away from the census is it only allows for half of the funds to be spent till the cutoff period. By dividing the appropriation in half, the majority withholds funds which must be obligated during the first 6 months of the fiscal year. In fact, the Census Bureau needs to obligate about $644 million of the $952 million appropriation during that first half time period. This creates a shortfall of about $169 million.

Why has the Republican majority proposed such a disruptive funding scheme? At the heart of this matter is a major dispute over the use of a population counting technique commonly referred to as "scientific statistical sampling" which is a method recommended by the National Academy of Sciences.

□ 1030

It has been adopted by the Census Bureau because it would guarantee that the 4 million people who were not counted in the 1990 Census, of which 50 percent were children, would be counted in the 2000 Census. It is opposed by the Republican majority because of their belief that including these undercounted groups will somehow disadvantage Republican majority control of the United States House of Representatives.

We cannot allow this political debate over scientific sampling to kill the 2000 Census. The on-again-off-again census funding in this bill would be fatally destabilizing, and it is for this reason that I feel compelled to offer an alternative solution.

In summary, my amendment does the following:

First, it provides uninterrupted full funding for the 2000 Census, removing the language that threatens a shutdown of the Census.

Second, it provides that the Bureau proceed to prepare for the 2000 Census on a dual track, preparing for both a sampling and a nonsampling census until the Supreme Court disposes of the sampling cases currently pending, whereupon the Census Bureau would be allowed to move forward with a census incorporating sampling unless sampling has been declared unconstitutional by the Supreme Court.

Finally, and I think most importantly in some ways, this amendment enlists experts rather than politicians to help resolve the technical and statistical issues involved by asking the National Academy of Sciences to become involved.

It is important to note, and let me emphasize, that as we stand here today scientific sampling is both legal and authorized by Congress. Therefore, my amendment does provide that the current Census Bureau sampling plan will move forward unless the Supreme Court specifically rules that sampling is unconstitutional. If the Supreme Court finds that sampling is allowable under the Constitution or does not make a clear determination, then sampling will be allowed to proceed and funding will be cut off for the dual track.

Mr. Chairman, I feel that my amendment represents a compromise that all parties should be able to support. There are three main arguments used in opposition to scientific sampling in the Census. My amendment sincerely attempts to adequately address all three.

In their first argument opponents of sampling cite the Constitution. They assert that the Constitution requires an actual head count of the population. I disagree. In fact, separate opinions issued by the Department of Justice under President Carter, President Bush and President Clinton all concluded that the Constitution permits the use of scientific sampling and statistical methods as a part of the Census. But whatever my opinion, whatever the opinion of Justice Department officials, and whatever the opinion of my Republican colleagues, this issue is now before the courts, and my amendment provides for the courts to decide whether we can go forward with sampling in the Census. We should all be able to agree on that.

In the second argument opponents of sampling say that it is bad science. I simply defer to the experts on this matter: The National Academy of Sciences, the American Statistical Association, the Council of Professional Associations on Federal Statistics, the National Association of Business Economists, just to name a few professional organizations that have all endorsed the use of scientific sampling in the 2000 Census. To ensure that the scientific community stays involved in this process my amendment asks the National Academy of Sciences to take yet another look at the Census Bureau's plans and to recertify that they are indeed the best way to achieve an accurate 2000 Census.

In the third argument, Mr. Chairman, opponents of sampling say that the Commerce Department will politicize the results of the Census. Well, I do not share this view. Its nature makes it impossible to refute through fact or expert opinion. But this concern was addressed last year with the creation of the Census Monitoring Board. This entity is already in place and will be the eyes and ears of Congress as plans for the Census move forward.

In addition, I do not know of any better way to create confidence in the methodology that we are going to use to conduct the 2000 Census than by an active involvement of the National Academy of Sciences which is provided for in my amendment. Certainly we can all agree that the reputation of the National Academy of Sciences is such that the great majority of fair minded people would accept their opinion on a matter such as this.

Mr. Chairman, having addressed the three most expressed concerns against sampling, only one remains: fear, fear that using sampling will affect the political makeup of the United States House of Representatives. Well, we must be careful in ascribing motives to people for their actions. In this case, the Republican concern about the consequences of an accurate census is well understood. As an example, be sure to read any one of the following editorials:

The Christian Science Monitor dated April 28, 1998; the Buffalo News, June 15, 1998; Newsday, June 16, 1997, or the Houston Chronicle, June 4, 1998, and these are just a few examples of a long list of editorials that all endorse the use of scientific sampling as the way to count that 1.6 percent of our population, those 4 million people who were not counted in 1990, and each editorial in its own way criticizes the Republican majority for its political motives for opposing sampling.

To the extent that anyone is opposing sampling because of potential political consequences I would only say that such motives are truly unworthy and misplaced in the world's greatest democracy which absolutely requires fair representation for all of its constituent groups. Well, Mr. Chairman, that can only be achieved through the most accurate census possible, a principle clearly understood by the framers of the Constitution and a goal which every nonbiased expert who has spoken on the matter says can best be achieved in the modern era through the use of scientific sampling.

Mr. Chairman, I urge my colleagues to vote for my amendment.

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

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from West Virginia (Mr. MOLLOHAN).

The CHAIRMAN. For purposes of controlling time, the gentleman from Kentucky is recognized for 60 minutes.

Mr. ROGERS. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, let me start by reminding the Members what this bill does with respect to the decennial census and why.

Last year on this bill the Congress and the White House agreed to disagree on whether the census would be conducted using a hard count or using an untested and legally questionable method known as sampling. My colleague always refers to it as scientific sampling. It is sort of like a toothpaste or patent medicine, scientifically proven to prevent cavities and so forth, all this scientific sampling, as we hear.

So there is a temporary agreement between the President and the Speaker of the House, and what did it say? The agreement said, "We will hold off on a final decision on whether or not to use sampling until the spring of 1999." At that time it was agreed that Congress and the White House would elect the method of counting in time for the Census Bureau to finish its final plans for the Year 2000 count.

What did we agree would occur in the meantime? One, we agreed to test each method using dress rehearsals in three cities this year; it is going on right now. Two, the parties on each side would have the opportunity to test the legality and constitutionality of sampling in the federal courts in an expedited fashion. The Supreme Court has never ruled on this question, and those cases, by the way, are now going on. Three, we would appoint a bipartisan census monitoring board to oversee all aspects of the decennial census, as is being planned and carried out. That monitoring board now is in session, is meeting regularly.

That, in essence, was the agreement, the President and the Speaker: Let us have a cooling-off period, let us proceed with plans to use both methods, let us let the courts rule as they may with a D-Day of next spring to make the final decision when hopefully all three of those conditions would have matured.

So what does the bill do that we drafted?

My colleagues, it simply implements the agreement the President wanted us to do. We provide a total of $956 million to fund preparations for the Census. That is $566 million over current spending. We added $107 million on top of what the President requested in order to have the staff and resources that the Bureau later admitted it needed to be fully prepared regardless of which method they eventually settled upon. So, we gave them more money than they asked for so they can prepare for both practices. We allow the first half of the money in the bill, $475 million, to be spent immediately so that necessary census preparations can continue through March 31, 1999. This is pursuant to the agreement the President asked us to do.

Second, we provide the second half of the money, $475 million, once a final decision on a counting method is agreed to by the Congress and the administration as they agreed last year to do.

To ensure that the Congress and the administration reach an agreement the bill requires the following:

By March 15, 1999, the President must request the funds that he needs to be released and must tell Congress how much the census at that time will cost, after we have heard the court, hopefully, after we have heard the monitoring board, hopefully, and after the dress rehearsals in three cities around the country have been completed.

The Congress must enact, and the President must sign, a bill to release the money, and the bill states that Congress shall act on the President's request by March 31. We bind ourselves. Submit the request to us by March 15, 1999, we guarantee we will act on that request 2 weeks later, by March 31, and off we go doing the census.

We have done everything in this bill we can, Mr. Chairman, to facilitate, to live up to the agreement the President asked us to do last year. It is all there, plus some.

The Mollohan amendment on the other hand would strike the very provisions in the bill that the President asked us to put in the bill last year and instead gives the administration complete authority over how the Census is conducted contrary to the Constitution and the Federal statutes which give the Congress control over how the census is conducted.

Neither his amendment, nor the administration which now supports it, seeks to live up to the agreement of last year. They are abandoning the agreement the President solemnly committed to last year. In fact, the administration supports something far more destructive than the amendment the gentleman from West Virginia is advocating, advocating a complete cutoff of funds for every other agency in this bill next spring until we agree to use sampling, as he wants to in the Census.

Yes, this President says:

"Oh no, don't give us half the money for the Census and fund all the other agencies in this bill all the whole year. Cut off all the agencies along with the Census in March," the President says, "and let's shut down the Drug Enforcement Administration, let's shut down the FBI and the War on Drugs and the War on Crime, let's shut down the State Department around the world and all of the sensitive things that are going on around the world in America's national security interests."

□ 1045

"Let us shut down the Federal courts, the Supreme Court, all the way through to the U.S. Marshal's Office. Shut them all down," he says. "Let us shut down the Commerce Department. Let us shut down the National Weather Service. Let us shut down all of the institutions in the Commerce Department, the NOAA, the Small Business Administration, all of the agencies that help Americans live a better life."

The President says, "Let us shut them all down so that I can have my way on sampling in the census." He says, "Trust me. Trust me, just as you trusted me with the FBI files, and I pilfered through them. Trust me on this." He says, "Trust me, even though we may have naturalized tens of thousands of felons so they could vote in the election of 1996. We gave away America's most precious gift, American citizenship, for the vote, but trust me." That is what this amendment would do, Mr. Chairman.

Could it be that the administration is afraid that this radical plan for polling instead of counting in the 2000 Census, that he knows it cannot be held up to public or Congressional scrutiny? I can certainly see where they might be nervous, given that the last attempt they had to use statistical sampling in the 1990 census was an absolute failure. In the 1990 census the experts in 1990 pushed to statistically manipulate the statistical count. The Secretary of Commerce refused, because he thought it might be wrong. Guess who was right? Ask the people of Pennsylvania, for example, who would have lost a congressman in this House if the experts had prevailed last time, as they want to do this time.

To be fair, the administration and the experts assure us that this time it will be different, just trust us. They say that the bugs have been removed from statistical sampling. Not so, says the GAO, and the Commerce Department's own Inspector General, in fact, both have said that every major component of the Census Bureau's 2000 census plan is at risk for quality problems and cost and growth.

Even more disturbing, they both raise serious questions about how the Census Bureau plans to use a statistical manipulation of the census count. The IG says it is long, complex, and operating under such a tight time schedule that there will be many opportunities for operational and statistical errors.

The GAO said "The Bureau has made several missteps in drawing the statistical sample because these errors went undetected until relatively late. GAO is concerned about the Bureau's ability to catch and correct problems."

In fact, the title of the GAO report says it all: "Preparations for the Dress Rehearsal Leave Many Unanswered Questions." That is what GAO titles their report. Maybe that is why the administration no longer wants to wait until next spring to work with the Congress on a final decision.

Or maybe it is because the administration is afraid the courts will rule sampling to be illegal or unconstitutional. That would explain why the Administration's own lawyers have been fighting vigorously in Federal court to get the pending lawsuits thrown out on procedural grounds, so that the courts will not rule on the merits of this issue in time for next spring's decision.

Mr. Chairman, I tell my colleagues, make no mistake about it, if the Mollohan amendment is adopted, the very success of the 2000 Census is in jeopardy for the first time in America's history. If the Mollohan amendment is adopted, the Congress will have no say in the conduct of the census, contrary to the Constitution.

We will not get to make a decision based on the dress rehearsal results or the reports from the bipartisan, independent Census Monitoring Board. We will not get to make a decision based on the court rulings. In fact, we will not make a decision at all. Instead, the Mollohan amendment asks us to trust the Clinton White House; defer to the same Clinton administration which pilfered through the FBI confidential files, which naturalized thousands of felons so they could vote; the most investigated administration in the history of the country; they say, trust us again.

Mr. Chairman, there is an old saying back in Kentucky, "There ain't no education in the second kick of the mule." We have learned a bit about this White House. "Trust us," they say. We say, "Okay, we will trust you, but we are going to verify. We are going to verify with an actual count. We do not trust you to guess on the numbers of people in the country for the purposes of deciding who can represent us in this Congress." That is all we are saying. They may sample if they will on the number of people with blue eyes, but actually count the people when it comes to making up this body that represents all the American people for all that is in the Constitution.

The American people have a right to expect that this Congress will ensure the integrity of the very process that determines the nature of their representation in the House.

For that reason, Mr. Chairman, I urge the House to live up to the agreement we reached with the White House. I urge the White House to live up to the agreement they reached with us, and vote down the Mollohan amendment.

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

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentlewoman from New York (Mrs. MALONEY), ranking Democrat on the Committee on Government Reform and Oversight, who has worked incredibly hard on this issue. She has been at the forefront of ensuring that we have a fair 2000 Census.

Mrs. MALONEY of New York. I thank the gentleman for yielding time to me, Mr. Chairman, and congratulate him on his outstanding leadership on this job.

Mr. Chairman, I rise in support of the Mollohan amendment, which will fully fund the Census 2000 so that they can merely get the job done. We should let the Census Bureau be the Census Bureau, and the Republican majority should stop interfering with the Census Bureau doing their job. The Nation needs an accurate count of our population, one that includes everyone.

In 1990 the Census missed 8.4 million people. one in 10 black males, one in 10 Hispanics, and one in 20 Asians was missed. Conducting a fair and accurate Census has become the civil rights issue of the nineties. The Census Bureau is working to implement a plan that is inclusive. It is modern, cost-effective, and comprehensive, and it will eliminate the undercount.

The House leadership will say that the 1990 Census was not so bad. They say that missing 8.4 million people and counting 4.5 million people twice was okay by them. They will tell us that everyone will be counted if they just do more counting.

However, the truth is, the old methods just do not work anymore. They will tell us that the Census plan is unconstitutional and illegal, but the truth is, every court that has ruled on the use of statistical methods in the Census has found them both legal and constitutional. They will tell us that the Census plan is subject to political manipulation. The truth is that real manipulation is doing nothing about the undercount.

They will tell us that this is President Clinton's plan, but the truth is that Congress ordered this plan and President George Bush signed it into law, a mandate that the National Academy of Sciences come up with a plan to correct the undercount. This plan is supported by every major statistical organization.

The House leadership will tell us that the plan is partisan. However, the truth is that nonpartisan editorial boards across this country, the New York Times, the L.A. Times, the Washington Post, have all endorsed the use of modern statistical methods in the year 2000 Census.

Guess who does not support modern statistical methods: the Republican National Committee. The Republican leadership should not be afraid of counting blacks, Hispanics, and Asians. What they should be afraid of is repeating the errors of 1990 while the Nation's minorities look on, knowing those mistakes could have been prevented, knowing they were intentionally left out.

The year 2000 Census must be about policy, not politics. It is the right thing to do. It is right for America. I urge my colleagues to support full funding for the Census Bureau. Support the Mollohan amendment.

Mr. ROGERS. Mr. Chairman, I yield 7 minutes to the gentleman from Florida (Mr. MILLER), the chairman of the Subcommittee on the Census, who happens to also be a doctor in statistics and marketing, and taught for the MBA program at his university, who is an expert on this topic.

Mr. MILLER of Florida. Mr. Chairman, let me congratulate the chairman for his treatment of the Census in this appropriation bill, because what he proposes is basically that the President and Congress, the Democrats and Republicans, need to work together next spring, when the decision needs to be made, and this has to be done in a nonpartisan fashion. This is not something

we can delegate to some hand-picked panel. This is something we need to work together on.

The reason that this is so political is that the President has proposed a radically different approach, an untested type idea of using polling, because it is the way to go. He loves polling. He polls every day. Every decision is made based on polling. If it works for him, it should work for the Census.

Many of the Members on that side were in Houston this past June. Let me quote what the President said about the Census when he talked about polling and sampling. Most people understand that a poll taken before an election is a statistical sample. Sometimes it is wrong, but more often than not, it is right. The President compares it with polling. This is what we are talking about.

The American people are not going to trust polling to do something that we only do once a decade. The Constitution only requires it every 10 years. Sampling is very appropriate in between the Census, when we take it every 10 years, but it is too critical an issue to be addressed by polling techniques at this time.

Let me take a minute to explain the difference in the two proposals, because there is confusion. What we propose is basically improving upon the 1990 model, where we counted 98.4 percent of the people. We went out and counted, and enumerated fairly successfully 98.4 percent of the people. Yes, we did miss some people.

Then, the second part was we did a polling sampling technique to try to see if we could adjust the numbers for full enumeration based on sampling and polling. That failed. The one attempt to use a large sampling model on the Census was a failure in 1990. It was not used.

When the Census Bureau tried to adjust the data, in fact, they tried to adjust it three different times and never got it right. They were wrong. They were going to wrongly take a congressional seat away from the State of Pennsylvania and shift it to Arizona, and take a seat away from the State of Wisconsin.

It also came out that data is less accurate for a less than 100,000 population. So for towns and cities all across America with less than 100,000 population, it is less accurate, on average. So if we are talking about accuracy, it is less accurate.

Also, we work with Census tracts, where there are only about 4,000 people in a tract. There is no question it is less accurate when we get down to that kind of data.

What has the President proposed in the Clinton Census issue? Instead of trying to count everybody, what he only wants to do is count 90 percent of the people. He wants to intentionally not count 26 or 27 million people. We agree to count everybody, yet the Clinton plan says, we are not going to count 26 million or 27 million people, because what we are going to do is have these computer-generated people. We are going to have this virtual population of 26 million or 27 million people. That is what we are talking about, not counting 26 or 27 million, and letting the computer come up with these people by cloning techniques. That is a little scary, what we are talking about doing.

This plan, as the gentleman from Kentucky (Chairman ROGERS) talked about, is a very risky plan. There is a high risk of failure. It is not as accurate to conduct this. The purpose of a Census is for apportionment of representatives.

What are we recommending? Let us improve upon the 1990 model. There is there are a number of things we can do. For example, 50 percent of the mistake in 1990 they say was the mailing list, the address list, so we need to do a much better job. I commend the Census Bureau for moving in the direction of doing that. In fact, there is $100 million in additional funding for address list development. The Census Bureau is going to go out and verify the addresses. That is exactly what we need to do is get a better mailing list. That will help address 50 percent of the problem there.

We are going to used paid advertising, instead of using free advertising, as we relied on back in 1990. Instead of having ads at 2 o'clock in the morning, we can run them where it is appropriate to the undercounted population. We can target our advertising.

We also should use local people working with the Census. The gentlewoman from Florida (Mrs. MEEK) and I are working on legislation to make it easier, so people can work part-time and not lose any Federal Government benefits, to work on the Census.

For example, the gentlewoman from Florida (Mrs. MEEK) represents a large Haitian population. We should have Haitians living in that community working on the Census. We need to provide whatever legislation is necessary. We also need to work with outreach. That is something that was very successful in Cincinnati, Indianapolis, Milwaukee last year. We need to do it throughout the country this time around.

This past week's newspaper in Northern Virginia, the Hispanic newspaper, the cover page talks about the United States Census 2000. It is talking about how we need to have a partnership, where we need to work together. It is talking about Census partnerships: "We cannot do it without you."

□ 1100

It talks about how there are jobs, census jobs, an equal employment opportunity employer. We need to work together in communities, in the undercounted areas, and do everything to concentrate on getting everybody counted, not creating these statistically or computer-generated artifacts.

We also should make use of whatever administrative records are available. If necessary, we need to pass legislation. The WIC program, for example, a mother may not want to fill out a form but she wants to get formula for her children. We should do everything we can to make records where there is Medicaid, WIC or what have you available.

So what we have is a choice of whether we want a census that can be trusted, and working together, or we want to trust only the President to make that decision. Now the President is threatening to shut down the entire Commerce, Justice and State Departments over this issue. That is irresponsible. This is a President that said it was terrible to shut down the government back in 1995, is already threatening it today over this issue if he does not get his way.

So it is wrong to try to threaten to shut down the government. We should not allow that to happen. Let us work together and get the most accurate census possible, where we count everyone, everyone counts. This is the plan, full enumeration, and let us do it together this spring.

Mr. MOLLOHAN. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I yield to the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Chairman, I simply want to point out here that the only shutdown associated with this issue is the shutdown that is contained in this bill, the shutdown that is threatened by the language which limits the appropriation for census to midyear. That is the only shutdown we are talking about.

The President had an agreement with the Republican majority. That agreement was untenable. That agreement is not even a part of this debate. I do not know why we have even alluded to it.

The fact is the only shutdown that we are looking at is the language in this bill that would shut down the census at midyear next year and that threatens a viable census.

I think it is important to understand that, that the threat to the 2000 census is contained in the bill, and the Mollohan amendment would free that up, allow it to be funded for the whole year.

Mr. WATT of North Carolina. Mr. Chairman, I want to address one of the legal issues that has been raised by the Republican majority.

The gentleman from Colorado (Mr. SKAGGS) will talk about the constitutional issue, but one of the issues that

the majority has raised is that the constitutional power of Congress to determine how the census will be conducted is being somehow undermined by the administration. Of course, nothing could be further from the truth.

The Constitution, as the gentleman from Colorado (Mr. SKAGGS) will point out, clearly says that the census will be taken in such a manner as Congress shall by law direct, and the Congress has passed a law, title 13 of the United States Code, which governs the way the census will be taken. And that title, section 141, says that the Secretary of Commerce shall take a census of population in such form and content as he may determine, including the use of sampling procedures and statistical surveys.

The Republicans seem to have a different interpretation of that. But clearly, the statute that is on the books allows, directs the administration and the census body to take this census with the use of statistical sampling. They seem to think that that is unconstitutional, and that case is going up to the Supreme Court. But several courts have held it constitutional and as long as the law is on the books, that is the law that we are obligated to follow and comply with. That is what we are doing.

That is why we are here today, trying to debate this issue on an appropriations bill, rather than trying to attack this frontally. We have got a law on the books that everybody is trying to follow. They have no capacity to repeal the law so they are trying to do by indirection what they cannot accomplish directly.

The language in the statute clearly allows, one would argue mandates, the use of statistical sampling. And the Republican majority is trying to undermine that because they cannot pass a law that repeals that law. They are trying to do this indirectly. We should not allow them to do this. We should pass the Mollohan amendment and move on with the census as the law now currently authorizes us to do.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. LATHAM), a very able and hard-working member of the subcommittee.

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

I rise in strong opposition to this amendment from the gentleman from West Virginia. Former Prime Minister Harold MacMillan once remarked that the English people did not throw off the yoke of the divine right of kings in order to bow before the divine right of experts. I think there is some truth in that.

In Congress here we have rules that we go by procedurally, but the ultimate rule that we have in Congress is the Constitution of the United States. This is the ultimate rule. Let us just see what the Constitution says about the idea of guessing at how many people are in the United States.

Article I, section 2 of the Constitution says: "The actual enumeration shall be made within 3 years after the first meeting of Congress of the United States and within every subsequent term of 10 years in such a manner as they shall by law direct."

Let us look at the definition of what "enumeration" is.

This is the dictionary that we use here. To enumerate: to mention separately, as if in counting; name one by one; specify, as in a list. I think that is pretty clear as to what enumeration stands for.

Also in the Constitution it refers to the census. Article XIV of the 14th Amendment, section 2, very clearly says, "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed."

Okay. If there is any question as to what that means, I think we can also take the dictionary and look at what it is to count. To count: to check over, one by one, to determine the total number; add up; enumerate.

When we were elected or sworn in to this Congress, we stood here and raised our hands that we would uphold the Constitution of the United States. I do not think that there is really a question as to what the Founding Fathers said. It is very clear. It is defined by Webster exactly what the words are.

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

Mr. LATHAM. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Indeed, the gentleman has referenced the source, the dictionary. Has the gentleman referenced any court decisions on the subject?

Mr. Chairman, the real meaning of the Constitution is defined through our court process, through the appeal process. And every court decision on the subject has ruled sampling constitutional, with all due respect to the gentleman's dictionary interpretation.

Mr. LATHAM. That simply is not the case. I think anyone who is sworn to uphold the Constitution should maybe read it.

Mr. MOLLOHAN. Mr. Chairman, on point, I yield 4 minutes to the distinguished gentleman from Colorado (Mr. SKAGGS), a member of our subcommittee.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding me the time and for his leadership on this issue.

This is not the first census debate. It is not the first decade in which the methodology has been called into question. This is not even the first century in which the census has been controversial.

President Washington was concerned about the results of the first census in 1790 because he thought there was an undercount.

Let us look at some relevant history here rather than sort of a Sesame Street reading of words.

The census has its origin in the Constitutional Convention. There, Article I, section 2, clause 3 of the Constitution was drafted, and it requires that "The actual enumeration shall be made within 3 years after the first meeting of the Congress and within every subsequent term of 10 years, in such manner as they," referring to Congress, "shall by law direct."

According to our Congressional Research Service, examination of the debates and documents of that Constitutional Convention show that earlier reference to a "census" was dropped and "enumeration" was used instead, but there is no suggestion that that was intended to reflect any change in meaning.

The significance of the term "actual enumeration" may be discovered from its context. The same clause of the Constitution goes on to provide for specified numbers of Members from each of the original 13 States "until such enumeration shall be made." It seems clear therefore that the term "actual enumeration" was intended to distinguish between the rough reckonings of the then-current populations of the original colonies that informed the size of the first House prescribed in clause 3 and the later need for a real count.

The Supreme Court has never determined whether the requirement of an "actual enumeration" precludes sampling or other adjustment, or whether it simply contemplates achieving the most accurate count of the population by whatever method.

As recently as 1996, however, in the case of Wisconsin versus New York, the court came very close. There, relying on the constitutional phrase "in such manner as they shall by law direct," the court held that "the text of the Constitution vests Congress with virtually unlimited discretion in conducting the decennial 'actual enumeration.'"

The lower courts that have addressed the issue all have concluded that the requirement of an "actual enumeration" means an accurate count, and that sampling is consistent with the Constitution if its purpose and its effect is to improve accuracy.

For example, in the 1990 ruling, the U.S. District Court in New York concluded "that because Article I, section 2 requires the census to be as accurate as possible, the Constitution is not a bar to statistical adjustment."

A decade earlier, the Sixth Circuit determined that "although the Constitution prohibits subterfuge in adjustment of census figures for purposes

of redistricting, it does not constrain adjustment of census figures if thoroughly documented and applied in a systematic manner.''

So there can be no real question about the constitutionality of using sampling to improve the accuracy of the actual enumeration. It is for us to decide ''in what manner'' we ''shall by law direct.''

As the gentleman from North Carolina (Mr. WATT) has pointed out, we have done that. The census statute already contemplates the use of sampling and adjustment in order to improve accuracy. That is what this is all about. We should pass the Mollohan amendment.

Aside from the constitutional question, history shows us that the level of controversy around the census waxes and wanes as a result of larger, social and demographic shifts and the political pain associated with adjusting to those changes. For example, the census was controversial and prone to political manipulation in the decades before and after the civil war, when there were issues about counting African Americans.

Population counts again became controversial in the 1920's, when census figures showed more people living in cities than in rural areas for the first time. In fact, those results were so alarming to the party in power at the time that they simply ignored the census and delayed reapportioning the House.

In short, Mr. Chairman, while this may not be quite deja vu all over again it's certainly not unprecedented—and it's not hard to figure out what's going on. Some of the changes in our country's demographics are uncomfortable for those defending certain conservative interests here.

It's projected that by the year 2020, hispanic and African American populations will grow to represent 30% of our total populace. Current census methodology takes us further and further from getting an accurate count of these populations. This is not news. The problem has been known for decades. Yet when methods are proposed to get a more accurate count of minorities, some try to delay or prevent a better count for fear of losing political power.

This year, Republicans are replaying this political battle in a way that is guaranteed not just to undermine progressive census reforms, but in a way that's likely to undermine the census itself. They have misguidedly decided to require an overworked group of folks over at the Census Bureau to plan for not just one but for two means of collecting population data. And then they want to cut off the Bureau's funds in the middle of the year, calling for a political decision at that time.

Let me restate this crucial point: the majority party in Congress is saying that they middle of the most critical census-planning year, 1999, the Census Bureau has to lurch along with half steps rather than do any full-year planning for a $4 billion, half-million-person project.

Would any CEO of any business agree to take on a critical project under these terms? If this bill passes in its current form, does anyone doubt that Republicans next year will find and be able to document Census Bureau organizational problems in putting this so-called plan into effect?

We should not do this, Mr. Chairman, Instead, we should do our duty. We should give the Census Bureau the tools it needs to do its job right—we should give the funds and the flexibility to produce the best, most accurate count possible.

Pass the Mollahan amendment.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from Michigan (Mr. KNOLLENBERG), a member of the committee.

Mr. MOLLOHAN. Mr. Chairman, I yield 15 seconds to the gentleman from Michigan (Mr. KNOLLENBERG).

The CHAIRMAN. The gentleman from Michigan (Mr. KNOLLENBERG) is recognized for 3 minutes and 45 seconds.

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

I rise today in opposition to this amendment. While I have worked with my distinguished colleague from West Virginia and found common ground on some significant issues, I must disagree with him on this issue because, based on solid numerical evidence which is against sampling, and the Census Bureau's own research after the 1990 Census Bureau enumeration surveys, sampling did not work in the 1990 census post-enumeration surveys, so why would we expect a similar plan to work for the 2000 census?

□ 1115

Merely increasing the sample size will not improve the accuracy of the survey, it will only increase the possibility of error.

The Census Bureau's own 1992 CAPE report, Committee on Adjustment of Postcensal Estimates, indicated that after the second post enumeration survey, using the improved so-called grouping method, that sampling was inaccurate for areas under 100,000. Many of us have districts with no single area over 100,000. How can we misrepresent such a large percentage of our population? Furthermore, Mr. Chairman, the Secretary of Commerce concluded in 1991, that while 29 States would benefit from adjusted counts, 21 would be less accurate, or lose population.

We cannot support a plan that is good for some and not for others. Because these numbers are used for apportionment, failing to ensure equal representation is a serious threat to our democracy. Enumerate, not polling, not computer models. Sampling does not equal accuracy.

Not only is sampling numerically unreliable, it is inconsistent, as has been pointed out by my friend from Iowa, with the Constitution, which does require actual enumeration. Nowhere in the Constitution does it state that the President has a right to decide how the census should be directed, which is what he is trying to do.

And despite his statement that it was deeply wrong to shut the government down, that was back in 1996, the President has threatened to shut down the Commerce Department, the Justice Department and the State Department in order to implement his administration's plan. However, we should not support political threats with bad policy.

Congress and the administration must work together to create a plan that the American people will trust. We must listen to the warnings, as the chairman has pointed out, of the GAO and the Inspector General and create a bilateral plan with the administration that will accurately represent the American people.

Mr. Chairman, I firmly suggest we oppose this amendment.

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

Mr. KNOLLENBERG. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, the gentleman talked about the President saying how we are going to conduct the census, and then he said that it is the Congress' job to do that. I totally agree it is the Congress' job to do that, and we have defined in 13 USC section 141, in pertinent part, the Congress, in this law, has given the Secretary of Commerce the responsibility to conduct a ''decennial census in such form and content as he may determine, including the use of sampling procedures and special surveys.''

Mr. KNOLLENBERG. Reclaiming my time, Mr. Chairman, sampling simply does not produce the accuracy, as has been pointed out. So I would say to the gentleman that it is not a substitute. Sampling is not a substitute for accuracy.

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

Mr. KNOLLENBERG. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, does the gentleman also know that the Federal statute says, ''Except for the determination of population for purposes of apportionment of Representatives in Congress among the several States, the Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling'?'' but otherwise prohibited. ''Except for the apportionment of the House'' is in the Federal statute passed by the U.S. Congress.

Is the gentleman aware of this statute?

Mr. KNOLLENBERG. I am.

Mr. MOLLOHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. SAWYER), who has been such a leader on this issue, again ensuring that the 2000 census is a fair one.

Mr. SAWYER. Mr. Chairman, we learned a great deal from the 1990 census, but one thing was crystal clear: Our changing Nation had outgrown

past counting techniques and the traditional censuses are full of mistakes. The idea that traditional counting techniques are more accurate is simply a myth, and the longer the door-to-door counting process goes on, the more the mistakes are made.

More than 11 percent of the information collected door-to-door in 1990 was wrong. Of the 4.6 million people collected based on information from neighbors or building managers, over one-third, 38 percent, was wrong. Nearly 20 percent of the traditional subsequent coverage programs was wrong. A half million people added based on administrative records, 53 percent were wrong.

These are traditional counting techniques. Information collected in May was wrong, 6.6 percent of the time. By June, it had doubled to 13.8. By July, it was 18.8. And from August onward, nearly 30 percent were counted wrong. Because of all these mistakes, census numbers at the block level were off by 10 to 20 percent. So let us not pretend that a census without scientific methods is in any way an improvement.

We knew that in 1991, and so I joined with two of my distinguished Republican colleagues in asking the National Academy of Sciences to review census methods and recommend ways to improve accuracy. One of those colleagues, the gentleman from Kentucky (Mr. ROGERS), testified eloquently. Of the 1990 census, he asked, "Were the methods for counting our population, while learning more about it, outmoded? In light of existing sampling techniques, I think they were," he concluded. What we needed, he said, was an independent review of the census to determine how to meet our data needs, in his words, "in an accurate and cost effective way." He said that the National Academy was "credible, experienced and, more importantly, independent."

I agreed with him then, and I urge all of us to carefully consider the decision we are making now. It comes down to this: Will we take a census in 2000, using methods recommended by those "credible, experienced and independent experts" that the gentleman from Kentucky recommended in 1991, or will we settle again for methods that he called "outmoded and dusty"?

The gentleman from Kentucky was right in 1991 when he said that, "It has become increasingly clear that we cannot repeat last year's decennial census process 9 years from now." The Mollohan amendment preserves the chance to take a more accurate and fair census in 2000. If we reject it out of hand today, we are headed for a repeat of 1990, and that would be tragic: A use of counting techniques that have been demonstrated to be clearly inaccurate.

The census has changed dozens and dozens of times over the course of its 210-year history. As the Nation has changed, our ability and techniques for measuring ourselves has changed with it. It is critically important to recognize that in a time of change, such as the one we are in now, we need to come to grips with that change. It has never been more important to understand that change, to measure it, and to come to grips with the techniques necessary to make a count of our Nation accurate and, most importantly, fair.

NATIONAL ACADEMY OF SCIENCES,
OFFICE OF THE PRESIDENT,
Washington, DC, August 4, 1998.

Hon. THOMAS C. SAWYER,
House of Representatives,
Longworth HOB, Washington, DC.

DEAR CONGRESSMAN SAWYER: As you requested, I am providing information on studies of the national census that have been conducted by the National Research Council, which is the operating arm of the National Academy of Sciences and the National Academy of Engineering. Three different Academy panels have examined the issue of the use of statistical sampling in the census. All three distinguished panels, chaired by three different individuals, have reached the conclusion that the accuracy of the census count can be improved by supplementing traditional enumeration with statistical estimates of the number and characteristics of those not directly enumerated. The membership of these committees is attached.

I would also like to emphasize the process that the Academy uses in the conduct of studies. Since 1863, the Academy's most valuable contribution to the Federal Government and the public has been to provide unbiased, high-quality scientific advice on controversial, complex issues. The process by which the Academy conducts its work ensures its independence from potential outside influences and political pressures from government officials, lobbying groups, or others. Committee appointments are made by the President of the Academy following careful review of the nominees by many experts in the field of study. Committee members are nationally-recognized experts in their fields, and they serve without compensation. The Academy balances the membership of each committee to ensure that the study is carried out in an objective and unbiased manner with conclusions based solely on the scientific evidence. Moreover, the committee's draft report is reviewed by a set of independent reviewers, revised based on an evaluation of the reviewers' comments, and released in final form only after meeting the standards of quality and objectivity set by the Academy.

We can assure you that the Academy's studies of the census have followed these traditional procedures to ensure high-quality and objective scientific advice independent of political influence. We hope that our advice is helpful for decision-makers as they grapple with the complex issues concerning the conduct of the next census.

Sincerely,

BRUCE ALBERTS,
President, NAS; Chairman, NRC.

AMERICAN STATISTICAL ASSOCIATION,
Alexandria, VA, August 3, 1998.

Congressman THOMAS SAWYER,
Longworth House Office Building,
Washington, DC.

DEAR CONGRESSMAN SAWYER: Thank you for sending me the Congressional Record account of debate on H. Res. 508, containing the remarks of several Members regarding the use of statistical sampling methods in the 2000 Census. Despite obvious differences in perspective, the discussion is thoughtful and well-informed, the sole major exception being the incorrect statement by Mr. Miller of California that the Census Bureau plans to intentionally not count 10 percent of the population. The overall level of the discussion does credit to the House of Representatives.

I do wish to respond on behalf of the American Statistical Association to the remarks of Mr. Miller of Florida concerning the "hand-picked" nature of the scientific panels that have recommended consideration of statistical sampling methods. I refer specifically to the Blue Ribbon Panel of the American Statistical Association. The members of this panel are recognized by their peers as among the nation's leading experts on sampling large human populations. They are certainly not identified with any political interest.

The ASA Blue Ribbon Panel included Janet Norwood, who served three administrations as Commissioner of Labor Statistics from 1979 to 1991. On her retirement, the New York Times (December 31, 1991) spoke of her "near-legendary reputation for nonpartisanship." Dr. Norwood is a past president of ASA, as is Dr. Neter of the University of Georgia, another panel member. Like these, the other members of the panel have been repeatedly elected by their peers to posts of professional responsibility. For example, Dr. Rubin of Harvard University is currently chair of ASA's Section on Survey Research Methods, the statistical specialty directly relevant to the census proposals. I assure you that this panel was selected solely on the basis of their widely recognized scientific expertise. Their judgment that "sampling has the potential to increase the quality and accuracy of the count and to reduce costs" is authoritative.

Mr. Miller, in hearings before his committee, has indeed produced reputable academics who disagree with the findings of the ASA Blue Ribbon Panel and the several National Research Council panels which reported similar conclusions. Those whose names I have seen lack the expertise and experience in sampling that characterize the panel members. Statistics, like medicine, has specialties: one does not seek out a proctologist for heart bypass surgery.

I do wish to make it clear that the American Statistical Association takes no position on the political or constitutional issues surrounding the census. We also express no opinion on details of the specific proposals put forth by the Census Bureau for employing statistical sampling. As the nation's primary professional association of statisticians and users of statistics, we wish to make only two points in this continuing debate:

Estimation based on statistical sampling is a valid and widely-used scientific method. The general attacks on sampling that the census debate has called forth from some quarters are uninformed and unjustified.

The non-partisan professional status of government statistical offices is a national asset that should be carefully guarded. We depend on the statistical professionals in these offices for information widely used in both government and private sector decisions. Attacks on these offices as "politicized" damage public confidence in vital data.

Thank you for the opportunity to make these comments.

Sincerely yours,

DAVID S. MOORE,
President, American Statistical Association.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. SNOWBARGER).

Mr. SNOWBARGER. Mr. Chairman, I thank the chairman for yielding me this time.

I want to come at this in a little different approach. In 1992, I was the user of census products in the reapportionment in our State legislature in Kansas. We have talked about an accuracy rate back in 1990 of 98.4 percent. I think that is pretty significant.

What people need to understand is that when you are using this census today to develop districts, we are looking on a block-by-block basis. We take one block, add it to another block, we aggregate those blocks together and, sooner or later, we have a Representative district or a Senate district or even a Congressional District. Right now, by the census's own numbers, the accuracy rate at the block level is plus or minus 35 percent. Thirty-five percent.

It has been mentioned here several times this morning that sampling is inaccurate at the town and local level. Even the Census Bureau reports that sampling counts are less accurate than an actual head count. It is inaccurate because of this polling scheme. Small towns, including the majority of Kansas, are going to be at risk, and that is a fact.

The Census Bureau's own studies prove this. The 1991 Undercount Steering Committee said, "It is understood that for smaller areas, those with less than 100,000 population, proportionately more units would have less accurately adjusted counts than unadjusted counts."

We just cannot use this polling method that penalizes small cities and towns. Not only does this undercount or miscount small towns and cities, but the current scheme also eliminates the right of those cities to contest the numbering. The adjustments are going to occur so late that there is no way for the census Local Review Program to be carried out, which would allow the cities to see if the counts are accurate and make their own input into the Bureau. That has all been taken out because of the timing of this program.

Frankly, the polling population scheme shuts out small town America and denies them the right to challenge. Enumeration is essential, and I would urge my colleagues to defeat the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I rise in strong support of the Mollohan amendment to restore full funding for the Census Bureau so that the agency can get on with the business of conducting an accurate census that includes everybody. Placing a 6-month cap on the funding of the Census Bureau and making only one-half of the funds available is an obstruction to an accurate and efficient census.

We have heard by now that the 1990 census was the first in this Nation's history to be less accurate than the preceding census. Mr. Chairman, in particular, 834,000 people were never counted in the State of California. African Americans were undercounted by 7.6 percent and Hispanics by 4.9 percent compared to the 2.3 percent undercount for whites. In fact, the City of Inglewood, a city in my Congressional district, had the State's highest undercount rate among major cities. In addition, 342,095 of California's children were missed altogether by the last census.

In the last census the monies allocated for schools, school lunches, Head Start, senior citizens centers, health care facilities, and transportation never reached the communities where people were not counted. Simply put, if individuals were not counted in the last census, they did not receive their fair share of Federal fundings for public services.

We have a chance to correct the errors of the past census by employing modern techniques that have been proven to be efficient and cost effective. It is illogical for this body to profess to be a democratic institution but, at the same time, refuse to adequately fund a census which employs a method which counts everyone. It seems the right wing faction of the party would prefer to have no census rather than have an accurate census.

The Mollohan amendment is a reasonable one. It would restore the full funding to the Census Bureau so that it may do its job without interruption. The amendment further provides that funds for a statistical counting will be cut off if the Supreme Court finds sampling unconstitutional.

Mr. Chairman, it is unreasonable not to proceed without this kind of obstruction.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in opposition to the Mollohan amendment. I do not believe politics should play a part in the 2000 census. It is too important to our country.

We all know how important polls are to the Clinton administration. They base most of their decisions on polls. But do we want them to base the 2000 census on a poll? I think not. The American people understand that polls are not very accurate and, as we have heard, even President Clinton understands that. He has called the 2000 census scheme a poll. Sometimes it is wrong, he has said.

Do we really want to use an inaccurate poll as the basis for representation of all levels of government for the next 10 years? Can the American people really trust a census that is based on a poll taken by the Clinton administration? Mr. Chairman, the American people deserve a census that is honest and reliable, one they can trust, not a population poll.

Let me show my colleagues a poll conducted last week by McLaughlin & Associates. People were asked in a scientific survey, a national survey, "Do you approve or disapprove of the Clinton administration's plan to replace an actual head count with statistical sampling in order to conduct the 2000 census?"

Here are the results. Overall, 19 percent approved, 66 percent disapproved, 14 do not know. Black, 33 percent approved, 52 percent disapprove and 14 do not know. Hispanic, 22 percent approve, 62 percent disapprove, 15 percent do not know.

We can see the results.

□ 1130

The bottom line is all groups in society, over 50 percent, disapprove. If the Clinton administration likes polling, if they believe polling, he ought to listen to the people. This is an updated, recent poll.

I urge my colleagues to defeat the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am amazed that my Republican colleagues are saying it is the President and the administration who are politicizing the census. That is not true. But do not take my word for it.

I would like to borrow some of the words from editorials published all across this Nation which make it crystal clear who is interjecting politics into the census debate.

The Christian Science Monitor, April 28, 1998. It says,

> The real issue is political, not constitutional. Some of the GOP party don't really want a more accurate count on the hardest-to-find Americans, the poor and new immigrants, larger numbers in those categories could affect the political character of congressional districts. Specifically, it might become harder to create "safe" Republican seats.

Consider this. Buffalo News, June 15, 1998:

> The argument really is more about political power than logic. Republicans privately fear that a census that reveals more minorities and poor people could lead to a redrawing of legislative districts in ways that threaten GOP office holders.

Consider this also. Newsday, June 16, 1997:

> Republicans, panicked they might lose congressional seats with a more accurate inner-city count, intend to fight again. They are acting out of self-interest, not the national interest.

Consider the Houston Chronicle, June 4, 1998:

The purpose of the U.S. Census is to get the most accurate count possible. If using modern statistical sampling to augment the actual head count makes the census more accurate, who could reasonably object? No one, but then politicians who are afraid of losing power do not always act reasonably.

There you have it, from many different sources. It is my Republican colleagues, not the President, not the administration, who are trying to manipulate the census count for political advantage and not for the Nation's interest.

Mr. Chairman, I rise in support of the Mollohan Amendment.

The year 2000 will usher in a new decade, a new century and, for the first time in at least ten generations, a new millennium.

Perhaps more than any other time in history, every citizen should be counted, and the count should be accurate.

The Mollohan Amendment will ensure that every citizen is counted.

On the other hand, the Bill, as written, will cost more and count less.

Do we really want a repeat of 1990, Mr. Speaker, when millions were double counted and millions more were not counted at all?

Do we really want to once again exclude poor people, minorities and rural residents? There is an under count in rural areas contrary to some in the majority.

The 1990 undercount of 4 million people also had a disproportionate impact on women and their children, particularly women on ranches and farms.

If small farmers and ranchers are struggling to survive, and they are, think of what is happening today to women on those ranches and farms.

If we accept the current census count, of the nearly 2 million farms in the United States, only six percent are operated by women.

According to the current census data, among all the farms in my state, North Carolina, only three-fourths of one percent are held by women.

And, because of the current data, in 1992, women in North Carolina received only twelve percent of the loans from the Commodity Credit Corporation and only about one-half of one percent of Government Payments.

The data collected by the year 2000 Census will affect social, economic, and political decisions for years and years to come.

The current census data simply does not include many of the women who actually own farms.

This low count can be corrected, in part, but using sampling techniques to supplement the actual count.

The inaccurate picture of women on ranches and farms is also due to the type of information collected by the Census Bureau and the Agriculture Department in their yearly count.

Currently, federal forms allow only one individual to be listed as the "primary producer"—or "owner" of the farm.

If a man and woman jointly own a farm, usually it is the male whose name is on the census form.

If a woman's name is not on the form, the woman in not counted.

These uncounted women, then, did not have the opportunity to benefit farm training, technical assistance, loans, and other programs that can help farm women.

These women farm owners were not factors in funding decision, setting agricultural policy, and forecasting markets and future needs.

The Mollohan Amendment will give the professional counting experts the resources they need to do the job they must do.

The Mollohan Amendment will ensure that we have a fair count in 2000, a count that treats every American the same.

Mr. Chairman, the Census determines representation and taxation in America. Women farmers and ranchers deserve to be counted. They too are American. I urge support for the Mollohan Amendment.

CENSUS DATA IN THE UNITED STATES DO NOT ADEQUATELY CAPTURE THE NUMBER OF CITIZENS IN RURAL AREAS INCLUDING MINORITIES AND WOMEN WHO OWN AND WORK ON FARMS

THAT IS WHY WE NEED SAMPLING!

Some women jointly own farms with their husbands, because of the way the data are collected, they are not counted.

In 1992, women received only 12% of the Commodity Credit Corporation Loans and .06% of Government Payments.

Additionally, women who work on farms are not adequately counted either because they work one part of the day in one location and the other part in another location.

Without accurate census data, such as that achieved with sampling, in 1990 millions of citizens were counted twice and millions more were not counted at all.

Without accurate census data, such as that achieved with sampling, in 1992 of the 1.9 million farmers counted nationally: Only 18,816—(less than 1%) were Afro-American; only 29,956—(less than 1.5%) were Hispanic; only 8,346—(less than ½%) were Native American; and only 145,000—(less than 7%) were women farmers.

Without accurate census data, such as that achieved with sampling, in 1992, of the approximately 2,500 farms counted in North Carolina, .075—(less than 1%) were reported as being controlled by women.

Mr. ROGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. THOMAS), chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Chairman, I find it interesting that the only way in which anyone can have a disagreement on the question of the census is that Republicans are purely political and the Democrats take the usual high moral ground, they are right and we are wrong. That is interesting.

I love the quote about "telling the truth is a political, not a moral matter," which was in today's Washington Post, and I think that sums up a lot of the response of my colleagues on the Democratic side. We are playing politics, they are not.

The Chief of Staff sent a letter saying, "There is no need for a Government shutdown. But if there is one, it will be because Republicans have either not done their job on time and finished the budget or have decided to short-change critical investments in our Nation's future."

The gentleman from Kentucky (Mr. ROGERS) clearly outlined the President's position. That is, he wants to shut the entire Department of Commerce, Department of State, Department of Justice down over this vote.

Now, I can understand why he wants to shut down the Federal Judiciary. We know that when he reappointed Janet Reno that the Department of Justice was pretty well shut down. But clearly, the Department of State, the first department created, that department which deals with international relations, ought to at least extend the full year given the President's emphasis on international relations. Now his statement and White House Chief of Staff Bowles' is not a political statement that he wants to shut those down for 6 months.

The gentleman from West Virginia (Mr. MOLLOHAN) I am sure offers a well-intentioned amendment. If you have read it carefully, what it does is it locks in the sampling position. Why does he have to lock it in in his amendment? Because, frankly, the Constitution is on our side, the laws are on our side, history and precedent are on our side.

But, no, the Democrats cannot make this an argument over the Constitution, article I, section 2; it has to be about race baiting, it has to be about political advantage. It is not possible that Republicans believe the Constitution says what it says.

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

Mr. THOMAS. Mr. Chairman, no, I do not have time to yield. I do not even have enough time to go through the points that I think absolutely need to be made.

If my colleagues will examine what they are asking to do, contrary to current law, is to poll. They use the term "sampling." Sampling is polling. It is creating a piece and then extrapolating to the whole.

Their argument is that is more accurate than counting. Have we had infallible counts in the past? No. Are we bound and determined to do a good job? Yes. Is there disagreement right now? Yes. Will we have more information in February and March? Yes. Should we make a decision now? No.

When we take a look at polling, sampling simply fills in the blanks. Probably my colleagues saw Jurassic Park, in which they had most of the DNA code, but they had to fill in the blanks with what they thought was the appropriate profile on the DNA code.

What these people are asking us to do is to count some Americans and then fill in the rest. But it is more insidious than that, because sampling does not just do that. It is not like normal polling, where they take a random sample and assume the universe from that random sample.

What they actually are going to do is count people and then not count them. They are going to replace people who

have actually been counted with virtual people that the statisticians make up. And that is not political?

Let me talk about politics. We created a bipartisan census oversight board to assist us in trying to come to a very difficult, very complex constitutional decision. Guess who they appointed? They appointed a fellow by the name of Tony Coehlo. A lot of people do not know Tony Coehlo.

In 1988, a book was written by Brooks Jackson, who was then a Wall Street Journal reporter, called Honest Graft. What he did was follow Tony Coehlo around for a year and then wrote a book about what he saw.

He says in the introduction, "Congressman Tony Coehlo runs a modern-day political machine, a sort of new Tammany Hall, in which money and pork barrel legislation have become the new patronage."

Tony Coehlo did it better than anyone else. He moved rapidly through the ranks of Democratic leadership, became Majority Whip; and then in the words of those famous poet songwriters, Paul Simon & Garfunkel, he was "one step ahead of the shoe shine, two steps away from the county line; he was just trying to keep his customers satisfied, satisfied."

He resigned from the House of Representatives. He is the one that they chose out of everybody in the world to be the key person on this oversight board. Talk about politics.

What the chairman is advocating in this proposal, fund it for a year, fence it for the last 6 months, get better information, and then make a solid constitutional decision is exactly the right thing to do. Vote down the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I am very pleased to yield 3 minutes to the distinguished gentlewoman from California (Ms. ROYBAL-ALLARD), who also has been a real leader on this issue.

Ms. ROYBAL-ALLARD. Mr. Chairman, I rise to support the Mollohan amendment.

The census is critical to our country as it is the basis upon which decisions are made that directly impact every community in our Nation.

Without a fair and accurate census, States lose their fair share of an annual $170 billion in Federal funds that could support children's education, senior health services, and job training programs. Communities could also lose state and local government funds for services and infrastructure, and many communities will lose jobs and economic opportunities since businesses use census data to make decisions like the hiring and the firing of employees and the opening of new businesses.

Mr. Chairman, the American people cannot afford to have us repeat the grievous mistake of the 1990 census when 4 million people were missed, 80 percent of whom were urban Americans, 50 percent of whom were children, and 80 percent of whom were Latinos, African-Americans, Asian-Americans, and American Indians living on reservations.

And many States lost as a result of the 1990 undercount, as well. For example, the 1 million Californians that were not counted resulted in the State of California losing 1 congressional seat and at least $1 billion in Federal funds.

Mr. Chairman, the stakes are very high. It is outrageous that the Republicans are forcing the Census Bureau to use outdated technology that will again miss millions of Americans. If we are willing to ignore communities of people and make then victims of neglect, what does that say about us as a country?

I ask the Republican leadership to put the interest of the country ahead of politics and support the Mollohan amendment to make every person in the country count.

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

Mr. Chairman, I just want to comment on some of the language being used by the opposition.

Tony Coehlo. I do not know how Tony Coehlo gets in this debate. I guess if on the merits they do not have anything more to say that they start ad hominem discourse or even attack somebody who is not even here. So I hope we do not continue doing that.

Also, I would like to comment about the use of words like "polling" and "cloning" techniques. These are very unscientific terms. They are disparaging terms. It just makes me have to ask, why does every statistical association, professional association line up in favor of statistical sampling, they do not use words like "polling" and "cloning." These words are not a part of the vernacular of these professionals who recommend statistical sampling in this context.

Finally, Mr. Chairman, I would simply comment on the repeated references to the unconstitutionality of sampling or the court's ruling that sampling is not valid.

That is absolutely the opposite. Every Federal district court, circuit court that has looked at this has said that sampling is constitutional and lawful.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Chairman, I rise in opposition to the Mollohan amendment.

Mr. Chairman, I rise in opposition to the Mollohan Amendment. The Constitution provides for an actual enumeration of our nation's population every ten years.

Speaking of possible tax levies on the states, Alexander Hamilton said in "The Federalist 36," "the proportion of these taxes is not to be left to the discretion of the national Legislature: but is to be determined by the numbers of each State as described in the second section of the first article. An actual census or enumeration of the people must furnish the rule; a circumstance which effectually shuts the door to partiality or oppression." Hamilton was wise. We open ourselves to partiality and oppression if we open the census to manipulation.

From the first constitutionally mandated census in 1790 to the most recent in 1990, our government has used the most modern means available to perform as complete an actual head count of our population as possible. Now, for the first time, our census bureau proposes to undertake less than a complete census and then to adjust its count to what experts estimate to be a complete count. One reason advanced for this departure from 200 years of practice is that an incomplete count would save money. Well, this Congress is prepared to spend the money necessary for a first class full enumeration. And, I dare say, recent advances in communications and data technology should enable the bureau to successfully complete a more accurate actual enumeration than ever before in our nation's history.

"But doing a 90% count and then adjusting it will be cheaper, more accurate, and fairer," says the census bureau. Leaving aside the fact that you can't possibly know when you have completed 90% because you don't know what 100% is; and leaving aside the fact that the Congress is manifestly prepared to appropriate the funds required for a first class census rather than an economy model; what's wrong with adjusting the numbers to reflect estimated non-participation in the census process by residents who, for whatever reason, fail to participate? What's wrong is that this is a zero sum game. To the extent the census bureau adjusts the figures to increase the numbers for non-participants, it reduces the representation and flow of federal funds for others who discharge their civic responsibility to participate in the census process.

And there will be a tremendous price to pay in civic morale if this unprecedented change if forced into effect on a partisan basis.

First of all, whether warranted or not, the fact that this change is insisted upon and forced into effect along largely political party lines will give rise to the belief that the census adjustment is being implemented for partisan advantage.

Secondly, the fact that the change to an administratively determined adjusted census figure is most strongly advocated by those whose power and authority will be increased by this new approach, will give rise to the conviction that the adjusted figure is the result not of a search for greater truth, but rather of the pursuit of advantage for those in control of the adjustment process.

And thirdly, the fact that actual participation in the census will no longer really affect the count will result in a decline in participation and in an increase in skepticism, and public cynicism, toward basic institutions of government.

Finally, I plead with my colleagues not to play partisan games that could jeopardize the census. Do not insist, on a partisan basis, for the first time, on an incomplete count and adjustment. Let us go forward, as we always

have in the past, with a complete enumeration and do all that we can to make it as complete as is humanly possible. Then adjust if you think it improves things and we will settle it in court.

But to do a partial count and adjustment going in, without even attempting a complete count, will confront our people and the courts with a fait-accompli. If the courts then throw out that sampling-based census, we'll have to do it all over again, at tremendous cost, possibly delaying redistricting, and inviting public disgust.

Defeat the Mollohan Amendment!

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. LINDER).

Mr. LINDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I find it curious how many times the Constitution seems to get in the way of this administration. It did so in Kyoto, when rather than get a treaty agreed to by the Senate, they are trying to put it in effect by regulation. They did it with the INS during the last election.

Now the Constitution is in the way again because they want a poll to find out who lives in America, count 90 percent of them and poll the rest. And guess who they are?

Polling is what statistical sampling is. I know my colleagues do not want to use that word because the President sent a memo saying do not use that word. They tested it and it does not test very well. But statistical sampling is polling.

I oppose the Mollohan amendment. I support the carefully crafted bill of the gentleman from Kentucky (Mr. ROGERS). The chairman has succeeded in crafting an effective plan to ensure that the administration and the Congress jointly decide how to conduct the 2000 Census.

Unfortunately, the Mollohan amendment undermines their plan in favor of an untested, unproven population polling scheme. Supporters of the Mollohan amendment are always quick to cite the National Academy of Sciences as a supporter of their population polling ideas. Unfortunately, much like sampling, the statement appears true in the abstract but falls apart under scrutiny.

Is it true that the National Academy of Sciences has created an ad hoc committee to study the census? Absolutely. Is it true that these committees are composed of National Academy member scholars? Absolutely not. In fact, only one Academy member serves on the 15-member committee looking at the 2000 census.

Are the committee members carefully selected for service? Absolutely not. Are they carefully selected to get a broad range of views? Absolutely not. The panel members come from liberal think tanks and Democrat politics and are chosen because of their pro-polling views.

In my review of the panel members, I could not find a single neutral thinker, much less a conservative one. How easy it must be to get a favorable report from a hand-picked panel stacked with sympathetic thinkers.

When your panel believes in population polling as a concept, the only question they are left with is how, not why or whether.

□ 1145

Mr. Speaker, when answering why or whether to engage in this population estimation, even this much-trumpeted, hand-picked, Democrat-defined pro-population polling panel would agree with me that even if sampling works in theory, it can fail in practice. It can, it has, and it will. I urge my colleagues to oppose the Mollohan amendment and support the base bill.

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

Mr. LINDER. I yield to the gentleman from Ohio.

Mr. SAWYER. Let me just offer a rejoinder on behalf of the National Academy of Sciences from its president in a letter sent to me yesterday:

Since 1863, the Academy's most valuable contribution to the Federal Government has been to provide unbiased, high-quality scientific advice on controversial, complex issues. Committee members are nationally recognized experts in their fields, and they serve without compensation. The Academy balances the membership of each committee to ensure that the study is carried out in an objective and unbiased manner with conclusions based solely on the scientific evidence. The committee's draft is then reviewed by independent reviewers, released in final form only after meeting the standards of quality and objectivity set by the Academy.

Mr. LINDER. I have no doubt that the chairman thinks he is a fine person.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from New York (Ms. VELÁZQUEZ),

Ms. VELAZQUEZ. Mr. Chairman, I rise in strong support of the Mollohan amendment. Not long ago, minority communities were prevented from being represented through violence and repression. Today's method is far more subtle.

Let us be honest. Today's debate is not about the way we should conduct the census. This is a debate about whose voice will be heard and whose voice will be silenced. By not counting minorities, opponents of a fair census can justify slashing resources to these communities. In New York City alone, just looking at seven Federal programs, including Head Start, the city lost more than $400 million as a result of the 1990 undercount.

Worst of all, political representation will be denied at every level. Think of the message you are sending to minority communities. You are telling the American people that these communities do not deserve proper representation.

My colleagues, conducting an accurate census is a matter of basic fairness and democracy. I urge everyone to vote "yes" on the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in support of the Mollohan amendment, quite simply because it would allow the Census Bureau to continue preparation for the 2000 census without the risk of funding disruptions in the middle of their crucial planning process.

We all remember the impossible situation the government shutdown of 3 years ago placed on the ability of government agencies to continue necessary work. I believe it is important that we not place the Census Bureau in that position again as it prepares for one of the most important government functions outlined by the Constitution: obtaining an accurate count of all Americans.

I want to emphasize that accuracy is critical, in fact, the only relevant issue as we prepare for the 2000 census. We all acknowledge that millions of people were missed in the 1990 census. While much of the debate on correcting the undercount of the census is centered around the number of people not counted in urban areas, as one who represents a rural district I want to highlight the fact that people in rural areas of the country are missed as well. In fact, some rural areas are undercounted to a greater degree than the entire country.

According to the Census Bureau, the net undercount for the Nation in 1990 was 1.6 percent, while renters in rural areas were undercounted at a rate of 5.9 percent. That means rural renters were undercounted nearly four times the national average. It is important that we give the Census Bureau the resources necessary to ensure an accurate count for all Americans in rural and urban areas.

The Mollohan amendment ensures the Census Bureau will be able to obtain the most accurate count possible in a cost-efficient manner. In a time when we have such pressing budget needs like home health care, independent oil and gas needs, drought assistance and many other crucial areas, it is not responsible to restrict the Census Bureau from using a cost-efficient plan that utilizes sound science.

The Census Bureau, under the direction of President George Bush appointee Barbara Bryant and the National Academy of Sciences, developed the Census Bureau's plan to use modern scientific methods to obtain the most accurate count possible; not all of the other allegations we have heard today. This came from that individual and that plan and that is the way it should be. This plan is supported by scientists and statistical experts in the

field. The plan uses the same methods that determine the gross national product and the national unemployment rate.

On Friday national figures on unemployment rates will be released. I cannot imagine that anyone will rise up in outrage questioning the validity of those numbers. Why is it that in so many other government functions, such as unemployment rates, that science is not questioned? Why should we abandon science for partisanship in this issue?

I urge my colleagues to support the Mollohan amendment so the Census Bureau can use its cost-efficient plan to obtain an accurate count in 2000.

Mr. ROGERS. Mr. Chairman, I yield 2½ minutes to the gentleman from Arizona (Mr. SHADEGG).

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding me this time and I rise in very strong opposition to the Mollohan amendment. I oppose it because it is dangerous, I oppose it because it is fundamentally unfair to minorities, and particularly to the most undercounted minority in the last census, and I speak from experience.

In the 1990 census I worked as a lawyer in the Arizona legislature advising the legislature on restricting. I worked every day on census tracks and census blocks. I can tell Members that while sampling, or polling, as the proponents of the Mollohan amendment want, may work in theory, in practice it will not work. And beyond that, the census sampling proposal by the Census Bureau this year is fundamentally unfair to minorities.

Let us start with the beginning. Number one, many of my colleagues have pointed out that sampling is less accurate in small areas. The most important part of sampling is redistricting.

Redistricting is built from very small census blocks, which can be as small as 10 or 20 people or as large as thousands of people. But when you go and work on the maps as I did in 1990, and you are working with tiny little blocks that have 200 or 300 people in them or less, guessing, or sampling, will produce incredible inaccuracies. It is in that regard less accurate.

Second, they propose that we are going to do an actual count of 90 percent and then guess the last 27 million people, another 10 percent. My 12-year-old son can tell me, "Dad, how do I know if I've got 90 percent if I don't know what 100 percent is?" Their answer to that is, "We're going to guess at what 100 percent is." Therefore when we say we have gotten to 90 percent, that will be a guess. That is a massive invitation for fraud and problems.

But let us talk about the human motivations. Since the founding of this country, we have told Americans, "It is your duty to turn in your form and to tell the government about your family, fill out your census form." This year we are going to send a very different message under the Mollohan amendment. We are going to tell people, "Send in your form but, oh, by the way, it doesn't matter because we're not going to count you." As a matter of fact, as was pointed out earlier by the gentleman from California (Mr. THOMAS), we may even take you when you turn in your form and reject your form.

But let us talk about the most important issue, fundamental fairness to Native Americans. Their proposal, if they were concerned about fairness, is insane. They say that the current system undercounts minorities. The single most undercounted minority in the last census was Native Americans. Yet under the Census Bureau plan, for no rational reason, Native Americans will not be sampled.

We will sample Hispanics, we will sample blacks, we will sample inner cities, but Native Americans we are going to actually count. We will not even sample for them, yet they were the most undercounted in the last census. Their proposal is fundamentally unfair to the most undercounted Americans in this Nation.

I urge my colleagues to reject the Mollohan amendment as unfair and flawed.

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

Mr. Chairman, I am not a statistician. It just amazes me that some Members in this debate would kind of hold themselves out to making final conclusions about methods of conducting the census and disparaging statistical sampling when they are not experts, I do not think they have been qualified as experts, and they are really going up against the major statistical professional associations in the country, and they are opposing their view that sampling is valid and the best technique to get a real count of the number of people in our country.

Let me just list them again. Recommending the use of statistical sampling in the 2000 census to get an accurate count of the number of people in this country are none less than the American Statistical Association, the Population Association of America, American Sociological Association, the Council of Professional Associations on Federal Statistics, the Consortium of Social Science Associations, and the National Academy of Sciences rounds out that very distinguished group, just so folks understand what they are coming up against.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, much has been said about this debate. Much is going to be said. But after all is said and done, there are some facts that will remain the same. Fact number one, African-Americans and the poor have been undercounted in this country since 1790. Even the Constitution allowed for African-Americans, for blacks, to be counted as three-fifths of a person. Now there are those who would tell us 200 years later that it is all right for the poor to be undercounted because they are hard to find. It is all right because you do not know where they are. It is all right because they live way out in rural America. It is all right because they live under the viaducts in the big urban cities.

The only way that the people of this country will be counted is to pass the Mollohan amendment. We missed almost 9 million people the last time, 9 million of the poorest people in America. Millions of dollars of entitlement moneys should have gone to them and to their cities. It is amazing to me that someone could come to the floor of this House and suggest that sampling is unfair to the minorities in this country.

Mr. Chairman, I would urge, let us be real, let us be serious. Every newspaper in America, and we do not live by newspapers, but the Chicago Tribune, the Sun Times, New York Times, Los Angeles Times, Buffalo Times, Commercial Appeal, from Memphis to Maine, all of the newspapers have said that scientific sampling and full funding of the census is the way to go.

Mr. Chairman, I rise today to support the Mollohan amendment for two reasons. First, this amendment strikes language in the bill that restricts funding for the Census Bureau. The amendment allows the Census Bureau to proceed with its plan to conduct the fairest and most accurate Census to date.

The 2000 Census is perhaps one of the most important issues of our day. We are charged with the responsibility to ensure that everybody is counted. Because if you are not counted you do not count. Since the first Census in 1790, there was a significant undercount especially among the poor and disenfranchised. 200 years later in 1990, it is estimated that the census missed 8.8 million people.

In Chicago, the City of the big shoulders, the 3rd largest City in the nation, a city with one of the largest concentrations of poverty in urban America, the undercount was about 2.4 percent, or about 68,000 people which translates into at least 2 million dollars of entitlement money which could have and should have been used to feed the hungry, clothe the naked and provide shelter for the homeless. It is inconceivable that we could allow this to happen again and that is exactly what will happen unless we fully fund and implement a scientific approach to the census. The African American undercount in Chicago was between 5 and 6 percent. Most of those who were not counted were people living in cities and rural communities, African Americans, Latinos, Asians, and the poor.

None of us believe that newspapers are always right, but we must admit that a cross section of them often have their fingers on the pulse of the people and all the way across

America, Roll Call here in D.C., the Chicago Sun Times, the Buffalo News, the Chicago Tribune, the Christian Science Monitor, the New York Times, the Los Angeles Times, the Atlanta Constitution, the Bangor Maine Daily News, the St. Louis Post Dispatch, the Commercial Appeal in Memphis, the Houston Chronicle, the Dallas Morning News and others have all written about scientific sampling and full funding for the Census.

They knew that when every American is not counted America loses, cities lose and people are denied valuable resources and representation in Congress, State Legislatures, County Boards and City Councils.

Secondly, I am supporting this amendment because it avoids the risk of a census shutdown and serious disruptions to census preparation. This amendment ensures that the census bureau has sufficient funding to carry out its plan.

This is a common sense amendment that allows the census bureau to move forward with their important work of making sure that we have the most accurate census possible. I urge my colleagues to support accuracy and support the Mollohan amendment.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. PAPPAS).

Mr. PAPPAS. Mr. Chairman, I rise today in support of the Constitution and our Founding Fathers' wisdom to call for a "full enumeration" census and not a statistical sample that is bound to be flawed.

Mr. Chairman, the census is one of the most important activities our government undertakes each decade and we should take it very seriously.

The U.S. Constitution requires that a census be conducted every ten years in order to apportion the House of Representatives among the 50 states. The entire configuration and redrawing of legislative districts from federal to state to local jurisdictions is based on the census and helps ensure the democratic principle of equal representation.

But despite the seriousness of the census, the Administration has moved to ensure we have a failed census. Listen to the Government Accounting Office and even the Administration's own Commerce Department's Inspector General who have stated this sampling plan is "high risk."

Mr. Chairman, it is time to get serious about the census and follow the Constitution of the United States of America. I certainly have faith in our founding fathers belief in the importance of conducting an accurate census and we should as well. We should work for nothing less.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. HASTERT), the chief deputy whip of the House.

Mr. HASTERT. Mr. Chairman, I am convinced that we are at the crossroads at the terms of the decennial census. Either we will pursue a census with the goal of actual enumeration or we will allow the Clinton administration to gamble on a population polling scheme with the stated aim of not even trying to count everyone in the system.

I am sorry my good colleague from Illinois talks about bringing in racism in this thing. Not at all. What we really need to do is to look at this issue and make sure that every American is counted. We need to make an extraordinary effort to make sure that every American is counted. Every American should stand up and be counted in this country, not to be some statistic.

What really happens in actuality, you take 90 percent of the people, those people who turn in their forms, that do the things they were requested to do, and then if you have 95 percent of the people that turn this in, you throw away 5 percent. You uncount people. That is wrong. That is absolutely wrong. It should not be done.

□ 1200

Then they take a statistical guess at who makes up the rest of that 10 percent.

Mr. Chairman, as my colleagues know, what we need to do is what is right for the American people. We need to count the American people, we may need to make an extraordinary effort so that every American is counted, and that is in the cities and countryside and suburbs and everywhere, that we have a true representation of who the American people are, who that American portrait is, because it is tied to something else. It ties the representation of this House. And, if we guess who the American people are, then we guess who should be represented in this House of Representatives.

Mr. Chairman, that is not good enough for the American people.

We need to move forward, we need to not take the advice of Barbara Bryant, who was the person who headed the 1990 Census that some people say 5 million miscounted or 9 million miscounted. We need to go forward and count and do the job that cities like Milwaukee and Indianapolis and Cincinnati did do, and even the guesstimate of the 5 million people was wrong.

Mr. Chairman, we cannot afford to be wrong on the 2000 Census.

Mr. Chairman, as the Chairman of the House Subcommittee which formerly had jurisdiction over the Census Bureau, I rise in opposition to the Mollohan amendment. I am convinced we are at the crossroads in terms of the decennial Census. Either we will pursue a Census with the goal of actual enumeration; or we will allow the Clinton Administration to gamble on a population polling scheme with the stated aim of not even trying to count everyone.

I think it is important that the American people understand how the Clinton Administration is proposing to conduct our Census. Rather than trying to count people one-by-one, the Census Bureau is proposing a complicated, and highly risky, population polling scheme. In essence, they propose to count 90 percent and guess the rest. Why do they favor such a risky scheme?

When asked, the Census Bureau claims "trust us" it will be more accurate and cost less. I beg to differ.

While I wholeheartedly support both these goals of saving taxpayer dollars and making sure everyone is counted, I am not convinced that polling is the solution. In fact, the more I understand about the Administration's plan, the more I am convinced that polling will lead to a less accurate and ultimately more costly Census. Or, more likely, a failed Census.

We have a basis to judge the Bureau's claim that polling will lead to a more accurate Census—the Post Enumeration Survey conducted during the 1990 Census. The results of this guesstimate suggested that 5 million persons were not "counted." The only problem is that these so-called "scientific" calculations were wrong. Because of a glitch in the computer software, 2,500 cases were misidentified. While 2,500 cases in a census of 250 million seems trivial, because of the use of sampling this mistake was magnified many times. In 1990, once the error was identified, the Census Bureau reduced it's estimate of the undercount by a million persons. As the Las Vegas Review-Journal noted just last week, "garbage in, garbage out."

As disturbing as the potential for technical errors is—and the General Accounting Office noted that similar software problems persist—I am particularly concerned about what will happen to Census forms turned in on time, by real people. Because of the use of statistical adjustment, real people will be deleted from the Census. Let me repeat—the Clinton Administration proposes to delete real people from the Census. Once again the 1990 Census poll illustrates this point. Had we used statistical adjustment for the 1990 Census, people in 9 counties in my home State of Illinois would have been deleted from the Census. Yes, Mr. Chairman, they would have been dropped from the Census because some poll said they did not exist, even though they turned in their forms—this is wrong. But don't take my word for it, Howard Hogan, the Acting Chief of the Decennial Statistical Studies Division, admitted that nearly 1.5 million records would have been subtracted had adjustment been used.

To me, the Census is not just a process. It is a decennial portrait of the Nation. Every 10 years, each person has the affirmative right to be counted. What do we say to the person who lives in Elgin, IL, who says "I am a 24-year-old American of Irish descent, who lives in an apartment with my husband and 3-year-old son, and my form was deleted from the sample?" I, for one, am not willing to tell her: "Don't worry. Although, we did not count you, we polled people like you and our odds of guessing your information correctly are quite good." I ask you, how can this be more accurate?

I have pointed to several problems I see with the Bureau's plan to supplant enumeration with polling. I also have pointed out that our experience with polling during the 1990 Census was not a good one. Although the Census Bureau assures us that we should not worry, that the problems of 1990 are in the past, I remain unconvinced for a variety of reasons:

First, the Census Bureau has not solved many of the operational problems which

plagued the 1990 sampling plan. During the 2000 Census, the Bureau plans to poll 750,000 households in less time than it took them to poll only ⅕ of that number in 1990. And, given the strict deadlines that the Bureau faces to get the population numbers reported—at the same time Americans will be struggling with their tax forms—shouldn't we be concerned about quick fixes, made on-the-fly, to the adjustment models in order to get the results done? Do we really want this much power in the hands of a dozen people at the Census Bureau?

Further, a critical element of the population polling scheme, the Master Address File, is seriously flawed. The GAO pointed out that, for two test locations in 1995, the Master Address File did not include about six percent of the addresses identified through field verifications; and that some of the addresses belong to commercial buildings, not households. How can the Census Bureau conduct a random poll of all the households in America if it can't even identify where people live?

Finally Mr. Chairman, I am concerned about the potential for political manipulation in this plan. Although the Clinton Administration has assured us that politics will not be part of this census, I am not convinced. They have said "trust us" before, remember Citizenship USA. For instance, the decision to count only 90 percent of the population is itself an arbitrary figure. I have heard no scientific rationale why 90 percent is the magic number. What if they are not able to reach this goal? Does this mean that the Census will have failed? Not according to the Census Bureau. The dirty little secret of this plan is that the poll, not actual enumeration, is their first priority. In short, under the Census scheme proposed by this Administration, actually counting people is incidental to the final count—our population, and it's characteristics, will be determined by polling guesstimates. Why did the Census Bureau decide that they needed to count 90 percent of the population? Mr. Chairman, it is my belief that this figure itself was chosen for political reasons—it was the smallest number they felt the Congress and the American people could swallow. The plan to count 90 percent is a fig leaf, a subterfuge, a sham designed to cover-up their population polling scheme. Make no mistake about it, the final numbers will be determined by a poll and they will not be dependent in any way, shape, or form upon actual enumeration. Furthermore, if for any reason the polling scheme fails, we are up the proverbial creek because the Census Bureau will have stopped counting at 90 percent.

Let me be clear, I strongly support the goal of a more-accurate census. However, I believe we can accomplish this using methods we know work. First, the linchpin of any good census plan, is to insure that the Master Address File is accurate. As of this date, we have no assurance that this will be done in time. Secondly, we need to engage in a significant outreach program to get local and state officials, as well as community leaders, involved in the census. Finally, we need to engage our local communities. We need to organize census events and educational programs. We need to reach out to minority leaders. We need to assure people who, for whatever reason view participation in the Census with suspicion, that all their specific information is confidential.

Mr. Chairman, I know we can do an accurate Census; one in which the goal is to count everyone—certainly not count some and guess about others. As Chairman of the Subcommittee formerly with jurisdiction over the Census, I asked the Commerce Department's Under Secretary in charge of the Census a simple question: If a bank teller gave you a stack of one dollar bills and told you that he thought that there were $1,000 there, how would you react? Would you accept the guess, or would you count them? With reluctance, the Under Secretary finally admitted that in order to be sure he got all his money, he would count it.

Mr. Chairman, I couldn't agree more. In order to be accurate, let's count all the people in 2000 and not bank our future on a population polling scheme. I urge my colleagues to defeat the Mollohan Amendment and to support an accurate count.

Mr. MOLLOHAN. Mr. Chairman, we all agree on that.

Mr. Chairman, I yield 1½ minutes to the distinguished gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Chairman, the opponents of a fair and accurate census have implied that both the Inspector General and the GAO have said that the 2000 Census is headed toward failure because of the use of statistical methods. In fact, just the opposite is true. The Inspector General said in testimony before Congress:

> I have fully supported and have been recommending sampling for some time. In fact, the Bureau needs to increase the amount of sampling over that presently planned.

Nye Stevens, who directs this issue at the GAO, also testified before a Republican controlled Congress and said:

> We are particularly encouraged by the decision to adopt sampling among the nonresponse population. We have long advocated this step.

Both the GAO and the Commerce I.G. have endorsed the use of statistical methods in the census and have criticized the Census Bureau for not using them more.

Mr. Chairman, the risk of a failed census is increased by those who want to cut off funding for the census in midyear. Earlier this year the GAO said the longer this disagreement between Congress and the administration continues, the greater the risk of a failed 2000 Census.

The American people deserve an accurate count.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority whip of the House.

Mr. DELAY. Mr. Chairman, I have to rise in opposition to this amendment, and the question today is quite simple to me: Do we decide to use polls to conduct the census, or do we actually count the people as required under the Constitution? Can we trust this President to do what is right?

Now this amendment makes it easier for this administration to use polls to conduct the census. As the President said in Houston, if I can have that brought over here:

> Most people understand that a poll taken before an election is a statistical sample, and sometimes it's wrong, but often, more often than not, it's right.

So, every time the Mollohan amendment supporters say "sampling," have the word "poll" in mind, because, Mr. Chairman, this is taking polling to a very new level.

What is next? Should we poll to see if the Clinton campaign broke the law in the last election? Should we poll to see if Ken Starr is doing his job? Well, Mr. Chairman, the President is a master when it comes to manipulating the polls, but sometimes polls are not enough. Sometimes the American people need to know the truth. And when it comes to the census, the Constitution requires that we know the truth.

The most amazing thing about this polling scheme is that it will delete real people who happen to be members of a demographic group who are overrepresented. Can my colleagues imagine that? Deleting real people? Do my colleagues think that the Founding Fathers ever imagined a census count that actually uncounted citizens of this country? That is what they are proposing: uncounting citizens of this Nation.

So, Mr. Chairman, we have to defeat this amendment and stop this polling madness. The Constitution requires a count of the people, not a poll of the people.

Mr. MOLLOHAN. Mr. Chairman, I yield 3½ minutes to the distinguished gentleman from California (Mr. BECERRA).

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

Mr. Chairman, it is becoming very clear that there is a real fright in this House among some Members if we go out and truly count all of the American people, something we have never been able to do. The 1990 Census, as we know, undercounted about 4 or 5 percent of Americans, and that is as close as we have ever come in trying to head count people. But there is a real concern on this side of the aisle in going after those groups that are traditionally undercounted, so much so that this House is preparing to pass legislation that would provide half-year funding for a whole host of agencies, not the least of which is the Department of Justice, the Department of Commerce.

Mr. Chairman, no American would go out and shop for half a house. No American would go out there and buy half a car. No American would plan for half an education for his or her children. No American would buy half a loaf of bread. What we want is something that we can plan for in the future, and we do not have it in this bill.

That is why the Mollohan amendment says:

Let us fund the Department of Commerce, the Department of Justice and certainly the Bureau of Census all the way through, and if the courts should say that we are wrong in going with statistical sampling, and I cannot yield to the gentleman although I would love to yield if he yielded me time to do so.

Mr. ROGERS. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. BECERRA), and, Mr. Chairman, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, does the gentleman understand that this bill funds the entire year for all these agencies and only half a year for the Census Bureau?

Mr. BECERRA. Mr. Chairman, that is not the way I see it. But I see what this majority has done is funded.

Mr. ROGERS. Mr. Chairman, I tell the gentleman that that is not so.

The gentleman is completely uninformed about what the bill does. We fund all of these agencies for the full year. The White House wants to cut it off after 6 months.

Mr. BECERRA. And the chairman was very artful in the way he describes this.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield so I can straighten this out?

Mr. BECERRA. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. The gentleman is absolutely correct with regard to the important pertinent part of this bill, and that is the Census Bureau. Indeed the Republican leadership in the House and the administration were, previous to our marking up the bill, talking about not funding the whole bill but only half the year. Well, that was nonsense. We did not do that. We funded the whole bill for half the year, except we carried on the nonsense with regard to the census, so in this bill only the census is not funded for the whole year. It stops at half a year, and it creates the same kind of malarkey and nonsense and instability in the census that we would have created with the whole bill if we had done the same thing.

It is a bad thing to do. We just did it with the census and not the rest of the bill, which is horrible, and that is the reason the census is threatened, the very point the gentleman makes, that we are only funding the census for half a year, and that is why the 2000 Census is at risk. I thank the gentleman for making the point.

Mr. BECERRA. Mr. Chairman, in 1991 then Congressman NEWT GINGRICH, now Speaker NEWT GINGRICH, said: "Use statistical sampling to adjust the count from 1990 because my State of Georgia is not going to have everyone counted."

1998, the Republicans under the gentleman from Georgia (Mr. GINGRICH) are trying to stop what he asked for in 1991. Why? Because there is such fright out there.

Now who are we going to trust? The National Academy of Sciences and the scientists, the experts, who do counting? Who? President Bush?

Then President Bush, said: "Please tell us how best to do this."

He said: "Let us use statistical sampling."

Or folks who said, "We want you to use statistical sampling," when it benefited them but now are concerned about it?

I will tell my colleagues this: Who should the American people trust? I would trust those who are devoted and have devoted a career to science, not to people who are devoted to a career of politics. That is what we have today.

Mr. Chairman, I would hope that the American people could see through the charade and understand that there are some political risks that some folks are very concerned about, and, as a result, they are willing to play with the lives of American people who have never had a chance to participate in this process.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes and 10 seconds to the gentleman from Georgia (Mr. KINGSTON).

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

The Commerce, State and Justice bill has become part of the Clinton regain-credibility-by-shutting-down-the-government strategy.

We have a disagreement, or let us say Clinton has a disagreement. He wants to renege on last year's promise and shut down the government using any excuse to do it. And what was last year's bipartisan agreement? To maintain two tracks on the census:

Number one, the constitutional route. Remember that little rule book so carefully crafted by our Founding Fathers which many on this side and the administration consider a suggestion book, but the Constitution says, "You will count people head by head to make sure no one is left out and no one, wink wink, is put in who doesn't exist."

And then the Number Two: There is the polling method advocated by the President. The polling method is where we simply go out and we sample some of the population, we fill in the blanks on whatever discretion or whatever numbers we need.

That is what this argument is about.

Now think about this administration who has politicized the FBI, the BATF, the Immigration Service, the National Park Service, the Travel Service, the USDA and the EPA. Now they are doing the census service by bringing them into politics. And where is this Census Bureau who is so worried about their budget, so worried about the census crisis; where are they?

Well, we have done a little investigation, Mr. Chairman, and here is where they are:

Number one, the itinerary for the executives and the head bureaucrats over at the Census Bureau, they have got a busy month coming up:

Rome, Italy, Trevoli Fountain, the Coliseum by moonlight. Paris, France, Champs Elysee by summer. Wiesbaden, Germany. I am getting ready for Octoberfest, beat the rush on the beer. Armenia. Well, everybody knows Armenians are experts in the census and then of course there is Malawi and Zomba, Malawi, which, as my colleagues know, I do not know exactly what they are, but I know they are real good at counting people and we need to go down there. And of course Rio de Janeiro. In case we miss Carnivale, we can go down there in the summertime. And then Taiwan. Of course. Census crisis, go to Taiwan. Makes sense to me. Will not have problems with missile technology transfers with their neighbor.

The point is, if Clinton decides to shut down the government over this legislation, at least the Census Bureau will have enough frequent flyer points in the bank to keep running around the globe for another 3 months.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 4 minutes to the gentlewoman from Florida (Mrs. MEEK), who I am sure will speak to the issues in this debate.

Mrs. MEEK of Florida. Mr. Chairman, I just want to ask the Repubs one question: What is this? Some kind of a treatise on the Clinton administration? What is it? An inquiry on the Clinton administration? Or is it a dissertation on the census? That is what we are here for. We are here to talk about the census.

And I want to tell my colleagues something. It is not funny to me. It is not funny because they have undercounted the people I represent, and they not only undercounted them, they did it in the last census and they are doing it again.

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But it is funny to you. But it is not funny to me, because since the beginning of this country, you have grinned and scoffed at freedom for the people I represent.

There are a lot of things in this census that you are not even thinking about. The Voting Rights Act is in there. My people died for the right to vote. If you are going to skew the figures because you do not want to count them correctly, that removes the humor from this situation for me. For the past six censuses you have undercounted African-Americans. It is time to tell this country we want everybody counted.

I have been working on this census issue since the 104th Congress. Mr. CLINGER was the chairman of the committee at that time. I could not get a sentence to the front. Once we got a

sentence to the front, we could not get a hearing. So it has been just a sequential means of gagging the Democrats about the census.

Now the time for this gag is over. You may as well cut it out, because we are going to let the American public know that you are taking the right that the Constitution gave us, enumeration. Define it for me. I have never seen it defined in the Constitution. It does not say that you count every head, that that is enumeration. Enumeration could include sampling. You cannot prove to me through any kind of empirical observation that it means what you are saying it means.

Now you are telling me today that you know that there will be an inadequate count, you know there is going to be an undercount, yet you are taking the risk to say so.

My good friend the gentleman from Florida (Mr. MILLER), and we are good friends, but he discussed this morning that we are working on something to help this counting, this regular enumeration.

How are we going to do it? I offered an amendment to the Republicans. They hardly let me get in the door of the Committee on Rules, let alone let the amendment be declared eligible for the floor.

There is no way we are going to be able to use these people who work in the neighborhoods to help bring about an adequate count, even by their own best estimate, and that is using enumerators. I have not been able to get that through the census.

I want to say one more thing, and then I am going to yield, because I know the gentleman is frustrated. What you have been doing is saying we are going to throw a pile of money at the census just so we can utilize these old, worn-out, tired methods. You are going to put as much megabucks in there as you can.

But I do not care how much money you put there, you are not going to be able to count them all. You have got to use some method to count them. But that is not why I am here. I am saying again, use the best method you can.

Mr. MILLER of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Chairman, I completely agree with the gentlewoman that we need to get people. When I was on the floor earlier, I spoke about how we need to work together to get people in the local communities. In the Haitian community in Miami, we need to get Haitians. We will get legislation to give the government all the possibilities. That is exactly what we need to do.

Mrs. MEEK of Florida. Mr. Chairman, reclaiming my time, I trust the gentleman, but I do not trust those other people helping you make these decisions, because if we do not use some people in the neighborhood, we will not get an accurate count. It is fruitless to try to count every person with that old traditional method. It did not work before, it is not going to work now. My appeal to you, to this Congress, is that it is impossible.

So I draw one conclusion, and I will sit down: There are some that do not want an adequate census.

Mr. ROGERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS), a member of the Subcommittee on Census.

Mr. DAVIS of Virginia. Mr. Chairman, I rise in opposition to the Mollohan amendment.

We have heard a great deal about the National Academy of Sciences and their endorsement of the population polling scheme for Census 2000. Let me let you in on a little secret: The distinguished members of the National Academy of Sciences have not endorsed the plan. Indeed, the entire membership of the National Academy never endorses anything.

So what then are these three blue ribbon panels at the National Academy? The NAS regularly convenes these panels to study important problems facing the country or government, but members of the committees need not be members of the National Academy of Sciences. Indeed, most of the time there are very few National Academy of Sciences members on the committee at all.

Let me give an example. One of the three panels endorsing the use of polling to adjust the census was called the Panel on Census Requirements for the Year 2000 and Beyond. There were 20 people working on that committee. How many actual members of the National Academy of Sciences? One. That is right, just one.

The other 19 members were handpicked so that the panel would know what the answer was before they even asked the question. We are dealing with a stacked deck, Mr. Chairman. I, for one, am not buying it.

After the panel finished its work and delivered the inevitable report, did the entire National Academy of Sciences address the report? Of course not. There are members of the National Academy of Sciences who oppose the projected polling scheme. There are other panels you can say the same kind of thing for.

The American Statistical Association created a handpicked blue ribbon panel to inform the public about sampling. While all the members of this panel may have been members of the American Statistical Association, again, the horse was put before the cart. The answer the panel would have delivered was known ahead of time.

These phony panels are akin to asking Popeye if spinach should be the national vegetable. Do we ask the Seven Dwarfs to be objective about Snow White? Of course not.

Do not believe the hype. If you have no objective scientific evidence for the reliability of the population polling scheme, then we have to reject it. The GAO has already expressed their doubts about this scheme.

There is too much at stake here. We think that this amendment should be defeated. During the dress rehearsal, the GAO discovered that the Master Address File did not include between 3 and 6 percent of the households. It is fatally flawed. Reject the Mollohan amendment.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT), the distinguished minority leader.

Mr. GEPHARDT. Mr. Chairman, there is a great saying by a great person who once said, "Those who cannot remember the past are condemned to repeat it." Republicans have failed to learn from our past experiences with the 1990 census, at the cost of leaving out millions of Americans in the year 2000 count.

We are here today debating the Mollohan amendment simply because our Republican colleagues have forgotten about what happened in 1990, when the census failed to count over 6 million people in this country. Their collective amnesia will condemn us to repeat another failed census which disproportionately undercounts Hispanic and African Americans, children and rural residents.

Republicans like to act like they have learned the lesson of past mistakes on the great civil rights issues of our generation, when many in their party were on the wrong side of efforts to extend voting rights and desegregate public places in our country.

The census is today's great civil rights issue, and once again Republicans are standing against what is right and what will give us an accurate census. They are determined to ensure that the 2000 census has an even greater undercount by limiting funding to the Census Bureau in the Commerce-State-Justice appropriations bill to only six months.

The Republicans' action in this legislation would directly undermine the ability of the Census Bureau to plan and prepare for the year 2000 census, and it would undermine the constitutional responsibility that James Madison laid before this body to use the best data available to conduct the decennial census.

Rather than providing the Census Bureau the full funding it requires to ensure that every American is counted, the Republicans have decided to place their own partisan political interests above a fair and accurate count of every person in this Nation.

The Census Bureau has created a plan that will count everyone. It is a

plan that relies on the most modern scientific methods to supplement the traditional head count, and will save us hundreds of millions of dollars in costs.

Not only does the overwhelming majority of the scientific community support the Census Bureau's plan, the National Academy of Sciences has concluded that using scientific statistical methods is the most valid and cost effective way to count the population. Most importantly, the Federal courts have given the Commerce Department and the Census Bureau the authority to determine what are the best methods for conducting the census. Republicans ignore the expertise of the scientific community and the decisions of the courts. Their political position flies in the face of the facts.

Republicans are repeating the mistakes of the past. Democrats have learned from these mistakes and are working towards achieving a better census and a more accurate count of all Americans.

The Mollohan amendment would require the Census Bureau to continue planning for the 2000 census until the Supreme Court makes the final determination of what is constitutional. It is the only logical choice for Democrats and Republicans alike who want to see preparation and planning for the 2000 census proceed without political interruptions.

Let me add one further point. If we do not get an accurate census, it will have enormous economic implications for every community in this country. I have had both Republican and Democratic mayors say to me that this issue is the most important economic issue for their city, their town, their county, their village.

This is not just about politics, although, unfortunately, it has become that. It is about the economic future of every city, village and town in this country. Democratic and Republican mayors alike want sampling because they realize it is the only way we are going to get an accurate census.

Vote for the Mollohan amendment. Let us keep the promise of the Constitution. Let us get an accurate count. Let us do the right thing for the American people.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, this is not a complex issue. This is an issue about the very basis of our representative form of government. You do not have to have a Harvard degree to understand what the Constitution says. Article I, Section 2, says the actual enumeration shall be made. The 14th Amendment says counting the whole number of persons in each State.

I defy anyone to come and show me where the Constitution, this is the Constitution, where it says we conduct polling, we conduct statistical sampling, we conduct statistical methods.

We are spending $4 billion to conduct the census to determine our representative form of government and who comes here and represents the people, the very foundation of our democracy. The very least we can do is count each and every individual.

Two thousand years ago, citing Luke 2, Verses 1 through 7, in those days Caesar Augustus published a decree ordaining a census of the world, and then they counted, 2,000 years ago, every person. Today we can do at least the very same for representative government.

Mr. MOLLOHAN. Mr. Chairman, we have come a long way in 2000 years.

Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentlewoman from New York (Mrs. MALONEY)

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, earlier my colleague from Florida mentioned to the gentleman from Florida (Mr. MILLER), "I do not trust you."

I would like to really respond to some of the statements that the gentleman from Florida (Mr. MILLER) has made on this floor and in the many meetings we have had in the Committee on Census. He has often referred to a book called "How to Lie about Statistics" written by Darrell Huff, and he uses this as an example in his arguments against the use of modern scientific methods.

Well, I decided not only to read the book, but to call the author. And, guess what? He supports modern scientific methods. I quote from Darrell Huff: "I do not think there is any controversy among professionals about the validity of sampling studies or statistical methods. They are universally used and in some cases they are the only methods possible."

Mr. Chairman, I will put into the RECORD quotes from leading experts on statistics and quotes from editorial boards across the Nation, including Barbara Bryant, former Director of the Census Bureau.

CENSUS 2000: EXPERTS SUPPORT AN ACCURATE CENSUS USING STATISTICAL SAMPLING

The National Academy of Sciences resolved in 1995 that, "[P]hysical enumeration or pure 'counting' has been pushed well beyond the point at which it adds to the overall accuracy of census. . . . Techniques of statistical estimation can be used, in combination with the mail questionnaire and reduced scale of follow-up of nonrespondents, to produce a better census at reduced costs." And again in 1997, the National Academy of Sciences concluded, "It is fruitless to continue trying to count every last person with traditional census methods of physical enumeration." [Report of the Panel on Census Requirements in the Year 2000 and Beyond, Committee on National Statistics, 1995; U.S. Department of Commerce, Bureau of Census, Report to Congress "The Plan for Census 2000," August 1997]

Dr. Barbara Bryant, Director of the Census Bureau under Former President Bush wrote in a letter to Speaker Gingrich, "[O]ur social and economic development as a nation will be served best by striving for the most accurate census possible. In every decade, that will be one which combines the best techniques for direct enumeration with the best known technology for sampling and estimating the unenumerated." [Dr Barbara Bryant of the University of Michigan Business School's National Quality Research Center in a letter to Speaker Gingrich, 5/12/97]

The American Statistical Association stated, "It is unwise to prevent the use of 'statistical sampling,' which is a long established and fundamental component of statistical science . . . it is essential to obtain as accurate a measure as is possible using the best statistical tools available at the time of a census. The environment and methodologies are different today from those 200 years ago, and they will be different again in the 21st century. We urge you to support using the latest scientific methods to assure that the Census 2000 results are the best current knowledge and science can provide." [ASA Letter, 6/13/97]

The General Accounting Office said it is "encouraged that the Bureau has decided to sample those households failing to respond to census questionnaires rather than conducting a 100-percent follow-up as it has in the past . . . Sampline households that fail to respond to questionnaires produces substantial cost savings and should improve final data quality." [1997]

Department of Commerce's Inspector General, Frank DeGeorge, remarked, "The Census Bureau has adopted a number of innovations to address the problems of past censuses—declining accuracy and rising costs. One innovation, which we fully support, is the use of statistical sampling for non-response follow-up." [October 1995]

The National Research Council concluded, "Change is not the enemy of an accurate and useful census; rather, not changing methods as the United States changes would inevitably result in a seriously degraded census." [The Panel to Evaluate Alternative Census Methololgies, "Preparing for the 2000 Census: Interim Report II," June 1997]

The Population Association of America's President, Douglas S. Massey, asserted, "The planned and tested statistical innovations [in the census] . . . have the overwhelming support of members of the scientific community who have carefully reviewed and considered them. If their use is severely limited or prohibited, the 2000 Census planning process will be obstructed, and the result could be a failed census." [June 1996]

[From Roll Call, July 16, 1998]

Y2K II

There'll certainly be hell to pay if the nation's banking, power and communication systems shut down because computers confuse the year 2000 with the year 1900. Government will get blamed for not doing enough in advance to handle the problem. But at least public officials will be able to say that the disaster was not originally of their making. That's not the case with the second Y2K meltdown that's impending: a failed 2000 Census, which took another step toward reality yesterday in the House Appropriations Committee.

On a party-line vote the committee's Republicans moved to give the Census Bureau only half of its funding for next year and to release the rest next March—if and when Congress has voted on how the census should be conducted. This was a blatant and dangerous move to keep the bureau from even

planning to implement statistical sampling as a counting method.

It's important that the Census Bureau be fully funded from the get-go in fiscal 1999 because much of the agency's vital preparatory work for 2000 needs to be done early in the year—regardless of how the sampling issue finally gets decided. Offices must be leased, employees hired, questionnaires printed and computers bought—which can't happen efficiently without full funding. Moreover, if there are delays approving a second tranche of funding in March, offices will have to be closed and employees let go, making a botched census even more likely—again, regardless of how the sampling issue is resolved.

The responsible way to handle the sampling issue is to let the Supreme Court decide whether or not use of modern statistical methods violates the constitutional mandate of an "actual enumeration" of the population each decade. We do not see how the Court can possibly decide that it does in view of the changes that have previously been made in the census. Until 1970, censustakers actually went around counting the number of persons in households. Since then, written questionnaires have been the main counting method, supplemented by personal visits. It's been conclusively determined that both methods systematically undercount the population, especially in minority and poor communities. So the Census Bureau wants to supplement visits and mailers with sampling to achieve a more accurate count.

We'd bet that the Court will find that what the Framers meant by "actual enumeration" was "a real count" of the population—as opposed to guesswork or political logrolling—to determine distribution of Congressional seats and government benefits. But we could be wrong. If so, there won't be sampling in 2000. If the court decides that sampling is OK, though. Republicans will have no legitimate reason to oppose the practice. To block it, they'd have to say they want minorities to be undercounted—a disgraceful proposition that's unsustainable politically or morally. The GOP has every right to want sampling to be conducted in an honest, professional manner. But it's covered this problem by creating a bipartisan census oversight board.

So, we urge the full House—or the Senate—to assure full funding for census preparations. One Y2K problem is plenty.

[From the Washington Post, July 15, 1998]

GAMES WITH THE CENSUS

The House Appropriations Committee is scheduled today to take up the bill that contains funds for the year 2000 census. It ought to provide full funding for the kind of census the administration has proposed—first a normal count, then the use of sampling and other statistical techniques to determine how many people were missed and adjust the final figures accordingly. That's the only way to combat the increasing undercount of lower-income people and minority groups especially that has skewed the census in recent years.

But the Republican leadership doesn't want to do it. They argue that sampling is illegal, in that the Constitution requires an "actual enumeration," and that even if not illegal it is suspect and susceptible to manipulation. They also worry that a census adjusted to eliminate the undercount could cost them seats and, conceivably, even control of the House in the next redistricting. On the other hand, they don't want to be put in the position of seeming in an election year to advocate less than full rights for minority groups and the poor.

To avoid that, they worked out a deal last year with the administration. This year's appropriations bill would be for six months only. They would thus be ensured of another chance to vote on the issue after the election; meanwhile they would have more time to seek a ruling from the courts. At the same time, preparations for a census including sampling could go forward, and when the big vote finally came, the administration would have a hostage—both sides would, in a sense—in that the census issue, because of the appropriations' placement in a bill funding three departments, would be intertwined with those three departments (State, Justice, Commerce), and thus the conduct of foreign affairs and most federal law enforcement. A veto over the census issue would involve a broader government shutdown for which neither party would want to be responsible.

That was the deal. The Republicans now propose to get out from under it by putting just the funding for the decennial census on a six-month basis. Nor would they provide even all the funding needed for the six months. Next spring they'd be able to hand the president a take-it-or-leave-it proposition—fund the census on their terms or not at all—with no cost to themselves in terms of shutting down other functions of government. In the meantime, they would foul up, for lack of sufficient funding, the normal preparations for the census. This would be to avoid the awful prospect of an accurate count two years from now. Administration officials say the president will veto the current bill if it deviates from last year's understanding. So he should.

[From the Scranton Times, June 27, 1998]

KEEP POLITICS OUT OF CENSUS

Samuel J. Tilden surely wished there had been an accurate census way back in 1870. If there had, you see, he would have been elected president of the United States in 1876.

Mr. Tilden, who had broken up the Tweed Ring in New York City, went on to become governor of New York (and later, the chief benefactor of the New York Public Library). And, in the presidential election of 1876, he actually received more popular votes than his Republican opponent, Rutherford B. Hayes.

In the Electoral College, however, Mr. Hayes received one more vote than Mr. Tilden, and became president. Only later did scholars discover that, because of an error in the 1870 census, the Electoral College votes had not been properly distributed, and that Mr. Tilden should have been elected.

That is a dramatic example of the impact of the census, even 122 years ago. Today, the census retains the potential for those kinds of problems but it is even more important, affecting the life of virtually every American. Census data are used for everything from establishing congressional districts, to distributing federal funds, to controlling the test-marketing of new products.

GOP WORRIED ABOUT CONGRESSIONAL SEATS

Unfortunately, as the 2000 Census draws near, the only issue that matters in Congress is the determination of congressional districts. Republicans who now control Congress actually are arguing against accuracy in the 2000 count, with largely spurious claims.

It is now known that the 1990 Census was the first one since 1940 to be less accurate than the one before it. In 1980, the census missed about 1.2 percent of the population. In 1990, it missed 1.8 percent. That would not be particularly alarming but for the fact that the count consistently missed certain groups more than others. It undercounted blacks by a whopping 4.4 percent, for example. Republicans in Congress worry that actually counting those folks next time would result in some congressional districts more likely to vote Democratic.

CONSTITUTION PROVIDES FOR INNOVATION

The National Science Foundation and a host of experts on the census have recommended the use of sophisticated statistical sampling methods to complement actual enumeration in order to achieve a more accurate count, and the administration plans to do that.

Republicans have raised the spurious claim that the Constitution requires actual enumeration. The Constitution mandated actual enumeration only in the first census, however. It states: "The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct." The manner that Congress by law should direct should be enumeration plus statistical sampling, using every proven statistical technique at the government's disposal.

[From the Buffalo News, June 15, 1998]

MAKE THE CENSUS AN ACCURATE COUNT

Why are Republicans afraid of a more accurate census?

It's the question that remains after the courtroom wrangling the other day between lawyers for House Speaker Newt Gingrich and those representing cities like Buffalo that have significant numbers of minorities and poor people.

Gingrich was in federal court trying to block the Census Bureau's plans to use statistical sampling methods that almost all experts agree would make the 2000 headcount far more accurate than the 1990 attempt.

For reasons having to do with everything from distrust of government to the transiency rates of the poor, the traditional door-to-door effort to count people every 10 years misses lots of minority and poor Americans. Most of them live in urban cities like Buffalo and New York. With a variety of federal and state aid programs pegged to population figures, cities and states that are the victims of census undercounts miss out on money they need and deserve.

Equally important, the census counts also affect the drawing of congressional districts. That, in turn, impacts on elections and helps determine which party controls the House and state legislatures.

The technical dispute is over the "enumeration" called for in the U.S. Constitution. Republicans insist that the term means there must be an actual head count and no sampling.

The Census Bureau, cities and minority groups, arguing the other side point to accompanying language saying the census shall be conducted "in such manner" as Congress directs. Logic dictates that the framers would never have included that language if they were mandating only one way to conduct the census and meant to leave no room for improvements, such as through sampling.

But the argument really is more about political power than logic. Republicans privately fear that a census that reveals more minorities and poor people could lead to a redrawing of legislative districts in ways

that threaten GOP office holders. That could shift the balance of power in the House or in some state legislatures.

Of course, such a fear seems to assume that Republicans feel they have nothing to say to minorities or poor people. Is that what GOP leaders mean to concede? Any party that feels it has ideas that can compete for the minds of voters shouldn't worry about the prospect of having more Americans counted, no matter where they live.

The bottom line is that the census should be as accurate as possible. Instead of fighting to cheat cities like Buffalo by perpetuating undercounts of certain populations, the GOP should be fighting with ideas that can attract those newly-counted Americans.

[From the Pittsburgh Post-Gazette, June 14, 1998]

CENSUS SENSE—THE USE OF "SAMPLING" IS SCIENTIFIC AND CONSTITUTIONAL

Since 1790, the United States has conducted a census every 10 years as required by the Constitution. As difficult and error-prone as this process always has been—George Washington and Thomas Jefferson thought the first count was too low—the task has become more difficult as the nation has become bigger and more mobile. Unless an adjustment is made, the 2000 census threatens to be the most inaccurate yet.

The record for error was set in 1990—the first census in recent history to be less accurate than the one before. The Census Bureau estimates that 10 million people were missed in the 1990 census and 6 million were double counted. Thus the census undercounted approximately 4 million people. The Bush administration rejected requests to adjust the figures.

Republicans are again resisting adjustments, this time in the method to be used for the 2000 census. They oppose using sampling, which the Census Bureau, the National Academy of Sciences and the Clinton administration say will make the count more accurate—and cheaper.

The issue may seem arcane but the stakes are high. Of the $125 billion that went to state and local governments in 1990, about half involved calculations based on census data. And, of course, the census is used to determine the apportionment of U.S. House seats, a fact that worries the GOP because the census disproportionately undercounts pro-Democratic minorities.

Naked self-interest, however, is dressed up in respectable arguments. Two lawsuits have been filed to prevent census sampling, one of them brought by House Speaker Newt Gingrich. The main contention is that sampling is unconstitutional, because Article 1, Section 2, of the Constitution requires that an "actual enumeration" be made.

To read this section as saying that sampling is banned as a supplement to actual counting is absurd. As the Census Bureau itself notes, the Justice Department has given an opinion on sampling on three occasions—during the Carter, Bush and Clinton administrations—each time concluding that sampling is constitutional.

Because the opposition has been so overstated, the average American could be forgiven for assuming that the Census Bureau intends to go out and use a few strategic samples in lieu of a count, much like public opinion or TV rating pollsters. That is far from truth.

Census forms will still be mailed out—short forms to five out of six households and a long form for the sixth. Just as in 1990, when only 65 percent of the forms were returned, census workers will go out and try and reach those who did not respond.

But because experience shows that it is impossible to contact everyone (and expensive to try), the census workers will aim to reach a minimum of 90 percent of the households in each census tract. The difference will be imputed on the basis of the data of those who were reached in follow-up visits. In addition, a sample of 750,000 households nationwide will be made as a safety check on the calculations.

Sampling is not weird science; many experts in the field favor the method. It also has ample precedent. As it is, the Census Bureau takes 200 sample surveys each year. Some sampling in a major census was done as long ago as 1940.

As a panel from the National Research Council observed, "It is fruitless to continue trying to count every last person with traditional census methods of physical enumeration." Census day 2000 is April 1. The nation will be ill-served if partisan politics obstructs the use of the best way to get the most accurate count.

[From the Chicago Tribune, June 6, 1998]

THE WISDOM OF CENSUS SAMPLING

Trying to count every one of the 260 million-plus people who reside in the United States is a literally impossible task. No matter how much time, money and effort the Census Bureau expends, it can never hope to get a perfectly accurate count. In the 1990 effort, the bureau concluded, it missed some 8.4 million people and counted 4.4 million people not once but twice. And relying on old techniques, the count is getting steadily less accurate.

That's of some importance, since congressional seats and federal money are divided up by population. but it is a deeply divisive issue in Washington.

The Clinton administration and its allies in Congress, along with the National Academy of Sciences and the great majority of experts in the field, favor a census Bureau plan to use a statistical method known as "sampling" to estimate the millions of people who escape the old-fashioned head count. Republicans, fearful that most of these people are the sort who tend to vote Democratic, are resisting that suggestion. They have filed a lawsuit challenging the method on constitutional grounds and, if they lost in court, they hope to block it with legislation.

The president raised the volume on the issue last week with a speech in Houston—where, he said, the last census missed some 67,000 people. By this estimate, sampling would cut the number of people which are missed by the census to just 300,000. It would also save money.

Republicans claim the use of this method would violate the Constitution, which calls for "actual enumeration" of the population. But the full provision says, "The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct"—which suggests that legislators have considerable latitude.

Nor is it obvious that "actual enumeration" means individually counting every person, particularly when that is known to be a seriously inadequate measure. George Bush's Justice Department issued an opinion that sampling is constitutional. A federal court is expected to issue a decision on these questions next month.

But Republicans have not made the case that a ban on sampling would make for the most accurate count possible. However inconvenient its political consequences for some, that goal has to take priority over everything else.

[From the Christian Science Monitor, Apr. 28, 1998]

DOWN FOR THE COUNT?

Every census of a vast country like the United States is an estimate. Millions don't respond to the mailed census forms, and every front door can't be visited by follow-up head counters, particularly in tightly packed urban areas.

The count came up so short in 1990 (at least 10 million) that the Census Bureau devised a plan for using sampling methods to arrive at a more accurate estimate next time around, in 2000. Sampling is an almost universally accepted statistical tool. But Republicans in Congress have dug their heels in—no sampling!

Why? Sampling's critics may say it's because the Constitution specifies an "actual enumeration." But the Constitution also says that the counting shall be done "in such manner" as Congress directs. There's nothing barring techniques like sampling. The real issue here is political, not constitutional. Some in the GOP don't really want a more accurate count of the hardest-to-find Americans, the poor and new immigrants who typically vote Democratic. Larger numbers in those categories could affect the political character of congressional districts allotted to states after 2000, when the new census becomes the basis for reapportionment. Specifically, it might become harder to create "safe" Republican House seats.

But the effects of an undercount go beyond representation. They can slow the distribution of a range of federal assistance programs, since localities partake according to their populations. Beyond governmental concerns, businesses assessing markets and researchers analyzing society rely on census numbers.

After 1990, the calls for improvement were loud. The sampling procedures drawn up by the Census Bureau are a far cry from "guessing," as some charge. The counting process would begin with the traditional mailed census questionnaire, sent to every dwelling on a master address list for the country. In 1990, about 65 percent of households responded. Follow-up interviewers will contact a large number of those who don't respond, with an emphasis on areas with high rates of non-response. The bureau hopes this will boost the total contacted to 90 percent.

But that leaves 10 percent uncounted, and now the going gets tougher. This is where sampling would have its biggest impact. A sample of 25,000 census "blocks" would be chosen for a second close, physical canvassing of every residence—a step that wouldn't be practical for the whole country. The results of this canvass would be compared to the earlier head count. "Estimation factors" would emerge that could be used to correct counts in all blocks, with a close eye to corresponding demographic features like homeownership, race, and age of residents.

This spring, the bureau will conduct some dress rehearsals of this system in geographically varied parts of the country. Congress allowed for that much. But a full-scale gearing up for 2000 remains problematic.

Preparations for the dress rehearsals have underscored another problem facing the census: It's difficult to find workers to conduct the count. With today's very low unemployment, few jump at the short-term, no-benefits census jobs. This problem will be exacerbated if Congress orders a labor-intensive, no-sampling national head count.

Meanwhile, the Census Bureau is having to split its management—one part moving ahead with the sampling plan, another working on contingency plans in case Congress flatly rules out sampling. Congress's own General Accounting Office just issued a report warning that continuing indecision over census methods could imperil the 2000 count.

One other note: If the GOP leadership in Congress has its way and demands an "actual" count, the price could be at least $1 billion higher than the sampling approach.

For a more sensible, and accurate census, Washington's politicians should back off and let the experts in the Census Bureau apply their apolitical expertise.

[From the New York Times, Jan. 17, 1998]

TAKING LEAVE OF THE CENSUS

The resignation of the Census Bureau's Director, Martha Farnsworth Riche, does not bode well for hopes that the 2000 Census will be more accurate than the flawed effort in 1990. Ms. Riche, a respected professional demographer, says she has accomplished her goal of redesigning the census process, but regrettably she will not see the difficult task to completion. Her departure robs the agency of the leadership needed to resist political efforts to hijack the census.

Ms. Riche has had to battle fierce political opposition from Republicans on the use of statistical sampling to supplement the traditional head count in the upcoming census. The 1990 Census, which did not use sampling, was the most costly in history and yet missed 10 million Americans and counted 6 million twice or in the wrong place, according to analyses by the National Academy of Sciences. That is because census counts depend entirely on locating people at specific addresses. New immigrants, those in shared housing, migrant workers, the homeless, the poor and young people tend to be undercounted. As these populations grow, particularly in larger cities, the traditional counting approach has become less and less accurate.

Professional statisticians and economists, including experts convened by the National Academy, have said that taking a sampling of those who do not return their census forms by mail and using that sample to estimate the uncounted population would be far more accurate than sending field workers out to make fruitless door-to-door counts. Ms. Riche has been a sensible proponent of this plan.

But Republicans have fought sampling because they believe that the missing millions could turn out to be minorities living in areas that vote Democratic, possibly giving Democrats an advantage since census figures are used to draw state and Federal legislative districts. In a compromise deal hammered out between the White House and Republican leaders last November, the Census Bureau was allowed to go forward with a small dress rehearsal using both sampling and traditional counting techniques this year. In exchange, House Speaker Newt Gingrich will be allowed to use government money to bring a lawsuit to stop the use of sampling in the actual census in 2000.

Ms. Riche's departure could leave the Census Bureau without a guiding force when the sampling battle resumes in Congress after this testing period. It appears unlikely that the Republicans will approve a nominee to the post who supports sampling. Yet Ms. Riche bluntly says there is probably no one in the professional community who thinks an accurate census can be taken without sampling. The Administration may decide to shy away from a confirmation battle by naming an acting director to the agency instead. The politics that drives this debate now threatens to undermine what should be a politically neutral government task.

[From the Los Angeles Times, Oct. 2, 1997]

IF THE CENSUS IS FAULTY, THE CITIES WILL PAY DEARLY—GOP OPPOSITION TO SAMPLING COULD HIT CALIFORNIA HARD

When a congressional conference committee takes up the debate in coming days over how to conduct the 2000 census, the Senate version of the bill should prevail. That version would sensibly permit the Census Bureau to use scientifically sound sampling methods to augment the direct count, thus avoiding an undercount like the 1990 fiasco that probably cost California a couple of seats in the House of Representatives and up to $1 billion in federal population-based funding.

If conference action fails to eliminate the House ban on funding for statistical sampling, President Clinton needs to make good on his threat to veto the appropriations bill that funds the Commerce, State and Justice departments, a measure to which the House attached its sampling ban. House Republicans let the government shut down in a similar standoff last year. Are they prepared to do that again?

The Constitution requires a decennial census. This head count, which is nearly as old as this nation, is becoming increasingly inaccurate because of the changing face of America. The growth of hard-to-count populations such as immigrants, the urban poor and, in some areas, the rural poor frustrates an accurate tally where individuals are physically counted. The 1990 census missed 834,000 residents of California, according to a census study completed after the official count. That costly failure also denied many Californians the fundamental right to equal representation in Congress. That's unjust.

The House GOP leadership opposes sampling, which is commonly used in public opinion polling, on the grounds that it falls short in terms of accuracy, constitutionality and safeguarding against political manipulation. In taking that position, the GOP disregards the scholarly assessment of the National Academy of Sciences.

Republicans call for a physical head count, which tends to favor affluent, married suburbanites—the traditional Republican voter base—over the poor, minorities, single people and transients who dominate many cities. Although the Justice Department in the last three administrations has interpreted the Constitution as allowing sampling, GOP leaders insist that the document specifies an actual enumeration and they refuse to proceed without a constitutional test in the Supreme Court.

On this issue, the Republicans aren't constitutional purists, they're partisans. The only heads they are counting are those in the GOP column. Ultimately this debate is not about population figures, it's about politics. If all Americans are counted, according to some projections, additional congressional districts will be required in areas dominated by minorities and the poor, who traditionally vote Democratic. Changes in political boundaries could cost the GOP up to a dozen seats—and perhaps its majority in the House—some analysts say. Those are the numbers that fuel this partisan controversy.

If the Republican majority succeeds in forcing the Census Bureau to rely on outdated methods, the GOP will probably save several seats. But that victory would be achieved at the expense of a level playing field, especially in California. The California congressional delegation, Democrats and Republicans alike, should support the census takers in the effort to gain a complete count. Democracy is not served if the numbers don't add up.

[From the Los Angeles Times, Sept. 4, 1997]

THE NEXT CENSUS HAS TO SEEK ACCURACY, NOT POLITICAL GAIN—MODERN TECHNIQUES CAN ENSURE FAIRNESS FOR CALIFORNIA

California lost, big time, in the 1990 census. The Census Bureau believes that a severe undercount missed 834,000 residents, costing the state a House seat and billions of federal dollars.

To prevent another huge undercount in 2000 and to take a more accurate measurement, the Census Bureau wants to use scientific, statistical, computer sampling techniques to augment the traditional head count. The National Academy of Sciences supports this approach. So does the Clinton administration. But House Republicans plan to block the reform when the census spending bill comes up for a vote later this month. At stake is the potential loss of up to 24 Republican seats in the House, some political analysts say. But the fundamental right to equal representation should not rise or fall on such political stakes.

If all California residents are counted in the next census, the state could gain one or two congressional seats and a larger, fairer share of the billions in federal funds that are parceled out on the basis of population.

Undercounts tend to miss immigrants and ethnic and racial minorities, poor people and children. Transiency is a problem. To count more of the hard-to-reach population, the Census Bureau plans to send out thousands of human counters and four mailings, including forms and reminders. Forms will also be available at post offices, churches, conveniences stores, homeless shelters and other public places and through community groups. A toll-free telephone line will serve people who prefer to call in. Census officials claim sophisticated computer software should eliminate double counting caused by duplicate forms. This new community-oriented approach would work even better in tandem with computer sampling.

The House Republican leadership opposes the proposed methodology, which is commonly used in public opinion polling, on the grounds of accuracy, constitutionality and potential for political manipulation. They prefer a physical head count only, which tends to favor married homeowners who live in suburbs—the traditional Republican voter vase—over single, transient, minority renters who live in cities. The critics insist that the Constitution specifies an actual enumeration, although the Justice Department in the three past administrations has interpreted that language to allow sampling and the National Academy of Sciences offers scholarly approval.

The purely political stakes are high for both critics and supporters of sampling. The heads the Democrats and Republicans want counted are those represented on their side of the aisle. Still, accuracy, not politics, should be the key test for the 2000 census. Sampling is part of a sound strategy for gaining an accurate count.

[From the Atlanta Constitution, Aug. 1997]

POWER STRUGGLE BEHIND CENSUS DEBATE

A long-simmering fight on Capitol Hill over how the United States counts its citizens in 2000 may strike many Americans as

arcane. What difference does it make, they may wonder, whether the Census Bureau tries to count every nose or instead uses statistical sampling techniques to fill in the gaps in its tallies?

It could make a big difference. The census of 1990 undercounted U.S. population by an estimated 4.7 million people, the majority of whom are poor people in urban or rural areas and often are hard to detect through traditional means of census-taking. A more accurate census would have required federal programs to redistribute funds in proportion to the population findings.

More to the point, an exact count would have meant changing the political map of U.S. House districts—probably to the advantage of Democratic candidates because the undercounted Americans—the poor and minorities—are typically Democratic constituencies.

And that is the crux of the dispute over the methods of the next census. Some Republicans on Capitol Hill are dead-set against procedural changes they think could cost them control of the U.S. House.

The arguments against changing the current system are flimsy. They contend the U.S. Constitution's mandate of an "enumeration" of Americans every 10 years implies "counting one by one." U.S. courts have ruled otherwise, maintaining that enumeration means making the most accurate count possible, period.

Some Republicans also suggest that statistical sampling could be subject to manipulation by the Clinton administration in 2000. That is irresponsible fearmongering. The Census Bureau has a proud history of statistical professionalism and independence from politics, and should be relied on to resist any attempt to undermine its accuracy.

The limited use of statistical sampling planned by the Census Bureau has the enthusiastic backing of the National Academy of Sciences, the community of statisticians and demographers and even President George Bush's director of the census in 1990, Barbara Bryant, a respected Republican pollster. Undoubtedly, Republicans who oppose the technique for the 2000 census use it themselves to get the most precise political data they can lay their hands on.

When Congress reconvenes next month, these naysayers will do their darnedest to deny this tool to the Census Bureau. Fair-minded Republicans and Democrats must resist them. Statistical sampling is a proven and efficient way to assure the most accurate and honest count of Americans humanly possible.

[From Newsday, June 16, 1997]

THE NEXT CENSUS OUGHT TO COUNT ALL AMERICANS

The political truce that has finally allowed the flood-relief measure to move through Congress despite Republican objections over statistical methods to be used in the 2000 Census was only temporary. The census fight won't go away because it isn't really about statistics. It's about politics, of the worst kind.

For years, census officials and other statistical experts have agreed the census has undercounted minorities, immigrants and poor people in the nation's inner cities and rural areas. But Republicans have long opposed techniques to get a more accurate measure: They believe the people who would be counted would likely be Democrats, or at the least would enhance cities' political strength relative to more Republican-oriented suburbs.

That's why, before the 1990 Census, then-Commerce Secretary Robert Mosbacher overruled the census director and ordered that there be no adjustment for the undercount. The result: The 1990 Census was the least accurate ever, with upwards of 200,000 uncounted in New York City alone and the loss of billions of dollars in federal aid to some states, localities and school districts.

Now the bureau is preparing for the next census, and intends to use some statistical sampling techniques to take a better measure. The approach has been endorsed by three separate panels of the National Academy of Sciences and several groups of professional statisticians.

The Clinton administration is backing the numbers crunchers, and it is right. Republicans, panicked they might lose congressional seats with a more accurate inner-city count, intend to fight again. They are acting out of self-interest, not the national interest.

[From the Bangor Daily News, July 27, 1997]

2000 AND COUNTING

To many Americans, one of the most puzzling things about the Beltway brawl last month over disaster relief was the insistence by Republican leadership that help for flooded North Dakotans be tied to Census 2000.

The census? That boring decennial national head count? That mundane, constitutionally mandated enumeration of every man, woman and child? What's the big deal and what's the problem?

Well, the big deal is the census is a very big deal, if for no other reason than that it determines how many members of Congress, and thus how much clout, each state gets. The problem is that the 1990 census, while respectably accurate overall, revealed a continuing and unacceptable trend: certain groups, rural Americans and blacks especially, are habitually undercounted and the gap is growing.

And, the census is getting extraordinary expensive. The last one cost $2.6 billion, with much of that going to conduct house-to-house follow-ups on the 35 percent of Americans who did not mail back their initial forms. The Census Bureau estimates Census 2000, if done with 1990 techniques and if it attempts to correct the chronic undercount, could run as high as $4.8 billion.

Congressional leadership has made it clear there is no way they'll spend that much, yet, paradoxically, leadership also is staunchly opposed to a proposal the Census Bureau has to save as much as $1 billion by augmenting the follow-up with sampling and statistical analysis.

With overblown rhetoric that would cause most folks to blush, opponents call the plan, which has the endorsement of the esteemed National Academy of Sciences, a "risky scheme of statistical guessing." This from the same politicians who use sampling and statistical analysis to gauge the public's mood before every election, who use these proven and finely boned techniques to declare victory five minutes after the polls close.

Unconstitutional, they say. That sacred document requires an actual enumeration. Yes, it does, but if the Constitution were followed to the letter, felons could buy machine guns off the shelf and any Mormon male with enough hair on his chest could have 16 wives. Were they to speak today, the Founders might say "Golly, we had no idea the country would get so big, the population so mobile and so suspicious of government. Just get most accurate tally possible."

The most undercounted segment of the population is black America and, as the recent revisitation of the abominable Tuskegee Syphilis Study reminded us, blacks have just cause to be wary when someone from the government comes knocking on the door to ask a lot of personal questions. Reluctance to count them better raises a spectre of racism the GOP doesn't need and the nation can't abide.

GOP leadership says the main reasons they're against sampling is that the census is used to determine everything from congressional districts and the distribution of federal money to the makeup of state legislatures and local school boards, so the Clinton administration will find a way to manipulate the numbers to its advantage.

Certainly, this administration is no stranger to the concept of manipulation, but the charge is a little hard to take from the Party of Watergate, the mother of all manipulations. A bipartisan approach to funding the census and a nonpartisan approach to overseeing it is the logical solution.

But logic is exactly what's missing here. Rep. Christopher Shays of Connecticut is one Republican who's appalled at his leadership's stubbornness and shortsightedness.

"It's embarrassing to have my party opposed, supposedly on scientific grounds, to something scientists support," Shays said the other day. "Politically, it's a mistake. The big gainers from a better 1990 census would have been the West and the South—defintely not Democratic strongholds. Leadership is dead wrong on this."

Dead wrong, but there's time to get right. The Census Bureau will stage a dress rehearsal of the new techniques in a few selected regions next year. Congress should give the trial run a fair hearing and then decide either to go with a head count that is accurate and affordable or to stick with the exorbitant and flawed. As it stands, Census 2000 is a disaster waiting to happen.

[From the St. Louis Post-Dispatch, July 19, 1997]

GOP PLAYS GAMES WITH THE CENSUS

The battle over the 2000 census is heating up again in Congress. Republicans insist on an actual count of each and every American—something that has long proved to be impossible. The Census Bureau wants to use statistical sampling to account for the last 10 percent of the population that's hard to find and routinely missed. The bureau is right.

But this week, the House Government Reform and Oversight Committee issued a statement attacking statistical sampling, while a House Appropriations subcommittee in funding the bureau's normal operations for next year prohibited any of the money being used for statistical sampling.

This is just plain bad faith. Earlier this year, Republicans tried to force President Bill Clinton to accept a ban on statistical sampling by including it in a disaster relief bill. Mr. Clinton parried and forced them to drop it. In return, the Census Bureau promised to report in 30 days the details of just how statistical sampling would work. That deadline hasn't yet arrived, but Republicans are going ahead with their prohibition anyway, making the matter a clearly partisan issue, which it is, of course, since Democrats might benefit by statistical sampling while Republicans won't.

So Republicans don't care about the facts. But they do care about losing congressional seats if those people who are routinely missed—mainly minorities and children—are

fully counted. There's no question that an actual body count will miss some of them, as it did in 1990, when 4.7 million people or 1.8 percent of the population wasn't counted, including 67,000 Missourians and 162,000 Illinoisans. Some 5 percent each were Hispanics, African-Americans and Indians.

Statistical sampling, widely used by pollsters, marketers and sociologists, can overcome this problem. Several committees of the National Academy of Science have endorsed it, and the bureau is eager to use it. It may be reasonable for Congress to wait for a detailed explanation of how statistical sampling will be applied. It is unreasonable to rush to judgment now. An accurate count is too important to be jeopardized by partisan politics.

[From the Memphis Commercial Appeal, July 19, 1997]

NATIONAL HEAD COUNT

To insist that the nation's census in 2000 be done by tapping every American on the head, so to speak, is to ensure a deliberate undercount.

Yet that's the position of some conservative Republicans—for a not very honorable reason. They fear a more accurate count would favor the Democrats.

Counting every American is physically and financially impossible. The census is conducted largely by mail backed by enumerators pounding the streets. Even so, many are still missed, largely among city dwellers, the poor and minorities, who are presumed to be Democrats.

No one really knows. Some Republicans believe a more accurate count would actually favor the GOP by catching up with the explosive growth of the Sun Belt.

The count is critical because the decennial census determines who gets how many House seats and who gets what percentage of federal aid.

To ensure a more accurate count, the Census Bureau plans to use statistical samples, revisiting some of the households that fail to answer mail questionnaires and revisiting certain neighborhoods. The bureau says the extrapolations will produce a count that misses only 0.1 percent of the population.

Statistical sampling is a tested technique, refined to a level of great accuracy, and its use in other surveys, both private and government, goes unremarked.

However, a group of congressional Republicans is determined to block any use of statistical sampling. In this, they are wrong—"dead wrong," says Rep. Christopher Shays (R-Conn.), co-chairman of the census caucus.

In one other respect, they are right: Statistical sampling can be prone to political manipulation, and certainly the stakes are high enough to make it worthwhile for someone to try.

Better their efforts be directed to ensure that the statistical sampling is subject to stern, independent, outside scientific scrutiny and audit. The census must not only be accurate but must be seen to be fair and accurate.

[From the Houston Chronicle, June 23, 1997]

ACCURACY A MUST—MUCH RIDING ON CORRECT CENSUS COUNT FOR HOUSTON

In Congress, even the method for counting the American people is regrettably politicized. With the 2000 Census approaching, Republicans and Democrats are at odds, imagine that, over what method the Census Bureau should use to count the nation's population.

Republicans want to physically count each and every one, while the Democrats favor using statistical sampling, a method never before used but one Census officials believe will yield a more accurate count.

For years, the Census Bureau has infamously undercounted the population, particularly in Texas. In the 1990 count, more than 4 million people in the country—an estimated 500,000 in Texas—were missed.

Undercounting the population is not inconsequential. Texas and other states where undercounts were greatest lost out on additional House seats and, more important, billions of federal dollars ranging from Medicaid to highway construction funds. State officials believe missed heads in the 1980 Census cost Texas roughly $600 million in federal money. That is funding that, in fairness, the state of Texas cannot afford to concede again.

The Census has been particularly inept at counting inner-city minorities and the poor. An estimated 5 percent of all Hispanics and blacks were not counted in 1990. In Houston, where Hispanics and blacks account for more than half of the population, that's a major problem.

Republicans argue that the Constitution mandates that every American be physically counted. However, doing so is a practical impossibility. As well, maintaining the status quo with the traditional count contradicts the GOP's movement to make government more accountable.

Understandably, House Republicans are being dutifully protectionist about their slight seat margin, one that they feel will be threatened by more minorities being counted.

But Texas Republicans should know better than most the stakes riding on an accurate count. Houston has a great deal at stake with the accuracy of the next Census, and political party interests shouldn't take a front seat over the greater interests of the community as a whole.

[From the Houston Chronicle, June 4, 1998]

COUNTING HEADS—NO REASON TO KEEP U.S. CENSUS INACCURATE

The purpose of the U.S. census is to get the most accurate count possible. If using modern statistical sampling to augment the actual head count makes the census more accurate, who could reasonably object?

No one, but then politicians afraid of losing power do not always act reasonably.

Since Thomas Jefferson conducted the first U.S. census in 1790, census takers have known that there are discrepancies between the actual number of residents and the number counted in the census. Some people are not counted; some are counted twice.

Statistical sampling is nothing more than counting some neighborhoods twice to measure accuracy. It's not a guesstimate that can be manipulated for partisan advantage. It serves the same useful purpose as an audit of financial records to make sure the numbers are correct.

In his visit to Houston Tuesday, President Clinton was right to say that the issue transcends partisan politics: "We should all want the most accurate method."

However, some Republicans believe, without much evidence or logic, that a more accurate count would significantly favor Democrats by counting urban residents that have been missed in the past. Congressional Republicans therefore oppose using statistical sampling to make the count more accurate.

They have little to fear from census accuracy. Only a couple of states might lose one congressional seat each, and the number of residents who show up at the polls and vote Democratic will not increase no matter how many residents are counted.

An accurate census serves all Americans and harms no political party. True, state and federal funding formulas would be significantly affected, but wouldn't the nation be better off if government spending were based upon accurate rather than grossly inaccurate population numbers?

Politicians who argue for keeping the census inaccurate place themselves in an untenable position. In another context they would insist the sailors compute their approximate position with a sextant and reject satellite technology accurate to a few yards.

[From the Dallas Morning News, May 29, 1997]

CENSUS—CONGRESS NEEDS TO FUND NEW APPROACHES

Ah, spring, and a census taker's fancy turns to . . . statistical sampling methodologies conducive to enhanced accuracy in the decennial enumeration. How exciting.

But hold on there. Knowing the actual population of the United States is very important indeed. Census figures serve as a basis for the allocation of congressional seats and the lines for congressional and state legislative districts. In a democratic republic, how much more important can things get? Not much.

Yet civil service professionals at the Census Bureau are warning that unless Congress extends the necessary funding to upgrade the government's demographic techniques, the 2000 census could be the least accurate to date. Inner cities and rural areas will be particularly susceptible to a worsening undercount.

Capitol Hill Republicans aren't fazed. They fear that changing the status quo could undermine them and help the Democrats—which is why the disaster relief funding bill, the larger piece of legislation in which the sampling proposal is hidden, did not come up for a vote before Congress adjourned for the Memorial Day recess.

To be sure, The Dallas Morning News has in the past registered its concern over "census adjustments." Still, concerns such as the following have been answered one by one:

Accuracy. The 1990 census was the first to be less accurate than its predecessor. Now, even the Bush administration appointee who oversaw the 1990 census has endorsed sampling as promoting accuracy.

Constitutionality. The Constitution says that all people shall be counted. But numerous legal experts believe that sampling is a reasonable option that would pass muster with the Supreme Court.

Politicization. Could sampling be susceptible to political manipulation by one party or the other? That's a risk anywhere in government. Trust has to be placed in the professionalism and integrity of civil service professionals at the Census Bureau.

The most important issue in this debate over how to conduct the census should be achieving the most accurate census possible. That will promote fairness and confidence in our political system. Toward this end—whether on the basis of scientific accuracy or cost—objections to sampling are falling by the wayside, and rightly so.

[From the Bakersfield Californian, May 28, 1997]

NEW CENSUS SUPPLEMENT GOOD

The plan by the federal Bureau of the Census to supplement the actual national population count in the year 2000 with statistical

projections is a good one. The purpose is to make up for people who are missed.

The problem of under-representation of significant numbers of people has been consistent and growing in recent census counts.

The primary purpose of the decennial census that is mandated by the U.S. Constitution is to apportion the 450 seats in the House of Representatives among the states proportionally by population. An undercount concentrated in a few areas could result in a change in congressional representation.

But the data from the census also is used as the basis on which federal funds for a wide variety of programs worth an estimated $100 billion are distributed to states and localities. Areas with large, traditionally undercounted populations—often moniorities and immigrants—such as California and Kern County could lose millions of dollars of federal program funds to which they are entitled.

States also use the information for how they distribute funds locally, and the private sector uses the information extensively for marketing research.

It is estimated that the error rate in the 1990 census averaged 1.6 percent nationally, but was higher on average in California at 2.7 percent. It was higher than that in some areas of the state.

Although the undercount among whites nationally was less than 1 percent, for minorities it ranged between 2.5 percent and 5 percent (for Latinos). Thus, for areas with readily growing minority and immigrant populations like Kern County, the error can be costly.

The problem is compounded because of a decreasing rate of voluntary compliance with the census. Following the main head count in the year 2000, special census takers will go into selected census tracts to determine how many people were missed. Then the Census Bureau will make adjustments.

Already the decision is being swamped in phony constitutional and mathematical arguments, mostly made by congressional Republicans.

Contrary to their claim, the Constitution does not bar use of techniques to supplement means normally used to take the census. Thus the year 2000 census should be no different legally than past ones.

Mathematically, the science of statistics can be extraordinarily accurate. Much of science, medicine and commerce depend on it.

The fact that much of the objection is partisan is telling. It is based on the assumption that the majority of the undercounted populations are among minorities who are presumptively Democrats. If so, a few congressional seats might shift to democrats.

Whether that is true or not, we would rather have an accurate national profile than a count that is incorrect by errors of omission for the sake of partisanship.

[From the Ft. Worth Star Telegram, May 14, 1997]

CENSUS POLITICS

In case you don't understand why there should be a flap about how to conduct the national census in 2000, it's because of two factors:

1. The nation's nose-counters apparently have never been able to count everyone—not even in 1790, when America's population was less than 4 million. Oddly enough, the best guess is that the 1990 Census failed to find approximately 4 million residents. The problem is that census-takers seem to be undercounting more each decade.

2. Politics, plain and simple. More than 10 years ago it became evident to professional politicians that the people the census was missing were mostly urban minorities who might be counted upon to vote Democratic. As a result, Democrats generally favor using scientific techniques ("statistical sampling") to make up for the undercount. Republicans generally oppose it, insisting upon an "accurate" head count that the National Academy of Science says is impossible.

According to one political newsletter, Republicans fear they might lose as many as 24 House seats to redistricting if statistical sampling is used.

The Constitution requires an "enumeration," period.

So the question seems to be: Do we use scientific sampling in an effort to come closer to the actual number of Americans, or do we count heads and settle for knowing that the census is as much as 2 percent off?

It is well to remember that the politicians who decry using a scientific sampling based on 10 percent of the uncounted homes are happy to stake their political futures on polls that are based on much smaller samplings. As we said, this is now mostly about partisan politics rather than "enumerating" the population.

[From the Boston Globe, May 13, 1997]

For the first time in history, the 1990 Census was less accurate than its predecessor, failing to find about 4 million Americans—roughly a million more than were undercounted in 1980.

The Census Bureau's plans to rectify this problem have suddenly become a hot issue in Washington, not because of the proposed sampling technique—professionals say it is sensible and conservative—but because of politics.

Most of those missed by the Census are poor, both urban and rural; many are minorities. They are not fictitious people whom bureaucrats theorize must exist; they are real people who live in real dwellings that the bureau knows to be occupied, but they have failed to return mailed Census forms or answer the knock of enumerators.

Although many of them are not registered to vote, they are individuals who deserve to be counted, to be recognized, and to be represented in public life. It is this last consideration that has caused a flap in Washington. If a significant portion of the undercount is restored, a number of congressional districts—perhaps as many as two dozen—may be redrawn in a way that is likely to benefit Democrats.

Republicans, led by Senate majority leader Trent Lott and House Speaker Newt Gingrich, have asked Census director Martha Farnsworth Riche to abandon the proposed sampling, but she has responded that it is the best hope for an accurate count. Congress will not and should not pay for a massive personal enumeration that would track down every last individual.

House Republicans may move this week to attach a prohibition against this technique to a supplementary appropriation for disaster relief. The Senate backed off a similar attachment, and the House should do the same.

The goal should be clear: the most accurate account possible, without excessive made-up estimates that would help Democrats and without an acknowledged undercount that helps Republicans. The country needs an accurate count of its residents regardless of political considerations.

□ 1230

Mr. ROGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. LIVINGSTON), the very able and distinguished chairman of the full Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, hearing some of these speeches from the Democrat side, I have to believe that I am in George Orwell's "Animal Farm," and I am hearing doublespeak. A real count equals polling estimates. Yet, the words "enumeration" and "actual head counting" means undercounting. Up is down, down is up. Nonsense reigns. If they counted by head 2,000 years ago, we have come a long way, baby. We can estimate how many people are out there in the world.

Mr. Chairman, 200 years ago they were a little behind the times, too. They used the word "enumeration," "actual enumeration" every 10 years to determine congressional seats and shape the districts for elected officials, both in Congress and all around the country in local offices, State legislatures and local school boards.

They knew what they were talking about. They knew they had to go around and count people. But that is passe, because we are above that. According to the arguments by the minority, the Administration's polling plan for the year 2000 Census is fine. It would count 90 percent of the population, and estimate, estimate by polling, the remaining population. We can be sure we are right.

How can we be sure we are right when we are not counting people? What statistics reveal is very interesting, but what they conceal is vital. A central problem with polling is the political temptation, which we have seen a lot of in recent years, to adjust the results. Political objectives can shape the assumptions that must be made to frame any formula for making final rulings. That is why we are opposed to it.

Michael Barone, the author of the "Almanac of American Politics," says, "This is a White House that had no scruples about getting the INS to drop criminal checks on applicants for citizenship so that more Democrats could be naturalized in time for the 1996 elections; why would it suddenly develop scruples about adjusting Census numbers for political purposes?"

George Will, in an op-ed piece, said "Clinton's proposal for sampling—forever severing this constitutionally mandated exercise from its anchor against politicization—comes in the context of Clinton's lawlessness. Regarding the undeniable potential for political abuse of sampling, Clinton's position is: "Trust me."' That is George Will, and both he and I say, no, thank you. We have tried that before.

The Clinton polling proposition will not work. The GAO and the Commerce Inspector General said that, The President's sampling plan, his polling plan,

is "high risk." The Census Bureau tried polling in the 1990 Census and it failed. Despite this failure, the Clinton administration is proceeding with a polling plan that is five times as large as 1990, and which must be accomplished in half the time.

The Census Bureau's own study shows polling is less accurate for cities and towns under 100,000 people, where the majority of Americans live. The President has threatened to shut down the entire appropriations for the Departments of Commerce, Justice, and State, unless he gets his way.

That is a blatent attempt by the President to gain political leverage, but of course that is a trick that he has not employed before, by some accounts. The fact is, it is a violation of the agreement reached between the Speaker and the President last year. We should not take cops off the beat. We should not shut down the courts. We should not hamstring our Nation's foreign policy over this problem.

Republicans want and have provided the resources to count everyone, to count everyone. How clear does it have to be? That is not Orwellian, that is not doublespeak; to provide the resources to count everyone.

We have provided $107 million more than the President's fiscal 1999 request. We fenced off the last 6 months of Census funding so that a decision on polling can and will be made in the spring of 1999. That was the deal that the Speaker and the President agreed to last fall. Is there an undercount? Was there an undercount in 1990? We can address that, too.

Kenneth Blackwell, the cochairman of the U.S. Census Monitoring Board, Treasurer for the State of Ohio, argues that a better way than polling to reduce the undercount is to use administrative forms to fill in the gaps. Forms filed with the government agencies that administer public programs are available with up-to-date information.

For example, children under 18 represent 52 percent of the undercount in 1990. Yet, as of 1996, Medicaid had records on 18.3 million people 20 years of age and under. A single mother struggling to make ends meet might not have time to fill out her Census form, but would certainly take the time to fill out Medicaid forms. We do not need polling, we need to count people.

Mr. MOLLOHAN. Mr. Chairman, I am very pleased to yield 2 minutes to the very distinguished gentleman from Ohio (Mr. SAWYER) to speak to this horse and buggy versus modern transportation debate that we have going on here today.

Mr. SAWYER. Mr. Chairman, let me clarify. Within just this past week, the GAO has testified before the Senate Governmental Affairs Committee that the Census Bureau's plan will improve the accuracy of census counts for the Nation, for States, for counties, for cities, and even census tracts, which are the basic building blocks of our democracy. They come to that conclusion because they know this has nothing to do with a poll.

The plan is very different from a poll. The Census Bureau will be making an unprecedented effort to contact virtually every household in the United States to fill out and return the Census questionnaire, and everyone who responds in all of the different ways, the unprecedented number of ways, will be counted. They will not be thrown out.

Beyond that, then, finally, sampling and statistical techniques would be used to supplement that effort in two ways. First is in following up on those households that do not respond, and sending people to them. Then, sampling will also be used to help check on those who might still have been missed or miscounted, even with those new procedures.

If polls were taken in this way, with a major effort to contact everyone in the country, followed by a very large sample to account for those who did not respond, followed by another large quality check, the results would be vastly more accurate, not only than any poll, but certainly than the 1990 Census.

None of this bears any resemblance to the way public opinion polls are taken. That is why the American Statistical Association has been so adamant in their finding that estimation based on statistical sampling, the use of these techniques to improve counts, is a valid and widely used scientific method. The President of that organization wrote that "The general attacks on sampling that the Census debate has called forth * * * are uninformed and unjustified. The truth is the Members of these panels are pulled together by their peers among the Nation's leading experts on sampling large human populations."

My friend, the gentleman from Florida (Mr. MILLER), has said that he can produce reliable and reputable academics who disagree. The chairman and the president of the American Statistical Association agrees that that is the case.

But he writes that "Those whose names I have seen lack the expertise and experience in sampling that characterize the panel members. Statistics, like medicine, has specialties; one does not seek out a proctologist for heart bypass surgery."

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PASCRELL), who has worked so hard on this issue.

Mr. PASCRELL. Mr. Chairman, I have heard pretty horrible things on this floor, but I just heard the worst that I have ever heard. To say that someone has the time to fill out a Medicaid form but does not have the time to fill out a census questionnaire misses the whole point. What if you never got a questionnaire in the first place? Oh, there is the rub.

I have heard on this floor a tremendous amount of discussion with little anchor in reality. I have been in two censuses. The enumerators worked very hard to find those people who either, one, did not fill out their questionnaire, or two, never got one in the first place. But in order to get to those people, you have to know where they live. You have to have a housing unit on your form.

The secret, by both Democrats and Republicans, and past administrations have admitted this, the secret to getting an accurate census is to have accurate addresses. In a five-family house, if we have 22 mailboxes, that should give us a clue that we are not going to be able to do this by questionnaire alone. They missed the whole point, and they do it deliberately. They do it deliberately.

This is serious business we are talking about. We cannot call someone who ran the Census under President Bush out of a Democratic liberal think tank. Give me a break. She believes that there is a way, through statistical methods, to come up with an accurate sample. We need to count as many as we can possibly find, and as possibly have filled out census forms, but there will always be those groups or families within units who are never contacted; who do not even know, perhaps, that a census is even going on, for all kinds of reasons, some real and some unreal. But get to the heart and the practice of doing a census. Then we can come to an agreement on what is acceptable and what is not acceptable.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, cities and counties cannot afford an undercount in the next Census. I know that from personal experience. Before coming to the Congress 3 years ago, I served on the Board of Supervisors for Santa Clara County for 14 years. We worked hard during times of declining county revenues to maintain vital services like health care for poor children.

Every city and county needs an accurate Census that counts everybody in order to serve everybody, because each year Census data determines $180 billion in Federal spending. It helps determine money that goes into schools, transit systems, senior citizens' centers, and health care facilities.

People do not disappear when they are not counted. When there is an undercount, as there was in 1990, local taxpayers end up paying for Federal programs. That is why lawsuits were filed in California after the 1990 Census

by both Democratic and Republican local officials, because an inaccurate census is not fair to local taxpayers.

In 1990, the undercount in the State of California was estimated to be over 834,000 people. After the last Census we put our thinking caps on. The scientists came together and they came up with a scientific recommendation for a scientific count.

I have heard a lot of discussion here today, but I think the American people are going to be able to figure out what is going on. Some people here are concerned that the people found through scientific methods might vote for Democrats. I do not know whether they will or not, but out in the real world, real local government officials of both parties want an accurate count that the scientists can provide us, so we can be fair to local taxpayers. I urge support of the Mollohan amendment for that reason.

Mr. ROGERS. Mr. Chairman, I yield 2¼ minutes to the very able gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Mr. Chairman, there is no one I respect more in the House than the gentleman from West Virginia (Mr. ALAN MOLLOHAN). He is one of our great Members. I disagree with him on this.

This debate is about the Constitution. If the Congress of the United States wants to conduct the Census by sampling, sampling, the Congress of the United States should be able to pass a two-thirds amendment vote to the Constitution of the United States.

I chose to come to the floor for several reasons. Number one, I am hearing all these plaudits about scientists. If the Founders thought so much about scientists, we would be electing scientists, not citizen politicians. People should start being proud of being a politician. We do the work of the people in America.

Let me remind this Congress about a recent study. Ninety-three percent of scientists in America do not believe in God. They said scientists do not believe in God because they are superintelligent, they are so smart. Beam me up, Mr. Chairman. Many of these scientists cannot find a toilet.

The bottom line is this: Every community should be assisting to help conduct a reliable head count Census.

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Let me warn the Democrats, sampling is an axe that can cut both ways. Those in fact who support it one day may oppose it another. Those who may benefit one day may get ripped off the other day.

I just want to close out by saying Congress should confine itself to some basic parameters, which include following the Constitution. We were elected and we took an oath to uphold the Constitution, not the charter of the United Nations or some scientific methodology by a group of scientists who, in fact, are not aligned with mainstream America in just their matters of theology. The world was once flat, all the scientists told us that.

My community, they say, will be hurt without sampling. My community will be hurt if we do not have an honest head count because, in the final analysis, whoever is doing that sampling some day might not like the makeup of my district.

I oppose this amendment. I urge that we defeat it.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I thank my colleague from West Virginia for yielding me this time.

I rise in support of the Mollohan amendment to ensure an accurate count and the most cost-effective census in the year 2000. I am glad to follow my good friend from Ohio, because I pray that we will have an accurate count so we are on the right side of theology. That is why this amendment is so important.

I am glad the chairman of the Committee on Appropriations agreed that in 1990 there was an undercount. There was, not only in my district in Houston but in the State of Texas and around the country.

In its current form the Commerce, State, Justice appropriations act would hinder the 2000 census. It funds the census only for 6 months and it continues the funding only after Congress determines the counting method to be used. We are not going to be here from October, November or December, maybe half of January, so we are going to set back the census planning even in the year 1999.

This action is shortsighted and will hinder the Bureau's attempt to plan and prepare for the census. The Mollohan amendment will strike that restriction.

It has been estimated that the 1990 census undercounted my home town of Houston by 67,000 people. It is unfair that these people were not counted. The State of Texas lost a billion dollars in Federal funds because of the undercount. That is a billion dollars in title I funding, road construction, senior citizen services. The undercount was so severe that President Clinton actually came in June to the district that I am honored to represent to highlight the needs of an accurate census count.

Dr. Mary Kendrick, Director of the City of Houston Health Department, said at that meeting that accurate census count data is critical to public health. She noted that the census data on child poverty helps determine nutrition and children's nutrition health programs.

Many people are not easily counted, whether they are in an urban area like mine because sometimes they fear the government, or maybe in a rural area like Montana they may not want to send back that form that the government sent, they may not want to answer that door when that enumerator comes by and knocks on that door. But they still deserve to be counted, even if they do not want to be. That is why this amendment is so important.

The Houston Chronicle, on two separate occasions, reported on the need for a fair and accurate census in their editorial. The June 23 editorial said, "But Texas Republicans should know better than most the stakes riding on a fair and accurate count. Houston has a great deal at stake with the accuracy of the next census."

Mr. Chairman, I include for the RECORD the following editorials:

[From the Houston Chronicle, June 23, 1997]

ACCURACY A MUST—MUCH RIDING ON CORRECT CENSUS COUNT FOR HOUSTON

In Congress, even the method for counting the American people is regrettably politicized. With the 2000 Census approaching. Republicans and Democrats are at odds, imagine that, over what method the Census Bureau should use to count the nation's population.

Republicans want to physically count each and every one, while the Democrats favor using statistical sampling a method never before used but one Census officials believe will yield a more accurate count.

For years the Census Bureau has infamously undercounted the population, particularly in Texas. In the 1990 count, more than 4 million people in the country—an estimated 500,000 in Texas—were missed.

Undercounting the population is not inconsequential. Texas and other states where undercounts were greatest lost out on additional House seats and, more important, billions of federal dollars ranging from Medicaid to highway construction funds. State officials believe missed heads in the 1980 Census cost Texas roughly $600 million in federal money. That is funding that, in fairness, the state of Texas cannot afford to concede again.

The Census has been particularly inept at counting inner-city minorities and the poor. An estimated 5 percent of all Hispanics and blacks were not counted in 1990. In Houston, where Hispanics and blacks account for more than half of the population, that's a major problem.

Republicans argue that the Constitution mandates that every American be physically counted. However, doing so is a practical impossibility. As well, maintaining the status quo with the traditional count contradicts the GOP's movement to make government more accountable.

Understandably, House Republicans are being dutifully protectionist about their slight seat margin, one that they feel will be threatened by more minorities being counted.

But Texas Republicans should know better than most the stakes riding on an accurate count. Houston has a great deal at stake with the accuracy of the next Census, and political party interest shouldn't take a front seat over the greater interests of the community as a whole.

[From the Houston Chronicle, June 4, 1998]

COUNTING HEADS—NO REASON TO KEEP U.S. CENSUS INACCURATE

The purpose of the U.S. census is to get the most accurate count possible. If using modern statistical sampling to augment the actual head count makes the census more accurate, who could reasonably object?

No one, but then politicians afraid of losing power do not always act reasonably.

Since Thomas Jefferson conducted the first U.S. census in 1790, census takers have known that there are discrepancies between the actual number of residents and the number counted in the census. Some people are not counted; some are counted twice.

Statistical sampling is nothing more than counting some neighborhoods twice to measure accuracy. It's not a guesstimate that can be manipulated for partisan advantage. It serves the same useful purpose as an audit of financial records to make sure the numbers are correct.

In his visit to Houston Tuesday, President Clinton was right to say that the issue transcends partisan politics: "We should all want the most accurate method."

However, some Republicans believe, without much evidence or logic, that a more accurate count would significantly favor Democrats by counting urban residents that have been missed in the past. Congressional Republicans therefore oppose using statistical sampling to make the count more accurate.

They have little to fear from census accuracy. Only a couple of states might lose one congressional seat each, and the number of residents who show up at the polls and vote Democratic will not increase no matter how many residents are counted.

An accurate census serves all Americans and harms no political party. True, state and federal funding formulas would be significantly affected, but wouldn't the nation be better off if government spending were based upon accurate rather than grossly inaccurate population numbers?

Politicians who argue for keeping the census inaccurate place themselves in an untenable position. In another context they would insist that sailors compute their approximate position with a sextant and reject satellite technology accurate to a few yards.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. BLAGOJEVICH).

Mr. BLAGOJEVICH. Mr. Chairman, the 1990 census was the first U.S. census to be less accurate than the one before it. Approximately 6 million people were not counted in the 1990 census. In the City of Chicago 68,000 people were missed. That is enough people to fill every seat at Soldier Field in Chicago. Those empty seats in our census cost Chicago hundreds of millions of dollars in Federal assistance. It costs your community millions of dollars, too.

Three presidential administrations, the National Academy of Sciences and the General Accounting Office, all looked at the problem of undercounts and determined that using modern statistical methods would help eliminate these mistakes in the future and avoid the kinds of undercounts that resulted by using the old model.

The reasonable approach is to use the same methods that we use when we compute agricultural production, crime statistics, unemployment figures, as well as countless other governmental statistics.

Let us use common sense. Support the Mollohan amendment which does not place restrictions on its ability to provide a fair and accurate count.

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

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

I stand with the children. I support the Mollohan amendment. And then I would like to convey to all of us words:

"I respectfully request that the census numbers for the State of Georgia be readjusted to reflect the accurate population of the State so as to include the over 300,000 which were not previously included. Without the adjustment, minority voting strength in Georgia will be seriously diluted. Based on available information, without an adjustment to compensate for the undercount, minorities in Georgia could lose two State Senate seats and 4 to 5 House seats. As a result of conversations with black legislators, it is my understanding that they have not only concurred with this request but stated that they believe it is required under the Voting Rights Act."

Representative NEWT GINGRICH's letter to Robert Mosbacher, Secretary of Commerce, April 30, 1991.

Let us get away from Republican politics. Vote for statistical methods and the Mollohan amendment. Let us count every single American, no matter who they are, and count the children.

Mr. Chairman, I rise to speak on the rule which will govern how we proceed on H.R. 4276, the Commerce Justice, State Appropriations bill. I am grateful to the Rules Committee for allowing the Mollohan amendment to be considered which would restore full funding for a fair and accurate census.

The subject of the Census was addressed in Article I Section 2 of the Constitution of the United States as it states, "The actual Enumeration shall be made within three years after the first Meeting of the Congress of the United States, and within every subsequent Term of Ten Years."

With that goal in mind the Bureau of the Census conducted the first National Census in 1790. The census also places our population in a particular location as of census day so Congress can be reapportioned and the state and local governments redistricted while federal monies can be apportioned.

The ability to use scientific methods during the 2000 Census will insure that any undercounting which may occur in this census because of sparsely populated regions of states like Texas or hard to count urban populated areas like Houston, can be held to a minimum.

Undercounting the results of the 2000 Census would negatively impact Texas' share of federal funds for block grants, housing, education, health, transportation and numerous other federally funded programs.

In 1990, the city of Houston was undercounted by 3.9 percent in that year's Census using the current "head count" method which only recorded 1,630,553 residents. That is why I have personally joined a lawsuit along with the mayor of Houston to allow statistical methods to be utilized by the census bureau to be able to count every person.

Based on the scientific method that was prepared for that Census, but never used it is estimated that over 66,000 Houstonians were missed by the 1990 Census.

African-Americans, Hispanics, Asians, and American Indians were missed at a much greater rate than whites. The 1990 Census undercounted approximately 4 million people, about the same number who were counted all together in the first census 200 years ago. Even more troubling, this last census was, for the first time in history, less accurate than its predecessor. The use of modern statistical methods to count in the 2000 census will eliminate undercounting the poor children by 52% and Hispanics and African-Americans.

The undercount was 33 percent greater than the undercount in the 1980 census.

Every American deserves to be counted in the Census. We must have the most accurate census possible. The 1990 census was the first in history to be less accurate than its predecessor. It missed millions of Americans—predominantly children and minorities. In fact, homeless children are particularly vulnerable; without counting them there will be no seats in school for them, no immunizations for them and no housing for them.

Virtually every expert agrees that the way to get the most accurate census possible is by using modern scientific methods to supplement the traditional head count. The Census Bureau's plan will not only produce the most accurate census—it will save literally hundreds of millions of dollars. The Republican plan is geared to undercount the people to their advantage.

Using the 1990 methods will cost close to a billion dollars more and still miss millions of Americans.

Funding the Census Bureau for only six months will cripple its ability to adequately plan and prepare for the largest peace-time mobilization undertaken by the U.S. Government.

The Mollohan amendment requires the Bureau to continue planning for a Census whether it uses modern statistical methods, or the older, less accurate ones, until there is a definitive ruling from the Supreme Court. We need a statistical method, we need an accurate Census in 2000.

Finally, the Constitution states specifically, "the actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall direct by Law." If the Republicans would step aside from politics, clothed in the Constitution we could all absolutely support the Mollohan amendment and support statistical methods for the count.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I rise in opposition to this bill. I do not think

there is a single Member of this House that would allow polling to be used to decide election results. We should not allow it to be used for this purpose either.

I rise today in strong opposition to the Mollohan amendment.

Republicans are prepared to fund an unprecedented effort to count all Americans because we believe that every American counts.

In fact, Chairman ROGERS has provided $100 million more than the President requested to help ensure that every American is counted.

The Clinton administration plan will delete millions of people who turn in their census forms on time. These people will be removed at random because population polling indicates that their demographic group is overrepresented.

Americans have the right to participate in the census and have their completed census form included in the count. The Clinton administration cannot arbitrarily decide to delete millions of people from the counts based on population guesstimates.

The Clinton administration wants to play politics with the census. I urge you to oppose the Mollohan amendment and support an accurate and honest census.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MILLER), chairman of the Committee on the Census.

Mr. MILLER of Florida. Mr. Chairman, there has been a lot of exaggeration on the other side about what has been done with the census. Let us make sure we understand.

First of all, the plan proposed by the President does not count 26 to 27 million people; does not count 26 to 27 million people. These are going to be computer-generated people, that they have some smart computers and these smart scientists over at the National Academy of Sciences. The National Academy of Sciences has a theory. The plan requires hundreds of thousands of people to implement.

We need a General Schwarzkopf to run this issue, not a bunch of academics. That is what our goal is, to have an accurate census, to count everybody.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia (Mr. GINGRICH), distinguished Speaker of the House.

The CHAIRMAN. The gentleman from Georgia (Mr. GINGRICH) is recognized for 4¼ minutes.

Mr. GINGRICH. Mr. Chairman, I thank my friend from Kentucky for yielding time to me, and I commend him for the very hard work he has done working with the gentleman from Florida to develop an honest and a direct approach to a very serious problem.

Let me say to my colleagues in the Democratic Party, I am really puzzled by what has happened on the issue of the census, because I think it comes from a complete misunderstanding of what we are trying to accomplish.

The census is at the center of the American political system. It is the device which came out of the Constitutional Convention by which the Founding Fathers said the House of Representatives would represent people. And they then faced the challenge in 1787, but how do you represent people unless you know where they are? And they then faced the challenge in a very primitive country of how do you find all these people who are scattered, without telephones, without e-mail, without faxes, without a U.S. Postal Service as of 1787. They said, well, once every 10 years we will organize a mass effort and we will count every person. The term in the Constitution was "actual enumeration."

Now, they went through actual enumerations in 1790, 1800, 1810, 1820. This went up every decade. It was required. It is actually written in the Constitution that we shall have an actual enumeration. And somehow in the most primitive of circumstances, without Xeroxes, without fax machines, they managed to count people.

Then in the modern era several things happened. One is, big government became so incompetent, so bureaucratic, that in fact it broke down. The census of 1990 was the first time in many years that we actually did an inadequate job of counting.

The second thing happened. We developed much higher standards of accuracy.

A third thing happened, which is that some neighborhoods became harder to count, largely for two reasons: one, because some neighborhoods seemed dangerous and people were reluctant to go back in them on a regular basis; and, second, because some neighborhoods had substantial numbers of people who were illegally here and it was tricky to go and knock on the door and say, "Hi, I am from the government," because people then tended to not answer the door.

So there were undercounts to some degree. We are also now dramatically more mobile, although the truth is, if you went back to 1790 or 1830, this has always been a remarkably mobile country, but we are now even more mobile. People move around a lot. You see this, for example, in school registrations where kids will come and go in three month cycles rather than year long cycles.

Having said all that, I want to make clear what our position is. We are prepared to work with the Democratic Caucus to provide the resources to count accurately every person in America. We are prepared, if necessary, to hire the Post Office, which has the highest level of accuracy in knowing neighborhoods. We are prepared to start by counting the poorest neighborhoods first so we have the highest level of controlled, managed accuracy. We want to ensure that every single American is counted, every American.

But here is the danger. There is a theory. The theory is you could take polls. First of all, if you look at the accuracy of the polls taken last year in the Presidential campaign, they were often off by as much as 10 points. Most of you have been elected in races where you know from your own polling you were often off, up or down, by 5 or 10 points in the poll. You can take polls theoretically.

But there are two dangers with taking polls. The first is, what works in aggregate at a national level is absurd at a local level. The mathematician at the National Academy of Sciences could say, gee, on aggregate if you are trying to measure 262 million people, artificially do not count people, so you create an artificial universe to get an accurate count of 262 million. That sounds theoretically fine.

The flaw is, if you are trying to count Cambodians, Serbians, and El Salvadorans in Los Angeles, polling is the worst possible way to do it because you get grotesquely inaccurate numbers. So you do not get an actual count. You do not know who is actually there. What you get is some mathematical theory that works nationally and is grotesquely distorted at the local level.

There is a second problem. Who is going to be in charge of the polling? This is the whole base of the Founding Fathers in the Federalist Papers and the Constitution. The current Secretary of Commerce, who is a man I admire a great deal and worked with in passing the North American Free Trade Agreement, represents a family who for many years had held office in Chicago based on a machine. Chicago is a city with a great history that you could vote for several lifetimes because you could vote long after you passed away. But at least in Chicago you had to have lived; that is, you were in the cemetery because you had once been alive.

Now we have this new theory, which is that politicians could simulate a virtual reality of virtual citizens who have a virtual existence, except they would be translated by law so that you literally would undercount real citizens in order to invent virtual citizens. I think that transfers to politicians a level of power which none of the Founding Fathers would agree with.

So here is my offer to the President and the Democratic Caucus. You work with us and we will meet whatever standard is humanly attainable of accurately counting every person of every ethnic background in every neighborhood in the entire country.

We will design it so we use, if necessary, postal employees. We will design it so we start with the poorest neighborhoods. We will design it so we overachieve and we double, triple and quadruple count, if necessary, but we will get it done. But that would be fair.

That would be accurate. That would ensure we actually had enumerated real people.

But please do not ask the people of the United States to rely on politicians controlling pollsters to invent virtual people to get a grossly inaccurate count on behalf of some political party, because that undermines the Constitution and that undermines the very political process.

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

Mr. STARK. Mr. Chairman, I rise today in support of the Mollohan amendment to H.R. 4276, the Commerce-Justice-State Appropriations for FY 1999. The Mollohan amendment removes funding restrictions from the Census Bureau so that they may continue with the task at hand—providing a fair and accurate Census 2000 for the American people.

The goal is clear. The only way to provide a fair and accurate count for the 2000 census is through statistical sampling. The Republican-led Congress insists on full enumeration without the use of sampling. In addition, they are obstructing the success of the entire 2000 census by limiting its funds to only half of the appropriated amount. This in turn may cause irreparable damage to the entire census, leaving an accurate count beyond the realm of possibility.

One might wonder why the majority party insists on wasting taxpayer's money to hinder such a vital component of the democratic process. Understandably, the majority party is afraid of losing control over the House of Representatives as we enter a new millennium. Our Founding Fathers intended for population enumeration to provide for fair representation of the American people in the House of Representatives. This did not happen in the 1990 Census and now we must take steps to correct the problem.

In the 1990, the Census numbers were over 10 percent in error. This translates to 26 million mistakes. The 1990 Census under-counted 8.4 million people and 4.4 million people were double-counted in the United States. In California alone, 834,516 people were not counted. This was the highest under-count in the nation!! The people of California have been deprived of fair representation for the past eight years.

Of the various racial groups, the largest to be under-counted were amongst the Hispanic population with 5% of this group undercounted. In addition, 4.4% of blacks and 4.5% of Indian Americans were under-counted due to errors that statistical sampling can adjust for in the future. The economically disadvantaged and minorities are being excluded from valuable federal programs. Under-counting means millions of federal dollars are lost for California's 13th District as well as for districts across the nation.

I am not suggesting we replace direct counting methods with modern statistical techniques. We should, however, supplement direct counting with sampling to ensure an accurate count. Two very reputable groups agree that statistical sampling should be used in the upcoming census. The General Accounting Office and the National Academy of Sciences both endorse statistical sampling to avoid an inaccurate census. Memos from the Department of Justice under both Presidents Bush and Clinton state that the use of sampling is both Constitutional and legal. The only major organization that opposes statistical methods in the 2000 census is the Republican National Committee.

Partisan politics cannot play a role in Census 2000. We must prevent the majority party from attempting to strip the American people from their Constitutional right to equal representation. We can start by supporting the Mollohan amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman. I urge all my colleagues to support the Mollohan amendment. A fair and accurate census is necessary if we are to be a country which stands for inclusion over exclusion.

The infamous census of 1990 missed 4.7 million people—1.8 percent of the population, compared with 1.2 percent in 1980 and 2.7 percent in 1970.

This undercount was not evenly distributed—a disproportionate number of minorities, children and renters in urban and rural areas were missed.

In addition, the census cost us an exorbitant amount of money—$2.6 million dollars—for a faulty, inaccurate count of Americans.

This is upper income people are overcounted by an unknown number because of completing their forms at their second homes as well as their primary residences. I support the methodology of statistical sampling. The American Statistical Association and the National Academy of Sciences has recommended this methodology as the best and cheapest way to count 90 percent of U.S. residents.

In Texas, we need all our residents counted, specially the Latino population.

IN the Latino community, there was a 5% undercount in the 1990 census. this undercount has had significant negative effects on Latino access to resources.

I urge my colleagues to support the Mollohan amendment so that all our residents are counted, and not missed by the blinded eye.

Mr. THOMPSON. Mr. Chairman, the 2000 census must be the most accurate census ever taken in American history. Period. I can not understand the controversy that surrounds this issue. Everyone seems to agree that the most relevant, current scientific methods should be used to count every single man, woman, and child in this country.

So what is the problem? Why can certain members come to the floor and make the claim, "we want to count everyone," when in actuality they have made no efforts to recommend a method of enumeration that works better than the statistical methods supported by the American Academy of Sciences, the American Statistical Association, the Population Association of America, and the Panel to Evaluate Alternative Census Methodologies at the National Research Council.

The facts surrounding the 2000 census are simple and conclusive. We know that the 1990 census resulted in over one million Americans not being counted. Most of those individuals were people of African American, Latino, and Asian descent. They were urban, poor and rural. We know that a large portion of the undercount consisted of children. We know that the 1990 census was not nearly as accurate or representative as it should have been.

As Members of Congress, it is our responsibility to work with the Census Bureau—not against them—to develop a method that will count every American in this nation. Holding the 2000 census hostage to ridiculous partisan game will do nothing but undermine the legitimate efforts being made to accurately enumerate American citizens.

Personally, I'm less concerned with the partisan tone this debate has taken than I am with counting the Mississippians who were missed in the 1990 census. More than 21,000 of the 55,500 Mississippian who were missed in the last Census, 38%, were from Mississippi's Second Congressional District, the District I represent. Let's look at who they were: 1.3% were White; 3.5% were African American; 3.6% were Asian; 7.3% were Native American; 4.8% were Hispanic; and 4.5% were children.

The real, tangible impact of this debate has been glossed over. According to the Census Bureau, my District has the third highest percentage of people in poverty (37.7%). It has the fifth highest percentage of families in poverty (31%), and the third highest percentage of households in poverty (35.2%). This year, some of the counties in my District have had unemployment rates of 20% and higher. What we are really talking about here, is that the 55,500 people in my state who were not counted, represent children who were turned away form HeadStart, poor families who could not get public housing, and other vulnerable constituencies who were turned away from receiving forms of invaluable financial aid.

I know that many Members of Congress have adopted a real "slash and burn" mentality when it comes to budgetary spending, but I refuse to be a hypocrite. I will say right here, right now that if families and children in my District will positively benefit from federal spending, then show me where to sign up.

If there is a better method out there to conduct the census, then let's see it. Otherwise, let's put an end to the grandstanding and the pontificating and count Americans. The time for the Census Bureau to determine logistical specifics for the next census is rapidly approaching, and in layman's terms, "it's time to put up or shut up." If there is another plan that enjoys the wide spread support of the scientific community, It's see it. If there is another way of counting Americans at has been endorsed by the Carter, Bush, and Clinton Administrations, please bring it forward.

Once again, Mr. Speaker, I do not understand how anyone could be opposed to correcting the undercounts that occurred during the last census in minority, poor, urban and rural communities. How can anyone be opposed to counting the one-in-ten African-America males who were missed in the last census, or support turning poor children away from public housing? Therein, Mr. Speaker, lies the real debate.

Mr. FAZIO of California. Mr. Chairman, I rise in support of Mr. MOLLOHAN's amendment. I am sure all of us can agree that the 2000 Census should be fair and accurate and include everybody. But, for the past two years the majority party has played politics with the

Census and not allowed the Census Bureau to get on with their plan.

Tragically, the 1990 Census had the largest undercount in history. It is estimated that 10 million citizens were counted incorrectly, with a total of 4 million Americans not accounted for at all.

The Republicans are scared that accounting for all Americans will affect their chances at the polls. They would rather deny Federal funding to those in our country who need it most—young children and the poor, who are the most hard-hit groups in an undercount—than get an accurate picture for the next congressional redistricting.

Now that the majority party has put the sampling debate into the jurisdiction of the courts, the political arguments have become all but academic. Yet we still have language in this bill that withholds half of the funding needed by the Census Bureau to prepare for the 2000 Census.

What are the Republicans afraid of? Are they worried that the courts won't rule in their favor?

Join me in putting politics aside and allowing the Census Bureau to go forward. I urge you to support Mr. MOLLOHAN's amendment.

□ 1300

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. MOLLOHAN).

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. Pursuant to House Resolution 508, the Chair will reduce to 5 minutes the minimum time for each electronic vote on the amendments that were debated last evening, on which proceedings will resume immediately after this 15-minute vote on the Mollohan amendment.

The vote was taken by electronic device, and there were—ayes 201, noes 227, not voting 7, as follows:

[Roll No. 388]

AYES—201

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—227

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

NOT VOTING—7

Clay
Cunningham
Gonzalez
McInnis
Pickering
Waters
Weldon (PA)

□ 1320

Ms. RIVERS and Mr. OWENS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 44 offered by the gentleman from New Jersey (Mr. PALLONE); the amendment offered by the gentleman from New York (Mr. ENGEL); amendment No. 15 offered by the gentleman from California (Mr. ROYCE); amendment No. 3 offered by the gentleman from Maryland (Mr. BARTLETT); and amendment No. 8 offered by the gentleman from Missouri (Mr. TALENT).

AMENDMENT NO. 44 OFFERED BY MR. PALLONE

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. PALLONE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 44 offered by Mr. PALLONE:

Page 52, line 13, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 52, line 25, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 53, line 1, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 53, line 5, after the dollar amount, insert the following: "(increased by $8,000,000)".

Page 54 line 18, after the dollar amount, insert the following: "(reduced by $15,000,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 158, noes 267, not voting 9, as follows:

[Roll No. 389]

AYES—158

Ackerman
Allen
Andrews
Baldacci
Ballenger
Barcia
Bass
Becerra
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brady (PA)
Brown (OH)
Burr
Campbell
Capps
Cardin
Carson
Castle
Clement
Costello
Cummings
DeGette
Delahunt
DeLauro
Dingell
Doggett
Ehlers
Engel
Ensign
Eshoo
Ewing
Farr
Fattah
Fawell
Filner
Foley
Forbes
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Graham
Gutierrez
Hall (OH)
Hamilton
Harman
Hefley
Hinchey
Hinojosa
Hoekstra
Hooley
Hoyer
Hulshof
Jackson (IL)
Johnson (CT)
Johnson (WI)
Jones
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
LaFalce
Lampson
LaTourette
Lazio
Leach
Lee
Lewis (GA)
LoBiondo
Lowey
Luther
Maloney (CT)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Payne
Pelosi
Poshard
Rahall
Ramstad
Rangel
Reyes
Rivers
Roemer
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sanchez
Sawyer
Saxton
Schumer
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Stabenow
Stark
Strickland
Sununu
Tierney
Towns
Turner
Upton
Vento
Visclosky
Walsh
Waxman
Weller
Weygand
White
Wynn

NOES—267

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Coyne
Cramer
Crane
Crapo
Cubin
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Etheridge
Evans
Everett
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hilliard
Hobson
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lantos
Largent
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lucas
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Velazquez
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Wexler
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NOT VOTING—9

Clay
Cox
Cunningham
Fazio
Ford
Gonzalez
Maloney (NY)
Pickering
Weldon (PA)

□ 1328

Mr. KENNEDY of Massachusetts and Mr. FOLEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. MALONEY of New York. Mr. Speaker, on Wednesday, August 5, I was unavoidably detained and missed rollcall vote 389. Had I been present, I would have voted "yes".

AMENDMENT OFFERED BY MR. ENGEL

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. ENGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGEL:

Page 47, line 11, after the dollar amount insert the following: "(increased by $5,000,000)".

Page 92, line 25, after the dollar amount insert the following: "(reduced by $5,000,000)".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 168, noes 259, not voting 7, as follows:

[Roll No. 390]

AYES—168

Baesler
Barcia
Barrett (WI)
Bass
Becerra
Bereuter
Berman
Berry
Bilbray
Bishop
Blumenauer
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (OH)
Capps
Cardin
Carson
Castle
Clement
Clyburn
Coyne
Cramer
Cummings
Danner
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Farr
Fawell
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gordon
Hall (OH)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hoyer
Hulshof
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kelly
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
LaHood
Largent
Lazio
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Serrano
Sherman
Skaggs
Slaughter
Snowbarger
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tiahrt
Tierney
Towns
Velazquez
Vento
Visclosky
Wamp
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—259

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Brady (PA)

Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Evans
Everett
Ewing
Fattah
Fazio
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kim
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Lampson
Lantos
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Martinez
McCollum
McCrery
McDade
McDermott
McHugh
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Metcalf
Mica
Miller (FL)
Moakley
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Torres
Traficant
Turner
Upton
Walsh
Waters
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Clay
Cunningham
Gonzalez
Kingston
McInnis
Pickering
Weldon (PA)

□ 1336

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 15 OFFERED BY MR. ROYCE

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ROYCE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. ROYCE:

Page 51, line 9, insert "(reduced by $180,200,000)" after "$180,200,000".

Page 51, line 10, insert "(reduced by $43,000,000)" after "$43,000,000".

Page 51, line 12, insert "(reduced by $500,000)" after "$500,000".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 137, noes 291, not voting 6, as follows:

[Roll No. 391]

AYES—137

Andrews
Archer
Armey
Bachus
Ballenger
Barr
Barrett (WI)
Bass
Berry
Bilirakis
Boehner
Camp
Campbell
Cannon
Chabot
Chenoweth
Coble
Coburn
Collins
Cooksey
Cox
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Foley
Fossella
Fox
Frelinghuysen
Ganske
Gibbons
Goodlatte
Goodling
Goss
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hutchinson
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Kasich
Klug
Knollenberg
Kolbe
Largent
Latham
Leach
Linder
Livingston
LoBiondo
Lucas
Luther
Manzullo
McCollum
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Pappas
Paul
Paxon
Pease
Peterson (MN)
Petri
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Riggs
Rogan
Rohrabacher
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Smith (MI)
Smith (NJ)
Smith, Linda
Snowbarger
Stearns
Strickland
Stump
Sununu
Talent
Thornberry
Thune
Tiahrt
Upton
Visclosky
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield

NOES—291

Abercrombie
Ackerman
Aderholt
Allen
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hastings (WA)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hunter
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer, Bob
Schumer
Scott
Serrano
Shaw
Sherman
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—6

Clay
Cunningham
Gonzalez
Pickering
Skaggs
Slaughter

□ 1344

Mr. SESSIONS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY BARTLETT OF MARYLAND

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. BARTLETT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BARTLETT of Maryland:

Page 78, strike line 15, and all that follows through line 6 on page 79.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 151, noes 279, not voting 4, as follows:

[Roll No. 392]

AYES—151

Aderholt
Armey
Bachus
Baker
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Blunt
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Duncan
Ehrlich
Emerson
Ensign
Everett
Foley
Fossella
Gekas
Gibbons
Goode
Goodlatte
Goodling
Graham
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kaptur
Kingston
Largent
Lewis (KY)
Linder
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pitts
Pombo
Radanovich
Rangel
Redmond
Riley
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Smith (MI)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Thornberry
Thune
Tiahrt
Traficant
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Young (AK)

NOES—279

Abercrombie
Ackerman
Allen
Andrews
Archer
Baesler
Baldacci
Ballenger
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Callahan
Calvert
Campbell
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reyes
Riggs
Rivers
Rodriguez
Rogers
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—4

Clay
Cunningham
Gonzalez
Pickering

□ 1354

Mr. KINGSTON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. TALENT

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the Amendment No. 8 offered by the gentleman from Missouri (Mr. TALENT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TALENT:

Page 102, line 15 insert "(increased by $7,090,000)" after the dollar amount.

Page 103, line 7 insert "(decreased by $7,090,000)" after the dollar amount.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 312, noes, 114, not voting 8, as follows:

[Roll No. 393]

AYES—312

Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Cramer
Crane
Cubin
Danner
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Furse
Gallegly
Ganske
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Greenwood
Gutknecht
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
Kind (WI)
King (NY)

Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Metcalf
Mica
Millender-McDonald
Miller (FL)
Mink
Moran (KS)
Morella
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Tierney
Torres
Traficant
Turner
Upton
Velazquez
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—114

Abercrombie
Andrews
Becerra
Berman
Borski
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (OH)
Cardin
Carson
Clayton
Clyburn
Coyne
Cummings
Davis (FL)
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Dooley
Doyle
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gekas
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Houghton
Hoyer
Jefferson
Johnson, E. B.
Johnson, Sam
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lantos
Lee
Lofgren
Lowey
Markey
Mascara
Matsui
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Minge
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Sabo
Sanchez
Sanders
Sawyer
Saxton
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Strickland
Stupak
Thompson
Thurman
Towns
Vento
Visclosky
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOT VOTING—8

Clay
Clement
Crapo
Cunningham
Gonzalez
Lewis (GA)
Myrick
Pickering

□ 1401

Ms. LEE changed her vote from "aye" to "no."

Ms. BROWN of Florida changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. PEASE). Are there further amendments?

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. 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. STEARNS:

Page 78, line 19, strike "$475,000,000," and insert "$365,800,000,".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, August 4, 1998, the gentleman from Florida (Mr. STEARNS) and a Member opposed will each control 7½ minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

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

Mr. Chairman, my amendment would strike $109.2 million in the bill for United States arrears to the United Nations. Now, earlier we had an amendment from the gentleman from Maryland (Mr. BARTLETT) which struck all the money. I am striking less than 25 percent. So this is a modest proposal, and I hope my colleagues will take that into consideration, because I saw that the gentleman from Maryland (Mr. BARTLETT) lost on his amendment.

According to the GAO study released in June of 1998, the United Nations itself recognizes that the UN owes the United States about $109.2 million for reimbursement for U.S. contributions for peacekeeping. The chart I have here on my left from the GAO study shows that the United States is owed the second highest amount of reimbursement for peacekeeping operations, second, of course, only to France, at $151.2 million.

Of course, the $109.2 million that I propose in my amendment the UN does recognize does not take into account the multimillions we have spent in various peacekeeping operations, as my good friend from Maryland (Mr. BARTLETT) has already pointed out.

Mr. Chairman, I personally applaud the Committee on Appropriations for what they are doing, trying to pare down the U.S. arrears amount, specifically in regard to the peacekeeping effort. The appropriators have provided a reduced amount of $475 million from what the accounting-impaired United Nations claims is owed, and the appropriators are appropriating this appropriation to actual authorization legislation that is intended to push reform at the United Nations.

The GAO report indicates that the UN even calculates peacekeeping arrears amounts that we are intentionally withholding for legislative and policy reasons. For instance, Congress placed a cap on the peacekeeping assessment charged by the UN. The UN at that time assessed a peacekeeping charge to the U.S. at an exaggerated 31.7 percent rate that was set by the General Assembly to cover peacekeeping contribution shortfalls following the breakup of the Soviet Union.

Congress thought that the assessment rate was too high and implemented a policy cap for the peacekeeping at 30.4 percent, which was still too high, in my opinion. But even this reduction reduced our financial obligation to the UN for peacekeeping by $123 million.

After the UN peacekeeping fiasco in Somalia, in which 19 heroic American service members lost their lives, Congress in 1995 further pursued a legislative cap on peacekeeping assessments at 25 percent after October 1, 1995. This lower assessment pursued by Congress has led to an additional $128 million in American taxpayer savings. But instead of recognizing that the U.S. has chosen for valid policy and legislative reasons to permanently withhold $251 million from the UN for peacekeeping assessments, the UN is still maintaining, is still maintaining, Mr. Chairman, we owe them an additional $251 million.

I strongly believe that we need to further reduce this funding for peacekeeping arrears, to continue sending to the Secretary General and the rest of the United Nations a message that dramatic, widespread reform has to be implemented, including significant bureaucratic staff cuts and budget reductions.

My continued problem with the United Nations is its refusal to implement such reforms, although the U.S. has been breathing down its neck for some time.

Mr. Chairman, the Washington Post quoted the former UN Secretary General Boutros Boutros-Ghali as saying that, "Perhaps half the United Nations staff does nothing useful."

Congress has consistently demanded reductions in the UN worldwide staff of 53,000 people, not including 10,000 consultants or the peacekeeping forces which reached 80,000 in 1993. As you saw in the Washington Times yesterday, they have the most generous salary and benefits package in public life. In fact, the United Nations donates 16 percent of your salary in your thrift savings accounts, in addition to your 7.5, and you are almost up to 24 percent of your salary. Plus, as you saw, the Secretary General makes $300,000, and

there are roughly 3,622 of these people who range from almost $50,000 to $300,000 in salary.

Most UN salaries are tax-free. Many employees have rent subsidies up to $3,800 a month and also have annual education grants of $12,675 per child. We could perhaps argue on the floor today about these perks, and colleagues on this side or that side that defend the UN will say "Well, Cliff, you are exaggerating." I would just like to say that if you read the Washington Times article, it is pretty clear that all of us would agree it is pretty generous.

What is the solution? Well, the Secretary General says we are going to do reform. He plans to consolidate 12 secretarial departments into five. Remember now, he is just taking these 12 departments and making five of them, but he is not reducing, not cutting, any employee in these 12 departments. He has a 9,000-strong secretarial staff.

The Secretary General also proposes three economic development departments representing $122 million of the Secretary's budget and employing 700 people be reduced to one department. Again, he is talking about reform but there is no reduction in employees or expenditures. No reduction in people, no reduction in expenditures, and he calls that reform. Any of the Fortune 500 companies who did that would be laughed out of the convention center by their stockholders.

Also two human rights offices in Geneva are merged into one. That sounds good. But, again, no reduction in employees.

Mr. Chairman, I do not think there has been any reform by the Secretary General, and I would be glad to hear if my opponents disagree. But I say we must continue in Congress to limit any appropriations for alleged U.S. arrears until a comprehensive reform plan is in place at the United Nations. As a responsible representative of these great American people, we can do nothing less this afternoon.

So I urge my colleagues to support my modest amendment, modest amendment, to reduce the money from the appropriators, roughly $475 million, just reduce it by $109.2 million.

Mr. Chairman, I will conclude by saying that regardless of what side you are on in this debate, you have to understand that any bureaucratic institution can reform itself and reduce its staff, but this body is not doing it. I urge Members to support my amendment.

The CHAIRMAN pro tempore. Does any Member seek time in opposition to the amendment?

Mr. ROGERS. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Kentucky is recognized for 7½ minutes.

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

Mr. Chairman, the notion of reducing arrearages at the United Nations is a good idea. The only problem is that in the Gilman-Helms authorization conference report which we refer to, this credit has already been used to reduce the amount of arrearages that will be paid, so these funds have already been used up.

Agreeing to this amendment will do nothing more than undermine the authorization bill that is currently pending. So it puts at risk the entire scheme to obtain reforms, reduce the U.S. assessment rate, write off remaining arrears, and cap appropriations to international organizations, which this subcommittee has been trying to do for many years.

So the gentleman's idea is a good idea. In fact, it is such a good idea, we have already done it. It assures that the U.N. makes good on what it owes the U.S., but it has already been done. So, consequently, I oppose the amendment and urge Members to vote "no".

Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. MOLLOHAN.)

Mr. MOLLOHAN. Mr. Chairman, I guess I, in a way, am repeating some of the sentiments the chairman expressed. I do not understand the theory of this amendment. As I understood it, we have used these strong negotiations and the leverage of the Committee on Appropriations to effect significant reforms at the United Nations. And while the gentleman, as I understood his statement, represented that we have not effected reforms, that is not my understanding.

We have a budget cap at the UN. We have reduced employment by 1,000. I am advised at the United Nations we have a Secretary General function operating and we have new financial management, and we have combined departments.

Now, one might draw a bottom line on all that and say it equals zero. I would draw a bottom line on it and say we have been pretty darn successful in moving a large organization in the right direction. I think this effort to cut the appropriation, which is the very incentive to effect these reforms, is the exact wrong thing to do.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

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

Mr. Chairman, I rise in opposition to the amendment offered by the distinguished gentleman from Florida (Mr. STEARNS). I believe the adoption of this Stearns amendment would undercut our efforts to achieve meaningful permanent reforms at the UN, and would actually prevent the U.S. from reducing our annual assessments to the UN.

The UN has already instituted a series of so-called Track-2 reforms that will streamline their departments, reduce staffing and improve the efficiency of their operations based upon our initial discussions with them about the amount due from the United States. For a largely token reduction in our arrearage payments to the UN of $109 million, we would be jeopardizing our efforts to lower our assessments from 25 to 22 and actually 20 percent, and, in the process, would prevent us from realizing taxpayer savings of up to $1 billion over a 10-year time frame.

Moreover, on March 26 of this year, by voice vote, the House passed an authorization measure authorizing the payment of UN arrearages in exchange for the implementation of a comprehensive package of reforms which are already under way.

□ 1415

We should not be taking any nickel and dime approaches embodied in this amendment. As the chairman of the Committee on International Relations, I will be working with our colleagues on the Committee on Appropriations to assure timely and prompt reimbursement and repayment of U.S. costs associated with U.S. peacekeeping operations. Moreover, over the past 5 years our overall peacekeeping costs have dropped by over 60 percent.

My colleagues should be aware that the adoption of this amendment would prevent our Nation from, one, putting a cap on our contribution to all international organizations at $900 million per year; secondly, assuring that we will retain our voting rights at the U.N. General Assembly; and third, mandating that the U.N. has instituted a procurement system prohibiting punitive actions against contractors that challenge contract awards and complain about delayed payments.

Accordingly, Mr. Chairman, this amendment is counterproductive. I urge my colleagues to vote no on the Stearns amendment.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. BERMAN), ranking member of the Committee on International Relations.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from Kentucky (Chairman ROGERS) for yielding time to me.

To my distinguished colleague, the gentleman from Florida (Mr. STEARNS), I would recommend he go see a movie called The Producers, a Mel Brooks film, where two guys are putting together a play they were sure would be a flop. It was called Springtime for Hitler. They sold 1,000 percent of the play, knowing it would fail, but it turned out the play was a big hit, and now they have to deal with all the people they had promised this.

As the gentleman from Kentucky (Mr. ROGERS) pointed out, a deal was made between the authorizers of both Houses in the majority party and the

appropriators to deduct $109 million because of the offsets of the money that we have paid. We can get into a great debate about whether we should have done that, but it was done.

The authorization plan lays out in tranches, contingent on certain reforms, this payment schedule. Last year the gentleman from Kentucky (Chairman ROGERS) appropriated $100 million as the first tranche. Now we are having the second tranche. Next year will be the third tranche. The total figure comes to somewhere around $800 and something million. I do not remember the exact dollar amount. It already deducts the $109 million.

To do this now is to sell the same deal once again, double the amount of the offset, over what it legitimately should be. So even on the mathematics, even if we accept every premise of everything the gentleman has said, and even if we ignore the fact that all this money is contingent on, one, the passage of an authorization bill, if I am correct, and secondly, the implementation of reforms, which the authorization is geared to, even if we accept all of that, this amendment should still be voted down because we have already deducted the $109 million from the total amount that we are authorizing and appropriating, according to this 3-year schedule.

This amendment should really be withdrawn. If it is not going to be, I would urge my colleagues to reject it, because the whole logic of it is faulty. The money has been taken. The money will be contingent on the reforms the gentleman seeks, and the whole appropriation is contingent on the passage of an already-agreed upon authorization amount which has been left hanging only because of a dispute about the family planning monies and the Mexico City policy. So I urge a no vote.

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to the Stearns amendment.

Congressman STEARNS and I agree on one thing: The provisions relating to the United Nations in the bill before us are unacceptable. Unfortunately, that is where our agreement on this issue ends.

I believe the funding level this bill includes for the U.N. is woefully inadequate. The United States owes more than $1 billion to the U.N. in arrears. But this bill provides just $475 million—less than half—of our debt. And it makes even that small amount contingent upon the enactment of legislation authorizing this funding, which, conveniently enough, is lying dead in a dormant conference committee.

So I too think that we need to change the U.N. provisions included in this bill. But Mr. STEARNS' amendment goes in exactly the wrong direction.

This amendment hinders the United States from taking even the first, paltry step included in this bill toward fulfilling its debt to the U.N.

Mr. STEARNS cloaks his amendment in the rhetoric of reform, and claims that his amendment will somehow take us down that path.

But let's be very clear, Mr. Chairman. This amendment is not about U.N. reform. This amendment is simply about blocking the United States from fulfilling its financial obligations to the U.N.

I don't think there is anyone in this House who is not supportive of further U.N. reform. That is why we worked to elect Secretary General Kofi Annan. That is why the U.N. has begun to implement reforms developed and demanded by the United States. And that is why we will continue to advocate far-reaching reforms throughout the U.N. system.

The United States has a tremendous amount of influence within the U.N., but that level of influence is rapidly decreasing.

Our debt to the U.N. is draining our power in the organization, creating a climate of resistance to U.S. proposals and even endangering our vote in the General Assembly.

The U.N. has historically served U.S. interests, but our debt is making it hard for the organization to carry out its activities. The Stearns amendment will only make this situation worse.

In the interest of U.S. national security and in the interest of reforming the U.N., I urge my colleagues to vote "no" on the Stearns amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Florida (Mr. STEARNS) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 28 OFFERED BY MR. CALLAHAN

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

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

The text of the amendment is as follows:

Amendment No. 28 offered by Mr. CALLAHAN:

Page 53, line 6, after the dollar amount insert "(reduced by $29,000,000)".

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, August 4, 1998, the gentleman from Alabama (Mr. CALLAHAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Chairman, I have introduced a bill to reduce the appropriations to the National Marine Fisheries by $29 million. It is my ultimate intention to withdraw this amendment, but it gives me the opportunity to bring to the Members' attention something that I think is a very serious thing facing this Nation.

The United States Coast Guard is obligated to enforce all of the rules and regulations that are implemented and adopted by the National Marine Fisheries. So the scenario is that the National Marine Fisheries Service, without a word, without anything else, one bureaucrat, can issue a rule or regulation and pick up the telephone and call the Commandant of the Coast Guard and say, tomorrow morning send your people out and enforce this new rule we have implemented.

The administration this year has asked for more money, believe it or not, to enforce fisheries laws than they have requested for drug interdiction activities. That, Mr. Chairman, is misplaced priorities at its greatest possible moment.

Let me just give a scenario of something that conceivably could take place. We have a young man who wants to be in the United States Coast Guard. He goes to high school, he goes to college. Then he goes to the Coast Guard Academy. He gets his commission. He marries his childhood sweetheart. They move into a nice little bungalow. Lo and behold, he is called on his first tour of duty. He has to leave his wife and his bungalow. He has to go do what he is commissioned to do, and that is to protect the shores of the United States of America.

Can we imagine what happens when he comes back 10 days later and docks his ship and gets off the ship, runs home, he kisses his wife, and says, honey, I am back. She is happy to see him. He says, honey, you are not going to believe what happened this week, my first week asea in the United States Coast Guard.

Would you believe, he tells his wife, that I actually caught a fellow out in the Gulf of Mexico with a 10-inch snapper; and the violation of the law, because it has to be about 15 inches? So I took my multi-million dollar cutter, after I saw him with my field glasses, and I rushed over there with my 15-member crew and we boarded this boat. Not only did he violate that one-snapper regulation by it being too small, he also found out that the guy had five snappers. Can you imagine that, he says? And we arrested that guy and confiscated his boat.

His wife said, "Oh, honey I am so proud of you. But I saw the darnedest thing on television today. I saw where 500 children died this week because they were using drugs, drugs that probably came through the Gulf of Mexico."

We have misplaced priorities, Mr. Chairman, with respect to how we fund the United States Coast Guard. The Commandant of the Coast Guard has told us that he has an insufficient amount of money to even implement the activities that they did this year, much less increase the activities that need to be done to eliminate the drug

infusion into the United States of America.

The National Marine Fisheries Service is out of control. We need to send them a message. I would not be able to successfully cut their appropriation. I never thought that I could. I just wanted to use this opportunity to bring to Members' attention, to bring to light, to the light of day, something that explains that the United States Fisheries Association, the National Marine Fisheries, is a bureaucratic, overzealous agency that is out of control, and that we ought not to be spending the hundreds of millions of dollars that we are spending to fund this agency, only to let the Coast Guard go wanting.

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

Mr. CALLAHAN. I yield to the gentleman from Kentucky, a landlocked State, I might add, who recognizes the importance of the United States Coast Guard.

Mr. ROGERS. Mr. Chairman, I want to commend the gentleman for bringing this matter before the House. He did so in the Subcommittee on Transportation of the Committee on Appropriations, on which he and I are both members. He did so before the full committee and now before the full House, so I want to commend the gentleman for pointing out that this administration has cut the number of hours that they are allowing the Coast Guard to patrol for drugs coming through the Caribbean, and are increasing the number of hours that they require the Coast Guard to patrol for violations of the fisheries laws.

We all want the fisheries laws enforced, but which is more important to us, keeping our kids from dying, or catching somebody with a fish an inch too long? I commend the gentleman.

Mr. CALLAHAN. The gentleman is absolutely right, they have turned the Coast Guard into the meter maids of the Gulf of Mexico.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. CALLAHAN

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

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

The text of the amendment is as follows:

Amendment printed in House Report 105–641 offered by Mr. CALLAHAN:

Page 62, beginning at line 15, strike section 210 and insert the following:

SEC. 210. (a) IN GENERAL.—Each of the States of Alabama, Louisiana, and Mississippi has exclusive fishery management authority over all fish in the Gulf of Mexico within 3 leagues of the coast of that State, effective July 1, 1999.

(b) FISH DEFINED.—In this section, the term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

The CHAIRMAN pro tempore. Pursuant to House Resolution 508, the gentleman from Alabama (Mr. CALLAHAN) and a Member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

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

Mr. Chairman, the language included in my amendment is an effort to provide jurisdictional parity for fisheries enforcement for the States of Alabama, Louisiana, Mississippi, with the States of Florida and Texas. These jurisdictions were originally agreed to as part of the treaty agreements which brought each State into the Federal union.

The amendment which I am proposing today would clarify some technical concerns, and allow that date certain implementation of July 1, 1999, which would allow the States of Alabama, Louisiana, and Mississippi an appropriate amount of time, timetable for the execution of this jurisdictional provision.

It would replace the nine mile provision contained in the bill as passed by the full Committee on Appropriations with three marine leagues. It is a technical amendment amending language that is in the bill. It simply amends the language to make absolutely certain that we are only talking about fisheries, and it changes three miles, or nine miles, to three leagues, which is a term we need to do that.

So it is a very simple, clarifying amendment to an amendment that was unanimously adopted by the Committee on Appropriations, and also was agreed upon by the chairman of the Committee on Resources, the gentleman from Alaska (MR. YOUNG).

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

Mr. GILCHREST. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Maryland (Mr. GILCHREST) is recognized for 10 minutes in opposition.

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

Mr. Chairman, I rise in reluctant opposition, because I think the motivations on the part of the people that want to extend the State jurisdiction for Mississippi, Alabama, and Louisiana are of the highest, and I think they want to do their best for people that they represent in this particular area.

My opposition comes in three areas. One is an area that we always discuss here on the House floor, the difference between an appropriation jurisdiction and an authorization jurisdiction.

There were no hearings held in this particular legislation. We do not know its impact on the States. We do not know its impact on the commercial fishery. We do not know its impact on the charter boat fishery. We do not know its impact on the shrimp fishery. There is a whole range of questions that are still out there that we do not have any real answers for that could be resolved through hearings.

Let me discuss briefly some of the volatile debates we have had around here that have been resolved during the course of hearings. We have always had problems with logging issues. Through the course of hearings, we came up with, in northern California, the Quincy Library solution, with the gentleman from California (Mr. WALLY HERGER).

We have seen solutions with the Committee on Agriculture on logging and grazing. A couple of years ago this Congress, in a bipartisan way, came together to deal with the Magnuson Act, which was to have a plan across State boundaries, across the wide oceans of the jurisdiction that the United States has in its coastal areas, to understand the need for good, science-based management plans on a resource that can be overfished.

So, number one, it is really important, it is vital, not only for this Congress but for the very fishermen in the Gulf of Mexico, for us to understand the full ramifications of what this amendment will do, what this rider will do, without any hearings.

Number two, this, I guess, could be stated as an unfunded mandate. I want to read two short paragraphs, one from the Governor of Louisiana and one from the Department of Marine Resources in Mississippi. The Governor of Louisiana says: "I am also advised that the bill is an unfunded mandate, and provides no funds for Louisiana's Department of Wildlife and Fisheries to perform the functions required," and that the bill may be effective as early as, and we now know it would not be effective until July 1, 1999.

□ 1430

We are looking into the issue of an unfunded mandate. Basically Mr. Woods from Mississippi says the same thing. How will they develop their management plan? What will that cost? What are the costs of enforcement?

I would like to make a quick comment about the Coast Guard in response to my good friend, the gentleman from Alabama (Mr. CALLAHAN). While the Coast Guard is out there monitoring the fisheries, they are also monitoring illegal immigrants to our country. They are also checking out drug interdiction. They are also looking into environmental pollution.

There is a whole range of things that the Coast Guard does with fisheries enforcement, not to mention the fact it is a huge, many multibillion dollar industry, that the Coast Guard is out there preventing many other countries from illegally fishing in our waters.

The last comment I want to make is about conservation. I want to focus on the red snapper in particular. The red snapper, mature red snapper fish are for the most part caught outside State waters. That is outside of 9 miles if this passes. That is fine. But the immature red snapper, 80 percent of the immature red snapper fish are within State waters. Many of those red snappers, without bycatch reduction devices, are lost to bycatch. That means they never grow up and they can never be caught by the commercial fishermen outside these territorial waters who, by the way, the commercial fishing communities, the red snapper commercial fishermen are opposed to this amendment.

If we do not have some sense of where the waters flow, about how to consistently manage and sustain these resources, we are going to lose these resources. So for a conservation effort to increase the stock of red snapper, to find the way to manage the shrimp trawling industry, we need to defeat this particular amendment by the gentleman from Alabama.

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

Mr. CALLAHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, in deference to the arguments advanced by my former shipmate, the gentleman from Maryland (Mr. GILCHREST), an outstanding Congressman, an ex-marine and a great American hero, I would simply say that I respectfully disagree with him on this point.

We are always hearing about federalism, restoring the power to the States. I think that means equal power to the States and that all Americans stand equally under the eyes of the law. That is not the case when it comes to limits for fisheries or for any other purposes of the Outer Continental Shelf.

The fact is, as my friend, the gentleman from Louisiana (Mr. TAUZIN) will say, red snapper are doing fine. There are plenty of red snapper. And the unfunded mandates, I do not think that is a problem because the Federal Government did not worry about that when they made the shrimpers carry BRDs or TEDs or any of the other excluder devices that they mandated from here in Washington, so the unfunded mandates really is not an issue.

What is an issue is federalism, equal opportunity for States. In Alaska, they have a 12-mile limit, extending their jurisdiction out 12 miles for the supervision of some of their fisheries. In the States of California and Oregon and Washington, for the purpose of supervising the development of a particular species of crab they are talking about 200 miles, 200 miles reaching out beyond the borders of their shorelines.

In Texas and in Florida, which the last time I looked at my map bounded the States of Alabama, Mississippi and Louisiana, the outreach is 9 to 10 miles. But for whatever reason, and I did inquire of my friend from Maryland the other day what the reason was, he says, you guys came into the country under different circumstances, almost 200 years ago, whatever reason it is, we have got a 3-mile limit in Louisiana. Mississippi and Alabama have a 3-mile limit.

If Texas and Florida are on either sides of us on the Gulf of Mexico and if they have to live by certain fisheries rules, I think the fish swim in the same water. They do not stop at the border and check, am I in a Texas border or am I in a Florida border, and then I can swim out 10 miles, but I am in the Louisiana border, I can only swim out 3 miles. That is ridiculous.

We ought to have the same rules, the same laws for the fish and the people. The outreach ought to be the same number of miles, whether it is 3 miles or 10 miles, it ought to be the same. Texas and Florida do not want to go to 3 miles. They want to stay at 10 miles. So it seems only proper that Mississippi, Alabama and Louisiana ought to be 10 miles as well.

The opponents of this amendment do not want this extension of fishery rights for our states but, just the past Monday under suspension vote as part of H.R. 3460, they granted the states of California, Oregon, and Washington state jurisdiction for a major crab fishery out to 200 miles!

Opponents are trying to claim in the "Dear Colleagues" that the states of LA and Mississippi are opposed to these extensions, that they are an unfunded mandate.

But, if you read the letters from these two states you will see that they support extending jurisdiction out to 9 miles if the extension is delayed and if we provide Federal funds to implement state jurisdiction.

The revised Callahan amendment provides this extension by not implementing an extension of the state boundary for fisheries until July, 1999.

And, while direct funding to the states is not provided in this amendment—the Federal government already has grant programs, enforcement dollars and mechanisms in place through the Dingell-Johnson act and this very bill to provide states assistance in managing their fishery resources.

Opponents claim that the Callahan amendment will mean that some fishermen, particularly shrimp fishermen, will have an easier time in Louisiana, Mississippi and Alabama because their state laws or regulations do not yet require that Fish Excluder Devices (FEDs) or Bycatch Reduction Devices (BRDs) be put in their nets.

Again, the Callahan amendment is not effective until July 10 1999, so it will give the states plenty of time to require BRDs or FEDs, if they desire.

The Callahan amendment would leave management of red snapper and other resources to the states where it will be more consistent and fair.

The Commerce Department's National Marine and Fisheries Service (NMFS) and NOAA have consistently failed to develop fair and practical regulations based on all the available scientific data and economic impacts to fishermen.

NMFS consistently has used "selectively" chosen data to mandate new regulations like BRDs or FEDs that are advocated by so many here today.

Remember, this (BRD) or Bycatch Reduction Device is really a fancy name coined by the National Marine Fisheries Services (NMFS) so they would not have to call these devices FEDs, Fish Excluder Devices.

These BRDs or FEDs are an un-funded mandate implemented by the Dept. of Commerce and NMFS last April and May for well over 3,000 shrimp fishermen in the Gulf of Mexico to put in his or her shrimp nets because NMFS "claims" its "scientific data" proved that these devices will help prevent what they termed was significant red snapper bycatch.

When these FEDs or BRDs were mandated by the Federal Government in April of this year, there was no Federal funding that came with this mandate for the over 3,000 shrimp fishermen throughout the Gulf of Mexico.

Between the equipment you have to buy, the number of nets you have to modify, and the labor, these FEDs cost each shrimp fishermen an average of nearly $200—and this does not take into account the extra fuel and other expenses they have to consume to make up for the shrimp lost because the shrimp fishermen now have a TED and a FED in their nets.

And, when the FED/BRD mandate came out earlier this year, there was only one NMFS or Government approved device that the fishermen were allowed to use. It was not until opening day of shrimp season that NMFS approved a second version.

At the same time NMFS was mandating a FED/BRD requirement they said in the same rulemaking that they would conduct a "four month, intensive research effort * * * at sea to test the effectiveness of BRDs at reducing the mortality of juvenile red snapper. The research will conclusively determine the effectiveness of BRDs under actual operating conditions."

If they did not have the data and proof, under actual working conditions, why didn't NMFS implement a voluntary program with fishermen as opposed to a Federal un-funded mandate?

Also, talk about selective use of data, just 5 months earlier (in December, 1997) NMFS officials, based on the "science they developed", mandated that shrimp fishermen could no longer use certain types of NMFS previously approved "soft" TEDs, turtle excluder devices.

NMFS mandated this because they had new "science" that indicated that soft TEDs were

not as effective as "hard" TEDs in releasing endangered sea turtles.

For the uninitiated, "soft" TEDs use rope or flexible rigging as opposed to "hard" TEDs that use metal or firm rigging.

NMFS went ahead with the mandate to eliminate previously approved NMFS soft TEDs despite the fact: (1) Most Gulf shrimpers used soft TEDs and would have to replace those TEDs with new ones (In fact shrimper compliance with all TEDs was over 97%); (2) That NMFS was already planning to require BRDs or FEDs; (3) And, that NMFS' own "scientific" data and other science strongly indicated that most of the soft TEDs used by shrimpers also happened to be excellent By-catch Reduction or Fish Excluder Devices; and (4) And, that NMFS' "science" and "data" justifying the elimination of soft TEDs was only based on 2 small tests.

NMFS takes away one device, soft TEDs, they mandated years ago and that shrimpers were complying with at a 97% compliance rate, even though they had enough science to show that they helped reduce bycatch—something they several months later fishermen must use totally different devices for.

All these inconsistent and irrational Federal policies and regulations in the name of protecting the red snapper.

A species, despite what many claim, is not declining.

The same Gulf of Mexico Fishery Management Council, that opponents say oppose the Callahan amendment, said last February, when it approved a 9.12 million pound catch for red snapper for this year, that the "red snapper is in a recovery phase. . . .

"(and) positive growth indicators include 5 years of increasing recruitment, increasing numbers of older fish, increasing size of fish harvested, increasing catch rates in the fishery, and expanding juvenile distribution. . . ."

An independent red snapper stock assessment sanctioned by NMFS, and that was conducted by a Dr. Rothschild and the University of Massachusetts, concluded that the red snapper stock appears to be "healthy" and that "recruitment" is increasing.

NMFS chose not to use this stock assessment. They used their "own developed science" to conclude that the red snapper stock was still threatened enough to require the mandatory use of BRDs or FEDs.

Again, extending this fish boundary for our states does not make it easier on fishermen.

Louisiana has as tough or comparable fisheries enforcement laws in almost every area that the Feds do.

In cases where someone catches beyond their limit or is a consistent violator, Louisiana, like the Feds, requires criminal fines, allows for confiscation of property and other penalties.

But, Louisiana goes further—they allow, unlike the Feds in most cases, for additional fines to be paid to the state to help towards restoration of the impacted fishery.

And, Louisiana, I am told, has tougher laws on gill nets. Unlike Federal waters, there is a total ban on gill nets in LA waters except for allowing a special type of strike net, that cannot be left unattended, for only 2 limited species.

Louisiana is properly managing their fisheries and has been for years—if that were not the case Louisiana would not annually be ranked as the top 1, 2, or 3 nationwide producer of blue crabs, oysters and shrimp in the U.S.

According to the Commerce Dept's own figures Louisiana has had 4 of the top 10 port cities with the highest volume of fish and shellfish landings from 1994 through 1996 (the latest figures available).

This is despite the fact that Louisiana is responsible for over 75% of our entire nation's OCS oil and gas production.

I can tell you that we are environmentally sensitive—our state leadership is known for its track record for helping our fisheries, especially recreational fisheries.

If it is good enough for Alaska, Texas, Florida, Oregon, California and Washington—it should be good enough for LA, Alabama and Mississippi.

Mr. GILCHREST. Mr. Chairman, Alaska has a 3-mile jurisdiction, not a 12-mile jurisdiction, and there is only one other situation, that is the State of California, where we have had hearings, and they are managing the Dungeness crab.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment. I think I represent a sense of some fishermen who I represent, and knowledge of the California coastline and essentially West Coast coastlines. This is not good law. This is not good precedent.

As has been stated, the fish stocks do not respect political boundaries, whether they are near shore waters, offshore waters, State waters or exclusive economic zone.

One of the things that we have been trying to do with our management councils is to develop that kind of uniform practice of how you can best fish a fishery without catching in the process what they call the bycatch, which are also, and when you are fishing for shrimp, you are catching three times as much bycatch as you are fish. That bycatch has an economic value. If you are going to wipe out a species by it as a bycatch, you are going to be wiping out somebody else's business.

So in the best economic interest, it does not make sense to essentially give States this exclusive jurisdiction at the expense of other fishermen in the ocean. That is why the council of this jurisdiction is opposed to this. The States indicate they do not have the resources to manage it, have the patrol boats and so on.

It really does makes sense to keep these jurisdictions as they have. These States have coastal Zone Management Plans. They have exclusive authority that has been granted them to regulate in certain instances activities in these zones. So there is essentially a local, State, Federal cooperation that has been working well all these years.

The only reason you want to extend this jurisdiction is to take away Federal Government authority and give it to the States, and that might be in the best interest of some commercial interests in that State, but it will not be in the best interest of all the commercial fisheries interests. It will certainly not be in the best interest of sustaining.

Our most important issue in respect here in making laws is to sustain so future generations can have access to these fisheries.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, let me first tell you that as far as this unfunded mandate argument goes, we have discussed personally this issue with our governor, the head of our natural resources in Louisiana. They tell us it is certainly right and fitting that Louisiana and Mississippi and Alabama should have the same jurisdictional enforcement capacities that Texas and Florida have, and they would be very willing to accept that responsibility if the State was accorded that responsibility in this bill. They are prepared for it.

Of course, our fisheries and wildlife department would love to have more money. That is the reason he mentioned that in his letter. But the truth of the matter is that they want parity of jurisdiction, just as much as the gentleman from Louisiana (Mr. LIVINGSTON) and I, who represent Louisiana, would love our State to have parity of jurisdiction.

I appreciate the gentleman from Maryland about the fiscal state of affairs in Louisiana. I assure you, our State officials are one with us in this request.

Secondly, let me point out that the Callahan amendment makes no change substantively in the fisheries laws. The laws are going to be enforced, whether by the Federal authorities or the State authorities, the same.

Thirdly, the gentleman from Louisiana (Mr. LIVINGSTON) made the point, the fact that in Louisiana, Mississippi and Alabama there is a 3-mile fisheries limit enforcement for State authorities, and in Texas and Florida, 3 leagues enforcement authority. Literally, it sets up a crazy boundary line for enforcement.

It does not mean the Coast Guard is not going to be out there. The Coast Guard will still enforce the laws outside the 3 leagues. It will still be there to protect against drug induction into our country. It will still be there protecting the fisheries laws on its side of that 3 leagues.

This amendment simply means that Louisiana and Mississippi and Alabama would enjoy the same enforcement jurisdictional authority that Texas and Florida have in the same Gulf waters.

Finally, let me point out that the Gulf Fisheries Council finds itself in great problems with our own NMFS authority here in Washington. National

Marine Fisheries consistently overrules the Gulf Council. The Gulf Council has great problems with our own authority here in Washington, D.C. But let me assure you of one thing, we in Louisiana are as sincerely interested in maintaining a red snapper population as any of you, believe me, from California or Maryland may be.

Red snapper are important to our commercial industry. It is also important to our sports fisheries industry. If the commercial red snapper industry is at all worried, it is not worried about who enforces the laws 3 miles or 9 miles or 12 miles outside of our boundaries. They are more concerned that the sports fishermen do not get a bigger share of the quota.

That is the real battle. Right now the few boats who fish commercially take 51 percent of the red snapper quotas right now. Sports fishermen would love to have a bigger share of that. That is a battle they fight at the council level. It has nothing to do with what authority enforces the law.

I can assure you, red snapper is critical to the sportsmen and to the commercial interests in our State and those of us who want to see that wonderful species of fish preserved. We do our job in Louisiana and Mississippi and Alabama to preserve them. We simply want the same authority that is accorded Florida and Texas in that regard.

The CHAIRMAN. The gentleman from Maryland (Mr. GILCHREST) has 2½ minutes remaining, and the gentleman from Alabama (Mr. CALLAHAN) has 2½ minutes remaining and the right to close.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, let me point out to my colleagues that this is not a new issue. In 1995 the Republican-controlled Congress spoke loud and clear on the need for bycatch devices. By a vote of 294 to 129 during reauthorization of the Magnuson Act, the House voted to allow the bycatch devices regulations to move forward.

I suggest that Members go back and check their vote in the 104th Congress and be consistent, because absolutely nothing has changed since that time. The red snapper and other fish are just as vulnerable to poor shrimping practices, the bycatch devices are just as effective in reducing the problem.

I urge my colleagues not to be fooled. This is not an amendment to protect States' rights. This is an amendment to undermine environmental protection. This is not an amendment that will correct language in the bill. This is an attempt to block efforts to strike the very damaging language in the bill.

The Gulf of Mexico Fishery Management Council, Gulf charter boat fishermen and red snapper fishermen, as well as environmental groups and the governor of Louisiana, are all adamantly opposed.

Mr. GILCHREST. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I rise in opposition to the Callahan amendment. It is my opinion that this amendment would have a devastating effect on many Gulf of Mexico fisheries.

Let me just say, Mr. Chairman, that I have the utmost regard for the gentleman from Alabama and for his constituents. I would like to point out that we have heard from some of them who oppose the gentleman's amendment. For example, the Gulf of Mexico Fisheries Management Council voted 9 to 2 to oppose the gentleman's amendment.

I also have a communication here from the Clark Seafood Company from Pascagoula, Mississippi. Let me quote from their letter:

"I think Congressman Callahan was probably trying to do something helpful for commercial and recreational fishing when he wrote" his proposal, "but his proposal, a rider on the appropriations bill, leaves an awful lot of questions unanswered and could cause some big problems for Gulf fishermen."

I also have a letter from the Orange County Fishing Association from Orange County, Alabama: "We fully support the Gulf of Mexico Fishery Management Council's position" in opposition to the Callahan amendment, they say. "The National Marine Fisheries Service states that if they lose the valuable miles for bycatch reduction, their only alternative would be to lower the allowable catch for red snapper and thereby extend the closure considerably."

We have a letter from the Destin Charter Boats Association to the same effect. We have a letter from the Galveston Party Boats, Inc. to the same effect. We have a letter from the Panama Boatman Association and they say, "This rider will be devastating to the hook and line fishermen in the Gulf of Mexico."

Mr. Chairman, I include for the RECORD the following correspondence:

CLARK SEAFOOD COMPANY, INC.,
Pascagoula, MS, July 29, 1998.

Hon. TRENT LOTT,
Russell Building,
Washington, DC.

DEAR SENATOR LOTT: I apologize for waiting this late to contact your office about Sonny Callahan's bill to extend the state waters of Mississippi, Alabama and Louisiana out to nine miles.

I think Congressman Callahan was probably trying to do something helpful for commercial and recreational fishing when he wrote his proposed law extending the fisheries jurisdiction in the Gulf out to nine miles. But his proposal, a rider on the appropriations bill, leaves an awful lot of questions unanswered and could cause some big problems for Gulf fishermen and for people like me in the commercial fishing business.

I don't think a law that makes such big changes in the way we operate and that could cost a lot of fishermen a large amount of money should be passed without giving all of us a chance to ask questions about it and at least try to make changes where we see problems. Congressman Goss has tried to make changes to minimize the problems but his efforts raise other questions for us.

I would appreciate it if you would ask Congressman Callahan to remove his rider on the appropriations bill and bring his proposal back to Congress next year as a regular bill. That way we in the fishing industry can study and comment on the bill. If he is unwilling to do that, I would ask you to vote against Congressman Callahan's rider on the appropriations bill.

Thank you for your consideration of my comments on this issue and for your work supporting our seafood businesses.

Sincerely,

PHIL HORN.

ORANGE BEACH FISHING ASSOCIATION,
Orange Beach, AL, July 27, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN, We fully support the Gulf of Mexico Fishery Management Council's position to oppose the rider attached to H.R. 4276 by Congressman Sonny Callahan. It would extend state waters for Alabama, Mississippi and Louisiana from 3 to 9 miles out. Although we believe the primary reason for introducing this rider was intended to support the fishery, ramifications have since been identified that would make the adoption of this rider extremely detrimental to the fishery.

Ten million dollars in studies, funded by Congress, show that reducing shrimp trawl bycatch is the single most important element in the recovery of the red snapper fishery. Studies indicate that the stock could not recover in the allotted time allowed under the Magnuson Act even with a complete closure of the directed red snapper fishery (charter/recreational and commercial) without bycatch reduction. Without 50% reduction in bycatch the fishery cannot recover.

The state of Louisiana has a law that prohibits enforcing bycatch reduction devices or turtle excluder devices in state waters. Last week at the Gulf of Mexico Fishery Management Council Meeting the state of Mississippi's representative stated that they have no intention of requiring bycatch reduction devices in state waters, as did the representative from the State of Alabama.

The National Marine Fisheries Service states that if they lose these valuable miles for bycatch reduction their only alternative would be to lower the total allowable catch for red snapper and thereby extend the closure considerably. Recreational saltwater fishing contributes a $7 billion dollar impact annually to these five states. The consequences of adoption of this rider would destroy the ability to preserve this industry and the impacts associated with it. When you include the economic impact of the commercial fishery as well, the impact of closures is staggering.

Numerous delays (since 1990) on implementing bycatch reduction devices (BRD's) have been granted to the shrimping industry to accommodate design and minimize shrimp loss. During this same period, the directed recreational/charter red snapper fishery has given up 60% of their bag limit and suffered

through a 5 week closure. We urge you to oppose this rider so that ALL industries contribute to saving this valuable resource.

Best Regards,

BOBBI M. WALKER,
President.

DESTIN CHARTER BOAT ASSOCIATION,
Destin, FL, July 27, 1998.

The 100 members and families of the Destin Charter Boat Association stand adamantly opposed to the Callahan rider that has been attached to the appropriations bill H.R. 4276. This bill will be a disaster for the red snappers fisheries and the lives that depend on the recreational and commercial catch of red snappers. The red snapper fisheries will soon close because the shrimping industry is catching and killing millions of pounds of juvenile red snappers as by-catch to their shrimp catch. These juvenile red snappers are inadvertently caught in the shrimp net and are discarded back into the water dead.

The N.M.F.S. has recognized that the killing of juvenile red snappers as by-catch is one of the leading major causes of the decline of red snapper stocks. N.M.F.S. has recently ordered all shrimp boats in federal waters to utilize a proven and well tested by-catch reduction device (BRD).

The problem is, the shrimping industry is being allowed to kill a large portion of the snapper population as a useless by-catch that they discard and has no value to them whatsoever, while the red snapper fisheries is having their limits and quota's reduced to compensate for the juvenile red snappers that the shrimp industry kills.

The Callahan rider will change the state water boundary lines to 9 miles from 3 miles for all Gulf coast states (except FL where it already is 9 miles). This change will allow the shrimping industry to fish in what was once protected federal waters without the required use of the BRD. Not only will this accelerate the catch of juvenile red snappers, these inshore waters are the main breeding groung for the red snappers stocks. This rider is the worst case scenario for the red snapper fisheries, we are currently facing a Sept. 1st closure because of the large number of red snappers killed as a result of shrimp trawl by-catch.

Everything possible must be done to defeat the Callahan rider to H.R. 4276. The future of our multi million dollar recreational, commercial and charter fishing industry is depended on it. The red snappers that are being killed and discarded as trash, are the life blood of the red snapper fisheries as well as the commercial and recreational fishing industry.

Your help is needed now.

Sincerely,

MIKE ELLER,
President, D.C.B.A.

GALVESTON PARTY BOATS, INC.,
Galveston, TX, July 31, 1998.

Hon. NICHOLAS V. LAMPSON,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE LAMPSON: I am writing to ask your help in defeating a rider attached to H.R. 4276. This rider, sponsored by Rep. Callahan will extend the state waters of Louisiana, Mississippi and Alabama out to nine miles. Newly mandated by-catch reduction devices designed to save juvenile red snapper are not required in state waters, including new areas added as a result of this bill. As such, the National Marine Fisheries Service has stated that extending state waters would require a severe reduction or complete closure of the red snapper fishery in the Gulf of Mexico. As I am sure you already know, our industry is already fighting an uphill battle for survival. The last thing we need is for NMFS to be provided with more ammunition to use as justification for reducing our bag limit and season. Please note in the attached letter from Dr. Kemmerer to Mr. Swingle of the Gulf Council, that NMFS is already pressuring the Gulf Council to reduce our bag limit.

Our information indicates this bill will be voted on this Tuesday, (August 4). Thank you for your time and consideration in this urgent matter.

Sincerely,

ED SCHROEDER.

PANAMA CITY BOATMAN ASSOCIATION,
Panama City, FL, July 27, 1998.

DEAR CONGRESSMAN: The Panama City Boatman Association is extremely concerned about a rider to the Appropriations Bill which has been attached by Congressman Callahan from Alabama. This rider will be devastating to the hook and line fishermen in the Gulf of Mexico. If the Appropriations Bill is passed with this rider, we will be faced with the very real possibility of a recreational red snapper fishery closure this year and a possible continued closure for the next several years. Any recreational fishery closure has severe detrimental social and economic consequences to the local fishing communities and the citizens in general along the Gulf Coast. In fact, this closure and its impact might be something from which many residents of those coastal areas might never fully recover. We implore you to act now to prevent this disaster! The problem is confusing and complex, but perhaps the following explanation of the status of mandatory bycatch reduction in some of the Gulf Coast states will help you see the urgent need for quick action to kill this rider.

Currently the states of Alabama, Mississippi, and Louisiana have state water jurisdiction up to three miles offshore. The states of Florida and Texas have state water jurisdiction up to nine miles offshore. Florida and Texas have state requirements regulating the commercial and recreational red snapper fishery, and Florida requires by-catch reduction devices (BRDs) to be installed in shrimp nets. The National Marine Fisheries Service has required BRDs in federal waters of the Gulf of Mexico since May 14, 1998. The states of Alabama, Mississippi, and Louisiana do not require BRDs in their state waters. Presently, with Alabama, Mississippi and Louisiana extending their state waters to nine miles offshore, the area off their coasts between three and nine miles would not be subjected to the BRD requirement. Thus, those states would not be participating in required bycatch mortality reduction, and consequently, they would sustain the massive killing of juvenile red snapper. Since the hook and line fishery is directly dependent on the percentage of bycatch mortality reduction, it is very clear that the elimination of required bycatch mortality reduction in such a vast area would be deadly to the hook and line red snapper fishery. Something must be done to save these fish.

We plead with you to kill this rider. We are very concerned and conscientious about our fisheries and how they are managed; this rider will cause severe problems and greatly hamper current management efforts to rebuild the currently overfished red snapper fishery. Please insist this rider be removed from the Appropriations Bill!

Thank You,

R.F. ZALES II,
President.

Mr. Chairman, I rise in opposition to the Callahan amendment. This amendment would have a devastating effect on Gulf of Mexico fisheries. It would effectively eliminate the requirement to reduce shrimp trawl bycatch in the Gulf of Mexico. It would undermine the ability of the National Marine Fisheries Service to manage Gulf fisheries. It would set a disastrous precedent for changing jurisdictional boundaries as a means for avoiding necessary marine fisheries conservation and management measures. This amendment would overturn a significant fisheries management decision, made based on science for the benefit of the Gulf's fisheries. Finally, it will place an unfunded mandate on the states, which will presumably be charged with enforcement in the state waters which will be increased threefold.

In addition to the conservation arguments against this amendment, it is the simple truth that not one hearing has been held on the effects of this change. Mr. CALLAHAN's amendment was granted a waiver for authorizing on an appropriations bill, and neither the Committee on Resources or its Subcommittee on Fisheries Conservation, Wildlife and Oceans, which have authorizing jurisdiction over fisheries issues, have had the opportunity to examine this issue. It would be ill-advised to give this amendment the force of law without knowing its effects.

I have letters here from recreational and commercial fishermen from the Gulf of Mexico, most of which implore Congress to reject this amendment until a hearing is held, so that their concerns can be addressed. Also, here is the roll call vote taken by the Gulf of Mexico Fishery Management Council opposing the Callahan amendment. This council was established by the direction of Congress to help conserve fish stocks, so it would be ill-advised to ignore their advice. Finally, I have a copy of the Statement of Administration Policy which clearly states the strong opposition to this measure.

Until the effects of this amendment can be examined, I must strongly oppose the Callahan amendment. I urge all Members concerned about conservation to do the same.

□ 1445

Mr. Chairman, I ask all my colleagues to oppose the Callahan amendment.

Mr. CALLAHAN. Mr. Chairman, I yield myself the balance of my time just to respond to some of the speakers.

First of all, to the gentleman from New York. This has zero, nothing, to do with the bycatch device. Zero. Period. That is a myth, and I think Members should be aware of that.

Number two, the gentleman from Maryland. I doubt if he has even seen the Gulf of Mexico. I know he has not been shrimping there. I know he has not been fishing there. But I do know that they spend more money in the Chesapeake Bay, in his district, than they do for all of the Gulf of Mexico for research.

Maybe it is time for some parity in that appropriation process. Maybe we ought to take half of the $21 million a

year they spend in the Chesapeake and spend it in the Gulf of Mexico. That is an issue we will have to face later.

The gentleman from New Jersey read all of those letters. Now, he read a letter from Orange County, Alabama. Mr. Chairman, there is no Orange County, Alabama. They are fabricating a lot of these things simply to mislead my colleagues.

My amendment does two very simple things: Number one, the National Marine Fisheries is implementing rules and regulations over the objections of the State of Alabama and the States of Louisiana and Mississippi. But, nevertheless, Mr. Chairman, most important, my amendment says that the law that is in the appropriation bill will not be effective until July 1999.

I ask Members to read the amendment. It simply defines fisheries. We wanted to limit it to fisheries only because they were passing out rumors that it had something to do with oil, which it has nothing to do with oil. So the correcting amendment just delays the effective date until July 1, 1999, and it defines fisheries.

The gentleman from California was very eloquent. But they have a bill in that will be on the floor, probably next week, to extend the boundaries of California. So it is all right for California but it is not all right for Louisiana, Alabama and Mississippi.

Mr. Chairman, I ask that the Members read the amendment and to keep in mind that it simply says that the effective date of the language in the appropriation bill is delayed until July 1, 1999, and it defines fish, meaning fin fish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds. So read the amendment, and I would urge my colleagues to vote for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. CALLAHAN).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Alabama (Mr. CALLAHAN) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: The amendment offered by the gentleman from Florida (Mr. STEARNS) and the amendment offered by the gentleman from Alabama (Mr. CALLAHAN).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. STEARNS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. STEARNS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

The vote was taken by electronic device, and there were—ayes 165, noes 261, not voting 8, as follows:

[Roll No. 394]

AYES—165

Aderholt
Armey
Bachus
Baker
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Blunt
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Ewing
Foley
Fossella
Fowler
Gallegly
Gibbons
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kingston
Klug
Largent
Lewis (KY)
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Pappas
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pitts
Pombo
Portman
Radanovich
Redmond
Riley
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Thornberry
Thune
Tiahrt
Traficant
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wilson
Young (FL)

NOES—261

Abercrombie
Allen
Andrews
Archer
Baesler
Baldacci
Ballenger
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blumenauer
Boehlert
Boehner
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Callahan
Campbell
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Rivers
Rodriguez
Rogers
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—8

Ackerman
Blagojevich
Clay
Cunningham
Gilman
Gonzalez
McHale
Pickering

□ 1513

Mr. KLINK changed his vote from "aye" to "no."

Mesers. BAKER, ROEMER, GALLEGLY and Mrs. CUBIN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Chairman, on rollcall 394, the amendment by the gentleman from Florida (Mr. STEARNS), I was inadvertently detained. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. CALLAHAN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Alabama (Mr. CALLAHAN) on which further proceedings were postponed on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 141, noes 283, not voting 10, as follows:

[Roll No. 395]

AYES—141

Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Berry
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Brown (CA)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Chabot
Chambliss
Chenoweth
Coble
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Davis (IL)
Davis (VA)
Deal
DeLay
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hansen
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hilliard
Hostettler
Hunter
Hyde
Istook
Jefferson
Jenkins
John
Johnson, Sam
King (NY)
Kingston
Knollenberg
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manton
McCrery
McIntosh
McKeon
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Northup
Norwood
Ortiz
Oxley
Packard
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Pickett
Pitts
Pombo
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Ryun
Salmon
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stump
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Tiahrt
Torres
Wamp
Watts (OK)
White
Wicker
Young (AK)

NOES—283

Abercrombie
Allen
Andrews
Archer
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Christensen
Clayton
Clement
Clyburn
Conyers
Costello
Cox
Coyne
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Inglis
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Neumann
Ney
Nussle
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Petri
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Sununu
Talent
Tanner
Tauscher
Thune
Thurman
Tierney
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—10

Ackerman
Buyer
Clay
Coburn
Cunningham
Gonzalez
McDade
McHale
Pickering
Stupak

□ 1520

Mr. CAMP and Mr. FROST changed their vote from "aye" to "no."

Mr. SKELTON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 OFFERED BY MR. GILCHREST

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. GILCHREST:

Page 62, beginning at line 15, strike section 210.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, August 4, 1998, the gentleman from Maryland (Mr. GILCHREST) and a Member opposed will each control 7½ minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume. The issue that we are dealing with right now, this motion to strike, is to take the language out of the appropriations bill dealing with extending the State jurisdiction in the Gulf of Mexico of Mississippi, Louisiana, and Alabama from 3 miles to 3 leagues, or 9.2 miles.

I have grave reservations about this language in the appropriations bill. Number one, mainly because it has not gone through a process, it has not gone through the authorizing committees. We do not know the kinds of management plans that we will deal with in these that are now presently Federal waters. There are a whole host of other problems that I think the authorizing committees could deal with and in the next session of Congress we may, and I feel fairly confident could come up with a way to find a compromise or a solution to this particular problem.

The other issue here is an issue, and I recognize this is an issue in dispute, but it deals with unfunded mandates. If these State waters are extended out to three leagues, the Governor of Louisiana has told us that he does not have the money to create a fisheries management plan and he does not have the money for enforcement. The Secretary of Marine Resources in the State of Mississippi has said basically the same thing. So this is going to cost those States a little money.

The other issue is conservation. The conservation issues which deal with these are Federal waters. The Gulf of Mexico, these waters, do not recognize any kind of boundaries. It is inherent in the marine ecosystem that these fish swim from one place to another. There are no barriers. There are no political boundary lines. There is just a fishery. So to ensure a sustainable fishery, we have created basically through

the Magnuson-Stevens Act a method by which the Federal Government works with the States to sustain these fisheries. If we carve up these waters, especially the waters in these particular sensitive areas, that fisheries management plan to sustain the fisheries will not work and will basically collapse in my judgment.

I feel that we should hold hearings on this issue. I know it is important to the people in the region, many people depend on jobs in this particular area, but the process is to go through the committee, the questions will be answered about conservation, unfunded mandates, the State synchronizing their management plans, and I feel the process will work a lot better.

I urge my colleagues to vote "yes" on this motion to strike.

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

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Alabama (Mr. CALLAHAN) is recognized for 7½ minutes.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume. In 1861, the State of Alabama joined with a bunch of other States and we tried to move our boundaries a little north. The people in New Jersey and California and New York fought us and pushed us back, so we lost that battle to expand our boundaries north.

This year we decided to expand our boundaries south, thinking no one would be opposed to Alabama extending its boundaries out into the Gulf of Mexico like the State of California is going to do next week, extending their boundaries out into the Pacific Ocean. But once again, we were beat 2–1.

There is no sense in taking this body through another debate on the same issue. At the time of the vote, I am not going to ask for a recorded vote and will accept defeat with humility.

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

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume. I want to say also with great humility that the gentleman from Alabama has expressed himself extremely well. This is an issue that we will revisit. I would look forward to working with him and the other gentleman on this amendment in the future very closely.

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

Mr. GILCHREST. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I just might remind him that while New York and New Jersey and California were not on our side in the battle that took place in the last century, most of the people from Maryland were. But this year things have changed. I thank the gentleman for yielding.

Mr. GILCHREST. The gentleman from Alabama's words are well spoken. Maryland was a border State. We stayed with the union. But this is not about a fight between the North and the South. This is about a battle that all of us take together to sustain the resources of this great country for future generations.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GILCHREST).

The amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that the remainder of the bill, through page 124, line 2, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on September 30, 1998, $45,326,000 are rescinded.

LEGAL ACTIVITIES

UNITED STATES TRUSTEE SYSTEM FUND

(RESCISSION)

Of the unobligated balances available from offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b), $17,000,000 are rescinded.

TITLE VIII—CITIZENS PROTECTION

SHORT TITLE

SEC. 801. This title may be cited as the "Citizens Protection Act of 1998".

AMENDMENT NO. 11 OFFERED BY MR. HUTCHINSON

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. HUTCHINSON: Strike title VIII.

□ 1550

The CHAIRMAN. Does the gentleman from Arkansas (Mr. HUTCHINSON) ask unanimous consent to have the amendment considered now?

Mr. HUTCHINSON. Mr. Chairman, I ask unanimous consent that this amendment be considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

Mr. McDADE. Reserving the right to object, Mr. Chairman, and I shall not object; I just want to assure that I get the time. There is 20 minutes, I believe, on each side, we have an agreement, and I rise in opposition to the gentleman's amendment and request the opportunity to control the 20 minutes.

PARLIAMENTARY INQUIRY

Mr. MOLLOHAN. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. Is there objection to the amendment to strike title VIII at this time?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman from West Virginia reserves the right to object and will state his reservation.

Mr. MOLLOHAN. Mr. Chairman, where are we? What are we doing right now?

The CHAIRMAN. The Clerk has just read section 801.

Mr. MOLLOHAN. Mr. Chairman, the gentleman from Michigan (Mr. CONYERS) was standing and was not recognized.

Mr. CONYERS. Mr. Chairman, I believe my amendment was pending at the desk and was preferential, and with the cooperation of my colleague on the Committee on the Judiciary I ask that it be called up.

PARLIAMENTARY INQUIRY

Mr. HUTCHINSON. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HUTCHINSON. The parliamentary inquiry is that I have an amendment at the desk, I was recognized, there was a unanimous-consent request that I be allowed to proceed with my amendment, and I ask the Chair to rule on that.

The CHAIRMAN. The gentleman will suspend.

The gentleman did ask for unanimous consent to consider an amendment striking all of title VIII that has not been granted at this time. There has been reservations against that at this time.

So the question is:

Is there objection to the gentleman considering his amendment at this time?

Mr. CONYERS. Reserving the right to object, Mr. Chairman, all I ask my colleague:

I have a preferential motion, and his is one to strike, that it go at the proper time. I mean what is the problem?

Mr. McDADE. Mr. Chairman, I say to my colleagues that when the gentleman from Arkansas made his request, I reserved to claim the 20 minutes time in opposition that has been agreed to as the original drafter of the amendment that is in the bill.

I would suggest the gentleman from Arkansas be permitted to go forward. It is a straight up-or-down motion on whether or not we should strike the title.

The CHAIRMAN. The Chair just reminds the gentleman from Pennsylvania that the Committee is not at that point yet. At the appropriate time there may be a time limitation.

The Chair might make the recommendation that the gentleman from Arkansas (Mr. HUTCHINSON) wait until the title is considered as read, and he can offer his amendment so that the gentleman from Michigan (Mr. CONYERS), whose amendment would be in order when section 802 is read, can make it. That way we would follow order.

Mr. ROGERS. Mr. Chairman, may I ask what paragraph we are on at this moment?

The CHAIRMAN. The Clerk has read section 801.

Mr. ROGERS. And, Mr. Chairman, if the gentleman from Arkansas (Mr. HUTCHINSON) moves to strike section 801——

Mr. HUTCHINSON. Mr. Chairman, I move to strike section 801.

Mr. ROGERS. Would that be in order, and would that supersede the Conyers amendment?

The CHAIRMAN. The gentleman could withdraw his request and offer another amendment to section 801, in which case it would be in order.

Mr. CONYERS. Reserving the right to object, Mr. Chairman, may I explain to the distinguished chairman and my friend from Pennsylvania that this is a preferential motion? It is a motion, a perfecting motion that takes precedence over a motion to strike, and it is not inconsistent with anything that any of my colleagues are trying to do.

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROGERS. If the gentleman from Michigan (Mr. CONYERS) would listen, I think if the gentleman from Arkansas' motion is related to section 801, the Conyers amendment, I think, relates to section 802, if I am not mistaken.

If that is correct, Mr. Chairman, would it not be that the Hutchinson motion would come first?

The CHAIRMAN. That is correct.

Mr. CONYERS. Continuing to reserve the right to object, Mr. Chairman, this is not about this bill or anything else. This is the rules of the House. A preferential, a perfecting, amendment has preference over a motion to strike. This is not just for my colleague's bill or this moment. That is the way the House runs. And to my good friend from Pennsylvania, his right to control time is in no way impeded or blocked by what I am doing. When it comes up, that will still be in order.

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

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

Mr. MCDADE. Mr. Chairman, I think it works both ways.

Mr. CONYERS. No, it is not both ways. This is the rules of the House, and I ask the Chair to give me a little assistance here.

I was on my feet, and we have not approved of the right of my dear friend from Arkansas (Mr. HUTCHINSON) to go forward.

I reserve the right to object, and it looks like I am not going to have much alternative.

The CHAIRMAN. The Chair is prepared to try to straighten this out.

The Chair is advised that a motion to strike the title which is what the gentleman from Arkansas is preparing to do, and a preferential motion to amend section 802, which the gentleman from Michigan has, could both be pending at the same time, which then would lead the Chair to make a decision.

Mr. CONYERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas to strike title VIII?

There was no objection.

Without objection, title VIII is considered read.

There was no objection.

The text of title VIII is as follows:

INTERPRETATION

SEC. 802. As used in this title and the amendments made by this title, the term "employee" includes an attorney, investigator, or other employee of the Department of Justice as well as an attorney, investigator, or accountant, acting under the authority of the Department of Justice.

SUBTITLE A—ETHICAL STANDARDS FOR FEDERAL PROSECUTORS

ETHICAL STANDARDS FOR FEDERAL PROSECUTORS

SEC. 811. (a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

"ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

"SEC. 530B. (a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State.

"(b) The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.

"(c) As used in this section, the term 'attorney for the Government' includes any attorney described in section 77.2(a) of part 77 of title 28 of the Code of Federal Regulations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"530B. Ethical standards for attorneys for the Government.".

SUBTITLE B—PUNISHABLE CONDUCT

PUNISHABLE CONDUCT

SEC. 821. (a) VIOLATIONS.—The Attorney General shall establish, by plain rule, that it shall be punishable conduct for any Department of Justice employee to—

(1) in the absence of probable cause seek the indictment of any person;

(2) fail promptly to release information that would exonerate a person under indictment;

(3) intentionally mislead a court as to the guilt of any person;

(4) intentionally or knowingly misstate evidence;

(5) intentionally or knowingly alter evidence;

(6) attempt to influence or color a witness' testimony;

(7) act to frustrate or impede a defendant's right to discovery;

(8) offer or provide sexual activities to any government witness or potential witness;

(9) leak or otherwise improperly disseminate information to any person during an investigation; or

(10) engage in conduct that discredits the Department.

(b) PENALTIES.—The Attorney General shall establish penalties for engaging in conduct described in subsection (a) that shall include—

(1) probation;

(2) demotion;

(3) dismissal;

(4) referral of ethical charges to the bar;

(5) loss of pension or other retirement benefits;

(6) suspension from employment; and

(7) referral of the allegations, if appropriate, to a grand jury for possible criminal prosecution.

COMPLAINTS

SEC. 822. (a) WRITTEN STATEMENT.—A person who believes that an employee of the Department of Justice has engaged in conduct described in section 821(a) may submit a written statement, in such form as the Attorney General may require, describing the alleged conduct.

(b) PRELIMINARY INVESTIGATION.—Not later than 30 days after receipt of a written statement submitted under subsection (a), the Attorney General shall conduct a preliminary investigation and determine whether the allegations contained in such written statement warrant further investigation.

(c) INVESTIGATION AND PENALTY.—If the Attorney General determines after conducting a preliminary investigation under subsection (a) that further investigation is warranted, the Attorney General shall within 90 days further investigate the allegations and, if the Attorney General determines that a preponderance of the evidence supports the allegations, impose an appropriate penalty.

MISCONDUCT REVIEW BOARD

SEC. 823. (a) ESTABLISHMENT.—There is established as an independent establishment a board to be known as the "Misconduct Review Board" (hereinafter in this title referred to as the "Board").

(b) MEMBERSHIP.—The Board shall consist of—

(1) three voting members appointed by the President, one of whom the President shall designate as Chairperson;

(2) two non-voting members appointed by the Speaker of the House of Representatives, one of whom shall be a Republican and one of whom shall be a Democrat; and

(3) two non-voting members appointed by the Majority Leader of the Senate, one of whom shall be a Republican and one of whom shall be a Democrat.

(c) NON-VOTING MEMBERS SERVE ADVISORY ROLE ONLY.—The non-voting members shall serve on the Board in an advisory capacity only and shall not take part in any decisions of the Board.

(d) SUBMISSION OF WRITTEN STATEMENT TO BOARD.—If the Attorney General makes no determination pursuant to section 822(b) or imposes no penalty under section 822(c), a person who submitted a written statement under section 822(a) may submit such written statement to the Board.

(e) REVIEW OF ATTORNEY GENERAL DETERMINATION.—The Board shall review all determinations made by the Attorney General under sections 822(b) or 822(c).

(f) BOARD INVESTIGATION.—In reviewing a determination with respect to a written statement under subsection (e), or a written statement submitted under subsection (d), the Board may investigate the allegations made in the written statement as the Board considers appropriate.

(g) SUBPOENA POWER.—

(1) IN GENERAL.—The Board may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Board. The attendance of witnesses and the production of evidence may be required from any place within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Board may apply to a United States district court for an order requiring that person to appear before the Board to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(h) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its voting members. All meetings shall be open to the public. The Board is authorized to sit where the Board considers most convenient given the facts of a particular complaint, but shall give due consideration to conducting its activities in the judicial district where the complainant resides.

(i) DECISIONS.—Decisions of the Board shall be made by majority vote of the voting members.

(j) AUTHORITY TO IMPOSE PENALTY.—After conducting such independent review and investigation as it deems appropriate, the Board by a majority vote of its voting members may impose a penalty, including dismissal, as provided in section 821(b) as it considers appropriate.

(k) COMPENSATION.—

(1) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States, including Members of Congress, may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(l) EXPERTS AND CONSULTANTS.—The Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $200 per day.

(m) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Board to assist it in carrying out its duties under this title.

(n) OBTAINING OFFICIAL DATA.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairperson of the Board, the head of that department or agency shall furnish that information to the Board.

(o) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(p) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support services necessary for the Board to carry out its responsibilities under this title.

(q) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes. The gentleman from Pennsylvania (Mr. MCDADE) has requested time in opposition and, therefore, will be recognized for a like time.

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman?

The CHAIRMAN. The gentleman will state his reservation.

Mr. MOLLOHAN. Mr. Chairman, reserving the right to object, there is no time agreement being offered, proposed, on this amendment?

The CHAIRMAN. The gentleman is correct. There is no time agreement at this point.

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

Mr. MOLLOHAN. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, this gentleman would be amenable to such a request.

Mr. MOLLOHAN. Mr. Chairman, we cannot.

Mr. ROGERS. The gentleman from West Virginia cannot agree to a time?

Mr. MOLLOHAN. We cannot agree to a time.

The CHAIRMAN. Without objection, the title is considereed read and the gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes on his motion.

PARLIAMENTARY INQUIRY

Mr. MCDADE. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MCDADE. I just need to be clear, Mr. Chairman.

I believe the Chair said to the gentleman from Arkansas that he gets 5 minutes.

The CHAIRMAN. The Chair advises the gentleman the Committee is under the 5-minute rule, so the gentleman is recognized for 5 minutes on his amendment.

Mr. MCDADE. And how much time am I allowed, may I ask the Chair?

The CHAIRMAN. Does the gentleman stand in opposition?

Mr. MCDADE. I did.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 5 minutes at the end of Mr. HUTCHINSON's debate.

Mr. MCDADE. Everybody gets 5 minutes?

The CHAIRMAN. That is correct, the 5-minute rule.

Mr. HUTCHINSON. Mr. Chairman, I rise in support of the Hutchinson–Barr–Bryant amendment.

The distinguished gentleman from Kentucky (Mr. ROGERS) has done a masterful job in developing this appropriations bill. The title VIII, which our amendment would strike, goes far afield from the ordinary requirements of the spending bill. It includes almost verbatim the well intentioned, but ill advised, Citizen Protection Act. Including this legislative title in the bill violates the normal process in this House by bypassing committee hearings and markups, but even more importantly, it is wrong on substance. The proposed title VIII, which is the subject of our amendment, would cut to the heart of our Federal system of justice and would cripple the war on drugs, and for that reason it is understandable that the National Director of Drug Control Policy, Barry McCaffrey, opposes this provision as well as the DEA, the FBI and the National Sheriffs Association. Even though the authors of title VIII are sincere in their efforts, the effect would be devastating and demoralizing to our agents and officers risking their lives each day to fight crime. I know that is why all former United States Attorneys now serving in Congress are cosponsors of this amendment and are leading this effort.

Now we all agree on one thing, and that is that our Federal prosecutors should live up to the highest ethical standards. The proponents of title VIII say that they just want government attorneys to be subject to States ethics laws. The fact is they already are. Every government attorney is required to abide by the rules and ethical guidelines in the State they are licensed to practice law. This means the ethical conduct of Federal prosecutors are reviewed by the State in which they are licensed, at the federal level by the Office of Professional Responsibility within the Department of Justice, the Inspector General of the Department of Justice and the federal courts.

In addition, we just passed a law that said that if any prosecution is brought in a frivolous fashion, then the acquitted defendant could recover attorney fees from the government. But the proposed legislation goes way too far. It would subject all attorneys, Federal attorneys and the State and local attorneys with whom they work, to conflicting State conduct rules.

For example, if a federal prosecutor licensed in Virginia had to interview a cooperating witness in a drug case in Florida and then oversee the use of a confidential informant in California, then he would have to worry about the rules of each State because he is engaging in his duties in those States. And multiply this by the number of investigations during the course of the year, we can have the attorneys for the government spending all their time.

Mr. Chairman, I want to be able to complete my statement, and I will be happy to yield at the conclusion.

The second problem is that the proposed legislation would allow criminal defense attorneys to bring frivolous ethics complaints against Federal, State and local prosecutors, creates a new federal bureaucracy called the Misconduct Review Board to try ethics complaints under vague standards like, quote, bringing discredit to the department, end quote. This board, the Misconduct Review Board, will have access, they will have subpoena power, and they will have access to pending criminal investigations. All their hearings will be public and open to review. They can subpoena the names of witnesses and informants, the identities of under cover law enforcement officials who have infiltrated the operations of the criminal subjects.

If Congress passes this legislation, then the public will suffer. The winners would be the drug cartels, fraudulent telemarketing operations that prey on the sick and elderly and Internet pornographers who prey on children. Why do I say that? Because all of these crimes involve multi-State investigations that would be hampered by the newly created ethics bureaucracy.

For example, in the days following the Oklahoma City bombing Federal prosecutors' agents conducted simultaneous investigations in several States. Under the proposal the laws and rules of each State would have governed the conduct of department prosecutors no matter how inconsistent those rules might have been. What was permitted in one State might not have been permitted in another State, and because of the far-reaching and crushing impact of this proposal in law enforcement, it is understandable that so many in the law enforcement community have opposed this bill, from the National Sheriffs Association to the National District Attorneys Associations, State prosecutors, FBI, the National Association of Attorney Generals, the National Black Prosecutors Association, the New York State District Attorneys Association, the FBI, the DEA, the Fraternal Order of Police.

But what was significant, that six former attorney generals of the United States from Benjamin Civiletti to Edmond Meese, from Democrats to Republicans, all six have urged this House to reject this proposal and to support this amendment.

I urge my colleagues to support the amendment and not give way to the drug dealers and the defense attorneys, another weapon to use against law enforcement in our vital efforts on the War on Drugs.

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

Mr. HUTCHINSON. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I think it is important that, because the gentleman refers to the National Sheriffs Association, the FBI and the DEA, I think it is important for the Members to understand that the code of ethics that the gentleman is referring to does not apply to investigatory agents.

Mr. HUTCHINSON. Reclaiming the time, the gentleman is correct that these ethical standards apply to government attorneys, but if we have a State prosecutor who is cross designated to be a special Assistant United States Attorney, then that State prosecutor would be subject to these rules and the Misconduct Review Board bureaucracy that is established under this rule.

So I urge my colleagues to support this amendment.

Mr. MURTHA. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. Chairman, I just want the Members of this House to know that I sat beside the gentleman from Pennsylvania (Mr. JOE MCDADE), a Member of Congress for 8 years, while he was investigated for 6 years; the most insidious tactics that could possibly have been against him.

The appeals process, which is supposed to make sure that the Federal prosecutors do not get out of control, the Federal appeal process ruled two to one. He went 2 years under indictment. The Federal jury, which came from an area that said 70 percent of the politicians are crooks, ruled in 3 hours. He was acquitted.

□ 1545

In the indictment they said campaign contributions are bribes. The rules of the House are clear about the legality of campaign contributions, that honorariums are legal gratuities. That is what they charged him with. They were trying to intimidate a Member of the House of Representatives.

In addition to that, in addition to trying to intimidate the House of Representatives and ignore the rules of the House, which the public saw immediately, he was reelected three times during this period, when they leaked everything that could possibly be leaked, using those unethical tactics we are talking about during this period of time. Then, after this is all over, they tried to promote the prosecutor to judge.

Now, this is a Member of Congress who was able to raise $1 million to defend himself. The ordinary citizen, the ordinary person, cannot raise $1 million. The ordinary citizen cannot even raise money to defend himself. The public at one time used to think that a person was innocent until guilty. Now they get the impression, because of the leaks, the unethical leaks that come from the prosecutor, that the individual is guilty.

I cannot tell you the physical and mental distress that the gentleman from Pennsylvania (Mr. MCDADE) went through. Now, I see what you are talking about, and maybe we have to look in conference at some exemptions in drug cartels and things like that, but I think this is a ploy by the prosecutors to continue their unethical conduct without any kind of regard to the ordinary citizen.

We call this the Citizens Protection Act because we feel so strongly that the gentleman from Pennsylvania (Mr. MCDADE) is just an example. What he did for the House of Representatives is absolutely essential to our independence. But what we are trying to do for the ordinary citizen is absolutely important to their individual protection. We believe we need an independent body to watch over them, to give them some sort of controls so that they do not go off without control and then be promoted, as somebody was after Waco, and the terrible, terrible injustice they did to the individual in Atlanta with the leaks that came out of the Justice Department.

So I feel very strongly that we have to get some kind of control. The legislation that we drew we hoped would come through the authorizing committee. We could not work it out at this late date.

I just hope that the Members, and we have almost 200 cosponsors of this legislation, we have said to the Justice Department, if you have individual situations that you would like us to look at, we would be glad to look at that. They have not come back with anything. They just want to take this out. They want no kind of controls from the outside.

So we believe that it is important to put some kind of controls over the unethical conduct of the Justice Department. As a matter of fact, we have 50 chief justices of the United States that have said that they believe that the Justice Department of the United States should fall under the ethical rules of each of the States.

I feel very strongly about this, and I would urge Members to vote against this amendment. If there is something that has to be adjusted, we are glad to work with them in trying to adjust this when we get to conference.

PERFECTING AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. CONYERS:

Page 116, line 5, after "Justice" insert "(including any independent counsel appointed under title 28 of the United States Code and any employees of such independent counsel acting under the authority of the Attorney General),".

Page 116, line 6, strike the period and insert "(including any independent counsel appointed under title 28 of the United States Code and any employees of such independent counsel acting under the authority of the Attorney General).".

Mr. HUTCHINSON. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Arkansas reserves a point of order.

The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I offer this amendment because it goes to the heart of what the McDade provision is designed to do. I want all my friends on the other side of the aisle to understand that this just is an important part of fleshing out the concept that has been brought forward here. In fact, for those who support the McDade amendment, there should not be any trouble supporting this provision that really perfects it.

Now, as we have seen, the present independent counsel, perhaps more than anyone else, should be subject to each and every stringent provision that is included in this measure. As a matter of fact, I presume that it is an accident that the measure was drafted so that this was left out. If anybody has any information to the contrary, I would sure like to know about it.

Not only has the present independent counsel demonstrated a number of conflicts of interest in carrying out his duties, the person that he is investigating has been under investigation for almost 5 years, with hundreds of lawyers and investigators, with 17 congressional committees.

Now, there have also been questions about the independent counsel having violated the First Amendment protections, the principles of fairness, and engaged in the use of coercive investigative techniques. Familiar, Mr. MCDADE? Sound familiar with your case? And trampled over important privileges between attorneys and their client. As a matter of fact, going into court saying the attorney-client does not even involve or affect the President of the United States, as well as between the Secret Service.

A great idea. Let us have the President decide whether he wants to have his life protected, or talk about the issues in his job.

For example, the independent counsel to whom I refer has chosen to continue representing clients, the tobacco interests; at one time, if not presently, the National Republican Party. How about knocking out the class action representation in the tobacco suits? He went into the Federal Circuit Court in person to knock out their certification of a class action suit, and guess what? He succeeded. I wonder why?

So he has issued subpoenas to book stores, "What is she reading?" He subpoenaed a former staffer of mine who now works in the Drug Policy Office, who suggested that maybe Linda Tripp was violating the wiretap laws. He subpoenaed him. Remember that, Bob Wiener?

Well, it goes on and on. The whole problem is that this provision, whether it is struck or kept, should not be examined without us including the independent counsel.

Does anybody have any reasonable objection to that? We want to include all these prosecutors, all these Department of Justice types, but not the independent counsel, the one who is maybe doing more of this than anybody else that we know. He is under four investigations; the court, the Department of Justice, the D.C. Bar, and even he promised to have his own independent counsel office investigate the leaks.

So, in all appropriateness, we ask that this perfecting amendment to my friend from Arkansas's amendment be included in their consideration.

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

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

Mr. FORD. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong opposition to the Hutchinson-Barr-Bryant amendment and rise in strong support of including the Conyers amendment, the Conyers perfecting amendment.

I would say that I bring a bit of personal experience to this as well. I am saddened to have heard what happened to my new friend and my father's friend over the years, the gentleman from Pennsylvania (Mr. MCDADE).

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

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

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. As a matter of fact, my father was indicted some several years back by one of the prosecutors working with counsel Starr, Hickman Ewing. After 5 years of investigating, several years, one trial, a second trial, abuse by the Justice Department, simply trampling the rights of an individual, another Member of Congress, I cannot tell you the pain that it exacted on my family and my father personally.

Fortunately and blessedly, we were able to survive. But plentiful and often times it seemed exhaustless resources of the Federal Government, for prosecutors not to be reined in, not to have to comply with some sense of ethical conduct, Mr. Chairman, I submit to you it is un-American. I submit to my friends on the other side, no matter how noble their wanting to strike this provision might be, we have American rights, we have American liberties. And whether or not they choose to agree with the person's politics, whether it is on President Clinton's part with Ken Starr, whether it is a Republican that disagrees with a Republican or a Democrat with a Republican, it is unfair to trample people's lives.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I hope the sponsors of this amendment will not object to this provision.

POINT OF ORDER

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) is recognized on his point of order.

Mr. HUTCHINSON. Mr. Chairman, my point of order goes to the fact that the gentleman's perfecting amendment that he is offering is not a proper perfecting amendment because it expands the scope of the provision in question to add legislative language not covered in title VIII of the bill before us. It is not a perfecting amendment, a proper perfecting amendment, because it opens up new legislative language amending 28 U.S.C. Section 591, which is the independent counsel law, and that is not covered under title VIII of the existing bill. Therefore, it is not a proper perfecting amendment.

The CHAIRMAN. Do other Members wish to speak on the point of order?

Mr. CONYERS. Mr. Chairman, this should not be too difficult. The amendment should be made in order because it reiterates that the independent counsel is included in the group of individuals covered under the McDade amendment, specifying that the definition of employee or other attorney acting under the authority of the Attorney General shall include the independent counsel.

House rule XXI(2)(c) provides that, "No amendment to a general appropriation shall be in order changing the existing law." This amendment does not change existing law; it is a perfecting amendment.

My amendment does not create additional legislation nor does it extend the range of the term "employee" in the amendment. It simply reiterates the fact that under the current law, the independent counsel under Section 28 of the U.S. Code is appropriate.

There are several supporting sources in current law supporting the clarification, 28 U.S.C. 594(a), 28 U.S.C. 596(a), and the Supreme Court decision in Morrison v. Olsen. We have all kinds of cases that I presume that the distinguished chairman and his able Parliamentarian have found.

I urge that this perfecting amendment be considered in order.

□ 1600

The CHAIRMAN. Do the other Members wish to speak on the point of order?

Mr. BARR of Georgia. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Georgia (Mr. BARR) is recognized.

Mr. BARR of Georgia. Mr. Chairman, this is almost as bizarre as the words we heard earlier in opposition to the Hutchinson-Barr-Bryant amendment.

What we are witnessing here, under the guise of the usual flowery language emanating forth from proponents of this latest foray, is really precisely what they purport to be against; and that is, a back door effort to do something that they do not often have the——

Mr. McDADE. Mr. Chairman, the gentleman is not addressing a point of order, Mr. Chairman. I demand regular order.

The CHAIRMAN. In the opinion of the Chair, the gentleman is addressing the point of order.

Mr. BARR of Georgia. Mr. Chairman, what this amendment purports to do is to amend the independent counsel statute to make a political point about the independent counsel statute not allowable under the rules of the House as an amendment to an appropriations bill. It purports, therefore, to legislate substantively, and the words of the gentleman from Illinois make this very clear. He is launching a political attack on the statutory authority of the independent counsel, something which is not the subject matter of this appropriations bill, and certainly is not the subject matter of this amendment, the Hutchinson-Barr-Bryant amendment.

Therefore, I would urge the Chair to sustain the point of order, as this is an effort by the gentleman from Michigan (Mr. CONYERS) to legislate, and not only to legislate on an appropriations bill, but in a way that goes far beyond the language and subject matter of the underlying amendment itself.

The CHAIRMAN. The gentleman from Tennessee will suspend.

Do other Members wish to be heard on the point of order?

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. ROHRABACHER. Mr. Chairman, I have a point of information.

Under the 5-minute rule, Mr. Chairman, do we have 5 minutes that we can talk on this situation, as well as on the underlying bill or underlying amendment that is before us?

We have an amendment to an amendment, now. The 5-minute rule, does that mean that we can ask for 5 minutes on the Conyers proposal to Hutchinson, and then go on as well to speak 5 minutes on Hutchinson?

The CHAIRMAN. The Chair would remind the gentleman that we are discussing the pending point of order by the gentleman from Arkansas (Mr. HUTCHINSON). As soon as that is disposed of, we will be under the 5-minute rule, in which any Member can stand and debate the underlying issue.

The Chair will inquire further, is there any Member who wishes to speak on the point of order?

Mr. WATT of North Carolina. Mr. Chairman, I wish to be heard on the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I think that the underlying legislation legislating on an appropriations bill is inappropriate. I am opposed to the underlying legislation. But if the underlying legislation on an appropriations bill is appropriate, then so would the amendment be appropriate. We cannot say we are going to waive the rule and allow legislation on an appropriations bill, and then say or make a point of order that an amendment to that legislation is nongermane. That is the perspective I bring.

Mr. Chairman, I would join other Members who would say that the underlying legislation itself should not be on this bill. But if the underlying legislation should be on the bill, then this amendment ought to be allowed to be on the bill, and ought to be found to be germane.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. MEEHAN. Mr. Chairman, I wish to be heard.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) is recognized to speak on the point of order.

Mr. MEEHAN. Mr. Chairman, this bill applies to all Department of Justice employees, or those who are acting under the Department of Justice authority. In this instance, the independent counsel is both.

We all know when the independent counsel seeks to expand his jurisdiction, who does he go to see? He goes in to see the Attorney General and he expands his jurisdiction. When he needs to get his budget squared away, when he needs additional resources, who did he go to see? He goes in to see the Department of Justice and talks to the employees. That is why this amendment is in order.

Let me just, for the purposes of people on the other side of the aisle, provide some supporting sources in current law to support this clarification.

Mr. Chairman, 28 U.S.C. 594(a) provides that an independent counsel appointed under this chapter shall have full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, or any other officer or employee of the Department of Justice.

Or let us take 28 U.S. 596, Section A. It provides that an independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, by who? By only the personal action of the Attorney General of the United States.

Or let us look at Section 3, the Supreme Court, in Morrison versus Olson, at 487 U.S.C. 654. It held that an independent counsel is subject to removal by the Attorney General.

Or let us look at the appeals court in the D.C. Circuit, a case holding that the independent counsel is generally covered by rule XVI(e) of the Federal Rules of Criminal Procedure.

So under the independent counsel statute there is little doubt, Mr. Chairman, that this is covered under the statute, and is wholly appropriate to be offered at this time and at this place.

The CHAIRMAN. Are there further Members who wish to be heard on the point of order?

Ms. WATERS. I wish to speak on the point of order, Mr. Chairman.

The CHAIRMAN. The gentlewoman from California (Ms. WATERS) is recognized.

Ms. WATERS. Mr. Chairman, I rise to the point of order. I would like to reiterate the point that was made by the gentleman from North Carolina (Mr. WATT). We cannot in fact have an underlying piece of legislation that is in order that is legislating on an appropriation, and then even discuss the possibility that an amendment to that is out of order because it is legislating on an appropriation and it does not fit, for any reason.

I think it is important that this debate not be stymied by any attempt to manipulate the rules. This may be one of the most important debates we will have in this House. It is not just about the basic questions that are being raised in the underlying legislation. The amendment that is being offered by the gentleman from Michigan (Mr. CONYERS) fits so well in this discussion.

We are watching unfold before our very eyes a violation of the Constitution of the United States of America. If there is one thing I cherish, it is my privacy. We cannot have a special prosecutor who will go to a bookstore and demand to know what books someone purchased in America. That is unacceptable.

But there are other questions that are being raised as it relates to the special prosecutor that deal with the violation of the Constitution of the United States, not only the violation of privacy that I just alluded to. We have questions of wiretap and wiretapping. We are looking at a whole new debate about attorney-client privileges. This is too important to be sidelined by someone who does not want to hear it because they have got another agenda.

Mr. Chairman, there should be no question that this is in order. I hope we do not have to get to the point that the chairman will even have to rule on this. I do not want this body divided on a partisan basis on this issue.

This is not about partisan politics at this moment. This is about the Constitution of the United States of America, and whether or not citizens are going to have basic protections that we thought were guaranteed to us by the Constitution.

So whether we are talking about the special prosecutor or whether we are talking about the underlying legislation, what we are talking about is individuals who have run wild, who are tramping on our rights, who have gone absolutely too far. It does not matter whether they are from the right or they are from the left, or where they live in this country, what color they are.

The fact of the matter is that we have violations of the Constitution being perpetrated on us by those who work in the Justice Department, and it is off the scale when we look at this special prosecutor. He has gone too far. This should be ruled in order.

The CHAIRMAN. Are there further Members who wish to be heard on this?

Mr. ROHRABACHER. Mr. Chairman, I wish to speak on the point of order.

The CHAIRMAN. The gentleman from California (Mr. ROHRABACHER) is recognized.

Mr. ROHRABACHER. Mr. Chairman, let me just say, and I understand the passion, I have a little passion myself when I get up and have these discussions, but I think the underlying arguments that the gentlewoman just made are correct. If this is in the appropriations bill, there should be an amendment that is permitted. If we are concerned about the abuse of power of prosecutors, we have to be concerned about the abuse of power of special prosecutors.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Arkansas (Mr. HUTCHINSON) makes a point of order that the amendment offered by the gentleman from Michigan (Mr. CONYERS) is legislation in violation of clause 2 of rule XXI.

The gentleman from Michigan seeks to amend certain legislative language permitted to remain in the bill. The relevant provision defines the term "employee" as used in title 8 of the bill. The provision would denote the term "employee" to include an attorney, investigator, or other employee of the Department of Justice, and an attorney, investigator, or accountant acting under the authority of the Department of Justice.

The amendment offered by the gentleman from Michigan seeks to particularize that the term "employee" also includes any independent counsel appointed under title 28 of the United States Code and any employees of such independent counsel who is under the authority of the Department of Justice.

The amendment does not propose a change in title 28. Rather, it identifies one particular category of official as included in the classes of officials covered by the legislative language already in the bill.

As recorded on page 663 of the House Rules and Manual, where legislative language is permitted to remain in a general appropriation bill, a germane amendment merely perfecting that language and not adding further legislation is in order, but an amendment effecting further legislation is not in order.

In the opinion of the Chair, the amendment offered by the gentleman from Michigan (Mr. CONYERS) merely perfects the legislative language permitted to remain in the bill, and refrains from adding further legislation.

Accordingly, the point of order is overruled.

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

Mr. Chairman, I want to compliment my two colleagues, the gentlemen from Pennsylvania, Mr. MCDADE and Mr. MURTHA, for coming before the Congress in a timely fashion and raising a question that is very important. I want to say to my colleagues on both sides of the aisle, this is not a political issue. This is an issue of fundamental fairness.

I occupy the District immediately south of the gentleman from Pennsylvania (Mr. JOE MCDADE). Members cannot imagine what this government and those prosecutors did to that Member of Congress. I do not know of any other Member of Congress who could have withstood the leaks and the poisonous spirit in which the public persecution, not prosecution, occurred. Yes, it was lucky that JOE MCDADE had $1 million, or could raise $1 million, but how many more Americans could raise that amount? That is the substantive question, here.

On the amendment offered by the gentleman from Michigan (Mr. CONYERS), does anyone in their right mind not understand that at some point, and certainly next year, this Congress is going to have to decide what conduct we are going to allow prosecutors or special counsels to engage in? How far afield can they go from their assignment? What can they do?

I am sort of embarrassed to bring up another issue, but we had a prosecution in Pennsylvania, and the gentlemen from Pennsylvania, Mr. JOE MCDADE and Mr. JACK MURTHA, will remember this. There was a treasurer of the commonwealth of Pennsylvania, where a prosecutor was prosecuting the improper award of a contract and brought a criminal action. The witnesses in that case testified against the contractor and the contractor was convicted of bribery.

Within one month, the prosecutors in that case had those very same witnesses change their story 180 degrees to now testify against the treasurer of the Commonwealth of Pennsylvania, and threatened those witnesses with prosecution of their wives and their children. It is a famous story across this country. It was witnessed on television.

The only way that treasurer could protect the future of his family and maintain his pension was to commit suicide before sentencing, and he did.

Mr. Chairman, if that is not extreme, extraordinary prosecutorial activity, I do not know what is. I have witnessed it in the case of the gentleman from Pennsylvania (Mr. JOE MCDADE). I am witnessing it with this special counsel.

There are statistics now available that, in the White House alone, the individuals working there have had to spend more than $12 million in hiring lawyers to appear in depositions and before grand juries who are not in any way substantively involved. We are going on and on.

What this ends up doing, and the American people know this, is destroying respect for the American judicial system, all with the idea that every now and then some prosecutor who wears a pearl handled 45 revolver can find somebody who has a grudge against an elected official, Republican or Democrat, who can make a point to bring a charge, and substantiate that charge by just marginal testimony, sufficient to get an indictment, but not sufficient to convict.

□ 1615

But you can take that public official down the road to ruination, that family down the road to ruination, our system down the road to ruination. Why? Why do we sit here? Why are we so innocent? Why have we not recognized that this has been happening over and over and over again? Why are we asking for the McDade-Murtha language?

It was an understanding in the bar and in the prosecutorial field and in the defense field that there were certain standards of ethics and honor, certain things you did not do, an unwritten code. Well, the prosecutors in the United States today, whether they be special counsels or regular prosecutors, have shown us that they are going to push it to the end of the envelope and beyond. They are going to write their own definition of what standards are.

So it is incumbent upon this House, the people's House, to determine that if you are going to push it to the edge of the envelope and you are going to destroy lives and you are going to prosecute people unreasonably at high expense and at a detriment to both, the family and this democracy, then this public House should take action.

We are saying we want to codify the code of standards. We want to say what they have to do and what they do not have to do, and we want to make them subject to a review board. Why should not public officials and all Americans know that when they get taken by their government for hundreds of billions of dollars, hundreds of prosecutors, thousands of FBI agents, that they have a right not to be ruined. That is what the McDade-Murtha language and the perfecting amendment of the gentleman from Michigan is going to accomplish.

I urge my colleagues to vote for justice.

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

I have the greatest respect for the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from Pennsylvania (Mr. MURTHA) and the cause that they are out here about today.

I happen to have counseled the gentleman from Pennsylvania (Mr. McDADE) back when he had the problems that I know he did, which I think were wrong. I believe he was taken through hell, and I think it was a very improper methodology being used by that prosecutor from all I knew about it at the time, and I knew a great deal.

But, unfortunately, I cannot agree with the proposal that is in the bill today and that is being amended or attempting to be amended by the gentleman from Michigan (Mr. CONYERS). I cannot agree with that. I have to support the Hutchinson amendment to strike all of this and urge that all of it be taken out of this bill, because I do not think we can simply go to conference and perfect something that is as bad, unfortunately, as the way this is crafted.

I would hope that we could come back at some point as a body, through the Committee on the Judiciary or otherwise, and craft something that would address the problems that I think are genuine, that the Members from Pennsylvania, in particular, of both parties have brought to our attention today and so forcefully and rightfully.

But what the underlying provision that we are talking about striking would do would be in essence to permit anybody who has some prosecutor who goes after them to complain to the Attorney General, and the Attorney General is going to have to respond with as vague a standard as bringing discredit on the department within 30 days. That could cause untold delays in hundreds and thousands of prosecutions across the country.

It is an enormous cost in bureaucracy that we would be setting up in the process of doing this. Then if you did not agree, of course, with the result of what the Attorney General decided in 30 days, you would have a 7-member board that has been created, that sits in essence outside of the body politic of the Justice Department, to review the questions that may be raised by somebody who might be the subject of indictment or prosecution.

It is not that you may be should not have some review in very limited circumstances, but they are not defined well in the proposal, unfortunately, not very narrow at all. The most dangerous provision, from my perspective as the chairman of the Subcommittee on Crime in the House, is the fact that information could be obtained by this board from anywhere in the government, including criminal investigation files, information about informants and potential witnesses, classified documents, or information covered by the Privacy Act. And things that are required, all of these things that would be required could be revealed in public, since apparently the board operates in public. There is nothing in this provision that would prohibit the information that I just described from becoming public.

Indeed the difficulties that exist with this provision are myriad. I hope that today this debate on the amendment of the gentleman from Michigan (Mr. CONYERS) does not deteriorate into a debate over a question about a special prosecutor. We can debate that until the cows come home. That is a highly political debate.

Obviously, if you are going to cover prosecutors, you should be covering probably all prosecutors, but we should not be debating the merits or the pros and cons of the independent counsel out here today. We should be debating the merits and the pros and cons of the underlying premise that everything would be covered by this, all prosecutors, in essence, in a fashion that is unworkable and unmanageable and impossible to cope with as a practical matter.

So I strongly urge the Members, however passionate you may be, and I am passionate about my good friend, the gentleman from Pennsylvania (Mr. McDADE) and about the improprieties that do go on from time to time with overzealous prosecutors who are out of control in our system, I do not believe that the underlying matter here today, the part that is in the bill today that we are trying to strike, is the solution. It is not the solution. Unfortunately, it makes things more difficult than it cures.

In the strongest of terms, I urge Members' deliberate consideration of this, and I would urge Members ultimately, after dispensing with the Conyers amendment, to vote to strike, to support the efforts of the gentleman from Arkansas (Mr. HUTCHINSON) to do that.

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

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

Mr. CONYERS. Mr. Chairman, I thank the gentleman for his presentation. Right now we are debating this small provision, not the whole thrust of the measure. Do you not agree with me that there have been more than sufficient leaks under the independent counsel to include him in this measure?

Mr. McCOLLUM. I do not believe the debate should be on the question of what is going on with the special prosecutor or with what is going on with the Clinton investigation or any of that. The focus of this debate today, you are distracting by your amendment and debate on it to try to get at Ken Starr. I think that is wrong.

The issue underlying this today is not that question, however volatile that is. That will be dealt with in due course by the Committee on the Judiciary, if Ken Starr sends anything up here or when we debate independent counsel. But what we are debating today, and should be, is that the underlying premise you are trying to amend is fatally flawed.

The board structure that the gentleman from Pennsylvania (Mr. McDADE) and the gentleman from Pennsylvania (Mr. MURTHA) have worked into this bill unfortunately will not work, even though we want to have oversight. It will not operate correctly. It cannot operate, and I urge in the end that it be stricken.

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

Mr. Chairman, I rise today in strong opposition to the Hutchinson amendment and in strong support of the Citizens Protection Act of my good friend, the gentleman from Pennsylvania (Mr. McDADE).

I think it is time to put a human face on the abuses that are carried out by prosecutors in this country, prosecutors who consistently violate the rights of innocent human beings, innocent citizens and their families, friends and relatives.

By putting a human face on it, I would like to refer to a predecessor that I had here in the Congress, Angelo Roncallo, a man who a number of years ago sat in the very seat that I occupy today. And what went on in his case has happened in so many other cases over the years.

He was a man who was brought in by the United States Attorney and told he had to deliver a political leader. When he refused to do that, he was called before the grand jury. His family was harassed. He was indicted. His friends were indicted. Everything was leaked to the newspapers. This man's career was destroyed. He was defeated here in the United States Congress.

Finally his case went to trial. The jury was out 30 minutes and he was acquitted. It came out during that case that all throughout, from day one, the prosecutors had evidence that would

have completely exonerated this defendant. They knew it from day one. Throughout the trial, they had U.S. Marshals stand around the U.S. Attorney's office because they had convinced the judge that this Congressman, Angelo Roncallo, was somehow going to have them killed during the trial. The jury had to witness this, marshals in the courtroom day in and day out.

When the trial was over the judge said it was a disgrace. He referred it to the Justice Department to have it investigated. What was done? Nothing. That is what always happens. Nothing.

The gentleman from Georgia said it is bizarre. He said that opposition to the Hutchinson amendment is bizarre. He said the comments of the gentleman from Pennsylvania (Mr. MURTHA) were bizarre. I would say to the gentleman from Georgia, if he were targeted by a prosecutor, if they tried to destroy his reputation, he would find that bizarre.

I think it is important for all of us in this Chamber, those of us who are self-righteous, those of us who say it could never happen to us, let you be the target of an unscrupulous prosecutor, and you will see how fast you will change your tune when you see your wife harassed and your children. And I can go on and on with case after case. I remember I was once negotiating with the United States Attorney in a case and he ended the discussion, ended the negotiation by telling me that he was the United States of America, it was time that I realized it.

The fact is, no prosecutor in this country is the United States of America. The United States of America is the people. We represent the people. It is time for us to stand up and say no to these prosecutors, no matter where they are coming from.

Prosecutors are out of control. They are ruining the civil liberties of people in this country. I am a Republican. I cannot understand how Members in my party who say they support individual rights could ever allow a prosecutor to trample upon the rights of innocent people, the abuses that they are guilty of.

And I just want to concur in what the gentleman from Pennsylvania (Mr. MURTHA) said. I do not know how the gentleman from Pennsylvania (Mr. MCDADE) went through what he went through over the years and stood tall and survived it. He is a man of courage. He is a man who had the guts to stand up. But you think of the average citizen in your home town, if they went after him, would he have that same guts? Would he have that stamina? Would his family be able to resist it?

I again urge and implore all of my colleagues to defeat the Hutchinson amendment, stand with the gentleman from Pennsylvania (Mr. MCDADE), stand with the Constitution and say no to this untrammeled abuse of power by the prosecutors and our Justice Department today.

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

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

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

Mr. CONYERS. Mr. Chairman, I just want to respond to my dear friend, the chairman of the Subcommittee on Crime, the gentleman from Florida (Mr. MCCOLLUM).

My amendment is not about Kenneth Starr and his investigations. It is about whether or not the office of special prosecutor, who is employed by the Department of Justice, is considered to be an employee. The answer is perfectly obvious. I can only gather that it may have been a mistake that it was not included in here.

Starr is going to be investigated. There is plenty of time for him. But this is to include this in the provision of the McDade measure.

I thank the gentleman for yielding to me.

Mr. STUPAK. Mr. Chairman, I rise in support of this amendment, the Conyers amendment. Whether we agree or not with the underlying provision of the bill, the Murtha amendment, I do believe and I do not see any reason why we should exclude any branch of the Justice Department or any employee. What the Murtha-McDade language establishes is an ethical standard for Federal prosecutors.

If we take a look at the independent prosecutor right now, we have given the individual unfettered subpoena power and about $40 million.

What does the Murtha-McDade language say? It says prosecutors and employees of the Justice Department shall not seek indictment of any person without probable cause. It says that they shall not fail to promptly release information that would exonerate a person under indictment, intentionally mislead a court regarding the guilt of a person, intentionally or knowingly misstate or alter evidence, I know that has never happened in the current investigation, attempt to influence a witness' testimony, frustrate or impede the defendant's right to discover evidence, offer or provide sexual activities to any government witness, leak or improperly disseminate information during an investigation, or engage in conduct that discredits the Justice Department. If that does not sound like what has been happening with this special investigation, this special prosecutor, and what has happened on the McDade case and some of these other cases, that is why we need this provision.

This is not a political debate. This is what happens in prosecutions. That is why the McDade and Murtha language has come before us. So what the Conyers amendment says is that the independent counsels exercise their authority on behalf of the Attorney General and the Department of Justice, and that we must ensure that all prosecutors are held to the same standard no matter who they are investigating, whether it is the President or the person on the street.

We cannot create a special class of Federal prosecutors. That is what we do if we defeat this amendment. This perfecting amendment needs to be passed. We cannot create a special class of Federal prosecutors that is not subject to Justice Department ethical standards.

I urge all Members to support the Conyers amendment and rein in the prosecutors across the United States and especially the independent, so-called special prosecutors.

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

Mr. Chairman, let us just kind of sit back for just a moment here, now that we have at least gotten some of the other Members that think that if you talk loud enough and bang on the lectern and talk fast enough you will get applause and that really means something. Let us alternatively focus on exactly what is going on here.

All of the points that the gentleman just made, and he has extensive background in law enforcement and I respect that, all of those things are already encompassed in both the internal rules and procedures of the Department of Justice. They are already encompassed indirectly and directly in those rules that pertain to every lawyer in the U.S. Attorney's office who has to be a member of the bar of the jurisdiction in which that office is located.

□ 1630

If there are, in fact, problems from time to time with prosecutors, as there will be with any profession, then there are already very clear, very well time-tested mechanisms, including prosecution of a prosecutor for violation of civil rights or other violations of Federal law, ethical proceedings, disbarment proceedings that can be brought against that assistant U.S. attorney or that government attorney or that United States attorney, if need be.

The problem with this language, the underlying language, and I am not even going to bother talking about the amendment to the amendment so much. We know what that is. That is an anti-Ken Starr amendment. The problem is the mechanism that the underlying language in title VIII, which we seek to remove, purports to do. It will, make no mistake about it, wreak havoc on very important prosecutions.

I am somewhat amused. We sit in the Committee on the Judiciary frequently and, if we come up with an example of how a law has been abused or why a law is necessary, many of those same folks, including the distinguished gentleman who offers the amendment to

the amendment, immediately say, oh, we are trying to legislate by example; oh, what we are talking about are just examples of something; show us the law. Well, of course, now what they are doing is they are raising one example and they are saying we have to throw the baby out with the bath water.

There are mechanisms already in place to address prosecutorial abuse and prosecutorial misconduct. Those mechanisms are used day in and day out whenever there is substantial evidence of abuse. Defense attorneys file motions constantly. There are ethical proceedings brought. The problem with the mechanism set up under this, is this review panel would have access to the whole range of the prosecution's case, including names of witnesses, theories of prosecution, undercover material. It would be, in effect, Mr. Chairman, a defense attorney's dream, which is why the defense attorneys like it.

We have an oath of office that is taken by prosecutors, Federal prosecutors. They do represent the people of this country. I know my friend from New York sort of denigrated that, but prosecutors do speak for and they protect the rights of the people of this country. And if we allowed the language, as amended, or even without the amendment by the gentleman from Michigan, of title VIII to remain, then we will be severely hampering the ability of Federal prosecutors to represent properly and to protect the people of this country.

The gentleman from New York (Mr. KING) apparently paid close attention to my words, because earlier, on my point of order, I used the word bizarre. It brings to mind something else. It brings to mind the Bizarro World. There used to be a comic book called the Bizarro World. And I suppose in the Bizarro World we can have people taking the well of the House, while they are seeking to dismantle the prosecutorial mechanisms of this country seeking to uphold the laws of this country, and say that an effort made to sustain and protect those mechanisms is somehow un-American.

The most appropriate legal theory here is let us not throw the baby out with the bath water. There are mechanisms to protect against abuse. Let us use them and let us do away with this sham amendment to the amendment, which is an attack on the independent counsel and has nothing to do with the underlying amendment.

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

Mr. Chairman, I rise in strong opposition to the Hutchinson amendment. I see this as an issue of accountability. Department of Justice attorneys should be required to abide by the same ethics rules as all other attorneys. These attorneys should be held accountable to the same standards set by the State Supreme Court that granted each lawyer his or her license to practice law in that State.

As most of my colleagues know, I have always been a supporter of congressional accountability. And in 1995, when the Republicans took control of Congress, one of our first orders of business was to make this institution abide by the same laws we make for everybody else. Well, my colleagues, we are facing the same issue of accountability here.

Our Founding Fathers wisely rejected the notion of kings and dictators and, instead, they formed this experimental government called a democracy. Well, in our system of government no one is above the law. No civil servant, no law enforcement official, no Congressman, not even the President of the United States is above the law in our country. But over the past decade, the Department of Justice has made every attempt to exempt its own attorneys from the ethical rules of the States granting them their licenses. Should the Department of Justice be above the State laws of ethics? I do not see any reason why they should.

Time and time again it has come to my attention that Department of Justice lawyers have conducted themselves in a questionable manner while representing the Federal Government without any penalty or oversight. What happened to our good friend and colleague, the gentleman from Pennsylvania (Mr. JOE MCDADE), could happen to any citizen in this country, and they would not have possibly the courage or the resources that the gentleman from Pennsylvania did to fight it and win.

U.S. District Court Judge George Dunn, Jr., summed it up best when he said,

> Congress intended Federal lawyers to be subject to regulation by the State boards of which they are members and to comply with the appropriate ethical standards.

I urge my fellow Members to oppose this amendment and to oppose the Justice Department's attempt to create one set of standards for their attorneys and another set for the other attorneys in this country.

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

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

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

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

My colleagues, we want to keep this in order and proportional. This is not a referendum on Kenneth Starr or the investigation he is conducting or the leaks, real or alleged, that are being investigated. This is an amendment that makes it clear to all to whom it had not previously been clear that all independent counsel, whatever their names, are employees of the Department of Justice. No more, no less. Does not implicate Kenneth Starr as a malefactor. It does not praise him. It does not say anything about where we come down on the investigation. We can be for or against the President or anything in between.

All we are making clear to everybody that has brought this measure, and it would be nice for some of the sponsors of this amendment, well, some of them already have agreed with this amendment, but we cannot have an amendment that covers the Department of Justice U.S. attorneys and leave out the independent counsel, who is a U.S. attorney. All the laws that govern the U.S. prosecutors apply to the independent counsel. It should be obvious without the amendment that he is included. But since a few do not have this clear, I introduced the perfecting amendment. That is all this is about.

Mr. Chairman, I thank my distinguished colleague from Massachusetts, who serves with me on the Committee on the Judiciary, for allowing me this time.

Mr. DELAHUNT. Reclaiming my time, Mr. Chairman, I was not present, nor did I serve in this body when the gentleman from Pennsylvania (Mr. JOE MCDADE) went through the troubles that have been related to during the course of this particular debate.

Just let me say this, as a former prosecutor and as an elected representative of the people of the 10th District of Massachusetts, I have got to know the gentleman from Pennsylvania (Mr. MCDADE), I know him well, and I know of no one who has such unimpeachable integrity as the gentleman from Pennsylvania, and I just simply want to make that statement for the RECORD.

I listened to the debate, and I think we have got to step back and reflect. This is really rather simple. It is about ethics. That is what it is about. It is about ethics, and the existing code of ethics that every single state prosecutor subscribes to ought to be applied to Department of Justice attorneys.

I do not think that is asking too much. We have heard a lot about law enforcement concerns, but that should not justify the creation of a lesser standard of ethics for Federal prosecutors. It just does not work.

We should pause and think about the power of the prosecutor, and I know that power. I was an elected prosecutor for more than 20 years. I understand that power. I know what it can do to individuals. I know what it can do to families, and it should be exercised judiciously. I submit that most prosecutors, Federal and State, do that.

The single admonition that I would instruct each and every assistant district attorney was to never abuse the

power of that office, never abuse the power of that office, because it is an enormous power.

There is no power greater in a democracy where you have the capacity to take the individual liberties away from an individual. That is the ultimate power, and if that power is abused, it begins the process of the erosion of a healthy democracy.

I dare say the prosecutor should be held to the highest possible standards, the highest code of ethics, because the American people have given them an extraordinary power, whether they are independent counsels, whether they are State prosecutors, whether they are United States Attorneys.

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

Mr. Chairman, all of the legal arguments have been stated quite coherently and cogently by members of the Committee on the Judiciary and even have been challenged by Members on the other side of the aisle.

I would side with those who support the McDade-Murtha provision and certainly even side with the ranking member on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), in his efforts to perfect the provision.

I would say in addition to all that has been said, and not to be redundant, not to repeat what has been said by those who spoke so eloquently, including my dear friends the gentleman from New York (Mr. KING) and the gentleman from Pennsylvania (Mr. KANJORSKI), that we are also faced with a public relations challenge as well.

One of the reasons that so many around this Nation distrust and mistrust politicians, the gentleman from Pennsylvania (Mr. MURTHA) spoke about the district in which the jurors were pooled from in the trial of the gentleman from Pennsylvania (Mr. MCDADE), where 70 percent of those in that area thought that we were all crooks or thought that politicians were crooks, when you look at a Justice Department that is allowed to really run amuck, to trample the rights of individuals, to trample the civil liberties of individuals all in the quest for a conviction, all in the quest for fulfilling an agenda that they may have personally set and that they personally believe that this person or group of persons might be guilty of a crime, which sometimes might be the case, all we are asking for, Mr. Chairman, and I say to my friends who are sponsoring this amendment and those who I have a personal relationship with who are sponsoring the striking of this provision, is that our prosecutors have to behave and have to follow a certain set of ethical standards.

There is nothing unusual, nothing bizarre, nothing un-American, about what is being asked, for all that we are asking for prosecutors, Federal and State, around this Nation to do is follow a set of standards, the highest set of standards.

My dear friend, the gentleman from Massachusetts (Mr. DELAHUNT), a former prosecutor and a dear freshman colleague, I think stated it perhaps best. There is no greater power in this democracy than the power that our prosecutors in this great America have; for they deserve it but they should also be checked and it also should be tempered.

□ 1645

For the individual cases and examples, we have heard the gentleman from Pennsylvania (Mr. MCDADE) and my father and others here in this body. But let us protect every American, not just those in this House of Representatives. And certainly this provision allows us to do that.

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

Mr. Chairman, I know my colleague from California (Ms. WATERS) will be recognized immediately because we are going back and forth, and in fact, having spoken with her about this, I know that we agree on our conclusion on the merits of this legislation.

Reform of our justice system, civil and criminal, is a top priority of this Congress. The low reputation of the legal profession is of greatest concern to ethical lawyers. I rise in support of America's prosecutors, the overwhelming percentage of whom already follow the rules written out in this legislation. In fact, I dare say virtually all of them do every day.

Citizens need to understand that they have a legal right to have these rules followed, and that is the purpose of this today.

Reputable lawyers know better than anyone else that all too often the courts today are too slow; that all too often justice is delayed or, because of delay, denied; all too often the justice system does not ultimately deliver what all of us intend it to deliver.

Because I have so much faith in America's prosecutors, because I want to support our criminal justice system, I want the American people to support that justice system as well. I want everybody to understand that when they go to court and they are accused of a crime or their family member is accused of a crime or when they are a victim and the perpetrator of that crime is accused that justice will be done and that it will be fair and on the level.

There are 10 commandments in this bill. The 10 commandments are already observed by good prosecutors everywhere and certainly by good prosecutors in our Department of Justice and those who work in the Offices of Independent Counsels appointed pursuant to statute.

Let me just read these 10 commandments, because it is so self-evident we must stand in support of them.

Commandment number one, just reading from the 10 provisions of the McDade-Murtha bill, says: Thou shalt not indict without probable cause. Who here today says it should be otherwise? Of course, this is a rule that must bind prosecutors throughout the Government.

Number two: Prosecutors cannot hide information that would exonerate a person who has been indicted. They cannot hide information that would exonerate someone who might not be guilty of the crime with which they have been charged. That is a rule that good prosecutors already live by.

A prosecutor must not intentionally mislead a court as to the guilt of the accused. Of course he or she must not do that.

A prosecutor must not intentionally or knowingly alter evidence or intentionally or knowingly misstate evidence.

Number six: A prosecutor must not try to color a witness' testimony.

Number seven: A prosecutor must not prevent a defendant from obtaining evidence that he or she is entitled to.

Number eight: A prosecutor must not offer or provide sex as an inducement to any government witness or potential witness.

Number nine: The prosecutor should not leak information improperly during the course of an investigation.

We all know about the importance of grand jury secrecy to the ultimate successful prosecution, because if witnesses are tipped off in advance they cannot convict the guilty.

And number 10: Prosecutors should not engage in conduct that discredits the Department of Justice.

These 10 commandments in this legislation are not controversial. They are not controversial if applied to any prosecutor within the Department of Justice or within the office of any independent counsel. Every lawyer, certainly every Government lawyer should follow these rules.

I urge my colleagues to vote yes on McDade-Murtha and yes on the perfecting amendment offered by the former chairman the gentleman from Michigan (Mr. CONYERS).

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

Mr. Chairman, this debate is long overdue. It is about time we dealt with what is wrong with the Justice Department and with unethical prosecutors in this Nation.

Legislators at the state level, at the federal level have been absolutely supportive of the criminal justice system. They have done everything to give law enforcement the ability to apprehend criminals. They have done everything to be supportive of the Justice Department.

When we look at the generosity of public policy makers on wire tapping, no-knock, search and seizure, all of that, when we look at mandatory minimums, three-strikes-and-you-are-out conspiracy laws, we have been very generous, sending a message to the people of this Nation, we want criminals locked up.

We never knew that they would take the generosity of good public policy makers and turn it on its head. We never knew that they would take out after innocent people in so many different ways.

I cannot even get into telling my colleagues how they use conspiracy laws. No evidence, no documentation. These conspiracy laws are filling up the prisons.

I do not know all of the details of the case of the gentleman from Pennsylvania (Mr. MCDADE). I have heard about it. But I want to tell my colleagues, I know thousands of Mr. McDades who do not have any money, who do not have any attorneys, whose grandmothers and mothers come crying to my office for me to help them and I cannot do anything because my powerful government, prosecutors, have run amuck.

Let me tell my colleagues, my hat is off, my hat is off to the ranking member of the Committee on the Judiciary, my friend from Detroit, Michigan, for this amendment.

But I want to tell my colleagues, I want to make it very clear, he is talking about a generic prosecutor. I am talking about generic prosecutors, but I am talking about Ken Starr also. I want to tell my colleagues, he is under investigation. He is the poster boy for unethical prosecutors. I want to tell my colleagues he is under investigation because he has leaks about Hillary Clinton getting indicted, leaks about Bruce Lindsey getting indicted, leaks about Monica Lewinsky meeting with Ken Starr in New York City, leaks about Betty Currie's testimony, leaks about FBI wire conversations at the Ritz Carlton hotel. Even the Republicans have said he should be investigated.

So let me make it clear. We would not be in this debate today, we would not have this amendment today if this poster boy for unethical prosecutors had not violated all of us in the way he has done.

I am so glad this debate is taking place. I wish we had this in our committee. It should have been in subcommittee. It should be in full committee. We should bring people in here to tell their stories about what has happened to them.

I should be able to tell my colleagues about a young woman named Kimber Smith, who is 19 years old who is sitting in a federal penitentiary today.

And so I do not know all of the details about the gentleman from Pennsylvania (Mr. MCDADE). I have heard some. But I want to tell my colleagues, indeed, I know many because I have heard the stories and I have seen the devastation of unethical prosecutors.

It is time for America to believe that even though we want criminals prosecuted, indicted and locked up, we do not intend for them to be violated and run over and disrespected by anybody's prosecutor.

I want to tell my colleagues something. No matter what they think about the gentlewoman from California (Ms. WATERS) on the left or somebody on the right, there is one thing that I hold dear that was drummed in my head as a student, and that was the Constitution of the United States of America.

I was made to believe that I would be protected. Even when things were going wrong, there would be some hope because we had a system of justice that would make sure that the average person, in the final analysis, would have an opportunity for redress. And I believed in this Constitution. They taught it to me too well. And that is why I can stand here and fight for it and feel very comfortable with it.

I do not care about some other prosecutor who is a prosecutor in a state somewhere in Georgia who gets up and defends all prosecutors. I know the reputation of some prosecutors. I know the lives that have been ruined by some state prosecutors. They are no better than these federal ones that we are talking about.

I want criminals to be apprehended, to be investigated, to be locked up. But I want people to have a chance to have their voices heard and to have a chance to be innocent until proven guilty, and that is why we have got to go after this special prosecutor.

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

Mr. Chairman, I rise in opposition to the Conyers perfecting amendment, and I also rise in opposition to the motion to strike the McDade language that is in this bill.

Quite simply, the issue before us is whether the Government attorneys at the Department of Justice should abide by ethical rules that all other attorneys have to abide by, or can they make up their own standards of conduct.

Title VIII of the bill before us requires that federal prosecutors comply with the same state laws and the rules of ethics as other attorneys. In 1980, Congress passed legislation that has required that each Department of Justice lawyer to be "duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia."

The courts have held that the statute requires the Federal Government lawyers to comply with the ethics rules of their respective states of admission. I believe this is very reasonable. This is not a burdensome nor onerous requirement. The attorneys for the Federal Government should comply with the ethics standards in the states in which they are duly licensed.

The gentleman from Arkansas (Mr. HUTCHINSON) in his arguments presented an example whereby an assistant United States attorney might find himself litigating in one state and through the discovery process find himself in two other states. And it says that if in fact that assistant U.S. Attorney is faced then with inconsistent rules on ethics, what should he do? We seek the higher standard. That is an easy one. We should always be for the higher standard.

So when ethics conflict, do not go to the floor and figure out how we can maneuver through it. Seek the higher standard. So I do not see the inconsistency. If in fact you set your life to live by the higher standard, it is an easy question.

I also want to comment, the Department of Justice, I think unfortunately, has repeatedly attempted to thwart I think this bill and those who believe that Government attorneys should be held accountable and be held to the highest standard.

Government prosecutors, they hold tremendous power over life and liberty of our citizens. I have been one, so I understand the power out of the U.S. Attorney's Office.

Title VIII of the bill will hold these Government attorneys, paid for by the tax dollars, to the same standards of those attorneys and create a system whereby they will be held accountable to the regulations and in fact to the highest standard.

Under title VIII, the Department of Justice employees, they are held to such actions. And I sat down here as I was listening to the debate and thought I would make a list of all types of things: Whether their statements and actions by these prosecutors in due process; whether it is through the process of filing criminal information, grand jury, the discovery process, the jury alone, the judge alone; whether their actions are misleading in evidence or by the witness or by the law; whether their statements are inaccurate or they use inflammatory actions or use disparaging statements; or whether their actions are meant to harass or use threats or verbal abuse of a witness or of a defense counsel; if their actions are inflammatory or they use false accusations, they use threatening language or they ridicule a defendant or witness or the defense counsel; or if in fact that their actions are arbitrary or capricious, held without any forms of standards; if in fact they are faced with a conflict of interest; whether their actions are based on a vindication; whether they operate in bad faith; whether they have abusive or

overzealous misconduct; whether in fact they are leaking information or unauthorized disclosure of grand jury testimony or materials; or in fact they are abusing the legal process to harass or threaten another; or if they begin to withhold exculpatory evidence, whether it is in favor of a defendant or to impeach a particular witness; in fact, where there are issues of conflict of interest, whether they are personal, pecuniary, or in fact political.

So the list goes on and on, and I think that, in fact, these attorneys should be held to the same standards whatever jurisdiction for which they are in.

When we look at the symbol of lady justice, lady justice is blind. Lady justice is blind. And what it means to the prosecutors are that they are not to litigate a case based on an unjustified standard, whether it is picking on an individual because of their age, race, gender, national origin, or the station of life. The process is meant to be fair.

But lady justice is neither blind, nor does she give a wink to unethical or abusive behavior or conduct.

□ 1700

What I would ask Members to do is to oppose the motion to strike and to support the gentleman from Pennsylvania's legislation. With regard to the first vote that will come up, the Conyers amendment, this one is really simple. When you have about eight or so or now maybe approaching nine independent counsels investigating the President, whether this move to go to the higher standard is good, what is obvious about this amendment as I listen to some of my colleagues speak, this is more about politics than substance. You should stop and ask yourself here, does good politics make good law? No, it does not.

So you are having fun. What fun are you having is attacking Ken Starr. What makes me most disappointed is to hear members on the Committee on the Judiciary who must sit in judgment and receive this report already prejudging their decisions to attack the independent counsel. I am extraordinarily disappointed in my colleagues.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. I say to my dear colleague on the Committee on the Judiciary from Indiana, we just want to make clear that the U.S. attorneys have one standard and the Conyers amendment wants that standard to include the independent counsel, whatever they may be named, right?

Mr. BUYER. I understand your amendment, yes.

Mr. CONYERS. Right, okay. But you do not support it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me respond to many of the issues that have been expressed on this floor. I would say to the gentleman from Pennsylvania (Mr. McDADE) that it is my view that no one deserves to be put on the trash heap of life. That sounds like a very harsh statement, harsh in that that is not your destiny. But I do believe that we have an opportunity today to maybe speak for many across this country who unfortunately were caught in the web of someone's misdirections and someone's abuse of power. I think it is appropriate for those of us who are members of the Committee on the Judiciary to say first of all that prosecutors across this Nation have done good by the people of the United States of America. They have prosecuted those well deserving of being prosecuted. They are by and large officers of the court who have upheld the highest standards.

But why are we arguing against prosecutors being subject to the same State laws and rules and local court rules and State bar rules of ethics of any other series of lawyers? Why are we suggesting to our constituents that there is something wrong with requiring prosecutors, Federal prosecutors, to not seek an indictment against you with no probable cause, to fail to promptly release information that may exonerate you, to attempt to alter or misstate evidence, to attempt to influence or color a witness's testimony, to act to frustrate or impede a defendant's right to discovery. Yes, the scale of justice is balanced and blind, and that is what we are speaking of, to be able to equalize you in a court of law against a Federal prosecutor representing the United States of America.

Let me thank the prosecutors for going into the deep South in the 1960s and raising up issues of civil rights that other local attorneys could not raise up. Let me thank them, The Department of Justice did an amazing job in dealing with those issues. So we realize the uniqueness of the Federal prosecutor system. But does that mean that we throw people to the trash heap of life? Do you lose all of your rights because you go into a Federal courtroom and a prosecutor says, "I have all of the rights"? I believe that we are doing nothing here that is against the boundaries of respect for our Federal system.

Let me say as a member again of the Committee on the Judiciary, yes, I think our job might have been better if we had had hearings. In fact, I do not think we are finished. I think we must proceed and investigate even more whether there are abuses across the country. But today we are where we are. We have an opportunity not to attack but to make better.

This underlying amendment and, of course, the amendment by the gentleman from Michigan that includes the independent counsel, which is very clear, an employee of the Department of Justice is the independent counsel, will protect you the citizen against the kinds of abuses which we face every day.

There is something that is scripturally based. When the woman touched the hem of the garment of Jesus in Christian doctrine, it was said she was healed. It is difficult, of course, to perceive prosecutors along those lines. But they say touch their garment and get no justice. That is the tragedy of what we face.

There is no disgrace for those of us who are members of the Committee on the Judiciary to be able to say that Ken Starr has abused the process, for I am glad the President is going to the grand jury. I am glad Monica Lewinsky. We have no quarrel with the process of justice. But we do have a quarrel with an independent counsel who leaks and leaks and leaks. These amendments will make it better for all Americans. For that reason I think that we should support the perfecting amendment and support the Martha-McDade amendment.

PARLIAMENTARY INQUIRY

Mr. McDADE. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. McDADE. Mr. Chairman, we have been on the amendment for quite some time. I was going to see at 5:05 if we could get some kind of agreement on a time limit. Members have social engagements, most of them, beginning about 6 o'clock. I do not think we would take much time on the next amendment. I wanted to see if it was possible to get an agreement on time on the Conyers amendment and any amendment thereto.

Mr. MOLLOHAN. Mr. Chairman, we are not in a position to make any agreements on time at this time.

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

Mr. Chairman, I rise in opposition to this amendment and in further support of the underlying amendment that I cosponsored in opposition to the provision in the base bill which would unduly, in my opinion, hamper our prosecutors.

I stand today to support our prosecutors. I guess I am somewhat surprised as I sit and listen to all the bashing that is going on about our prosecutors, our Federal prosecutors, the people who are presidentially appointed and confirmed by the Senate who serve in our 93 positions as U.S. attorneys as well as our assistant U.S. attorneys, the people who prosecute day in and day out throughout this country the people that need to be prosecuted, not in a perfect way and as we hear anecdotal stories of perhaps cases that

should not have been prosecuted, and I have great respect for the gentleman from Pennsylvania, I know very little about his case, and mistakes have been made, I am sure, throughout the history of prosecution.

But, as has been said, by and large these are good prosecutors trying to do the right thing in many cases and in very dangerous, very tough situations. What I want to guard against here today is an overreaction to these anecdotal cases. What I want to prevent is the handcuffing of our prosecutors by requiring them as the underlying bill does to submit to the rules and regulations and disciplinary proceedings of the various States in which they prosecute. These 50 States have enacted individually their own rules and regulations for disciplinary procedures for their attorneys and rightfully so, because they practice in their State courts.

The U.S. attorney, and let me be clear on this, the U.S. attorney and the assistants practice at the Federal courts. They already are obligated to stand behind Federal guidelines in terms of their disciplinary behavior, their ethical conduct as established by the Attorney General of the United States. But what you do in this bill, and I believe in overreaction fashion, is make those U.S. attorneys, those Federal prosecutors, submit to various State regulations on their conduct.

Let us take, for example, the Oklahoma situation. Because so many times, the Federal prosecutor, not the State prosecutor like my colleague from Massachusetts was, but the Federal prosecutors that we talk about in this bill work in multistate litigation, pornography, interstate theft of automobiles, drug cases, where you are working with folks all over the country. In Oklahoma City, you had a tragic bombing, an instance where in that investigation they gathered evidence in Michigan and in New York and other States and brought that together in Oklahoma City for coordination. They would have had to track every piece of evidence in that case, where it came from, to ensure that it did not violate that particular State ethics and disciplinary law. That is an impossible burden for prosecutors who prosecute multistate litigation to have to do.

Let us take another State, I believe, I could be corrected, but I think Massachusetts. In that State, if you arrest a low level drug dealer and you want to, as so often happens in drug cases, you start at the bottom and work your way up to the kingpin. If you arrest a low level drug dealer in that State, the kingpin can hire a lawyer for that low level drug dealer and as a prosecutor, you cannot talk to that low level drug dealer without that lawyer being present who is actually hired by the kingpin. You know what plays out in that situation. If that person talks to you, he may well be dead the next day.

Those are examples of how in reality this bill will play out. It will hamstring Federal prosecutors in a very inappropriate way and it will affect the administration of justice in our Federal courts and the victims of these crimes over and over.

Again, I have great respect for the people who are on the other side of this issue and who have been involved in the system. But yet I cannot help but believe we are literally throwing out the baby with the bath water here. This is totally, totally unnecessary. For instance, it creates a misconduct board which is constituted by appointments from the President and from the House. That in and of itself violates the very sacred separation of powers doctrine.

I would encourage people to stand back from the emotion and look at the overall interest of justice here, not just a few very bad cases, and stand behind our prosecutors who already subscribe to these ethical laws and oppose this amendment.

Mr. McDADE. Mr. Chairman, I am advised that there may be some accommodation with respect to the limitation on time if it is limited to the amendment offered by the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

The CHAIRMAN. The Chair would eagerly await that.

Mr. McDADE. Am I accurate in that? I understand that is acceptable.

Mr. MOLLOHAN. Could the gentleman outline his proposal?

Mr. McDADE. Yes. May I say to my friend from West Virginia that my understanding is that if we limit the limitation on time, if we can get one, to the Conyers amendment, that that is an acceptable proposal to be made. And if that is the case, I would inquire how many speakers there are that remain that would like to be heard on the Conyers amendment.

Mr. MOLLOHAN. We have several. Does the gentleman have a time proposal?

Mr. McDADE. My understanding on this side is that we have but two, each five minutes. I would suggest 20 minutes, 10 per side, and then vote on the Conyers amendment.

PARLIAMENTARY INQUIRY

Mr. MOLLOHAN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MOLLOHAN. Can we limit time on the Conyers amendment and not on the underlying amendment?

The CHAIRMAN. Yes, that would be the understanding of the chair.

Mr. McDADE. May I say to my friend, I find that there are some others on my side who also wish to speak on the Conyers amendment. Four members, five minutes apiece is 20, and you have two. Twenty and 20. Is that acceptable to the gentleman?

□ 1715

May I inquire of the gentleman, how about 15 and 15 per side? I am advised that Members over here do not intend to take the full time, that they can get their remarks in the RECORD, and then the amendment would be ripe.

Mr. MOLLOHAN. I think we can agree to that on the Conyers amendment, 15 on each side.

Mr. McDADE. Mr. Chairman, I ask unanimous consent the debate on the Conyers amendment and the amendments thereto cease in 30 minutes, equally divided.

The CHAIRMAN. And all amendments thereto? Equally divided?

Mr. McDADE. Yes, Mr. Chairman.

Is there objection to the request of the gentleman from Pennsylvania?

PARLIAMENTARY INQUIRY

Mr. MOLLOHAN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MOLLOHAN. Are there any amendments to the Conyers amendment in order?

The CHAIRMAN. In theory there would be, but if the request is granted, of course they would be debatable within that time.

Mr. MOLLOHAN. Mr. Chairman, we would not want to make the agreement if it were to include time limit on any potential amendments on the Conyers amendment.

The CHAIRMAN. That is the understanding of the Chair.

Mr. MOLLOHAN. That we would not have any amendments on the Conyers amendment that would become a part of the time agreement?

The CHAIRMAN. The request would only impact the Conyers amendment itself.

Mr. McDADE. Mr. Chairman, I renew my unanimous-consent request.

The CHAIRMAN. Would the gentleman restate his unanimous-consent request?

Mr. McDADE. Mr. Chairman, I ask that all debate on the Conyers amendment cease in 30 minutes, equally divided on each side, that I control time here and the gentleman from Michigan control the time on that side.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HUTCHINSON. Reserving the right to object, Mr. Chairman, it appears to me that the request has two people controlling time that are both in favor of the Conyers amendment. I would like to claim time in opposition.

Mr. Chairman, I trust the gentleman from Pennsylvania to control it. I just would like to make sure that it is controlled.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Without objection, the unanimous-consent request is granted whereby debate will cease in 30 minutes, 15 minutes controlled by the gentleman from Michigan (Mr. CONYERS) and 15 minutes controlled by the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Chairman, I think the Conyers amendment is inappropriate, but I do not disagree with the underlying thought, which is that independent counsels ought to be accountable.

I go back to the Iran-Contra days when Elliot Abrams was destroyed by an independent counsel, I thought very unjustly, when Caspar Weinberger was indicted three days before an election, and there is just no accountability; so there ought to be. This is not the time to do it. The time to do it is when we reauthorize the bill next year.

In 1994, when we reauthorized the independent counsel, I had some suggestions for accountability. They were shot down by the chairman of the House Committee on the Judiciary then, they were shot down by the chairman of the Senate Judiciary Committee. They were perfectly happy with the language of the bill as it then existed.

Now, of course, experience has changed their mind. So I agree, but never forget the ultimate discipline is with the Attorney General. She can dismiss the independent counsel, and if he is half as bad as people say, I wonder why she has not dismissed him. But that is a question for another day.

But any lesser sanction would erode the independence of the independent counsel, and we must keep the independent counsel independent.

So I think the gentleman's amendment is mis-timed, overshoots the mark and ought to be defeated.

Mr. CONYERS. Mr. Chairman I yield such time as she may consume to the distinguished gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Chairman, I especially thank the gentleman from Michigan (Mr. CONYERS) for his leadership in bringing this amendment to the floor, which I wholeheartedly support and consider a breath of fresh air. I also rise in support of the underlying McDade-Murtha bill.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of the Conyers amendment as well as in opposition to the Hutchinson amendment, which would then strike the McDade-Murtha provision of this bill. In essence, McDade-Murtha codifies the long-recognized, but recently-ignored principles that U.S. Attorneys must abide by the same rules of ethics as all other practicing lawyers. The Conyers amendment says that this includes special counsel as well, not just the people who are currently employed by the Department of Justice, and that makes all the sense in the world.

Limited government is the prerequisite for liberty and justice. That is what we are talking about today, limiting government power to what is a reasonable power to maintain order in our society.

Well, however, over the last three decades, because of the fear of crime we have ended up granting enormous power with very few checks and balances to prosecutors. We have just been expanding their power, and yours truly is just as guilty as anybody else out of fear of crime to give prosecutors power without having any checks and balances. Now we are surprised to see that big government with lots of power, people in that government tend to abuse that power.

Our Founding Fathers would not be surprised at that. The fact is every time we expand power we have to put checks in place or there will be abuses of power. For far too many times we have seen out-of-control prosecutors who now have all this more power to attack the bad guys, not seeking truth or not trying to protect the innocent but instead engaging themselves in self-aggrandizing, targeted attacks, often pushing relentlessly for some kind of prosecutorial victory regardless of the cost and, at times, regardless of the cost and, at times, regardless of the actual guilt or innocence of the target.

I and other supporters of the McDade-Murtha provision, and we are advocates of law and order, take this stand today to protect freedom and liberty threatened by prosecutors who are not being held to the same standards as other people in the legal profession. The gentleman from Indiana (Mr. BUYER) answered these charges, that there is going to be confusion, that we have different standards at the local level. The fact is that we expect our prosecutors to be at the highest level because we are protecting the rights of our citizens, the freedom of the people of the United States of America.

Far too often we have seen cases like the gentleman from Pennsylvania (Mr. MCDADE) where prosecutors are out of control and politically motivated. They go out and destroy public officials and public people. But what about the little guys? The little guys who have no money to defend themselves and are faced by these same abusive prosecutors?

No, putting down a code of conduct, if my colleagues will, a standard of ethics for the prosecutors, is something good. It is totally consistent with freedom in our country, with what our Founding Fathers wanted, with the concepts of limited government. Why should prosecutors be exempt from the ethics standards that the rest of us have?

Vote yes on the Conyers amendment to make sure all of the people who are involved in prosecution in our country have these standards and no on Hutchinson.

Mr. MCDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Chairman, I am not a lawyer, and I do not apologize for that, I am just not. But I do have a legal question that I would like for some of the legalese Members who are so educated in the law to inform me.

The Mobile Press Register, my hometown newspaper, recently published a story where it says a former Internal Revenue informant in a Mobile diesel fraud case claims the IRS paid him to skip town during the May trial where his testimony could have helped the defense.

When we questioned, or when the press questioned, the IRS and the Defense Department as to whether or not it took place, they admitted that they gave the man $2,500 to leave town during the trial so he could not testify against the defense or for the defense.

The FBI then said, well, this guy is a liar and that he cannot be trusted. Well, if he is a liar and he cannot be trusted, why did they give him $2,500?

Does the Federal Government have the authority, any of the legalese Members can tell me, to pay a defense witness to leave town if he agrees not to be there during the trial and testify, and, if that is the case, does the underlying amendment offered by the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Pennsylvania (Mr. MURTHA), does it help correct a situation taking place like that in the future?

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

Mr. CALLAHAN. I yield to the gentleman from Illinois.

Mr. HYDE. The answer is absolutely not. That is obstruction of justice and was a crime.

Mr. CALLAHAN. Then in the gentleman's opinion, as a prosecutor and as a man learned in the law, should the Justice Department in that district indict the IRS individual who gave him this money?

Mr. HYDE. If the version that the gentleman read is accurate, there is a lot of work for the Justice Department to do right down there where that happened.

Mr. CALLAHAN. Mr. Chairman, I assume everything we read in the newspaper is factual, but giving the benefit of the doubt that it might not be factual, I think that the investigator, the

defense attorney in Mobile, who incidentally has called me because Janet Reno told him to and asked me to vote against the underlying bill, which I intend to do anyway.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BERMAN), a distinguished member of the Committee on the Judiciary.

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

I listened with great interest to the comments of the very distinguished gentleman from Illinois (Mr. HYDE), the chairman of our Committee on the Judiciary, and I would say every argument he gave against the Conyers amendment applies just as forcefully in support of the Hutchinson amendment and for striking the underlying provision, and that is going through the regular order either in the context of an independent counsel law or in the context of a Justice Department reauthorization we could look at this proposal, look at the question of improper prosecutorial tactics and fashion an appropriate remedy.

But if there is going to be the McDade-Murtha language in this bill, then I cannot think of a reason in the world why those same restrictions should not apply to staff and to an independent counsel or to the independent counsel himself.

Independent counsel working in a State, if the Justice Department lawyer should be complying with the local bar rules, then the independent counsel lawyer should be complying with the local bar rules. If improper overzealous prosecution tactics, the kinds of stories that the gentleman from Alabama (Mr. CALLAHAN) told us about, are going on, then an independent review board should be reviewing those tactics as well as the tactics of Justice Department lawyers.

I have some concerns about the base proposal, and I will speak to that when the Hutchinson amendment comes up, but we should support the Conyers amendment and then treat everybody in the similar situation the same way.

Mr. Chairman, I urge an aye vote on the Conyers amendment.

Mr. McDADE. Mr. Chairman, I yield 6 minutes to the gentleman from Arkansas (Mr. HUTCHINSON), a distinguished Member.

□ 1730

Mr. HUTCHINSON. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania (Mr. McDADE) for the courtesies that he has extended to me. He has been in this body some time longer than I have, and he has taught me a few things. I have the utmost regard and high respect for the gentleman.

There has been some mention today about unfairness in prosecution, and I do not dispute that it happens, that it has happened in this body. The gentleman from Pennsylvania (Mr. McDADE) has referred to a case; others have.

I have made mention of the fact I am a former Federal prosecutor, and that is true. I was a prosecutor in the mid-80's, but after I left that, I became a defense attorney. So I have sat in that courtroom and I have heard a jury come back with an acquittal, and I realized an acquittal does not remedy everything because an individual defendant who has been through an enormous Federal criminal trial still suffers consequences.

But I believe that we took a big step in this Congress in remedying and curtailing and striking a better balance, and that was when we passed and it was signed into law the provision that said that if there is a frivolous prosecution, then the acquitted defendant can recover attorney's fees from the government.

I think we need to have time for that to work. I think it strikes a better balance. I think that prosecutors were concerned about that, that that is a chilling effect. Well, I hope it is a remedial effect. I hope that it strikes a better balance. So I am very pleased with that.

But I do want to say also that a number of Members have said, why in the world should we have Federal prosecutors who should be exempt from the State ethics law? And that is just not the case that we have presently.

Presently, as a Federal prosecutor, every Federal prosecutor has to be licensed to practice law, are subject to the state licensure laws of their state, whether it is Virginia, whether it is Arkansas. They have to abide by those ethics laws. That is the current law.

What the present proposal is, whether it is the independent counsel under the Conyers amendment or whether it is the underlying bill, it would bring all Federal prosecutors subject not to the ethics laws of their State, but to every State in which they engage in their duties, and that is the point that my good friend the gentleman from Tennessee (Mr. BRYANT) was making.

In the multistate investigations we have, when you are traveling down to Florida to interview a witness, when you are going to Louisiana, when you have multistates involved, you have conflicting laws with different States. My good friend from Massachusetts has some very stringent bar rules that are in conflict with the ethics laws in our State and hamstring what a prosecutor might be trying to do and what could be perceived as unfair.

In addition to the reviews of the State ethics laws, you presently have the Office of Professional Responsibility. You have the inspector general that will have review over these Federal prosecutors, in addition to the Federal courts.

But let me say in reference to the Conyers amendment on the independent counsel, the essence of the Conyers amendment brings the independent counsel under the Misconduct Review Board of title VIII. The Misconduct Review Board is, first of all, a board composed of three members. Those three members are appointed by the President of the United States.

The whole idea of the independent counsel law, and I agree with the gentleman from Illinois (Chairman HYDE) that we need to reevaluate this in the reauthorization next year, but do we want to bring somebody who is supposed to be independent of the administration under the review of the Misconduct Review Board of three people appointed by the President? It makes no sense.

The Misconduct Review Board, if there is any complaint made by any citizen, can subpoena evidence, can subpoena records, can subpoena witnesses and bring them before them with a public show that would compromise confidential informants, whether it is a drug case or something the independent counsel is doing. So the Misconduct Review Board is a bureaucracy that is duplicative of what we have now. It is not needed; it takes us in the wrong direction.

The gentleman from California (Mr. COX) says we have 10 rules that ought to be obeyed by Federal prosecutors. We already have ethical rules for our Federal prosecutors and State prosecutors. But those 10 rules have to be interpreted by a Misconduct Review Board. So when it says you cannot bring charges without probable cause, that is what a grand jury determines.

Now we are going to have a Misconduct Review Board determine whether there is probable cause or not. That is second guessing, that is an impossible burden put on prosecutors, and it is a chilling effect. I believe we should have a higher standard, but that is a higher standard that is imposed by our State ethics laws, that is applied by the present system.

Let me end with two points: First of all is a letter that was signed by Democrat and Republican former Attorneys General. They said in their letter in opposition to the proposal that the department's policy already requires its attorneys comply with the ethical rules of the States in which they are licensed and practice. So it is already the rule. Across the board they have opposition to this.

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

Mr. HUTCHINSON. I yield to the gentleman from California.

Mr. ROHRABACHER. Does the gentleman believe if a prosecutor, for example, encourages a witness to commit perjury or breaks the law in some other way, that that prosecutor should himself or herself be prosecuted for

violating the law for doing something like that?

Mr. HUTCHINSON. Reclaiming my time, absolutely. That is obstruction of justice.

Mr. ROHRABACHER. How many prosecutors have been prosecuted? Almost none, is that right? Instead, like in the case of the gentleman from Pennsylvania (Mr. MCDADE), they get promotions.

Mr. HUTCHINSON. Mr. Chairman, reclaiming my time, under the present situation, that is misconduct that is subject to prosecution as well as ethical investigation. When I talk to people who are in hearings that are involved with the drug cartel, I ask them the question, do those in law enforcement have greater resources, or those in the drug business? And whether it is the DEA or those in the cartels, they say the other side have more weapons.

What we are trying to do by this proposal in this bill is to give more weapons and more tools to those on the other side. We need to strengthen law enforcement, not strengthen the drug cartels.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. Chairman, will the gentleman yield?

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

Mr. CONYERS. Mr. Chairman, the gentleman from Arkansas (Mr. HUTCHINSON) is a great member of the Committee on the Judiciary and he is a great lawyer and was a good prosecutor, a good defense man, but what he needs to understand is that we are not revising or dealing with the independent counsel statute. That comes up next year, and, brother, we have plenty to say about that.

All we are doing now is making the very elementary, simple, nonlegal assertion that the independent counsel is an employee of the U.S. Department of Justice and is subject to the same rules, 6(e) and everything else, that U.S. Attorneys are. That. Nothing more.

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I thank the gentleman for making that point. It seems to me that in the context of this debate, which is an extraordinarily important one, that there is one basic point that we need to focus on, and that is a very simple one: The underlying principles of this Republic, the founding and sustaining principle, is that government draws its just authority from the consent of the governed. We all know that. We all learned that in grammar school.

You cannot have the consent of the governed unless you have their confidence. The governed cannot give their consent unless they have confidence in that which they are giving consent to.

Nowhere in the government is that more stringently important than with regard to the activities of the Department of Justice. And the reason for that is obvious, because the Department of Justice has extraordinary power over individual Americans, over life, liberty and property of every single citizen of every State.

Therefore, particularly the Department of Justice must be held under strict constraint. Nowhere else in the government is it as important as in the Department of Justice. That is why the McDade language in the Commerce-Justice bill is so important, and we owe the gentlemen a debt of gratitude, the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Pennsylvania (Mr. MURTHA), for bringing this language to us in the context of this bill.

However, it is also clearly just as important that every employee of the Justice Department ought to be covered by this language, without exception. There should be no exception because every employee of the Justice Department has this prosecutorial power, the right, the ability to deprive Americans of life, liberty and property. Therefore, we need this perfecting amendment to make more powerful, more straightforward, more direct the underlying principles of the McDade language.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to thank the gentleman both for his clarification and his passion. I think we would be doing a great disservice to this debate if we did not clarify that this is not a pointed and singular attack on anyone. It is simply to provide the cover of ethics and of certain legal standards that all lawyers across the Nation have to abide by to all lawyers that are under the Constitution and governing laws of the United States of America.

What I hear the gentleman saying is ethics for you, ethics for me, ethics for everyone, and that includes, as the Conyers amendment has so aptly indicated, an independent counsel that is an employee of the Department of Justice, so that no one's rights are violated.

I ask the gentleman, are we simply engaging in a discussion of fairness, that ethics is the creed, if you will, the oath, if you will, the guiding force that should guide all of us as we relate to those Americans who come under the system of justice?

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I would say absolutely right. Every citizen of this Republic has the right to expect ethical behavior from every other citizen, but particularly every citizen of this Republic has the right to expect ethical behavior from everyone who is placed in a position of prosecutorial responsibility. Nowhere else in the system of government is the requirement to adhere to a strict, clear specified code of ethics more important than those who have been entrusted with prosecutorial responsibilities.

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

Mr. HINCHEY. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I think it is important, given the statements by my friend from Arkansas, whom I have great respect for, that if somehow you support McDade and Murtha you are somehow assisting or abetting drug cartels in the United States. That simply is not the case.

State prosecutors historically have conducted investigations that are multistate in nature, whether it be organized crime, whether it be drug trafficking, whether it be white collar crime. They adjust. As the gentleman from Arkansas indicated, Massachusetts has a very stringent standard in terms of prosecutorial ethics, but it has not caused a problem.

It is reminiscent of when the Warren Court issued the landmark cases in Mapp and Miranda. It was going to impede and be the end in terms of law enforcement. I dare say now we have better and more professional law enforcement that is more ethical than ever before.

Mr. McDADE. Mr. Chairman, I am delighted to yield 1 minute to the able gentleman from California (Mr. HUNTER).

HONORABLE RANDY "DUKE" CUNNINGHAM DOING WELL FOLLOWING SURGERY

Mr. HUNTER. Mr. Chairman, I wish to announce to my colleagues that our good friend, our Top Gun "DUKE" CUNNINGHAM, who underwent surgery today, has come through that surgery successfully. He is doing great. He has already made one attempt to sneak past a corpsman and get back to work, but they apprehended him and he is back in bed to rest for a little bit. He just wishes all of you well.

It would be great, if anybody would like, we would love to have you come to the Republican cloakroom, Democrats and Republicans, and sign the get-well card that we put together for DUKE. He is doing well and he is going to be back shortly.

Mr. McDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

□ 1745

Mr. BRYANT. Mr. Chairman, under the circumstances, I think the gentleman has been extremely gracious.

I certainly I want to, I am sure, speak for my colleagues who oppose this bill, this portion of the bill, that we have obviously nothing personal against the gentleman and his situation. It is just that we have, we believe, legitimate differences in this particular bill.

Mr. Chairman, I would stand up tonight and argue against the issue at hand, and that is, the amendment offered by the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, which would bring into this bill the independent counsel.

As my colleague, the gentleman from Arkansas (Mr. HUTCHINSON) has so well pointed out, it is almost ludicrous when we envision the aspects of this bill as it might be applicable to the special prosecutor, especially when we consider the Conduct Review Board, which is made up of three members appointed by the White House, and also members appointed in an advisory fashion by the Members of Congress.

It certainly would thwart not only any color of independence, but any independence, or any ability of the independent counsel to exercise independence. It would do that, as well as impede, very clearly, the investigation by being able to come forward at any point and make objections to unfair prosecutions in very vague, very broad terms, that would draw to a halt that independent investigation while this disciplinary action against the independent prosecutor would have to be investigated.

I would point out to my colleagues on both sides that the Attorney General, Janet Reno, opposes this bill in total, and states, in regard to the disruptions that would occur in the U.S. Attorney General's office, as well as, we would speculate, in the independent prosecutor's office, that that would devastate their ability to do the job.

She says, for example, and this is Janet Reno talking, "For example, a grand jury target could allege the prosecutor was 'bringing discredit on the Department.'" That is an allegation that could stop the prosecution, they are bringing discredit on the department. "The Attorney General would then be required to complete a preliminary investigation within thirty days." They have to stop and do this within 30 days. "The prosecutor would be forced to devote his or her attention to the misconduct claim rather than . . ." the underlying criminal investigation.

It is just amazing, if one sits down and thinks about, I believe, the unintended, very sincerely, consequences of this bill in terms of how it will disrupt our very good prosecutors and their effort to stand in that gap between the law-abiding citizens of America and the criminals of America.

I point out that there are mistakes made. In those cases, the system does work. There is a system out there for the gentleman from Pennsylvania (Mr. JOE MCDADE). It must work. I know he would quarrel with that, but it should work.

I urge Members to oppose the Conyers amendment.

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

Mr. Chairman, I want to thank all the Members on both sides of the aisle for a very constructive debate. I think this is very important, and I appreciate the fair discussion under which this amendment has been considered.

I would point out to the last speaker, an able member on the Committee on the Judiciary, the gentleman from Tennessee (Mr. BRYANT), that he is arguing the underlying bill, but the vote that is now coming up is merely whether or not independent counsel are included in the provisions that apply to U.S. attorneys.

If we do not do that we have made an incredibly large error, and I think it was inadvertent when this bill was drafted sometime ago. I am pleased that many of the authors of the bill are supporting this amendment.

I urge its support, Mr. Chairman, and I yield back the balance of my time.

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

Mr. Chairman, let me say to my colleagues, I had not intended to speak on this aspect of the bill, but in view of the comments that were made a few moments ago, I am compelled to.

Under the current system that we heard described by my colleagues, the gentlemen from Tennessee and from Arkansas, there is a remedy for a citizen, once convicted. They can appeal to another court, a higher court. They can make a recommendation or an argument at OPM, the Office of Professional Responsibility in the Department of Justice, after they have been convicted; lives ruined, bankrupt. If they can prove something, they might get a reversal of their case.

Let me be specific. In the case of United States versus Taylor about a year ago, the Department of Justice twisted the testimony of an individual and convicted him on perjurous testimony. If we read the case, we will read that the judge that tried it found the employees of the Department guilty of obstruction of justice. What a charge, corrupting the system that they are are supposed to be defending.

What did the Office of Professional Responsibility do after the judge made that finding? Mr. Chairman, they gave the people who corrupted that system a 5-day suspension from their jobs, a 5-day suspension for corrupting the system of justice in this country. No better example exists as to why we need to empower a citizen to have the right to have his case heard in front of the conviction and away from the OPM by an independent body.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 182, not voting 3, as follows:

[Roll No. 396]

AYES—249

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clayton
Clement
Clyburn
Collins
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cummings
Danner
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Gillmor
Gilman
Goode
Goodlatte
Gordon
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefley
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wicker
Wise
Woolsey
Wynn
Yates

NOES—182

Aderholt	Gekas	Pease
Archer	Gibbons	Petri
Armey	Gilchrest	Pickering
Baker	Goodling	Pitts
Ballenger	Goss	Pombo
Barr	Graham	Portman
Barrett (NE)	Granger	Quinn
Bartlett	Greenwood	Radanovich
Barton	Hamilton	Redmond
Bass	Hansen	Regula
Bateman	Hastert	Riggs
Bereuter	Hastings (WA)	Riley
Bilirakis	Hayworth	Roemer
Bliley	Herger	Rogan
Blunt	Hilleary	Rogers
Boehner	Hobson	Roukema
Bonilla	Hoekstra	Ryun
Bono	Horn	Salmon
Brady (TX)	Hostettler	Sanford
Bryant	Hulshof	Saxton
Bunning	Hunter	Scarborough
Burr	Hutchinson	Schaefer, Dan
Burton	Hyde	Schaffer, Bob
Buyer	Inglis	Sensenbrenner
Callahan	Istook	Sessions
Calvert	Jenkins	Shadegg
Camp	Johnson (CT)	Shaw
Canady	Johnson, Sam	Shays
Cannon	Jones	Shimkus
Castle	Knollenberg	Skeen
Chabot	Kolbe	Smith (MI)
Chambliss	Largent	Smith (OR)
Chenoweth	Latham	Smith (TX)
Christensen	LaTourette	Smith, Linda
Coble	Lazio	Snowbarger
Coburn	Lewis (CA)	Solomon
Combest	Lewis (KY)	Souder
Cook	Livingston	Spence
Cooksey	Lucas	Stearns
Crane	Maloney (CT)	Stump
Crapo	Manzullo	Sununu
Cubin	McCollum	Talent
Davis (FL)	McCrery	Tauzin
Davis (VA)	McDade	Taylor (NC)
DeLay	McIntosh	Thomas
Diaz-Balart	McKeon	Thornberry
Dickey	Metcalf	Thune
Doolittle	Mica	Tiahrt
Dunn	Miller (FL)	Wamp
Ehlers	Moran (KS)	Watkins
Ehrlich	Morella	Watts (OK)
Emerson	Myrick	Weldon (FL)
Ensign	Nethercutt	Weldon (PA)
Everett	Neumann	Weller
Ewing	Ney	White
Fawell	Northup	Whitfield
Foley	Norwood	Wilson
Fossella	Oxley	Wolf
Fowler	Packard	Young (AK)
Frelinghuysen	Parker	Young (FL)
Ganske	Paxon	

NOT VOTING—3

Clay	Cunningham	Gonzalez

□ 1811

Messrs. DAVIS of Florida, BAKER, WAMP, BURTON of Indiana, WELDON of Pennsylvania, and LAZIO of New York changed their vote from "aye" to "no."

Messrs. RAMSTAD, FRANKS of New Jersey, KASICH, GALLEGLY, FOX of Pennsylvania, PORTER, and UPTON changed their vote from "no" to "aye."

So the perfecting amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Is there further discussion on the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON)?

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

For the purpose of trying to inform the Members of the evening's schedule so they may plan their activities accordingly, I am hoping that in a few minutes we can get a unanimous consent request to end the debate on the Hutchinson amendment with 5 minutes per side and then a vote on that amendment, which we would request be rolled until a later time so that Members would be able to attend the evening activities during the dinner hour.

I would hope in due course of time, which we are now working with the gentleman from West Virginia (Mr. MOLLOHAN) and others on, to obtain a time limit on all remaining amendments, in which case votes could be postponed until around 8:00 at the earliest and give Members a chance to be with their families during the dinner hour.

□ 1815

With that in mind, I would propose a unanimous consent request that all debate on the Hutchinson amendment be concluded in 10 minutes, 5 minutes per side, after which the vote would be taken on the Hutchinson amendment, but postponed if a recorded vote is requested, to a later time.

And then I would hope that I would be able to discuss with the gentleman from West Virginia (Mr. MOLLOHAN) and others limitations on the other amendments that are attached to the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman, just to clarify with the chairman that he is proposing that we do a unanimous consent request on the Hutchinson amendment now; roll that vote until after 8 p.m., giving Members a chance to go to this event; and then, in the meantime, do a unanimous consent with regard to as many other amendments as we can, and I know we have some concern about maybe one amendment on our side maybe not being included in that; and roll all those votes likewise until after 8 p.m. and then consider all votes. So Members could actually leave right now and not be concerned about votes until after 8 p.m.

Mr. ROGERS. That is correct.

Mr. MOLLOHAN. Mr. Chairman, I withdraw my reservation of objection.

Mr. ROHRABACHER. Mr. Chairman, reserving the right to object. We have a lot of Members right here, right now. We have already debated this issue, it is in everybody's mind, and I do not see any reason why we should not vote on this and then go forward with the rest of the evening with time with our families. We have just debated this, we are right here, let us vote on it now.

Mr. ROGERS. Mr. Chairman, there are Members who wish the 5-minute discussion time. I would again request unanimous consent for 5 minutes per side, after which we vote, and then roll the vote until after 8 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman. I have been advised on my side that we would probably agree with that proposal and do not have any requests for time, at least if it were agreed upon by the other side.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MCDADE. Mr. Chairman, I simply want to state on behalf of my colleague, the gentleman from Pennsylvania (Mr. MURTHA), and myself, who worked this originally, and the 200 of our colleagues who have cosponsored this bill, that we are ready to vote right now. It has been debated and I think we ought to vote.

The CHAIRMAN. Is there any objection to the request of the gentleman from Kentucky?

Hearing no objection, the unanimous consent request is granted. The gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Pennsylvania (Mr. MCDADE) will each control 5 minutes.

Mr. HUTCHINSON. Mr. Chairman, I yield myself such time as I may consume to simply say that the amendment that is before this body, the Hutchinson-Barr-Bryant amendment, would delete title VIII of the appropriations bill, which is called the Citizen Protection Act.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BARR).

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, Members are asking about whether or not we will postpone this vote. The answer is we will recommend the vote be postponed until at least 8 p.m.

The CHAIRMAN. The Chair has that discretion when the request for a recorded vote is made we will take that under advisement.

Mr. BARR of Georgia. Mr. Chairman, as with most pieces of legislation, it is as important to raise what a proposal does not do as it is what it does do, and I urge all of my colleagues to listen very carefully to these final minutes of debate.

This is a very emotional issue because people who are well-known to us are in favor of it. But this bill should not go forward. This amendment that we have should go forward, and the underlying title VIII stricken, because it will do tremendous injustice to the fabric of how United States attorneys conduct very sophisticated, very complex, very far-reaching multi-state investigations.

There is plenty of mechanisms already in place to address the occasional bad apple, if there is a prosecutor that practices misconduct. Notwithstanding that, if we have a problem with a particular U.S. attorney, then we should take action against that U.S. attorney. We can do that under current law and procedures. If we do not like the standards set by an Attorney General, then we should take action against that Attorney General, but we should not throw out the ability, as title VIII would do, of United States attorneys to conduct multistate investigations, such as RICO, public corruption, drug cases or fraud cases.

If, in fact, the law in one particular State is different from the law in another particular State, both involved in that multi-State investigation, action could be brought against that United States attorney for doing something that is perfectly legal under Federal law and under the law of a State in which they are operating just because it might happen that part of a case falls over into another State where that sort of action, such as consulting with a defendant's attorney, such as conducting electronic eavesdropping, might be against the law in that one State.

Also, title VIII would allow an outside panel, not composed of prosecutors, to have full access to every bit of the prosecutor's case. That would be outrageous and it would, in effect, stop important prosecutions.

Let us not throw the baby out with the bath water. If there have been abuses, then let us address those particular abuses, but not change and take away the ability of Federal prosecutors to conduct multi-State investigations.

I urge the adoption of the amendment.

Mr. McDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. MURTHA), the coauthor of the bill.

Mr. MURTHA. Mr. Chairman, if the Members think I am excited about this, they are right. If they think I am sincere and focused on this issue, I am.

I sat beside the gentleman from Pennsylvania for 8 years, 8 years while he was under persecution by the Justice Department: 6 years investigation, 2 years intimidation, under indictment. I watched the gentleman decline physically, mentally and emotionally from the strain of the Justice Department.

We were able to raise $1 million to defend the gentleman from Pennsylvania. The Justice Department system leaked information that was erroneous, leaked continually, did everything that could be unethical; charged him with campaign contributions being bribes, completely within the rules of the House; charged him with honoraria being illegal gratuities; tried to intimidate the House of Representatives which furnishes the money for the Justice Department.

Now, what chance would an individual have against the Justice Department if they would go after one of the most prominent Members in the House of Representatives? A jury, which came from an area that the public opinion said 70 percent of the public in that area thought that all politicians were crooks, he was acquitted in 3 hours by a jury picked at random from that area.

I feel strongly about this because it would protect the individual citizen from prosecution by not every prosecutor; I have no question that most prosecutors are above board and most prosecutors abide by the ethics rules. What we are saying in this legislation, when we defeat the Hutchinson amendment, is that they must abide by the ethics rules of the State involved.

The chief justices of the entire United States, fifty of them, all agree with us and say they ought to abide by the rules. They do not abide not only by their own ethics, they do not abide by the ethics of the States they are practicing in, and we say a special citizens commission should do just exactly that as they are doing for the IRS.

So I would hope that the House would rise up and show the prosecutors who are out of control, not all of them, just the ones out of control, that they need some sort of oversight and that this House will send a clear signal to the rest of the country that we will not stand by citizens to be persecuted by a prosecution.

The gentleman from Massachusetts (Mr. DELAHUNT) said it probably better than anybody else. They have a tremendous power, the prosecutors in this country, to withhold the liberty of individual citizens. We want to make sure that prosecution is done ethically, and I would ask all of the Members of the House to vote against the Hutchinson amendment.

Mr. HUTCHINSON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, it is a difficult task to stand up here and follow the fine gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Pennsylvania (Mr. McDADE), and I can in no way empathize with what he has gone through because I have not done that.

The three former U.S. attorneys in this body have stood up and told my colleagues, as I tell you today, being one of those, let us not overreact. As the gentleman from Pennsylvania (Mr. MURTHA) said, the United States attorneys have tremendous power.

We, as Members of Congress, have tremendous power beyond that and let us do not abuse this situation. It was a terrible situation with the gentleman from Pennsylvania (Mr. McDADE). I wish it could be corrected. It is not a perfect situation, but the U.S. attorneys are under the ethics rules of their States.

Fortunately, they do many multistate prosecutions, and as the gentleman from Georgia (Mr. BARR) said, these prosecutions will be literally handcuffed if we pass this bill and make them comply with every local ethics disciplinary board proceeding which they go into, whether it is Florida, Louisiana or wherever.

I know it is tough, but let us do the right thing and vote for this amendment.

Mr. HUTCHINSON. Mr. Chairman, what is the time balance for each side?

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) has 1½ minutes remaining and the gentleman from Pennsylvania (Mr. McDADE) has 2 minutes remaining and the right to close as a member of the committee.

Mr. HUTCHINSON. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman from Arkansas is recognized for 1½ minutes.

Mr. HUTCHINSON. Mr. Chairman, I have a short amount of time but let me just say that I do believe this is a law enforcement issue. You look at the groups that are concerned about this, that support the Hutchinson-Bryant-Barr amendment: The National Sheriffs Association have endorsed this; the Fraternal Order of Police; the FBI Agents Association. None of these are attorneys.

These are not attorneys. These are people who work with prosecutors who know what is needed in the war against drugs. The Federal Criminal Investigators Association, the National District Attorneys Association, who are state prosecutors, the DEA Administrator Tom Constantine, the Office of Drug Control Policy Director Barry McCaffrey, each one of these have written letters supporting this amendment that we are asking the Members to vote on because it is a law enforcement issue, and even though we have a great deal of sympathy and compassion for bad cases, bad cases can give us a bad precedent here.

We have to be careful not to adopt bad policy because we are sorry for what has happened in the past. We have to adopt good policy, and the amendment that is being offered here my colleagues need to vote for because it will preserve a balance in our system.

Six former attorneys general of the United States, both Democrat and Republican, have come out in opposition to the underlying bill that we are trying to strike. They have done that because this would jeopardize our fight in the war against drugs. When you are talking about a battle of saving our streets, we cannot take weapons away, we cannot give weapons to the defense

attorneys that are subject to the abuse in the middle of a prosecution, but we have to help law enforcement.

□ 1830

A misconduct review board appoints 3 people who are going to be reviewing what decisions a prosecutor makes in the heat of a court room whether it is reasonable or not.

I ask my colleagues to support the Hutchinson-Barr-Bryant amendment.

Mr. McDADE. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Chairman, I do not have much time, but I just want to say I spent 7½ years as a criminal court judge in Tennessee prior to coming to Congress, trying primarily felony criminal cases, and I rise in strong opposition to the Hutchinson amendment and in strong support of the gentleman from Pennsylvania (Mr. McDADE).

Our Government has become far too big and far too powerful, and too many individual citizens are being run roughshod by prosecutors that are totally out of control. We need to defeat this amendment.

Mr. Chairman, I think I am the only Member of this Congress who has ever sentenced anyone to the electric chair.

I believe in being very tough on crime, and I especially have been a strong supporter of local law enforcement—the people on the front lines who are fighting the real crime, the violent crime that everyone is so concerned about.

But I remember in late 1993 reading an article in Forbes magazine, one of the most conservative magazines in the Nation.

This article said that we had quadrupled the Justice Department just since 1980 and that Federal prosecutors were falling all over themselves trying to find cases to prosecute.

We have had far too many cases where overzealous prosecutors have presented high profile defendants just so that prosecutor could make a name for himself. I remember the totally unjustified case against President Reagan's Secretary of Labor, Ray Donovan, in which, after he was acquitted, made the famous statement, "Where do I go to get my reputation back?"

Our Federal Government has become far too big—it is far too powerful. We all have heard how, particularly the IRS is running roughshod over individual citizens.

Newsweek magazine recently had on its cover—the IRS Lawless, Abusive; Out of Control.

Unfortunately while there are good federal prosecutors, there are far too many who are, like the IRS, lawless, abusive, and out-of-control.

Almost no one, except extremely wealthy people, can take on the Federal Government.

To require Federal prosecutors to have to follow the same ethical rules as other lawyers is a very minimal step in the right direction and toward helping to preserve at least a semblance of freedom in this Nation.

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

Mr. Chairman, I rise of course in unequivocal opposition to the amendment of the gentleman from Arkansas (Mr. HUTCHINSON).

Sometimes in this House we forget the watersheds that come our way and the moments of history that arrive here sometimes not of our own making. That is the kind of a night we face tonight because the question we are about to vote on involves the liberty of every citizen of this country.

The bill is simple. Title I simply says be ethical. Who supports it? All the chief justices of all the 50 states, the American Bar Association, every legal organization besides that who has taken a position of course supports the proposition, abide by the ethics rules.

Title II. My Lord, my colleagues, what clarity. Listen to all it says. It is not hostile to a prosecutor or to the effort to prosecution. It simply says, and listen to this, if my colleagues consider this hostile, tell me, do not lie to the court. Oh, that is hostile to prosecution. Do not intimidate a witness or attempt to color their testimony. Hostile to the court. Hostile to the prosecutors. Do not leak information. Do not withhold exculpatory evidence on the person you are trying that may exonerate him or her. Hostile. Do not bring an indictment against a citizen of this country unless you have probable cause to prove that they have committed a crime.

Those are the guidelines we set down for every citizen in this Nation. I hope we will all vote against the Hutchinson amendment.

Mr. BRADY of Pennsylvania. Mr. Chairman, I rise in support of the McDade/Murtha amendment to the Commerce-State-Justice appropriations bill, a provision also known as the Citizens Protection Act.

Mr. Chairman, very alarming information concerning alleged abuses and misconduct on the part of career prosecutors employed by the U.S. Department of Justice, has been brought to my attention by State Representative Harold James, who is Chairman of the Pennsylvania Legislative Black Caucus, and Representative Leanna Washington, Secretary of the Pennsylvania Legislative Black Caucus.

Both Representative James and Representative Washington requested my support for the Citizens Protection Act, which I have subsequently co-sponsored.

They informed me of the results of independent hearings, endorsed by the National Black Caucus of State Legislators, which raised grave questions about misconduct by prosecutors. The Caucus, the Nation's largest organization of African-American elected officials, in 1995 called for Congressional Hearings To Investigate Misconduct by the U.S. Department of Justice.

Mr. Chairman, the McDade/Murtha amendment addresses every area of concern expressed by my constituents. I urge its adoption.

Mr. DELAHUNT. Mr. Chairman, I rise in opposition to the amendment by the gentleman from Arkansas (Mr. HUTCHINSON).

The amendment seeks to strike title VIII of the bill, which consists of the legislation known as the Citizens Protection Act, authorized by my colleagues form Pennsylvania, Mr. McDADE and Mr. MURTHA.

Let me say at the outset that I have reservations about a number of aspects of this legislation. I am also uncomfortable with the process by which it has come before the House. Matters of this complexity and importance ought to be addressed through the normal process of committee deliberation, so that the legislation can be fully examined and perfected before being brought to the floor.

Among the aspects of this legislation which I find problematic are the provisions establishing an independent "misconduct review board"—an entity which I believe could unnecessarily complicate and politicize the law enforcement mission.

Nevertheless, I support the ethical standards which comprise the core of this legislation, and I cannot support an amendment to strip it from the bill. Mr. Hutchinson's amendment does not seek to remedy any particular shortcomings of the measure; instead, it seeks to delete it entirely. Given this "all-or-nothing" proposition, I would prefer to allow the legislation to go to conference, where those of us who have concerns would have an opportunity to have them addressed.

I oppose the Hutchinson amendment and support the underlying legislation for one simple reason: as a former district attorney, I understand the truly awesome power that has become concentrated in the hands of the prosecutor. When abused, that power can and does destroy innocent lives and reputations. And the system provides few checks and balances to prevent such abuse.

When I was a district attorney, I hired many brilliant, ambitious young lawyers. I gave them a single admonition: "understand the power of your office, and do not abuse it. Understand that being a prosecutor is not about winning and losing. It is about seeing that justice is done."

Most of the prosecutors I have known in the course of my career have wielded their authority with integrity and restraint. But those who fail to do so can be as dangerous to the health of our society as the criminals they pursue.

Given this danger, it is necessary and appropriate that prosecutors be held to the standards of professional conduct to which other attorneys are subject. I do not accept the assertion of the Department of Justice that their attorneys should be immune from these ethical rules whenever they find them unduly confining. That is what ethical rules are for. And—whatever its other flaws—the Citizens Protection Act would ensure that prosecutors follow the rules.

For these reasons, Mr. Chairman, I support the legislation and urge defeat of the amendment.

Mr. MEEHAN. Mr. Chairman, I rise in strong support of the gentleman from Arkansas's amendment.

When we get a letter from the Attorney General of the United States, stating that certain legislative language would "chill law enforcement and impede the ability of the [Justice] Department to enforce the laws that Congress has mandated it enforce," you would think that it would give us pause.

When we get a letter from the National District Attorneys Association, calling certain legislative language "extremely counterproductive," you would think that we would at least want to take the time to analyze the implications of that language carefully before proceeding.

And when we get a letter from the National Association of Assistant United States Attorneys, characterizing certain legislative language as "ill-conceived and unnecessary," you would think that we would want the committee with oversight jurisdiction to hold hearings on that language and then debate amendments during mark-up, before we passed on it.

But here we are, set to pass a Commerce-Justice-State Appropriations bill containing far-reaching language scorned by much of the law enforcement community, and the House Judiciary Committee hasn't held a hearing or mark-up on it during this Congress!

That is simply not the way to deal with the complex and controversial subject of prosecutorial ethics.

If we're hearing in letters and phone calls from prosecutors that the language struck by the Hutchinson amendment would result in the disruption of multi-jurisdictional drug and gang cases and the disclosure of confidential information about ongoing investigations, then I think that the Judiciary Committee should be hearing from them in actual hearings during this Congress before we proceed.

We owe at least that courtesy to the people whom we charge with putting away gang lords, drug dealers, and white-collar scam artists.

Perhaps no one here has clean hands with respect to legislating in appropriations bills. But the language in this bill regarding prosecutorial ethics clearly crosses the line between the procedurally acceptable and unacceptable.

I urge my colleagues to support the Hutchinson amendment.

Ms. HARMAN. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Arkansas (Mr. HUTCHINSON) to strike the text of H.R. 3396 from the Commerce-Justice-State Appropriations bill.

I do not doubt the proponents' intent to ensure that federal prosecutors are held to the highest standards of professional conduct. Indeed, as an attorney myself and member of several bars, I fully appreciate the importance of "bright line" rules governing ethical behavior, as well as the difficulty in applying them to the complex realities of practicing law.

But the bill presumes that federal prosecutors are not subject to stringent rules of conduct. In fact, they are. They are subject to disciplinary investigations and actions brought by the Office of Professional Responsibility, the Department's Inspector General and the Office of Public Integrity. In addition, it is the Department's policy that its attorneys comply with the ethical requirements of the state in which they are licensed and where they practice, unless those requirements are in conflict with federal duties and responsibilities. But, most importantly, in appropriate cases, the matter is referred to the state bar disciplinary authorities for further action.

If there is a problem with prosecutorial misconduct, it should certainly be addressed. But is it better to address it by requiring federal prosecutors adhere to a single, high standard of conduct, or to 50 different sets of ethics rules? Indeed, some of the state rules may be contrary to the obligations and responsibilities we may require of federal prosecutors. And, as importantly, a federal system requires an even-handed application of justice—an application that, in my mind, is more difficult if appropriate investigative techniques and prosecutorial actions are called into question under one state's set of rules but permitted by another.

More troubling, however, is the fact that the provisions have serious, and perhaps unintended, consequences which could cripple federal enforcement of our laws. In particular, the bill would permit defendants and their lawyers to disrupt ongoing investigations of illegal activity by raising claims of misconduct which, under the bill, would require immediate investigation by the Attorney General. Nora M. Manella, the U.S. Attorney for the Central District of California, which includes my district, wrote me to say that such allegations threatened the disclosure of sensitive and confidential information and could jeopardize the safety of witnesses and the integrity of investigations. The bill's "misconduct review board" would be given authority to inject itself into ongoing criminal investigations, demanding confidential and privileged material, and interfering with a cabinet officer's management of the internal affairs of a department.

As a result, Manella writes, "in all but the simplest of cases, prosecutors will face the risk of triggering at least some of the bill's provisions. Far from protecting the public from misguided Department employees, the proposed bill would inhibit vigorous investigation and prosecution of criminals, thus crippling the ability of federal prosecutors to enforce the very laws Congress has enacted.

"Enacting a bill which virtually invites frivolous complaints designed to obstruct and impede legitimate law enforcement investigations will do nothing to ensure professional conduct of Department employees, but will, instead, discourage lawyers from carrying out their lawful duties."

The bill's provision may also lead to an exodus of experienced and qualified federal attorneys. According to Manella, senior managers in her office have expressed the view that they would be reluctant to continue their federal service if the provision was enacted. If this were to happen, our federal criminal justice system would be weakened, perhaps permanently, and the vigorous enforcement of our laws both Congress and the people expect will be reduced.

Mr. Chairman, we have to remember that our legal system is dependent on both the law enforcement officers who make arrests, and the federal prosecutors who try the cases. Let's not hamstring our fight against crime by imposing an unnecessary set of rules on prosecutors or unintentionally giving criminals a tool with which to stall investigations.

This provision and its full implications have not been fully examined and, in my view, it behooves this chamber to approve the amendment to strike it until that examination has taken place.

I urge my colleagues to support the Hutchinson amendment, and insert the full text of U.S. Attorney Manella's letter in the RECORD at this point.

U.S. DEPARTMENT OF JUSTICE,
NORA M. MANELLA,
U.S. Attorney, Central District of California.

Hon. JANE L. HARMAN,
U.S. House of Representatives,
Washington, DC, July 24, 1998.

Re: H.R. 3396: Citizens Protection Act of 1998

DEAR CONGRESSWOMAN HARMAN: As United States Attorney for the largest district in the country, encompassing 40,000 square miles with a population of 16 million, I write to urge your opposition to H.R. 3396, the "Citizens Protection Act of 1998." I understand H.R. 3396 has been attached to the Commerce, State, Justice Appropriations bill, with a proviso that it be voted upon separately. As you may know, H.R. 3396 is strongly opposed by the Department of Justice and by the 94 United States Attorneys nationwide whose responsibility it is to enforce federal law. It is also opposed by the National District Attorneys Association, which has written separately to voice its objections. A copy of that letter is enclosed.

There is no dispute that employees of the Department of Justice should be held to the highest standards of professional conduct. Indeed, the Office of Professional Responsibility and the Inspector General's Office already have broad authority to investigate allegations of professional misconduct and to take appropriate action. In addition, the Department's Public Integrity Section can and does investigate potentially criminal conduct. Thus, there is no need for additional legislation.

More troubling, however, are the unintended consequences of H.R. 3396. It would, *inter alia*, subject Department of Justice attorneys to multiple and conflicting rules of 50 different state bar associations. (Had the Oklahoma City bombing team been subject to the provisions of this bill, the results could have been a virtual nightmare.) In addition, the bill would permit defendants and their lawyers to disrupt ongoing investigations of illegal activity by raising claims of misconduct which, under the bill, would require immediate investigation by the Attorney General, threatening the disclosure of sensitive and confidential information that could jeopardize the safety of witnesses and the integrity of investigations.

Finally, the proposed bill would subject Department attorneys and employees to sanctions—including loss of pension—without the procedural safeguards for disciplining other federal employees. A "Misconduct Review Board" would be given authority to inject itself into ongoing criminal investigations, demanding confidential and classified material, and interfering with a cabinet officer's management of the internal affairs of a department. In all but the simplest of cases, prosecutors will face the risk of triggering at least some of the bill's provisions. Far from protecting the public from misguided Department employees, the proposed bill would inhibit vigorous investigation and prosecution of criminals, thus crippling the ability of federal prosecutors to enforce the very laws Congress has enacted.

On a practical level, I can say this proposed bill has created greater concern in my office than any piece of legislation I can recall throughout my more than a dozen years as a federal prosecutor. Senior managers in my office—outstanding and experienced prosecutors and civil litigators—have expressed the view that they would be reluctant to continue their federal service were this bill enacted. Similarly, District Attorneys have indicated they would be leery of

cross-designating local prosecutors to assist in federal prosecutions, were they subject to the bill's provisions. Should this bill pass, there is a very real prospect of a significant loss of experienced lawyers from this office, leaving the public with talented but less experienced lawyers, willing to run the risk of operating under this bill (when their pension benefits are few), and determined to leave after fulfilling their minimum commitment. I cannot believe this what the bill's sponsors intended.

As noted above, Department of Justice employees are already subject to multiple disciplinary mechanisms to ensure their adherence to the highest standards of professional conduct. Enacting a bill which virtually invites frivolous complaints designed to obstruct and impede legitimate law enforcement investigations will do nothing to ensure professional conduct of Department employees, but will, instead, discourage lawyers from carrying out their lawful duties. In the end, the unfortunate and unintended result will be a reduction in appropriately vigorous enforcement of Congress' laws, and the weakening of our federal criminal justice system.

Please feel free to call me, should you have any questions concerning the above.

Sincerely,

NORA M. MANELLA,
United States Attorney.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON) will be postponed.

PARLIAMENTARY INQUIRY

Mr. McDADE. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. McDADE. Mr. Chairman, I simply request that we reconsider the rolling of the vote and vote on this amendment right now instead of postponing it. The Members are here.

The CHAIRMAN. Under the rule the Chair has the discretion on this and the Chair has exercised that prerogative, and the vote will be postponed.

Are there further amendments to this section?

PARLIAMENTARY INQUIRY

Mr. KOLBE. Mr. Chairman, parliamentary inquiry.

May I inquire as to where we are in terms of amendments?

The CHAIRMAN. Title VIII has been considered read pursuant to the earlier unanimous consent request.

Mr. KOLBE. Mr. Chairman, are you then asking if there are further amendments to title VIII?

The CHAIRMAN. Are there further amendments to title VIII?

Title VIII has been considered read.

Are there amendments to this part of the bill?

Mr. KOLBE. Mr. Chairman, my inquiry was has the Chair asked for further amendments to title VIII? Is it now appropriate for me to ask for other amendments?

The CHAIRMAN. If the inquiry is, is it appropriate for the gentleman from Arizona (Mr. KOLBE) to offer amendments following title VIII, the answer to that is yes.

AMENDMENT NO. 19 OFFERED BY MR. KOLBE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. KOLBE:

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE —ADDITIONAL GENERAL PROVISIONS

SEC. . None of the funds made available in this or any other Act may be used to implement, administer, or enforce Executive Order 13083 (titled "Federalism" and dated May 14, 1998).

Mr. KOLBE. Mr. Chairman, quoting from the Constitution of the United States: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

That is the 10th Amendment to the Constitution of the United States.

My amendment today goes to the very heart of that and would say that the executive order issued 2 months ago by the President, Executive Order No. 13083, could significantly expand the role and power of the Federal Government.

Mr. Chairman, a couple of examples of what this executive order would do: It justifies the creation of a national standards "when there is a need" as determined by the Federal Government.

Second, it would eliminate language in President Reagan's federalism executive order regarding preemption of state law by the Federal Government.

Third, it puts the Federal Government in the position of determining when States have not adequately protected individual rights.

Even though the President has talked about suspending this executive order and may have done so today, I have not had it confirmed that the order suspending it was signed. I believe that Congress needs to speak very effectively to this issue, as the mayors and the governors, and county officials have done. We must say that we should kill this executive order to make sure that it does not raise its head again.

Even the President's chief of staff colorfully described the administration as having messed up by not consulting with governors, mayors, and other state and local government leaders before they issued this executive order.

I applaud the efforts of the gentleman from Indiana (Mr. MCINTOSH), who has already begun to hold some hearings on this matter, and I know that the Committee on the Judiciary is going to examine what the effects of this executive order, if it is reinstituted, would be.

Hopefully, the administration will consult with them in addition to the state and local officials that were left out of the process. But by suspending Executive Order 13083, the administration has already demonstrated that it was premature and ill-advised. And I say it is time to put this House on the record as saying we agree and we do not expect you to implement that executive order, Mr. President. We should act now because we do not know when he might act to put it back in place and we would not have an opportunity then to offer that.

That brings me to another reason for offering this amendment at this time. There is an amendment which will follow this offered by the gentleman from Colorado (Mr. HEFLEY) that would prohibit funding both for this executive order and the executive order that codifies administration policy, does not change Federal law or create any affirmative action program, but would codify the current Federal practices with respect to discrimination based on sexual orientation.

Unfortunately, because this amendment is protected by the rule, it cannot be divided. There is no way to get a vote separately on these two totally different issues that are out there. I think most Members in this House want to have a clean vote on these two issues separately.

Now, let me just take a moment of my time, since only 20 minutes is permitted under the rule to debate the Hefley amendment, to say why I think that we should vote aye on this, on federalism, and no on the one dealing with sexual orientation.

By passing the Kolbe amendment, it would make it clear in the next debate when we get to the Hefley debate that there is one subject and one subject only that is under discussion; and that is this simple question: Should discrimination be permitted in the Federal workplace based on sexual orientation. And that should be and will be the only question that is involved.

The debate on that amendment is not going to be about affirmative action. It is not going to be about quotas. It should not be about giving the right to sue. It is not about giving the access of any individual to the EEOC or the Civil Rights Commission, because the executive order and the law does none of those things. Individuals have no such right, no such access under current law.

So when my colleagues vote on Hefley, they have to ask themselves

the very simple question: Do they believe that Federal employment supervisors and managers, those who have the responsibility for hiring and firing and promoting individuals, should be able to hire, to not hire, or to fire, or to fail to promote solely on the basis of sexual orientation?

Members need to ask themselves would they fire someone in their office solely because they learned that that individual was a homosexual, or conversely, that they were heterosexual?

Now, many in this body, in fact well over half of this body, have signed their own pledge of nondiscrimination within their offices. So I would ask this question of all of those who have signed that pledge: Do they believe that if a manager in a Federal executive agency in the branch of the Federal Government should be held to a lesser standard than they are willing to hold themselves to? Think about it.

An aye vote on Hefley after we have disposed of this amendment, the Kolbe amendment, which would say no money shall be spent to implement the Federal executive order on federalism, that after we have voted to dispose of that, a vote on Hefley would be simply putting this body, the House, on record as saying that discrimination on sexual orientation solely because of an individual's sexual orientation is okay.

Do we want that? Do my colleagues want that? I do not think so. I urge Members to vote aye on Kolbe and no on Hefley.

Mr. LEACH. Mr. Chairman, I rise in support of the Kolbe amendment and in opposition to the Hefley amendment to follow.

Mr. Chairman, I would like to speak principally to the reasons behind the amendment being offered today by the gentleman from Arizona (Mr. KOLBE).

□ 1845

The history of America is the story of individual rights. It begins with a country founded on principles which had never been manifest in any society and which were not comprehensively instituted at the founding of the Republic. It has taken two centuries of struggle which have included a Civil War, a suffrage and civil rights movement to ensure the rights of minorities and women. In the context of our history, it is common sense and common decency that no one today be allowed to be prejudiced against simply because of their sexual orientation.

The executive order which will shortly be under review has nothing to do with the creation of special privileges, special preferences, quotas or affirmative action in any form, nor does it endorse any so-called life-style.

What it does is ensure equality and fairness to a group of individuals by bringing uniformity to already existing Federal nondiscrimination policies. Equal protection under the law is not a privilege to be enjoyed by some; it is a basic right to which every American is entitled.

If anyone in this favored land is discriminated against, civil society is weakened and we are all diminished. Bigotry has no place in America and should have no sanction of even the most covert sort.

Here let me be clear. If nondiscrimination precepts cannot be sanctioned for men and women who are gay and lesbian, does this not implicitly legitimize discrimination? And if lawmakers assert that equal protection under the law should not be available to one group of Americans, could this not result in actions that none of us could conceivably endorse, the possibility that some Americans could be shunned and perhaps, metaphorically, stoned?

Executive orders of this nature and civil rights laws in general cannot by presidential signature or majority vote change people's attitudes, but they can help protect individual rights and remove impediments to the exercise of individual aptitudes.

Political leadership involves more than the crafting and execution of laws. An essential role of leadership is to do everything possible to bring people together rather than accentuate differences which have the effect of rupturing society. That is why it is so important for elected officials to appeal to what Abraham Lincoln called "the better angels of our nature."

Political debate should thus be measured as to whether it is directed to the best or the least in all of us.

In this context, Mr. Chairman, I am concerned that the party to which I belong which sprang out of an individual rights tradition, preeminently a crusade to end slavery, may be in the process of rejecting part of its own heritage. In the American creed, individual rights are not selective. They do not apply to some people and not others. Equal opportunity and protection under the law cannot be denied any law-abiding American no matter how controversial his or her life-style may be.

Accordingly, I urge intraparty reconsideration of legislative initiatives of the nature of that which will follow this one, a "yes" vote on the Kolbe amendment and a "no" on the Hefley amendment.

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

Mr. Chairman, the 10th amendment that our colleague from Arizona quoted concluded that the rights not given to the Federal Government or to the States are reserved to the people—the people.

To me, one of the most important of those rights is the right of privacy, the right of individual privacy, that unless the government has a reason, a very strong reason to find out matters of one's personal life, the government has no business inquiring into those matters, and certainly no business denying somebody a position in government because of what an individual might characterize as his or her own private life.

Mr. Chairman, Federal law already prohibits discriminating in Federal employment on any basis other than the conduct of one's actual performance on the job. This is in title V of the United States Code, section 2302, paragraph 10. Federal law prohibits discrimination "on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others."

Accordingly, the executive order by President Clinton which added sexual orientation to the list of prohibited considerations for advancing or inhibiting a person's individual employment prospects in Federal Government is a simple application of what is already Federal law, namely, conduct that does not adversely affect the performance of the employee or applicant or the performance of others cannot be used as the basis of discrimination.

Case law under this existing statutory provision also supports this point of view, both from the Fifth Circuit and from the Merit System Protection Board, that conduct outside of the workplace may not be the basis of discrimination as to an employee in the Federal service. And so existing law creates a very solid basis for what President Clinton did in his executive order. But so also does personal freedom and individual liberty, the provisions of the 10th amendment to which my colleague from Arizona's motion speaks.

The executive order is alleged to lead to quotas or some form of affirmative action and the use of numbers. Here I must make a substantial point of disagreement. First of all, the origin of affirmative action under title VII in discrimination law was as follows: People observed a workplace and in observing that workplace said, "Well, we don't see that many African-Americans, or we don't see that many women. From that we derive an inference perhaps that there might be something wrong with your hiring program, wrong with your employment methods." But orientation is not observable. It is really quite a stretch to make the argument that this prohibition on discrimination will lead to affirmative action quotas, set-asides, or numerical goals for the very reason that one cannot look at the workforce and say an employer does not have the right number of a particular group when the issue in question is orientation.

Secondly, the words of the executive order are that "an affirmative program of equal employment opportunity for all civilian employees and applicants for employment" must be followed. I

emphasize just that phrase. The executive order speaks of an affirmative program. It does not use that catch word "affirmative action." The origin of the catch word "affirmative action" was a 1961 executive order by President Kennedy. In 1965 it was applied to equal housing. And in 1969 it was applied to Federal employment with regard to gender and with regard to discrimination on the basis of religion.

In the order in 1965, there was a careful distinction, in my judgment, in using the word "program," as separate from the phrase "affirmative action," which was well known at that time. But even if that phrase were not different (and it is and that is an important point), I strongly believe that no one should take a statute which says "you shall not discriminate" and use it as the basis of discriminating. It is for that reason that I have always opposed the use of race by government. It is for that reason that I supported Proposition 209 in my State of California. It is wrong, morally wrong, for the government to look at somebody's skin color, to look at somebody's gender and to say, "That is a basis for you getting a job or you getting into a university."

And so tonight, Mr. Chairman, I will not surrender the argument to the other side. I will not say that because this executive order bans discrimination, it therefore must lead to quotas. We are right in saying that antidiscrimination is not the same thing as an obligation to use numbers. We are right in the Fifth Circuit, we are right in the Ninth Circuit and in my judgment we will very soon be justified by the Supreme Court. To every fellow conservative on this issue, I urge you, do not give in to the argument that antidiscrimination means affirmative action.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California.

Mr. CAMPBELL. I will only use 30 seconds, and I most appreciate my colleague for yielding.

We need to therefore observe the distinction in the language that affirmative action is not in this executive order, that it is absurd to consider that this executive order will lead to affirmative action because one would have to observe the characteristic. And nobody, nobody, including the worst critics of this President, are saying that he is ordering the ascertainment of whether one is gay or straight in the Federal employment sector.

Lastly and most importantly, although my good friend from Massachusetts and I may part company on this, I appreciate his kindness in yielding to me to make this point once again to those of us who believe there should never be the use of race or gender to distinguish among American citizens by their government, that if you buy the argument that this executive order leads to the use of orientation by the government and leads to quotas, you are giving up the argument on every other aspect that we are fighting so hard to establish in title VII law.

Mr. FRANK of Massachusetts. I thank the gentleman. I did take my time now because I wanted the gentleman to complete this very important statement. And he is right. Some of us do differ on the role of affirmative action with regard to race and gender. But I know of no advocate of affirmative action with regard to sexual orientation nor, by the way, with religion and age, and I cite that because this particular executive order, which is going to be the subject of a later amendment, deals not just with race and gender but with religion and age and it has never given rise to affirmative action. The notion that because a category is in this executive order it will lead to affirmative action is belied by the fact that over many, many years no one has ever seen an affirmative action, an affirmative outreach, an affirmative anything program with regard to many of the categories covered. The President has specifically disavowed any intention of affirmative action with regard to sexual orientation, and as one of the drafters of the Employment Nondiscrimination Act dealing with sexual orientation, I would alert Members to read that. It again specifically disavows affirmative action. We are not arguing for affirmative action in that context.

I think the gentleman from California, and I would be glad to yield him again, has made a very important point. Those of us who have a disagreement about affirmative action have it with regard to race and with gender, but no one is an advocate of it being used here. And in no case, let me just close with this, in no case have State laws on this subject given rise to affirmative action based on sexual orientation. That is a nonissue.

I yield to the gentleman from California.

Mr. CAMPBELL. I thank the gentleman for yielding one more time. First of all I think his point is very insightful. No one has ever had an affirmative action quota, minimum hire for religion or on the basis of age. But the phrase in this executive order is "affirmative program" I quoted, "an affirmative program of equal employment opportunity for all civilian employees and applicants for employment."

I note that the phrase "an affirmative program" was used in the 1965 executive order to deal with the obligations of government, namely, that the government must adopt a program to root out discrimination. The phrase affirmative action was used as to the contractor, and that, to my judgment erroneously but nevertheless by some, is argued to lead to the hiring or the promoting according to numbers. But the word "program" is a key phrase here. It means the government must root out discrimination, and then affirmative action was used to refer, at least by some, to the additional obligations on which people of good will have differed.

Mr. FRANK of Massachusetts. I thank the gentleman. I again want to stress that. Because from any angle you look at it, the affirmative action issue is not part of this. The President is not seeking it. This executive order does not trigger it automatically. Advocates of nondiscrimination in the sexual orientation context oppose affirmative action, and most tellingly, as the gentleman from California has said, it is indeed precisely those who are most critical of affirmative action who insist that you can have a nondiscrimination policy without affirmative action. That is what this is.

Those who argue that articulating a nondiscrimination policy automatically engender affirmative action are undercutting the anti-affirmative action argument because they are then saying, and I never know what the converse or the reverse or the adverse is, but the opposite. They are then saying that if you have one, you have to have the other. Those who want to kill affirmative action are bound to argue that you may have nondiscrimination without affirmative action.

The other thing is, I do want to thank the gentleman from Arizona for bringing up this so we can once again vote on the federalism order. The gentleman from Florida did it first. So we have already had a unanimous House vote to kill the executive order on federalism, then the President suspended it, then he withdrew it, now we are going to vote against it again. We are killing a dead man that committed suicide before he was born. This executive order on federalism if it was a cat it would be dead, because it is going to be killed about nine times.

PARLIAMENTARY INQUIRY

Mr. HEFLEY. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. HEFLEY. Mr. Chairman, as I understand clause 1 of rule XIV of the rules of the House, we are supposed to debate the subject of the amendment that is before us. It seems to me most of these gentlemen are debating the next amendment and not this amendment. I would like to ask the Chair if that is correct and if we should refrain from that.

The CHAIRMAN. Members must confine their remarks to the pending amendment that is before the Committee.

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

words. I rise in support of the pending amendment by the gentleman from Arizona (Mr. KOLBE).

Mr. Chairman, so everybody knows and the record is clear, if I refer to executive order, I am referring to the President's federalism executive order, 13083.

Frankly I was outraged when President Clinton issued that executive order revoking President Reagan's historic executive order on federalism issued in 1987. President Reagan's executive order provided many protections for and reflected great deference to State and local governments.

By stark contrast, President Clinton's new executive order, issued without prior consultation with State and local governments, betrays and repudiates an 11-year tradition of trust and mutual consultation between the States and the executive branch. In its place, the order laid out the groundwork for an unprecedented Federal power grab in virtually every area of policy previously reserved to the States under the 10th amendment.

On June 8, I wrote to President Clinton that "I could not understand how you, as a former governor, could willingly abandon the protections accorded the States since 1987 from unwarranted federal regulatory burdens."

□ 1900

Then on June 10 my subcommittee called the National Governors' Association to ascertain their view of this new executive order. Shockingly, their Executive Director was totally unaware that this order had been issued. They learned about it first from Members of Congress, not the White House. Apparently the Clinton-Gore White House has neither consulted with any of the principal State and local government interest groups prior to issuing this order, nor notified them about it after it had been issued.

Now on July 17 the leadership of the Big 7 requested that the President revoke this executive order. As the gentleman from Massachusetts (Mr. FRANK) has pointed out, he has done that today. What I think is important is that we make it very clear that the trust that had been built up is no longer there, that this President, quite frankly, does not have that credibility with the State and local officials because of that stealthy action to revoke that provision.

Now I think it is the height of irony, frankly, that the President while out of the country issued an order that reversed that 11-year commitment with no advanced notice, no opportunity to comment, no voice for the States in the decision that will drastically upset the constitutional balance of power between the States and the Executive Branch.

On July 28 I chaired a hearing to examine first the potential impacts of the new executive order, and second, the need for possible legislation to address the concerns of the State and local government. This hearing allowed the States and elected officials to voice their concern and former and current administration officials to express their rationales for the federalism executive orders. Quite frankly, the State and local officials were, let us say, at least as perturbed with Congress as they were with the Executive Branch for our failure to be consistent in respecting federalism.

Now on July 30 I again wrote the President as a result of that hearing and Mr. DeSeve, saying that they wanted to start over from ground zero based on the Reagan executive order, asking him to definitively withdraw that, and I understand through news reports that today he has done so and suspended Executive Order 13083.

But I think the Kolbe amendment is absolutely necessary to make it clear that the agencies cannot spend any funds pursuant to that executive order or any executive order that does not fully defer to the States. So I want to commend the gentleman for offering this amendment.

Mr. Chairman, I yield the remainder of my time to the gentleman from Virginia (Mr. BLILEY), chairman of the Committee on Commerce.

Mr. BLILEY. Mr. Chairman, I wanted to make it clear that I oppose affirmative action. I think it divides us rather than brings us together. I would oppose any effort to add sexual orientation as a protected class under the Federal affirmative action program.

That being said, I unequivocally oppose discrimination. When I hire someone in my office, I do not ask the prospective employee their sexual orientation.

PARLIAMENTARY INQUIRY

Mr. HEFLEY. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HEFLEY. Mr. Chairman, I believe the gentleman is debating the next amendment, not this amendment. My parliamentary inquiry is, Mr. Chairman, that I believe the gentleman is debating the next amendment, not the federalism amendment. We have federalism in the next amendment, but he is debating a part of the amendment that will follow this one.

The CHAIRMAN. The Chair asks Members to confine their remarks to the amendment at hand.

Mr. BLILEY. Mr. Chairman, I am sorry the gentleman rose to that, but it does not alter my feelings whatsoever. I think his amendment is a mistake, and I would hope that all Members would oppose it.

Mr. Chairman, this is ill considered. It is a wrong amendment.

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

I would like to thank the gentleman from Arizona (Mr. KOLBE) for bringing up this amendment. I may not agree with all the arguments that have been put forward thus far, but we are talking about in the next amendment, and I am not going to be going to the actual substance of that amendment but rather the procedure under which that amendment is going to be debated; we are going to be talking about two extraordinarily complex issues: federalism, which is the issue that probably more than any other issue got me here back in 1994, and outside my door I have a copy of the 10th Amendment written. We could talk for hours and hours about a billion different issues relating to the Clinton executive order, to the 10th Amendment, to the constitutional ramifications of that executive order, and we can spend as many hours talking about an issue that will continue to follow everybody in this Chamber for as long as we live, and that is the rights of homosexuals in American civilization. Those two debates are as contentious as any debates that we could bring up, and for a rule to be drafted that would require us to speak on the rights of homosexuals in the Federal workplace as well as federalism in 20 minutes is absolutely not shocking, but it is a joke.

The gentleman from Massachusetts (Mr. FRANK) said earlier, was talking about how many times this has been killed, and he talked about Rasputin, said he did not think that Rasputin had been shot and killed as many times as this executive order. I concur, but I would like to kick it one more time just for the heck of it. It was put to death earlier today.

The gentleman from Indiana (Mr. MCINTOSH) had some hearings on the issue, we had some fascinating testimony on it, and most of the people agreed that reversing Ronald Reagan's Executive Order in 1987, and again the President's Executive Order in 1993, was dangerous. The Reagan Executive Order stated that the constitutional relationship among sovereign States, State and national, is formalized and protected by the 10th Amendment to the Constitution. But this is what some of the State and local officials said about the President's Executive Order:

Mike Leavitt, the Executive Committee Chairman of the National Governors' Association, said, "Executive Order 13083 repudiates the masterful wisdom of our founders and is now inconsistent with the United States Constitution. The Governors seek your assistance to halt that course."

The North Carolina State Representative, Daniel Blue, the President of the National Conference of State Legislatures, said Executive Order 13083 must be revoked.

Democratic Mayor Edward Rendell from Philadelphia, the Chairman of the

U.S. Conference of Mayors, said it is essential that federalism policy reflect a proper balance of authority be developed in cooperation with and supported by the State and local governments.

The President of the National League of Cities concurred and said we join in by requesting the rescinding of the new executive order on federalism, and jointly the Conference wrote a letter to the President, and said:

"We believe it is especially critical for you to consider and act upon now our request to withdraw the order as quickly as possible."

That came out in our hearing in the McIntosh subcommittee and I thank the President today from the House floor for rescinding that order. I think it was an important thing to do, and I hope over the next 90 days, as he talks to State and local officials, that he will pay special attention to their concerns and their needs and recognize the need for reinstating the Reagan Executive Order in 1987 and also reinstating his order in 1993.

Mr. Chairman, I thank the gentleman from Arizona (Mr. KOLBE) for bringing this very important amendment to the floor.

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

We have not seen the stroke of the pen yet that Paul Begala spoke about, Mr. Chairman. Recently Clinton political adviser, Mr. Paul Begala, was quoted as saying, and I quote these immortal words:

Stroke of the pen, law of the land, kind of cool, close quote.

Yes, that is really cool.

Mr. Chairman, we have heard a lot of talk over the last few days, including right here on the floor, that champagne bottles are being cracked open because the President has stroked that pen one more time and made a new law of the land. I am going to reserve judgment, Mr. Chairman. I "ain't" breaking my bottle of champagne open yet, not with the track record of this administration.

The only way that an executive order can be rescinded or altered or mended in any way, including its operative date, which in the case of Executive Order 13083 is August 12 of this year, is by another executive order or by legislation. Now until we see that dried ink on the new executive order which rescinds Executive Order 13083, Executive Order 13083 remains operative.

So I think that this amendment offered by the gentleman from Arizona this evening is very much relevant, very much on point, very much apropos and ought to go forward. It sends not only an important message, as several of the speakers have already said, to let the White House know that at least here in the halls of this Congress the 10th Amendment does have some meaning. It also, I believe, Mr. Chairman, is very important because it will stop funding for this executive order if, in fact, that pen that Mr. Begala loves so much hesitated at the last moment. We will see.

I would also like to urge my colleagues to take a close look at Executive Order 13083 and note the nine categories, count them, nine, categories of activities of State, Federal, State and local government that will be swept away by that stroke of the pen that Mr. Begala thinks is just oh so cool.

The list of activities of which this executive order purports to give jurisdiction any Federal agency or department is as vast as any activity of which it purports to give a Federal agency or department jurisdiction, including if there is some ill-defined or perhaps even not defined international obligation. It goes far beyond even the expanse of reading of the Interstate Commerce Clause of the Constitution which has provided the basis for so much Federal intrusion in the lives of our citizens, our schools, our businesses, our local governments and our State governments. It simply says as the A-No. 1 reason why Federal agencies or departments may supersede State or local action, quote, when the matter to be addressed by Federal action occurs interstate as opposed to being contained within one State's boundaries, close quote. Do not even have to have the commerce nexus.

One can go on and see how expansive and indeed how expansive and indeed how frightening this executive order is, and it is because of that scope, that breathtaking scope of this executive order, why it is important this evening to go on record to say that we in the Congress continue to believe in the Constitution, we continue to believe in separation of powers, we continue to believe in the 10th Amendment, and until we see, until we see the actual signature, we will not rest and we should not rest. We must be vigilant. It will be kind of cool if that happens, but let us wait and see.

Mr. Chairman, I urge adoption of the amendment offered by the gentleman from Arizona (Mr. KOLBE).

Mrs. LOWEY. 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 Arizona (Mr. KOLBE), and I want to take this opportunity to speak against another version of this amendment that may soon be offered to also overturn the executive order regarding discrimination in the Federal work force.

At the heart of the debate over Executive Order 13087 is one of the most basic rights in any civil society, to be judged in the workplace on the content of one's character, not on one's race, religion, gender or sexual orientation.

Mr. Chairman, this is a question of civil rights, not special rights, and the sad truth is that the radical right cannot tolerate a society in which all Americans are afforded the same basic rights.

PARLIAMENTARY INQUIRIES

Mr. HEFLEY. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HEFLEY. Is it true that we should stick to the subject of the amendment we are dealing with and not debate another amendment?

The CHAIRMAN. The Chair would remind Members that the debate should be on the amendment that is pending in the Committee and confine remarks to that.

Mr. SHAYS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SHAYS. Mr. Chairman, is it not true that a Member can compare one amendment with another when one amendment seeks to deal with one executive order and another amendment seeks to deal with that executive order in another? And is it not true that we have the ability and right as Members of this floor to be able to compare one amendment versus another and why we support one amendment versus another?

The CHAIRMAN. The Chair would remind Members that if the debate lends itself that way, then the debate ought to connect both amendments in that regard. But the Chair would ask Members, and the Chair would remind Members, that their remarks should be confined to the amendment pending before the committee.

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Mr. HEFLEY. Mr. Chairman, further parliamentary inquiry.

Mr. Chairman, there is nothing in this amendment that has to do with sexual orientation or carving out special privileges for any group in the workforce, and yet that is what the gentlewoman is debating. It would seem to me that under the rules cited earlier in Section 14, that that is not appropriate, and that the gentlewoman should wait and seek time under the following amendment.

The CHAIRMAN. The Chair would ask Members to confine their remarks to the amendment at hand.

Mrs. LOWEY. Mr. Chairman, I want to thank the gentleman from Connecticut for making that point. I am leading up to that argument.

Frankly, I have been serving in this House for 10 years, and I cannot remember a time when someone was arguing an amendment and someone was so concerned that speakers were going to challenge their arguments that they would silence Members in proceeding and arguing their point. So I am leading up to the point made by the gentleman from Connecticut.

Mr. Chairman, I just want to say, it is really sad that the radical right cannot tolerate a society in which all Americans are afforded the same basic rights, and in this election season, the Republican leadership has decided that it is in their political interests to side with the ignorance and bigotry of the radical right.

The fact is it is still legal in this day and age to fire someone simply because they are gay or lesbian. That is outrageous, and the majority of Americans agree it is an outrage. But an overwhelming majority of Americans believe that gays and lesbians in the workplace deserve the same basic rights.

It is terribly ironic, Mr. Chairman, that the very same people who tout the virtues of running the Federal Government like a corporation are leading the fight against this executive order. The list of companies that prohibit job discrimination based on sexual orientation is a "Who's Who" of corporate America: IBM, Microsoft, Xerox, AT&T, Coca-Cola, Home Depot, and the list goes on and on. Numerous State and local governments also provide these protections for their employees.

Mr. Chairman, the executive order is very modest, it is long overdue, and yet here we are voting whether to deny more than 2 million employees this most basic protection. What a sad commentary on this institution.

I urge my colleagues to vote "no" on the Kolbe amendment, and I also urge my colleagues to defeat the Hefley amendment to repeal Executive Order 13087.

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

Mr. Chairman, I rise strongly to oppose this Kolbe amendment and the Hefley amendment. The amendment is an attempt to gut the recent executive order issued by President Clinton which added sexual orientation to the nondiscrimination policy of the Federal Government. That executive order was not about special privileges, it was about fairness and equality.

Many departments in the Federal Civil Service have already implemented their own policies against discrimination on the basis of sexual orientation. These policies, however, lack uniformity and consistency. This executive order is necessary to remedy these inconsistencies by promoting uniformity in nondiscrimination policies in the Federal Government with respect to sexual orientation.

It is time for Congress to stand up for the basic American value of a worker or anyone else being judged in the workplace on the basis of job performance, not on an irrelevant factor, whether that irrelevant factor be race or color or creed or religion or national origin or sex or gender or sexual orientation.

Poll after poll has shown overwhelming support in the American public for the basic premise that lesbian and gay workers should be treated fairly in the workplace. One poll recently indicated that 80 percent of the American public believes that homosexuals should have equal rights in terms of job opportunities. It is elementary, Mr. Chairman, that people should be treated fairly and equally regardless of factors over which they have no control, such as race or color or creed or national origin or sex or sexual orientation.

Mr. Chairman, we talk a lot here about American ideals and American values, and one of the chief American values was set forth in the Declaration of Independence, where it says we hold these truths to be self-evident, that all men are created equal, that they are endowed with certain inalienable rights, and so forth.

The history of the United States is a history of the expansion of the definition of that phrase, that all men are created equal. In 1776 that did not mean women, did not mean black people, did not mean Native Americans, did not mean anyone other than white males. We have spent 200 years expanding that definition. Before the Civil War we had 100 years of turmoil and politics and riots to expand that to include people of different races. We have now at least professed to include women.

The only group which someone can still stand up and say, without being ridiculed off the stage, is not included in the definition of equality are people of different sexual orientation, are gays and lesbians and transgender individuals.

Mr. Chairman, it is imperative that we begin the process of expanding the promise of the Declaration of Independence to include the last unincluded group, gays and lesbians and transgender people. I think the American people support fairness and equality. It makes sense, if someone is qualified to do a job, he or she should not be denied a job based on irrelevant factors.

More than half of the Fortune 500 companies and most Members of Congress already have their own policies to prevent discrimination on the basis of sexual orientation. It is about time that the Federal Government as a whole follows suit.

That is the bottom line, and after we deal with discrimination in employment, then we will deal with discrimination in public accommodation, housing and other things. Right now it is elemental that this executive order is the least thing to do.

So I urge that the amendment be defeated. The President should be commended for the executive order. I urge my colleagues to reject the Hefley amendment.

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

Mr. Chairman, I want to compliment the gentleman from Arizona for offering this amendment. While I cannot support it, I appreciate his effort to ensure that Members have the opportunity to vote on the federalism issue alone, so that when the debate comes in the next amendment, the amendment of the gentleman from Colorado (Mr. HEFLEY), it will not color that particular debate, because it is my understanding that the Hefley amendment was rewritten at the last moment to also prohibit implementation of the executive order on federalism but it really was not about Federalism, it was about denying Federal workers protection from discrimination based upon sexual orientation. So I thank the gentleman from Arizona (Mr. KOLBE), who allows Members who want to express their views on that subject to do so without voting for the Hefley amendment.

The executive order is not about special rights, it is about equal rights; and it is not about quotas, it is about fairness. It certainly is not about affirmative action. It is about protection from discrimination, as both the gentleman from California and my friend and colleague from Massachusetts have already gone over.

In fact, the executive order no more requires affirmative action based on sexual orientation than the original executive order that it amends, which, by the way, was promulgated by President Nixon back in 1969, requiring affirmative action based on race, religion, gender, age or disability.

Not once has the gentleman from Massachusetts stated that the executive order that was issued in 1969 by President Nixon has ever been interpreted to require affirmative action or to confer special rights of any kind. These arguments, if they are made, are, at best, disingenuous.

This amendment to the Nixon executive order simply extends protection from discrimination when it comes to hiring, firing and promotion to gay men and women if you work for the Federal Government. Nothing more, nothing else.

Basically it means that Federal agencies must be fair in their employment practices. It is only about fairness, and insisting that the Federal Government, the executive branch, treat everyone the same, that is, on the merits.

Some would suggest that amendment to the Nixon executive order is unnecessary, that gay men and women do not need to be protected in the workplace. I submit that is wrong. Look at this Chamber. Approximately 190 Members of this body declined to sign a pledge that sexual orientation is not and would not be a consideration in the employment practices in their congressional offices. Let us start there.

For many gay Americans, losing a job is the least of it. Some statistics to reflect on, if you believe that gay men and women are not discriminated against: In 1995, 29 men and women were murder victims either because they were gay, or some thug at least thought they were gay. In 1996, the FBI reported over 1,000 hate crimes motivated by sexual orientation.

The evidence is clear, unequivocal and overwhelming: Discrimination against gay men and women exists in our society. Let us remember, when a qualified person is denied an opportunity because of discrimination, we all lose. We lose the benefits that we might have gained from that individual's services. And, even more importantly, when we tolerate discrimination against anyone or any group, we are diminished as a society and as a Nation, and this Chamber ought not to be about division and discrimination.

So I would submit we are simply better than that. Let us prove it tonight. Let us defeat the Kolbe amendment and the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes, and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state it.

Mr. KUCINICH. Mr. Chairman, does this relate solely to Kolbe amendment?

The CHAIRMAN. That is correct.

Mr. KUCINICH. And not the Hefley amendment or any other amendment?

The CHAIRMAN. This relates to just the Kolbe amendment at hand.

The gentleman from Arizona (Mr. KOLBE) will control 7½ minutes and a Member in opposition will control 7½ minutes.

The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

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Mr. SHAYS. Mr. Chairman, I rise in support of the Kolbe amendment, which prohibits funds from being spent to implement the President's Executive Order 13083 on federalism.

I rise to support this amendment because I believe that this President's Executive Order should be repealed. This amendment also gives us the option to oppose the Hefley amendment, which repeals both Executive Order 13083 on federalism and the Executive Order on nondiscrimination based on sexual orientation, 13087.

Therefore, I support the Kolbe amendment and I oppose the Hefley amendment, because the Hefley amendment does more than the Kolbe amendment. It repeals the Executive Order on nondiscrimination based on sexual orientation.

I do not believe we should discriminate. I do not believe we should discriminate based on someone's sexual preference. I think it is irrelevant, I think it is wrong, and I speak strongly in my outrage that some on my side of the aisle, my leaders in particular, have sought to make this a political issue.

The CHAIRMAN. Does the gentleman from West Virginia (Mr. MOLLOHAN) seek time in opposition to this amendment?

Mr. MOLLOHAN. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 7 and a half minutes.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. OLVER).

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

Mr. Chairman, I rise in support of the Kolbe amendment and in opposition to the Hefley amendment which follows, which contains the material of the Kolbe amendment but also goes beyond that material.

In the difference between the two, the Hefley amendment is an attack upon all our friends in the gay and lesbian community. The Hefley amendment is one more example of unabashed homophobia on the part of some Members of this body.

Nondiscrimination in the workplace for gays and lesbians is fundamental. Yet, under current Federal law it is perfectly legal to fire a person from their job in 40 States because of their sexual orientation, and that alone. No person should have their work judged or their opportunity to work denied on the basis of anything but their ability to successfully perform their job.

We should not be misled that nondiscrimination in civilian Federal employment for gays and lesbians is somehow granting special or unique rights. Nondiscrimination in employment is already assured to Americans, regardless of race, color, religion, ethnicity, gender, handicap, age. Those are not special or unique rights, they are fundamental. Job performance and job performance alone should be the measure of success in the civil service.

By adopting the Hefley amendment, which would deny gays and lesbians the nondiscrimination policy afforded to everyone else, this House would deliberately encourage job discrimination against gays and lesbians.

History has been unkind, Mr. Chairman, to those who have tried to stop the march towards equality. All of us have family, friends, or acquaintances who are gay. They are Republicans or Democrats, doctors and lawyers, teachers and corporate CEOs, our brothers and sisters, our daughters and sons.

To those who insist on continuing job discrimination against the gay community, I urge them, do not be on the wrong side of history. Let us defeat the Hefley amendment. Vote no on the Hefley amendment and for the Kolbe amendment.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman from Arizona for yielding time to me, and I rise in strong support of his amendment to prohibit the implementation of federalism order 13083, which is an extraordinary extension of Federal authority, and an order developed without any collaboration with the States for the purposes of governing Federal-State relations. There is certainly a better way to do it, a better process and a better outcome, and I rise in strong support of the Kolbe amendment.

I also appreciate the fact that the Kolbe amendment is focused on federalism order 13083 and does not include federalism order 13087. As the chief executive of the Federal civilian work force, it is absolutely within the President's responsibility to make clear that the Federal Government does not discriminate on the basis of sexual orientation.

I voted for welfare reform because I believe work is a healthy, responsible, fulfilling, and necessary commitment in life. Why should Republicans, who fought so hard to open up work for welfare recipients, now vote to deny work to a dedicated, capable, high quality person because of that person's personal, private choice regarding friends and partners?

Have Members ever sat and visited with the parents of a gay and lesbian young person? They will tell you, they loved their baby. They cared for their child. They have saved their money and educated their daughter or son, and they are proud that their child is a good, effective worker. All they are asking of government is that we not allow an employer to arbitrarily fire or arbitrarily deny a promotion to someone who is working hard and doing a good job.

We certainly owe at least that much, equal opportunity, to every American.

Mr. MOLLOHAN. Mr. Chairman, I have accepted the responsibility to manage this time technically in opposition to the Kolbe amendment. I am not in opposition to the Kolbe amendment, and if there is somebody now who would like to manage the time who is against the Kolbe amendment, I would certainly yield this time to them.

The CHAIRMAN. Does the gentleman from West Virginia (Mr. MOLLOHAN)

ask unanimous consent to control the time in opposition?

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent to control the time in opposition to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to the Kolbe and Hefley amendment. The United States is an inclusive country. It is built upon the thoughts, beliefs, practices, of many countries. I am almost embarrassed that any Member of Congress would attempt such a slap in the face against any one segment of the American population.

Do gay people not pay taxes? Do gay people not participate in this Nation's economic growth? Do gay people not make creative, intelligent, thoughtful, and important contributions to America as a whole? Why would we then single them out as a particular group not worthy of common courtesy, decency, and fairness?

Two hundred and forty-five Members of this House and 65 Senators have in place proper nondiscrimination policies. More than half of the Fortune 500 companies have similar policies in place. The Federal Government should not be the exception. In fact, it should be setting the right example.

No one is asking for any special privileges, quotas, or preferences. The President's Executive Order asks only for basic human rights for everyone. It simply clarifies existing nondiscrimination policies of Federal agencies and offices. I urge a no vote against both amendments.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I thank my colleague for yielding time to me.

Mr. Chairman, on September 18, 1996, President Clinton sat on the South Side of the Grand Canyon in Arizona, where he commandeered 1.7 million acres in Utah. The citizens and elected officials of Utah were shocked, without any advance notice and without asking for input, that the President took away a whole chunk of land the size of Delaware and Rhode Island.

Frankly, Mr. Chairman, the White House is busy expanding its powers throughout the Nation at the expense of State and local governments. So I think what the gentleman from Arizona (Mr. KOLBE) is trying to do is prohibit, through his amendment, the execution of the Executive Order 13083.

For those who keep talking about the Hefley amendment, this has nothing to do with the Hefley amendment. I appreciate what they are trying to do. Frankly, I support the Hefley amendment, but I also support the Kolbe amendment, and also believe that the President has to realize that all the Governors do not support what he is doing, either through his Executive Orders. We will have to wait to see if he is actually going to rescind these Executive Orders or not.

I stand up in support of the Kolbe amendment and in support of the Hefley amendment.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

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

I rise to oppose both amendments pending here on the floor of the House. I ask my friend, the gentleman from Colorado (Mr. HEFLEY), does he discriminate, and would he be willing to acknowledge under oath or on the floor of the United States Congress that he willingly and openly discriminates? Would he ask the President of the United States to openly and willingly discriminate against people within the boundaries of this Nation?

This is a ludicrous and outrageous discussion that we are having today. Flying in the face of equality and opportunity, we want to deny those who are gays and lesbians the rights to a simple job. I would like the gentleman from Colorado (Mr. HEFLEY) to travel with me and meet with the organization P-FLAG, Parents of Gays and Lesbians; parents who work every day, who simply want for their children the dreams and aspirations of the Declaration of Independence, that says we are all created equal, with certain inalienable rights of life, liberty, and the pursuit of happiness.

Seventy-two percent of our Nation's citizens that were polled in the Wall Street Journal support President Clinton's anti-gay bias in Federal agencies, which simply means, you cannot be fired.

In 1997 the American Psychological Association report found that many employers openly admit they would discriminate against a homosexual employee. Just a couple of weeks ago I held in my district a hearing on the Hate Crimes Prevention Act. The outpouring of tears and hurt that was evidenced by those who experienced in the gay and lesbian community outright hatred and discrimination, outright violence; the actual pain of a man who was not gay, who was perceived to be gay, who was beaten brutally; the absolute violence against someone in my district who went into a bar to have a simple, friendly drink, and he was beaten to death. So we are not talking, Mr. Chairman, about giving away the store.

I imagine it is equal to the debate we had on the 13th and 14th Amendment in the 1800's. I wonder if I had been a simple fly on the wall, what someone would have said about African-Americans not being freed in this country. This is a disgrace on America, it is a disgrace on this flag, and both of these amendments should be defeated.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise today to speak in strong opposition to any amendment which would pave the way for continued discrimination against gay and lesbian Federal employees.

When President Clinton passed Executive Order 13087, he did so with the support of the vast majority of Americans who believe, as I do, that an employer should not be allowed to fire gay and lesbian employees simply because of their sexual orientation. Nonetheless, some in America have worked hard to prevent gays and lesbians from receiving the same basic protections that most Americans enjoy and take for granted.

As a black woman who was forbidden from enrolling in public schools because of the color of my skin, I am especially troubled to witness this divisive, unfair, and un-American attack on the civil rights of our fellow citizens and our constituents.

In a very high profile case in 1991 Cracker Barrel Restaurants fired several gay employees simply because they were gay. The employees had no legal recourse, because, according to the laws at that point and now, discrimination against gay and lesbian Americans is totally legal. Right now it is legal to discriminate against gays and lesbians in 40 of our States.

Mr. Chairman, I encourage all of my fair-minded colleagues to stand on the right side of history.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I want to speak to an issue of individual liberty, an issue at the heart of the amendment offered by my friend, the gentleman from Arizona (Mr. KOLBE). Specifically, I want to talk about the liberty to pursue any field of employment at which one excels.

Some people around here seem to believe that this liberty should not exist with respect to gays, lesbians and bisexuals. This belief is so misguided, so contrary to our Nation's ideals, and so outside the mainstream, that its proponents have felt the need to justify it with untruth after red herring after misrepresentation.

We hear that forbidding discrimination against Federal civilian workers on the basis of their sexual orientation grants special rights to homosexuals. We hear that forbidding such discrimination protects misconduct on the job.

I half expect to soon hear that protecting gays and lesbians from discrimination in the workplace is responsible for global warming and ethnic conflict in the Middle East. All of these claims are designed to distract us from the key question at hand.

□ 1945

Do Members believe it is acceptable for gays and lesbians and bisexuals who perform their jobs well to be fired from their jobs solely on the basis of their sexual orientation? I say absolutely not.

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

Mr. Chairman, a couple of things that I want to clarify. Earlier the gentleman from Massachusetts (Mr. FRANK) referred to the amendment offered by the gentleman from Florida (Mr. SCARBOROUGH). That amendment was offered last week on VA-HUD dealing with the Federalism issue. That was absolutely correct.

The gentleman from Massachusetts went on to say how this is a stake through the heart, that we are going to drive it through again and again and again.

There is a difference between what was offered last week and this one. My amendment makes it clear that no funds in this or any other act; while the amendment last week applied only to the single bill under consideration—VA-HUD—this applies to any funds that are appropriated in any act. So this really does cover the whole issue of Federalism. It puts it to rest once and for all.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for making that correction. I want to acknowledge that the gentleman does stand as the superior executioner of this particular dragon.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for recognizing my skills in that area.

I also want to correct one comment that was made, I think erroneously, by the gentleman from New York (Mr. NADLER) when he was speaking not about this amendment in particular but about the amendment which is going to be offered by the gentleman from Colorado (Mr. HEFLEY) and which includes this provision on Federalism. The gentleman from New York made reference to the fact that defeat of this amendment could be a step towards expanding rights for individuals who are homosexual.

This act, this executive order has nothing, nothing to do with that. It has only to do with the hiring practices of Federal employment managers. It does not give anybody a right to sue. It does not give anybody a right to go to the EEOC or the Civil Rights Commission. It does not grant any right which is not in law now. It does not create any protected class. It in no way expands any rights whatsoever. This only codifies what are currently the employment practices now in the Federal agencies and codifies them in a single place. It does nothing to change the law as it exists today.

Let me come back to the Federalism issue here. I mentioned earlier that the chief of staff of the White House said it was a mistake. "We screwed up," that was his quote there. And good reason that he said that, because indeed, when President Reagan issued his executive order on affirmative action in 1987, he took several specific steps, steps that placed the onus on Federal agencies to consult the Constitution to make certain that "an action does not encroach upon the authority reserved for the States."

He made sure that it said that they must adhere to the notion that Federal actions are not superior to State actions and that exemptions to Federal regulations should be granted on that basis.

That same Reagan Executive Order also said that "Federal regulations should not preempt State law unless the statute contains an express preemption provision or there is some other firm and palpable evidence that the Congress intended preemption of State law."

Let me just conclude by saying this executive order from President Clinton is quite different than that previously issued. It fundamentally alters the Federal relationship that has been developed through the years. These changes were made without consultation with governors, mayors, or county commissioners. We should make it clear that this revision should not be the law of the land.

I urge an "aye" vote on the amendment.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by gentleman from Arizona (Mr. KOLBE).

The amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS AND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 4276, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999, IN THE COMMITTEE OF THE WHOLE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 4276 in the Committee of the Whole, pursuant to H. Res. 508: no amendment shall be in order thereto except for the following amendments, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed thereto:

Mr. HEFLEY of Colorado, the amendment made in order under the rule, for 20 minutes;

Mr. SAXTON of New Jersey, a limitation regarding foreign assets litigation, for 10 minutes;

Mr. HOLDEN of Pennsylvania, amendment numbered 23, for 5 minutes;

Mr. STEARNS of Florida, numbered 35, for 5 minutes;

Mr. MCINTOSH of Indiana, either No. 50 or an amendment regarding the Standing Consultative Committee, for 20 minutes;

And Mr. KUCINICH of Ohio, numbered 49, under the 5-minute rule;

And that the managers of the bill may make pro forma amendments to strike the last word for the purpose of engaging in colloquies.

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

Mr. MOLLOHAN. Mr. Speaker, reserving the right to object, I ask the gentleman to give us a clarification of the McIntosh amendment. I do not believe that we have seen that.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, it is either numbered 50, or we understand there could be a different version of that that would be offered.

Mr. MOLLOHAN. Mr. Speaker, could we see a copy of the modified amendment?

Mr. ROGERS. It is being delivered to the gentleman as I speak.

Mr. MOLLOHAN. Mr. Speaker, continuing my reservation of objection, we have just had an opportunity to look at this. It is considerably different than previous versions. We would like an opportunity to reserve judgment on this amendment and this UC, pending a review.

If the gentleman wants to move forward quickly on the UC, maybe we can pull this out, look at it and deal with this in a few minutes. We can come back to it as soon as we have a chance to review it, which we have not had a chance to do.

Mr. ROGERS. Mr. Speaker, the only difficulty is, this must be done in the full House, which we will not be in shortly.

Mr. MOLLOHAN. Mr. Speaker, as we move forward on this or at the time we get to it, perhaps we can make an agreement.

Mr. ROGERS. I would point out to the gentleman, we are under an open rule.

Mr. MOLLOHAN. Mr. Speaker, I fully appreciate that, but I am having expressions of concern by Members who are interested in this amendment. I think we can resolve it and agree to it when we get down to it. I just cannot include that in the UC right now.

Mr. ROGERS. Mr. Speaker, if the gentleman will continue to yield, what I am asking is, could the gentleman agree that whatever the amendment is, that the time limit would be 20 minutes as the UC states?

Mr. MOLLOHAN. No, Mr. Speaker, I cannot. I understand the proposal, and I simply suggest to the gentleman that until Members who have an interest in this have an opportunity to review it, I cannot agree to the time limit as set forth in the UC. We could break that out and when we get down to it, I am sure we could work something out for Members who are interested in the amendment.

Mr. ROGERS. Mr. Speaker, I would withdraw the unanimous consent request until a further time, but while we are in the full House, could I propose that the debate on the Hefley amendment be limited to 20 minutes?

Mr. MOLLOHAN. I believe it is limited under the rule, Mr. Speaker.

The SPEAKER pro tempore. The Hefley amendment already is 20 minutes under the rule.

Does the gentleman withdraw his request?

Mr. ROGERS. Mr. Speaker, I withdraw the unanimous consent request.

Mr. MOLLOHAN. Mr. Speaker, I withdraw my reservation of objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 508 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. 4276.

□ 1955

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. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 19 offered by the gentleman from Arizona (Mr. KOLBE) had been disposed of, and the bill was open for amendment from page 115, line 23 through page 124, line 2.

AMENDMENT OFFERED BY MR. HEFLEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment printed in House Report 105–641 offered by Mr. HEFLEY:

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901.—None of the funds made available in this or any other Act may be used to implement, administer, or enforce Executive Order 13087 of May 28, 1998 (63 Fed. Reg. 30097) or Executive Order 13083 of May 14, 1998 (63 Fed. Reg. 27651).

The CHAIRMAN. Pursuant to House Resolution 508, the gentleman from Colorado (Mr. HEFLEY), and a Member opposed, each will control 10 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in opposition and claim the 10 minutes in opposition.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

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

Earlier this year Bill Clinton issued two executive orders that mandate profound policy changes. Neither of these executive orders received public input and as a result, both orders contained policy decisions which, if left unchallenged, will have far-reaching implications. I oppose these orders and am offering an amendment that would prohibit the use of funds to implement, enforce or administer either of these orders.

This President has issued 254 orders since he has been President of the United States. Other Presidents have overdone it, too. I think it is time Congress questioned his use of the executive order process. Tonight we are going after the misuse of two executive orders, but we will be back to go after others.

The first executive order, issued on May 14, virtually ignores the Tenth Amendment to the U.S. Constitution. This executive order, titled Federalism, establishes broad and ambiguous circumstances in which the Federal Government could intervene in matters that have traditionally been left to State and local governments.

This executive order, which reverses a 1987 executive order by President Ronald Reagan, is nothing more than a power grab from the States. Adding insult to injury, the administration never consulted the major organizations that represent State and local government officials and entities. The executive order greatly impacts those constituencies and yet they were never consulted or warned.

The President says that he will suspend that executive order and rewrite it, but "suspend" is very different from "revoke".

The President issued another executive order in May that would amend the Nation's civil rights laws as they pertain to Federal civilian employees. This executive order would require all Federal agencies to apply affirmative action policies on the basis of sexual orientation.

This action amends President Richard Nixon's 1969 executive order by adding sexual orientation to the race, color, religion, sex, disability, age, and national origin as classes of Federal employees which are entitled to affirmative action programs.

This amendment that I am offering tonight, in spite of all that was said on the previous amendment, is not about homosexuality. This amendment is not about discrimination, as the gentleman from California (Mr. CAMPBELL) said in his comments on the previous amendment. We have Federal law which says you cannot discriminate. No one is encouraging discrimination here.

It is about the misuse of the executive order process. The process is not designed to circumvent the Congress. This President has tried repeatedly to come to Congress and add a special set-aside or carve-out for sexual orientation in the civil rights laws. Congress has repeatedly said no. Now the President just goes around us. That is what this is about.

Supporters of the executive order argue that the President's mandate only prohibits discrimination based on sexual orientation in the Federal civilian work force. I support efforts to ban discrimination, but this executive order does much more than simply address discrimination policies.

President Nixon's executive order set forth the policy of government of the United States to promote the full realization of equal employment opportunity through, and listen, I quote, through a continuing affirmative program in each executive department and agency.

The Nixon order further provides that the head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees.

□ 2000

Now, CRS says that that means affirmative action program. History

shows us that this means quotas and set-asides to measure whether they have an affirmative program.

Mr. Chairman, by amending the Nixon order, President Clinton's Executive Order does, in fact, expand our country's civil rights laws as they apply to Federal employees. This is a flagrant misapplication of Presidential power. The creation of Federal law or amending Federal law is the power properly invested in the legislative branch. Congress was ignored, and we have spoken many times about this effort.

Furthermore, the administration's own leading civil rights official was not consulted. In testimony before the House Subcommittee on the Constitution of the Committee on the Judiciary, Acting Assistant Attorney General for Civil Rights Bill Lann Lee admitted that neither he nor his staff had reviewed, approved or been consulted on the decision to add sexual orientation to the Federal affirmative action laws.

Mr. Chairman, we need to stop this President, who is trying to legislate and govern by executive fiat. While my amendment alone will not overrule the President's orders, it will help restore the current Federal policies regarding Federalism and affirmative action and nondiscrimination.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2¼ minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I got all the prosecutors mad at me earlier; I might as well get everybody else mad at me.

Mr. Chairman, I rise in opposition to my good friend, and he is my good friend, the gentleman from Colorado (Mr. HEFLEY). We probably have a voting record that is so equivalent that we almost never disagree, but I do disagree with him on this amendment.

I do so because, after close examination, I have determined that the Clinton Executive Order, 13087, will not lead to quotas or affirmative action plans for homosexuality; nor will this Executive Order give homosexuals any special rights or a protected status under the Civil Rights Act. Some of the others who spoke earlier, who tried to indicate that, did not know what they were talking about, and they should read what we are referring to here.

It simply states that the Federal Government, this Executive Order, will not consider sexual orientation when making hiring, firing and promotion decisions. And homosexuals are taxpayers, too, and deserve an even break in terms of fairness in employment in a Federal Government that they pay taxes to. There is no reason for the Federal Government to discriminate for or against individuals of whatever sexual preference in civilian employment. In fact, the Federal Government has no need to inquire into this aspect of a Federal employee's private life.

Mr. Chairman, I am firmly committed to protecting the rights of those with strong moral or religious objections to homosexuality, and I resent some of the statements made here earlier that people who believe or who are against homosexuality for religious reasons are some kind of bigots or whatever. They have every right to those religious and moral beliefs and they should not be forced or pressured to accept something that they believe is immoral.

That is the reason I supported the Riggs amendment to the VA–HUD appropriations bill that is using Federal funds to threaten these people into accepting that a local domestic partner law was wrong, just as adding sexual orientation as a category to civil rights is wrong.

That is not what this amendment is all about, however. In short, the government should neither persecute homosexuals nor promote homosexuality. That is a fair and honest standard, and that is why I oppose the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, the gentleman from California (Mr. ROHRABACHER) gave his speech, and I have great respect for him, but I ask him later to come back and define what sexual orientation is. I am not sure he can define it, or anyone else in this House, yet the President, in Executive Order 13087, adds behavioral characteristics of sexual orientation to the immutable characteristics of race, color, religion, sex, and national origin, even though the term sexual orientation has never really been defined.

Now, what the gentleman from Colorado (Mr. HEFLEY) is trying to do is he is trying to roll back some of these executives orders from the President. Whenever he feels he has to, he starts to move his agenda through an Executive Order. His proposals make social reforms that he deems necessary despite the will of this body. And the gentleman from Colorado is saying tonight that let us stop funding these executive orders. That is all he is trying to say. This is not a debate about anything other than to try to stop the President from issuing executive orders that go against the will of Congress.

Let me just give my colleagues a thought in closing, and this is from the History of the Decline and Fall of the Roman Empire by Edward Gibbon. "The principles of a free constitution are irrevocably lost when the legislative power is dominated by the executive branch." Now, this is right from history, 2000 years ago, so I suggest we listen to it.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. BLILEY), an eminent historian.

Mr. BLILEY. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time, whom I might add, when I was a freshman and he was a freshman, and I had an amendment on the floor, he supported me against the chairman of the Subcommittee on Health and Environment of the Committee on Commerce, and I appreciate that.

But, look, I oppose affirmative action. I think it divides us rather than joins us. I would oppose any effort to add sexual orientation as a protected class under the Federal affirmative action programs. That being said, I unequivocally oppose discrimination.

When I hire somebody in my office, as I suspect most of my colleagues when they hire somebody in their office, I do not ask their sexual orientation when I hire them. I feel that if a person can do the job and give me an honest day's work for a day's pay, that is all I have to ask, unless, in his off time or her off time, they do something that brings disgrace on this great institution or on my office. Then that is another matter.

I hope we will oppose this ill-guided amendment.

If the Executive Order issued by President Clinton mandated affirmative action based on sexual orientation, I would support the Hefley amendment. This is not the case.

All the Executive order says is the Federal government will not discriminate based upon a person's sexual orientation.

I urge my colleagues to oppose the Hefley Amendment. The sexual orientation of our Federal employees is none of our business.

Qualifications for the job should be our concern—nothing more, nothing less.

Mr. FRANK of Massachusetts. Mr. Chairman, how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 4 minutes remaining, and the gentleman from Massachusetts (Mr. FRANK) has 6½ minutes remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS) in the interest of fairness.

Mr. LEWIS of Georgia. Mr. Chairman, during the Civil Rights movement, thousands upon thousands of Americans joined together for a single cause: To fight discrimination and have all Americans treated equally under the law. Discrimination was not right then and it is not right now. Excluding someone from the workplace because of their sexual orientation is discrimination, plain and simple. It is wrong. It is dead wrong.

The President's executive orders strengthens our Nation's commitment to equality. It bans discrimination based on sexual orientation. It is a simple thing to do. It is the right thing to do.

Why? Why must we come to this floor again and again to demand equality for all Americans? What could be more American? It is unbelievable to me that 33 years after Selma and the signing of the Voting Rights Act we must still battle the forces of bigotry, discrimination and intolerance. I have fought too long and too hard against discrimination all of my life to go back now. We cannot go back. We will not go back. We must never go back.

I urge all of my colleagues to stand for fairness, stand for justice, stand up for what is right. Oppose discrimination and vote against this misguided amendment.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I rise in support of the Hefley amendment and urge my colleagues to support it, and because I only have 1 minute, I am going to try to condense my points as quickly as possible.

This is not really an issue, in my mind, of sexual orientation or not. There are two basic issues here: One is this President of the United States is legislating by Executive Order. He has instructed the entire bureaucracy to promulgate regulations that have no authority in law, and he is writing executive order after executive order against the Constitution of the United States and the concept of checks and balances.

Under our Constitution, the President cannot legislate by executive order, and he is doing so. The gentleman from Colorado (Mr. HEFLEY) is trying to strike down some executive orders to bring attention to the American people that he is doing so.

It is, therefore, conceivable that the implementation of this particular executive order might require that the Federal Government inquire into the private lives and practices of Federal employees to accurately assess their sexual orientations.

Now, most Americans believe that every human being has basic rights, and the American people stand for fairness, not for special breaks or special interests.

I support the Hefley amendment.

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

Mr. Chairman, first, I must say, with all regret to my friend, the gentleman from Texas (Mr. DELAY), probably no more hugs for awhile.

Secondly, the President has explicitly disavowed any intention of this leading to this kind of inquiry based on sexual orientation. Under the existing executive order, it covers religion, it covers AIDS. There have been no such inquiries.

Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Chairman, as I look around this room I see only a couple of people that are older than I am, and I want to talk about discrimination. I know discrimination when I see discrimination.

When I was a small boy, growing up in rural Alabama, we used to go to the grocery store. Some of my black friends, they would stand at the back door and the clerk would have to come and ask them what they wanted and they would bring it to them. I could go in the front door. That is discrimination.

I have never been in the marches like the gentleman from Georgia (Mr. LEWIS) has been. I do not know what it is like to be in the minority. I do not know the life-style of gay people, but I can tell you this: Discrimination is wrong. It is totally wrong and we should not be participating in anything that discriminates against anybody going out and making a living for their family.

It is absolutely ludicrous for us to be considering this amendment tonight, because it is about discrimination, pure and simple discrimination.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I rise in strong support of the Hefley amendment. The extension of new civil rights deserves to be debated openly, before the American people, and not implemented by an executive order.

I believe that all Americans should receive fair and equal treatment under the law, but I fundamentally oppose granting special rights or privilege based on sexual orientation. The new executive order undermines the enforcement of legitimate civil rights based on immutable characteristics that have been established as requiring protection.

Furthermore, this executive order would be an administrative nightmare. It could require Federal employees to ask applicants what their sexual orientation is. The thought of that is wrong and it is also unconstitutional.

This executive order does not create equal employment. It creates an unnecessary, unwarranted and unconstitutional preference in the workplace.

Mr. Chairman, I do not believe the American people support the granting of a special privilege and I urge my colleagues to defeat the executive order and vote for the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

Let us be very clear, folks. This Executive Order 13087 simply extends to gay and lesbian employees the very same employment protections long provided to women, to disabled seniors, racial, ethnic, religious minorities by an executive order that was issued by President Nixon in 1969.

The executive order does not provide any special protected status to gay and lesbian employees. It simply protects the fundamental right to be judged on one's own merits.

This is a policy that is embraced by over 300 Members of the House and the Senate who have stated in writing that sexual orientation is not a consideration in the hiring, promoting or terminating of an employee in their congressional offices, and the executive order simply applies the same policy to Federal agencies.

Most Federal agencies, incidentally, already have their own policies preventing employment discrimination based on sexual orientation, and through this revised executive order the President has properly provided a uniform policy for all agencies.

□ 2015

The executive order applies only to Federal civilian employees.

Our country is founded on a basic tenet that all individuals should be treated equally and fairly. Vote against the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, how much time do we have remaining on both sides?

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 2 minutes remaining. The gentleman from Massachusetts (Mr. FRANK) has 2¾ minutes remaining.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in support of the Hefley amendment.

The President's position is an extreme special interest position. He has taken the back-door approach, not going through the legislative process. We should maintain the proper balance between the legislative and executive branches of government.

President Clinton is out of step with the majority of Americans who oppose quotas based on one's behavior or lifestyle. This executive order would have an impact on the private sector. Companies seeking to contract with the Federal Government or grant recipients would be required to submit to this new Federal edict.

To protect themselves from costly lawsuits, companies will have the burden of proving that they do not discriminate on the basis of sexual orientation.

What the President has done is extend the hand of the Federal Government to an interest group with a powerful, well-funded lobby, an interest group that believes that non-job-related behavior should be the deciding factor in hiring or promotion policies in our Government.

Let us support the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding the time.

When one has been in this business for a little while, one learns that if one does not really have much going for them on the merits, they argue process. And so, I understand why my friend the gentleman from Colorado (Mr. HEFLEY) is styling this as a question of an overreaching of executive order powers.

PARLIAMENTARY INQUIRY

Mr. HEFLEY. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Point of order, Mr. Chairman. The gentleman does not have to yield. It is up to the gentleman with the microphone to yield for a parliamentary inquiry.

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

Mr. SKAGGS. Regular order, Mr. Chairman.

Mr. FRANK of Massachusetts. Mr. Chairman, the gentleman has not yielded for a parliamentary inquiry.

The CHAIRMAN. Would the gentleman from Colorado (Mr. SKAGGS) yield for a parliamentary inquiry?

Mr. SKAGGS. Mr. Chairman, if it does not count against my time.

The CHAIRMAN. It does count against the gentleman's time.

Mr. SKAGGS. Then I do not yield.

Mr. Chairman, continuing, what this is really about on the merits is whether we want a country in which all Americans have access to fair employment treatment by their Federal Government. It is as simple as that.

It is not about quotas, not about affirmative action. It is about whether or not we get judged on the merits of the kind of job we can do.

I think it is entirely proper for the chief executive officer of the Federal branch of the Government, the President, to make clear that that is the standard for this Federal Government, for the executive branch. He is the CEO. It is clearly within his authority.

And what kind of country do we really want? Do we really want to make it permissible for this to be the basis for the denial of jobs by the Federal Government to our fellow citizens? I hope not.

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 1 minute remaining. The gentleman from Massachusetts (Mr. FRANK) has 1¾ minutes remaining. The gentleman from Colorado has the right to close.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield the remaining time to the gentleman from California (Mr. CAMPBELL), a constitutional scholar who opposes discrimination and also opposes affirmative action and will point out the difference as embodied in this executive order.

Mr. CAMPBELL. Mr. Chairman, I thank the gentleman for yielding.

The Executive order's prohibition that I profoundly believe in goes to the question of fairness, that we ought not discriminate against people on the basis of their race or their gender, and least of all should the Federal Government make such distinctions.

And so, it is deeply hurtful to those of us who believe that government should not make these distinctions to hear the argument made that to ban discrimination necessarily leads to affirmative action. Because if we hold that, we give the strength to the argument on the other side of all of these arguments that I, and our good friend and colleague the gentleman from Florida (Mr. CANADY), have been attempting: namely, to end the use of race, to end the use of gender, to end quotas and timetables and numerical goals on race and gender, by the federal government.

The argument other people make is to say, "Well, you know, if we ban discrimination, then we have got to require hiring certain numbers or we will never get rid of discrimination." I profoundly say to them, that is false, that I can and am against discrimination, but I will not tolerate the Federal Government deciding who gets a job because of the color of their skin.

And so, it is profoundly disturbing and disappointing that my good friend offers this amendment suggesting that by banning discrimination on the basis of orientation, we must necessarily be leading to the use of quotas and affirmative action and numbers.

To all of my friends who are colleagues in this battle against the rule that Government looks at the color of our skin, think about how wrong it is to say that the Government should look and ban us from opportunities on the basis of our orientation as well.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

I rise in strong opposition to the Hefley amendment.

Executive Orders 11478 and 13087 are based on the notion that job performance should be the sole measure of a person's fitness to work. Supporters of this amendment want us to believe that this fundamental tenet of our American culture is radical and subversive. Somehow, they want us to believe, making it clear that the Administration will hire and retain the best people for the job is dangerous.

By adding sexual orientation to the list of factors irrelevant to hiring and promotion decisions, President Clinton simply clarifies a longstanding interpretation of an Executive Order issued thirty years ago by President Nixon. This is hardly a change in policy, but if this small clarification improves the comfort and morale of one federal employee, it is worth our fervent support.

I believe this Executive Order will have a more tangible impact, as well. Anyone who has ever run a business knows that good morale improves productivity and attracts the brightest, best people.

I am proud to say that throughout my public service career, at Multnomah County, and in the City of Portland, we have had similar policies of non-discrimination. In 1991, the Portland City Council, believing that what was good for workers was good for work, prohibited discrimination based on sexual orientation. I believe that policy had a significant impact on the effectiveness of employees throughout the City.

The continuing assault on gay and lesbian citizens by some of my colleagues is unfortunate and undeserved. No employee should be discriminated against because of sexual orientation. The government should lead by example. I applaud Executive Order 13087 and urge rejection of the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I oppose the Hefley amendment.

Mr. Chairman, I appreciate the opportunity to speak on this issue tonight. Representative HEFLEY's amendment attempts to nullify the effect of President Clinton's May 28, 1998 Executive Order which added sexual orientation to the nondiscrimination policy of the Federal Government.

President Clinton's executive order broke no new ground and did not create new law. It simply amended the existing federal executive order governing equal employment opportunity by adding the term sexual orientation and therefore including gays and lesbians within the nondiscrimination policies of Federal agencies and offices.

Mr. Chairman, I am sure that my colleagues would agree that we should base our review of federal employees on their job performance, not their sexual orientation. And like my colleagues, I believe in fairness. All of us are diminished when individuals are prevented from contributing the full measure of their talent and ability to society. Those of us who oppose the Hefley amendment are not alone. 72% of our nation's citizens as polled in the Wall Street Journal support President Clinton's anti-gay bias in federal agencies.

That gays and lesbians face a hostile climate at their jobs and elsewhere is undisputed. In 1997, an American Psychological Association report found that many employers openly admit they would discriminate against a homosexual employee. A survey of 91 employers demonstrated that 18% would fire, 27% would refuse to hire, and 26% would refuse to promote a person perceived to be gay.

In my own home State of Texas, two former employees of the Texas governor's office filed a lawsuit in Austin alleging that their former supervisor used hostile language to describe victims assistance language and attitudes towards gays and lesbians by the division's executive director. This type of discrimination should shock all of us, but unfortunately, gays and lesbians are still openly discriminated against in our society.

Not only will President Clinton's Executive Order 13087 help end discrimination against federal workers, it will set an example that will help combat employment discrimination everywhere. No person should be denied a job or fired because he or she is gay. 84% of our citizens support equal rights in employment. Shouldn't we? I urge my colleagues to oppose this bill and to work to end discrimination against gays and lesbians across our country.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I rise to oppose the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I rise to oppose the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I ask unanimous consent that my amendment No. 39, which would have covered the same grounds precisely that we are covering here this evening with regard to the Hefley amendment and which was covered in large part during the previous debate on Executive Order 13083 by the gentleman from Arizona (Mr. KOLBE) be rescinded.

I urge all Members to support the gentleman from Colorado (Mr. HEFLEY), who would have supported my stand-alone amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. HEFLEY. Mr. Chairman, I yield the balance of my time to the gentleman from Arkansas (Mr. HUTCHINSON).

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 1 minute.

Mr. HUTCHINSON. Mr. Chairman, I believe that everyone today is agreed that we do not want to have discrimination in our country and particularly by the Federal Government. I fought that as a prosecutor, as a private attorney, and I think we agree that should not take place.

But there is a legitimate concern that this goes beyond consideration, there is more there. The gentleman from California raised a question. Well, it does not.

But I look at the executive order very simply that this is the Nixon executive order that was amended to include sexual orientation. If we include that, section 1 says that part of this is policy of government to promote the full realization of equal employment opportunities through a continuing and affirmative action program in each executive department and agency.

The good lawyer understands that this can be interpreted to say that we are going to have an affirmative action program for these categories. It might not be the case.

The second point is that when I asked the Acting Attorney General Bill Lann Lee on Civil Rights, "were you ever asked to review this by the Clinton administration prior to the adoption, this dramatic change?" and his answer was, "I was never consulted. I was never asked to review this change in the civil rights policy of our Federal Government."

I think that this major change deserves some hearings in Congress, deserves some thought, and certainly deserves some debate about this executive order. I support the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to the Hefley amendment. Don't let proponents of this amendment deceive you into thinking this is a complicated issue. It is very straightforward. It is simply about equal opportunity. Equal rights. Anti-discrimination. The President's executive order provides no additional "special privileges" for any "special interest group." It clearly prohibits the federal government from considering sexual orientation in employment decisions.

This has been the policy for most federal agencies and offices but has not been uniformly stated for all federal employment agencies. As the body charged with determining terms of employment for federal employees, we have a grave responsibility in leading the effort to break down the walls of discrimination in employment. The fact that we are charged with legislating equal opportunity labor practices for all employers throughout the United States and policies that affect international employment practices makes this an even greater responsibility.

Fortunately, this is not a complicated issue as so many that we consider here are. Discrimination is wrong in any form. Discrimination on the basis of sexual orientation is just as wrong as discrimination on the basis of race, religion, or sex. We shouldn't discriminate in federal government employment practices. It is that simple.

The Hefley amendment would deny the use of funds for the implementation, enforcement, or administration of the executive order to include sexual orientation in the federal government's anti-discrimination employment policy. It would allow the Federal Government to discriminate in its employment practices and it would show private employers that the federal government does not enforce its own anti-discrimination policies. This is not the way we should treat our own employees and not the message we should be sending to employers in the United States and internationally. I urge you to support equal opportunity employment and the end of discrimination in the workplace by opposing the Hefley amendment.

Mr. STARK. Mr. Chairman, I rise today to oppose the Hefley Amendment to the FY99 Commerce, Justice, State Appropriations bill, which seeks to block the implementation of an executive order prohibiting discrimination based on sexual orientation in the federal civilian workforce.

Many Federal civil employers have adopted individual policies prohibiting employment discrimination on the basis of sexual orientation. Executive Order 13087 amends the existing federal executive order governing equal employment opportunity by adding the term "sexual orientation"—thereby uniting the many existing nondiscrimination policies of Federal agencies.

In short, the order extends to gay and lesbian employees the same equal opportunity long-afforded to women, seniors, persons with disabilities, and racial, ethnic and religious minorities.

Not only do I oppose this harmful amendment, I believe Congress should take the issue of discrimination in the workplace a step further by passing the long-overdue Employment Non-Discrimination Act. ENDA would provide protection against employment discrimination based on sexual orientation at businesses with more than 15 employees by creating new enforcement rights, such as the ability to proceed before the Equal Employment Opportunity Commission. The need for the passage of ENDA presents itself daily as promotions are rescinded, chances for employment are lost, and harassment on the job abounds.

No one should be judged on the irrational prejudice. Congress has no right to prevent these individuals the opportunity to contribute the full measure of their talent and ability to America's workforce.

I ask my colleagues to join with me to defend equal rights—and to send the strong message to the majority that discrimination in the workplace based on sexual orientation is wrong.

Ms. NORTON. Mr. Chairman, representative HEFLEY'S amendment to the Commerce, Justice and State Appropriations for FY 1999 would prohibit any of the funds in this bill or any other act from being used to implement, administer or enforce Executive Order 13087, which prohibits federal agencies from discriminating against individuals in federal hiring or in the receipt of federal grants because of their sexual orientation. This is an unabashed and bald pro-discrimination provision. It has no place in federal law, and all who have worked for equality or even paid lip service to the notion should be offended that this amendment has been offered.

Every employer in the United States has the responsibility to be proactive in removing discrimination. The President has acted responsibly as the CEO of the federal workplace. Unfortunately, there is great confusion among

some Americans about homosexuality and, astonishingly, there are some who would deny people ordinary rights because of their sexual orientation. I had hoped that by now Americans could at least agree that private consensual sexual relationships bear no relationship to job performance and that even those who adopt the unscientific view that it is appropriate to manipulate sexual orientation in order to change it (imagine what most of us who are heterosexual would think if someone tried to change our sexual orientation) would agree that discrimination is always wrong and should be off limits. The official expression of bias in our law through the repeal of an anti-discrimination provision should be as unthinkable as to gay men and lesbians as to other Americans.

The last few months have seen an outpouring of homophobic proposals that insult people based on their sexual orientation. Sexual choice goes to the core of a person's being. Issues of sexual orientation are no place for amateurs acting out their sexual biases in public policy. History will look back on this amendment and shake its head, even as black people look back on similar proposals that were fraught with racism. Let us not replay that history with a new set of discredited proposals against a new group of Americans.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Hefley Amendment. It is a sad day for the House when undermining equal rights for one group becomes the primary social cause for leading members. Unfortunately, this Summer we have witnessed a rising tide of verbal and legislative attacks on the lesbian and gay Americans among us. They have become the easy target of this legislative season.

But let us put the rhetoric aside for a moment and say what this amendment really does. If you vote for this amendment, you are sending a message to federal managers and agency chiefs that it is acceptable to disregard talent and determination, intelligence and integrity, and hire or fire someone based on their sexual orientation. It is ironic that my colleagues, who are often so ready to criticize the work of federal agencies, are willing to vote that the right to discriminate is more important than the need for competence.

The President's Executive order provides no special rights, no affirmative action, and no quotas for any group. President Nixon's non discrimination Executive Order did not require affirmative action based on age or religion, and neither does this one. This Executive Order is not about quotas, this is about saying discrimination has no place in our country. It says federal workers who happen to be lesbian or gay must simply be allowed to go to work every day to do their jobs just like the rest of us.

I am proud to represent a city with many lesbians and gays who have courageously stood up for their right to equality. When an amendment like this is offered in the House, I think of the many able federal workers I have had the privilege to know and work with who are gay or lesbian. This bill would allow them to be fired on a whim, based on prejudice.

An amendment which removes equal rights for these and other individuals defies logic and is without merit. And when we disregard merit on issues like this, we do more than affect the rights of federal employees. The words we speak and votes we cast in this chamber have broad impact—and when we send messages of prejudice and intolerance, we give licence to hatred.

There have been proud days in this House when we have passed legislation establishing equal rights and protections. Today, unfortunately, we debate whether to take a step backward, and side with discrimination and prejudice.

This Summer, some members of Congress have compared homosexuality with a disease. But the real disease is ignorance. The real sin is judging people solely by their group status.

I urge my colleagues to vote against the Hefley Amendment.

Ms. WOOLSEY. Mr. Chairman, this amendment is nothing more than an effort to use the Federal Government to enforce the narrow views shared by a few members of the radical right.

Two months ago the civil rights movement in this country took a major step forward when President Clinton signed an Executive order to prevent the Federal Government from discriminating against employees on the basis of sexual orientation.

Mr. HEFLEY's amendment would negate this expansion of civil rights by blocking the President's Executive order.

There is a lot of misinformation being offered about the President's effort to extend civil rights to all Americans, so let me start by telling you what the Executive Order does not do:

It does not establish "affirmative action" for gays and lesbians. Simply put, it does not require Federal agencies to hire gays.

It does not apply to private companies. Only Federal civilian employees are covered by the order.

It does not condone incest or pedophilia. "Sexual orientation" is defined as "heterosexuality, homosexuality, or bisexuality."

Now that we've got that clear, let me go on to tell you what this Executive order does do:

This order prevents sexual orientation from being used to deny Federal employees a job or promotion.

This means that Federal employees must be evaluated on the basis of their performance on the job—not by their sexual orientation.

Whatever reasoning the radical right uses in support of this amendment, I think their real motives are abundantly clear:

They want to promote discrimination against gays and lesbians.

To make matters worse, they are willing to sacrifice the appropriations process in an attempt to further this narrow cultural war.

The fact is, sexual orientation is not a choice any more than skin color, gender or ethnicity.

And despite what some might think, the Federal Government does not have the right to dictate how people should live their lives or who they choose their partners to be.

I urge my colleagues to support civil rights by voting against this amendment.

Mr. FILNER. Mr. Chairman, we start business in this House every day by pledging allegiance to a nation with liberty and justice for all.

Without qualification, without pre-requisite, without restriction, "all" means no one is excluded, and everyone is included—and that means gay and lesbian Americans too.

Despite this good intention, however, our reality too often falls short of the ideal, and laws prohibiting discrimination in employment do not offer the same protections to lesbian and gay Americans in forty states.

In Executive Order 13087, the Clinton Administration took an important and justified step to correct this inequity in the federal workforce. The Executive Order ensures liberty and justice for lesbian and gay federal employees by amending a Nixon Administration Executive Order to also prohibit discrimination based on sexual orientation.

By defeating the Hefley Amendment, we will affirm for lesbian and gay employees of the federal government the same liberty and justice enjoyed by their co-workers: the justice of equality; the justice of protection from discrimination; and the liberty to love and live without fear of job-loss or punishment.

A bi-partisan majority of our colleagues in this House already have policies prohibiting discrimination based on sexual orientation—gay or straight. We know this protection is good enough for our offices and staffs, and I hope a majority will determine it's good enough for federal employees as well.

Mr. Chairman, the economy is humming along; America is at peace; and the Communist threat is gone. We don't have an evil enemy lurking in the dark and plotting our nation's downfall—and we don't need to create one.

Let's resist the temptation to demonize segments of our own society again by resurrecting the politics of fear and division. Let's not make our gay and lesbian children the new nemesis.

Mr. Chairman, I am not gay, but people I know, love, trust and respect are gay. Today, I stand here today for them and for all lesbian and gay federal employees, and I will vote against the Hefley Amendment.

This debate is not about quotas, nor affirmative action, nor secret agendas. It's just about liberty and justice for all.

I urge my colleagues to defeat the Hefley Amendment.

Ms. DEGETTE. Mr. Chairman, I am disappointed to rise today in opposition to the Hefley amendment.

At a time when more HMO patients are denied the care they deserve and three thousand more children become addicted to tobacco products every day, I am outraged that this Congress wastes another day of its limited schedule on punitive and hate-based legislation that encourages discrimination against other Americans.

I resent the recent escalation of anti-gay rhetoric we are hearing out of Washington. That to be gay or to support gay-rights is somehow an anti-Christian value is absurd. One's religious beliefs should be based on our peaceful co-existence with, and mutual respect for, our fellow human beings. I am proud to call myself a Christian and I am proud to stand up against this discrimination.

Mr. Chairman, allow me to remind my fellow Members about a little recent Colorado history. In 1992 the State of Colorado passed

Amendment 2 which would have eradicated basic protections for gays. If passed into law, it would have had the same effect as my fellow colleague from Colorado's amendment today. When Amendment 2 passed we became known as the Hate State, a moniker that still sticks today even though the Supreme Court overturned this law declaring it unconstitutional. My esteemed colleagues, do not let us become the Hate Congress!

I urge a vote against this amendment.

Mr. GEPHARDT. Mr. Chairman, the Executive Order Mr. HEFLEY seeks to nullify is not about providing special status to gay and lesbian Americans in federal hiring and employment. It's simply about providing them with the same protections against discrimination that are already in place for other Americans who have suffered from discrimination.

Complaints about the quality of public servants are unfortunately all too commonplace. Surely, this amendment will drive away many applicants from pubic service at a time when our challenges as a nation are too great to justify excluding even one qualified American from helping us solve these problems.

Sexual orientation should not be considered in the hiring, promoting, or termination of an employee in the federal government. You would think that this would be something we could all agree on.

But sadly, the supporters of this amendment are making a statement that they tolerate bigotry and they condone arbitrary firings. This is but the latest of several mean-spirited efforts by the Republican leadership against the gay and lesbian community.

But the vast majority of Americans disagree with the Republican leadership. Seventy-five percent believe that gays and lesbians should have the same employment opportunities as all other Americans. That's all the Executive Order does, despite the protestations of its opponents.

Why, when we have so much important work left to address over the next several weeks, are we considering this issue here today? At the very least, this is a case of misplaced priorities. At worst, it's a misguided effort to condone discrimination.

Vote against discrimination and bigotry. Vote against this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. HASTINGS of Washington, 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. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS AND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 4276, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999, IN THE COMMITTEE OF THE WHOLE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 4276, in the Committee of the Whole, pursuant to H.Res. 508, no amendment shall be in order thereto except for the following amendments, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed thereto:

Mr. SAXTON, a limitation regarding foreign assets litigation, for 10 minutes;

Mr. HOLDEN, amendment numbered 23, for 5 minutes;

Mr. STEARNS, amendment numbered 35, for 5 minutes;

Mr. MCINTOSH, either amendment numbered 50 or an amendment regarding the Standing Consultative Committee, for 20 minutes; and

Mr. KUCINICH, amendment numbered 49, under the 5-minute rule;

and that the managers of the bill may make pro forma amendments to strike the last word for the purpose of engaging in colloquies.

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

Mr. MOLLOHAN. Reserving the right to object, Mr. Speaker, it is my understanding that points of order will still lie against these amendments?

The SPEAKER pro tempore. The gentleman is correct.

Mr. MOLLOHAN. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 508 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. 4276.

□ 2028

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. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose earlier today, a request for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) had been postponed and the bill was open for amendment from page 115, line 23, through page 124, line 2.

Pursuant to the order of the House of today, no amendments shall be in order except for the amendments previously specified in that order, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question, and shall be debatable for the time specified, equally divided and controlled by a proponent and a Member opposed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 11 by the gentleman from Arkansas (Mr. HUTCHINSON); and the amendment by the gentleman from Colorado (Mr. HEFLEY).

The Chair will reduce to 5 minutes the time for the second electronic vote after the first vote in this series.

AMENDMENT NO. 11 OFFERED BY MR. HUTCHINSON

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 11 offered by the gentleman from Arkansas (Mr. HUTCHINSON) on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 82, noes 345, not voting 7, as follows:

[Roll No. 397]

AYES—82

Armey	Barr	Barton
Baker	Barrett (NE)	Berman
Ballenger	Barrett (WI)	Bilbray

Bono
Boswell
Boyd
Brady (TX)
Bryant
Bunning
Burr
Canady
Capps
Chabot
Christensen
Clayton
Coburn
Combest
Conyers
Cooksey
Cramer
Cubin
Davis (FL)
Davis (VA)
Dunn
Ehrlich
Etheridge
Goode
Granger
Harman
Hastings (WA)
Hulshof
Hutchinson
Inglis
Jefferson
Jenkins
John
Jones
Kennelly
Kind (WI)
LaFalce
Latham
Levin
Lewis (KY)
Maloney (CT)
Maloney (NY)
McCollum
Meehan
Morella
Myrick
Nethercutt
Nussle
Portman
Price (NC)
Redmond
Reyes
Riggs
Rogan
Rogers
Rothman
Ryun
Salmon
Sandlin
Schaffer, Bob
Sessions
Smith (MI)
Snowbarger
Souder
Sununu
Thornberry
Thune
Watt (NC)
Watts (OK)
Waxman
Whitfield
Wilson
Wolf

NOES—345

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Bachus
Baesler
Baldacci
Barcia
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Cardin
Carson
Castle
Chambliss
Chenoweth
Clay
Clement
Clyburn
Coble
Collins
Condit
Cook
Costello
Cox
Coyne
Crane
Crapo
Cummings
Danner
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
LaTourette
Lazio
Leach
Lee
Lewis (CA)
Lewis (GA)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Murtha
Nadler
Neal
Neumann
Ney
Northup
Norwood
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riley
Rivers
Rodriguez
Roemer
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Wicker
Wise
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Cunningham
Gonzalez
Goodling
Moakley
Moran (VA)
Paxon
Yates

□ 2048

Messrs. GANSKE, SPENCE, CRANE and SCHUMER changed their vote from "aye" to "no."

Mr. JOHN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as an above recorded.

RESCINDING VOICE VOTE ON KOLBE AMENDMENT NO. 19

Mr. KOLBE. Mr. Chairman, I ask unanimous consent that the voice vote on amendment No. 19 offered by the gentleman from Arizona (Mr. KOLBE) be rescinded, and I demand a recorded vote on that amendment to be taken immediately following the vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Without objection, a recorded vote on amendment No. 19 offered by the gentleman from Arizona (Mr. KOLBE) will occur immediately after the recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

AMENDMENT OFFERED BY MR. HEFLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 176, noes 252, not voting 6, as follows:

[Roll No. 398]

AYES—176

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Berry
Bilirakis
Blunt
Boehner
Bonilla
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cramer
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Duncan
Dunn
Emerson
Ensign
Everett
Ewing
Fawell
Fossella
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Graham
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
King (NY)
Kingston
LaHood
Largent
Latham
Lewis (KY)
Linder
Lipinski
Livingston
Lucas
Manzullo
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Quinn
Radanovich
Ramstad
Redmond
Riggs
Riley
Rogan
Rogers
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Turner
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—252

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Bentsen
Berman
Bilbray

Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Edwards
Ehlers
Ehrlich
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Rahall
Rangel
Regula
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weller
Wexler
Weygand
Wilson
Wise
Woolsey
Wynn

NOT VOTING—6

Barr
Cunningham
Gonzalez
Goodling
Moakley
Yates

□ 2057

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 19 OFFERED BY MR. KOLBE

The CHAIRMAN. Pursuant to the order of the committee, the pending business is the recorded vote ordered on the Amendment No. 19 offered by the gentleman from Arizona (Mr. KOLBE).

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 417, noes 2, not voting 15, as follows:

[Roll No. 399]

AYES—417

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Collins
Combest
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—2

Carson
Jackson-Lee (TX)

NOT VOTING—15

Clay
Coburn
Condit
Cox
Crane
Cunningham
Gonzalez
Goodling
Hinojosa
Hutchinson
Lampson
Moakley
Reyes
Weldon (PA)
Yates

□ 2104

Ms. McKINNEY changed her vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COX of California. Mr. Chairman, I missed the vote on rollcall No. 399. I strongly support the Kolbe amendment, and had I been present, I would have voted "aye."

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

Mr. Chairman, I take this time for the purpose of informing Members of the schedule for the evening. We propose to proceed with the continuation and conclusion of the bill. There will likely be at least two more recorded votes, plus final passage; there could be three. We hope to speed the process to where we will get the Members out for a reasonably early evening, not too late a meeting. So we would say to the Members that we propose to roll these votes until final passage, so that hopefully they will come to the floor one more time for a couple of amendment votes, or perhaps three, then final passage, and hopefully be concluded.

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

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

Mr. MOLLOHAN. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I thank the gentleman for the opportunity to discuss with the chairman the importance of funds for the National Marine Fisheries Service's Endangered Species Recovery Plan in this year's budget. I know the chairman is aware of the tremendous salmon problem facing the West Coast, including the proposed endangered species listing of West Coast salmon.

It is my understanding that the administration requested an additional $7.3 million over last year's request specifically to address these listings on the West Coast by providing funds for planning and implementation of necessary protective actions for newly listed species of salmon.

Is it correct that the committee was unable to provide the requested increases?

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, the gentleman is correct. I certainly appreciate the significance of salmon problems which exist on the West Coast. In fact, because of these problems, funding for endangered species programs has been increased by almost 200 percent over the last 3 years.

Unfortunately, the administration's fiscal 1999 budget proposed to pay for additional increases in fisheries programs through controversial new fisheries fees which the Congress already has rejected. Given this problem, as well as the funding constraints faced by the committee, we did the best we could within the funds available.

Mr. DICKS. Mr. Chairman, if the gentleman will yield further, I am sure I do not need to tell the chairman how vital these salmon stocks are to the States of Washington, Oregon and California. Currently we are working together on a recovery strategy, but we desperately need the Federal assistance.

I can assure the gentleman that all three of our States will make the necessary sacrifices as well by matching any Federal funds. I respectfully ask the chairman if he will pledge to work with me and the other Members from my region to address the needs of our region as the bill moves to conference?

Mr. ROGERS. If the gentleman will yield further, knowing how important this matter is to the gentleman and others, I would be happy to continue to work with him and the other West Coast Members as the bill moves through the process.

Mr. DICKS. Mr. Chairman, I appreciate the chairman's courtesy.

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

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

Mr. ROGERS. I yield to the gentleman from Montana.

Mr. HILL. Mr. Chairman, I am concerned about two programs that are not funded in this bill but are included in the Senate version of the bill. Last year my amendment to the Small Business Reauthorization Act was adopted, authorizing $2 million for technical assistance to help small R&D businesses compete for SBIR and STTR awards. Eligible States could receive $100,000, with a $50,000 State match to assist small businesses in applying for these awards and establishing performance goals.

As this bill moves towards conference, I request that the chairman consider providing $2 million for technical assistance to the 23 States that receive the fewest small business innovation research grants.

Secondly, I would like to bring to the Chairman's attention the Mike Mansfield Fellowship Program. This program was created by Congress in 1994 to honor the distinguished former Senator and Majority Leader from Montana, Mike Mansfield, who also served for 12 years as our Ambassador to Japan. The program builds a core of U.S. officials with proficiency in the Japanese language, a network of contacts inside the government of Japan, and an in-depth knowledge of Japan's policy-making process.

As the bill goes forward to conference, I ask that the chairman include the Mansfield program among the exchange programs supported by the conferees.

Mr. ROGERS. Mr. Chairman, reclaiming my time, I thank the gentleman for bringing these very important matters to our attention. I would be happy to work with the gentleman and other interested Members to try to address their concerns as we move into the conference with the Senate on this bill.

Mr. HILL. Mr. Chairman, if the gentleman will continue to yield, these programs are of particular importance to me, and I am pleased the Chairman and the Committee will work to ensure that the funds are provided for both of these. I appreciate the Chairman's and the Committee's indulgence.

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

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

Mr. MOLLOHAN. I yield to the gentleman from Florida.

Mr. DEUTSCH. Mr. Chairman, I would like to discuss NOAA's South Florida Ecosystem Restoration Initiative. Because of NOAA's scientific management capabilities, the agency plays a critical role in this massive restoration effort. Ten Members of the Florida delegation wrote to the committee on May 11 supporting NOAA's programs.

Mr. Chairman, I rise to address two points. First, it is my understanding that the House will provide $2.6 million for this initiative and $1.3 million to the National Marine Fisheries Service to continue its restoration efforts. Second, I would ask the chairman if he would consider in conference the request of the National Ocean Service for a coral reef monitoring program.

Mr. ROGERS. Mr. Chairman, if the gentleman from West Virginia (Mr. MOLLOHAN) would yield, the gentleman from Florida (Mr. DEUTSCH) is correct that the bill includes no less than $2.6 million in NOAA for this initiative, including $1.3 under the National Marine Fisheries Service to continue ongoing activities.

In addition, the bill provides a $5 million increase for NMFS for high-priority programs. It is the committee's intention that NMFS consider using a portion of this increase to augment its activities in this area.

Further, I will be happy to look at the issue regarding additional efforts for this initiative as we move to conference with the Senate.

Mr. MOLLOHAN. Mr. Chairman, reclaiming my time, I yield to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Chairman, I rise today to enter into a colloquy with the subcommittee chairman regarding a program that is important to the coastal communities in this Nation.

Mr. Chairman, less than three weeks ago the world witnessed one of the most devastating natural disasters in history. A giant wave known as a tsunami struck the shore of northwestern New Guinea, killing over 2,000 people and injuring thousands more. Some of us in this body may recall the tsunami that struck Alaska, California, Oregon and Hawaii in 1964, that killed over 120 Americans. Tsunamis are a real and extremely dangerous threat to life in the United States, as well as other countries.

In light of the recent New Guinea incident, it is essential that our Nation evaluate its preparedness for a similar event. Over the last 2 years, NOAA has been developing a plan to mitigate the

effects of such an event. I look forward to working with the chairman to see that the Federal Government is prepared for such an event.

□ 2115

Mr. ROGERS. Mr. Chairman, I appreciate the gentlewoman's concern for this very serious problem, and will be pleased to work with her as we move through the process to ensure that the Federal government is taking the necessary steps to be prepared for such a disaster.

Ms. HOOLEY of Oregon. I thank the chairman for the willingness to study this problem, and am anxious to work with him in conference on this issue.

Mr. MOLLOHAN. Mr. Chairman, I yield to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Chairman, the gentlewoman from Washington (Ms. DUNN) and I were going to enter an amendment today to create an incentive program for States to implement a 24-hour holding period for a psychological evaluation for juveniles who bring firearms to school.

That amendment would have been subject to a point of order and we will not offer it, but I wonder if the chairman would be willing to engage in a brief colloquy.

Mr. ROGERS. Mr. Chairman, if the gentleman from West Virginia would yield, I would tell the gentleman, yes, of course I would.

Mr. DEFAZIO. Mr. Chairman, as we know, the Senate adopted an amendment to the Commerce, Justice, State appropriations bill which is identical to the amendment the gentlewoman from Washington (Ms. DUNN) and I had planned to offer.

We intended to introduce that amendment as a stand-alone bill before we adjourn this week. However, in light of the recent outbreak of school shootings this year, I ask for the chairman's support as we work to make this bill law, and create new ways to prevent youth violence in our schools and give our communities the tools they need in that effort.

Mr. ROGERS. Mr. Chairman, I would be happy to work with the gentleman and the gentlewoman from Washington (Ms. DUNN) on this legislation over the coming months.

Mr. DEFAZIO. I thank the chairman for that.

Mr. Chairman, this country has been rocked by the outbreak of violent shootings and the senseless loss of life in our schools this past year. My hometown of Springfield, OR is still struggling with the pain and devastation of one of those shootings. Like my friends and neighbors, I've looked for answers and solutions to these tragic events. It's clear there's no single, or simple, solutions to prevent these acts from re-occurring when school starts in the fall. But the circumstances around the Springfield incident has focused attention on a shortcoming in current law.

When a student takes a gun to school, it should set-off alarm bells. Someone should take a look at that student's life and see what would be causing that type of behavior, but instead, police officers are asked to make a judgment call about the youth's state of mind and determine whether, or not, they pose a threat to themselves or the community. But may law enforcement officials don't want that discretion. Many law enforcement officials feel these students should be detained and evaluated by a professional before being released back into the community.

Bobby Moody, President of the International Association of Chiefs of Police wrote, "As recent events have shown, a mechanism must be developed which temporarily pulls children found with guns out of the school system so that a thorough psychological examination can be performed to determine the danger such a child presents to others."

Paul Barnett, President of the Oregon State Sheriff's Association wrote, "Oregon's recent tragedy in Springfield has been a devastating and unnecessary reminder of the urgent need for new legislation to address the obvious inadequacies of our current policy regarding school violence. Over 100 Oregon students were caught bringing guns to school last year, each representing the potential for yet another tragedy. Oregon State Sheriff's Association urges the U.S. Congress to act quickly to deliver this important tool to communities and schools throughout the nation by providing incentives to states willing to implement the provisions of the 72 hour hold legislation."

And Springfield Mayor Bill Morrisette wrote, "I recently attended a debriefing conference in Memphis, TN convened by Mayor Jimmy Foster of Pearl, MS and attended by representatives of Paduca, KY, Jonesboro and Stgamps, AK, Edinboro, PA and Keokuk, IA. It was the consensus that the 72-hour mandatory holding period for guns on school campuses was a necessary first step. If we don't even allow joking about having a weapon in an airport, why should we give a kid a slap on the wrist for bringing a gun to school."

Guns in schools is too common. A study of the Department of Education on implementation of the Gun-Free-Schools Act found that more than 6,000 students were expelled for bringing a firearm to school in the 1996–97 school year. Thirty-four percent of those students were in junior high school, and nine percent were in elementary school. Communities want and need more tools and resources to deal with these situations.

This amendment is not a panacea, and we can't second guess what would have happened if this law had been in effect and Kip Kinkle had been detained and evaluated by a judge rather than released into the community. But, this law would give local law enforcement officials one more tool to use to reduce the incidence of gun violence in our schools.

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

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

Mr. ROGERS. I yield to the gentleman from Missouri.

Mr. HULSHOF. Mr. Chairman, I would ask to enter into a colloquy with the Chairman of the Subcommittee.

First of all, I want to commend the Chairman. I also want to commend the ranking member, the gentleman from West Virginia, and other members of the Subcommittee for their commitment to address the methamphetamine problem in the United States, and specifically to provide $50 million of unused funds to the methamphetamine program within the community-oriented policing program.

Tragically, Mr. Chairman, over the last couple of years, my home State of Missouri has ranked among the top three methamphetamine-producing States in the Nation. We have seen in our State investigations seizures double in recent years. I can tell the gentleman that law enforcement in Missouri is waging a war against methamphetamine production, and they closed over 310 labs last year. Unfortunately, a lot of work yet remains to be done.

Demonstrating the problems methamphetamine is causing in Missouri, I got a letter from a constituent of mine, Linwood Willis Carman, Jr., who happens to work for the Wellsville Police Department in Montgomery County in suburban St. Louis. He asked for my help so his police department can continue to employ officers to combat meth.

He says: "Sir, I ask you for a helping hand to help me do what I love to do and was trained to do. I want to stop the meth makers of Missouri, and help the countless that fall victim to the temptation. I don't want to see Missouri ranked number one in the meth business anymore."

Mr. Chairman, I understand the Senate provided $15.5 million for the methamphetamine program, well below the House level of $50 million. As we move to conference with the Senate, I ask for the Chairman's support in retaining the House funding level for this vital program in directing necessary funds to combat the methamphetamine problem in Missouri, so we can give local law enforcement officials the tools necessary to wage a winning battle over this highly addictive and destructive drug.

Mr. ROGERS. Mr. Chairman, I would like to congratulate the gentleman for his input on this tragic and important matter. I look forward to working with the gentleman and our Senate counterparts to move towards the House position certainly on the COPS methamphetamine funding.

Mr. HULSHOF. I thank the chairman.

Mr. ROGERS. Mr. Chairman, I move to strike the last word for the purpose of engaging in a colloquy with the gentleman from Arkansas (Mr. DICKEY).

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

Mr. ROGERS. I yield to the gentleman from Arkansas.

Mr. DICKEY. Mr. Chairman, I want to show my concern about a provision

in the chairman's bill that allows an increase of $18.5 million for the EEOC. I want to do so by drawing attention to a circumstance in Miami, Florida, that I think is worthy of the gentleman's attention and the attention of my colleagues. It has to do with Joe's Stone Crab in Miami Beach.

That is a well-known, world-renowned restaurant. It has been owned for 85 years by the same Jewish family. It has had diversity practices in its hiring practices long before it was required by law. It has been targeted and victimized by the EEOC, not because there are too few female employees. The owner is a female, and 22 percent of the employees are female. The heads of the departments of the restaurant, Mr. Chairman, are females, but there are too few female servers, according to the EEOC.

This is in contrast to what is happening with Hooters. Hooters has only female servers. They are a chain. The EEOC has targeted just one restaurant.

The reign of terror of the EEOC against Joe's Stone Crab began on April 27, 1992. The charge was a failure to actively recruit female servers. This was done without a female filing a complaint, and it was done without complying with the law that 300 days prior to such a ruling, that there had to be a complaint filed. There was no complaint filed. They went on their own.

On July 3, 1997, there was a ruling by Judge Daniel T. K. Early. In his findings he said that Joe's Stone Crab was guilty; those were his words, even though it is a civil action, that they were guilty of hiring discrimination.

There was no finding of any intended discrimination, Mr. Chairman. They took it on themselves, or the court took it on itself at that point to take over the hiring practices of Joe's Stone Crab, a small business in the United States. They required that the roll call, which had been word of mouth, be publicized, and required them to spend $125,000 in ads in the papers that they specified.

As a result of that, a fewer percent of applicants of women were brought in. They hired more than the percentage of applicants that came in as far as females were concerned, and again, no female complained at any time.

When confronted with the 22 percent female hiring that had occurred between 1991 and 1995, the court then just changed the statistical reference. They then looked at the total of the female food servers in Dade County, and that was 32 percent, so they just moved the target so they could do what they wanted to do.

The bottom line is that this restaurant has spent 6 years, over $1 million; they have had bad publicity; they have had lower morale; they have had the court come in and take over their operations and examine it from every angle. Then we are giving them $18.5 million in increase. I think they do not have enough to do. If they claim there is a backlog, it is because they are spending time on such frivolous litigation. They should be examined very carefully.

Small businesses all across the country are being victimized by the EEOC. They are at the point where they cannot complain because they think retaliation will come. Joe's Stone Crab is a story of one owner saying, I will take on the government for the sake of the small businesses.

My last comment, Mr. Chairman, is that I urge, as this bill moves forward and in the years to come, that the chairman address the issue of frivolous litigation and damages that the EEOC brings upon the small businesses in America.

Mr. ROGERS. Mr. Chairman, I appreciate the gentleman bringing up this problem. The increase in the bill is targeted at resolving the backlog of individual charges of discrimination, charges brought by actual individuals claiming discrimination. These are actual employers and employees who deserve prompt and fair resolutions. A major part of the increase is for alternative dispute resolution to avoid the costs and delays of litigation, which the gentleman has mentioned.

At the same time, we have included report language that tells the EEOC to give priority to the backlog over litigation. The report language requires the EEOC to track and report the resources spent on litigation compared to resources spent on clearing the backlog, so we can make sure they are adhering to our guidance.

I would be happy to work with the gentleman as the bill moves to conference and beyond.

Mr. DICKEY. I thank the gentleman.

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

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Pennsylvania for the purposes of a colloquy.

Mr. FOX of Pennsylvania. Mr. Chairman, I rise to engage the chairman in a colloquy. I have offered and subsequently withdrawn an amendment that would have ensured that none of the funds provided in this act may be used by the Department of State or the United States Information Agency to provide any form of assistance to the Palestinian Broadcast Corporation.

The Palestinian Broadcast Corporation is the official broadcasting arm of the Palestinian Authority. It has been receiving assistance from the United States while engaging in a campaign in support of violence and hatred against the United States and her interests. This campaign is fostering an atmosphere sympathetic to violence and terrorism in the region.

I believe the United States should do everything possible to support a free and independent media, but I say to the gentleman from Kentucky (Chairman ROGERS), this is not media, this is propaganda. I do not believe United States taxpayer dollars should be spent to sustain it.

I understand the committee has included report language addressing this issue. In addition, I understand the Senate has passed legislative language similar to the committee's report language. I would hope that the chairman would consider this favorably when addressing the issue in conference.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for raising the issue. As the gentleman mentioned, we have included report language urging the USIA to refrain from assisting the Palestinian Broadcasting Corporation in any way which could further the restriction of press freedoms or the broadcasting of inaccurate, inflammatory messages.

It is my understanding that the Department of State and USIA currently have a policy of not providing such assistance to the Palestinian Broadcasting Corporation, based on the types of behaviors that the gentleman has just described. I support that policy.

As the bill moves into conference, I will be happy to work with the gentleman and other interested Members.

Mr. FOX of Pennsylvania. I thank the gentleman. I appreciate his assurances and assistance in this regard.

AMENDMENT OFFERED BY MR. SAXTON

Mr. SAXTON. 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. SAXTON:

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds appropriated or otherwise made available in this Act may be used by the United States to intervene against a claim for attachment in aid of execution, or execution, of property of a foreign state upon a judgment relating to a claim brought under section 1605(a)(7) of title 28, United States Code.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from New Jersey (Mr. SAXTON) and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON) for 5 minutes.

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

This amendment is known as the International Terrorist Must Pay amendment. In 1996, the Congress passed and the President signed the Antiterrorism and Effective Death Penalty Act of 1996. This Act allowed

victims of State-sponsored terrorism to sue foreign governments in Federal court for damages arising from terrorism.

In 1995, a young New Jersey woman named Alysa Flatow was killed in Israel by a suicide bomber from the Islamic Jihad, a terrorist operation financed by and sponsored by Iran. Her family sued under the aforementioned statutes and proved that Iran had financed the activities of the Islamic Jihad, and received a judgment of $247 million in damages.

Needless to say, Iran did not voluntarily step forward to pay the judgment. As a result, the Flatows sought to locate Iranian-owned property in the United States. Recently they located three properties in Washington, D.C. owned by the Iranian government. They proceeded to go to court to have the court attach the properties for subsequent sale.

The court issued the writs of attachment, and the Federal Marshals were ordered to serve Iran with the papers. The State Department at that time stepped in and raised objections to the sale, in effect taking the side of Iran, and asked the Justice Department to intervene on the side of Iran.

The Justice Department subsequently made an appearance in the trial and argued that the property should not be seized, their argument being that it would allow the seizure of Iranian assets. Of course, if their argument holds, this would defeat the purpose of the bill that Members on both sides of the aisle voted in favor of in 1996, the Antiterrorism and Effective Death Penalty Act of 1996. Iran therefore would be allowed to continue to finance terrorist activity without a price to pay. This amendment finalizes the process and creates a price for international terrorism.

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

Mr. OBEY. Mr. Chairman, I do not really want to oppose the amendment, but I ask unanimous consent to claim the time so we can explain why we are accepting it.

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

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) will control the time.

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

It is my understanding that the committee intends to accept this amendment on both sides. I would simply like to say that, as some Members may remember, this matter was brought up before the House once before several weeks ago on a previous appropriation bill. It was then offered in a form which was technically not germane to the bill and was subject to a point of order.

We felt that the Congress had not had sufficient time to examine the amendment and to understand its implications in terms of the administration's ability to negotiate and to conduct foreign policy. So we were concerned at that time.

We have now learned a bit more about the status of the law. There are still, frankly, some questions about the advisability of going exactly this route, but, frankly, the State Department has not been as clear as we would like in laying out what other options might be available.

So under these circumstances, I think it is advisable for the committee to accept the amendment with the understanding that it will need to be worked on in conference to make certain that it is consistent with U.S. national interests.

Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

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

I rise in strong support of the amendment of the gentleman from New Jersey. This will help American victims of terrorism collect on judgments they have been awarded against state sponsors of terrorism.

As the gentleman from New Jersey pointed out, the Flatow family has gotten a judgment against the government of Iran, which sponsors terrorism. It is absolutely obscene that we would be in a position of taking the side of Iran. Iran must understand, as an outlaw nation, that we will never stop in trying to combat terrorism. This is certainly justice for the Flatow family.

By allowing this seizure of Iranian assets, this is something that teaches Iran, hits them where it hurts and let us them understand, again, that we will not accept state-sponsored terrorism.

It is ludicrous that the State Department had opposed this. Iran must pay a price for the continuing support of terrorism. I compliment my friend from New Jersey.

Mr. OBEY. Mr. Chairman, I would simply say that there are some questions, also, the State Department has with respect to who should be ahead of whom in being able to make claims against countries like Iran.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. MENENDEZ).

Mr. MENENDEZ. Mr. Chairman, I want to rise in strong support of the Saxton amendment.

We clearly gave the right to victims of terrorists to sue foreign entities for compensation as a Congress. That is what the Congress passed in the law. And it is right for us to do so, to give a victim with a court-ordered judgment, to be allowed to enforce that judgment against any and all assets of a country in the United States.

It is offensive, in my view, that any department or entity of the United States Government would actively seek to inhibit such a judgment. This amendment would allow the family of Alysa Flatow, who is someone who in fact died at the age of 20, a resident of the State of New Jersey, a young, vibrant woman who had a lifetime of opportunity ahead of her. Her life was cut short and her family devastated by a bomb which exploded on the bus she was traveling on in Gaza. She was absolutely innocent.

They have a court-ordered judgment. The judge actually gave them a writ to go ahead against property. We should not be interfering. We should be standing up on behalf of the rights of United States citizens to be able to pursue such a judgment.

Mr. SAXTON. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL) who represents the Flatow family.

Mr. PASCRELL. Mr. Chairman, Alysa Flatow was a student at Brandeis University. She was a woman of great character, both in life and in death. Those who received her organs can attest to the kind of woman she was. Her heart was successfully transplanted to a 56-year-old man who had been waiting for a year. Her liver was donated to a 23-year-old man; her lungs, pancreas and kidneys to four different patients. Her corneas were donated to an eye bank.

New Jersey will not forget Alysa Flatow or the struggle and trauma her family have gone through as a result of this heinous act and this senseless loss of a promising young woman.

Mr. Chairman, we have had enough victims. We do not need to victimize the family any longer. Personally, I have had enough of negotiating leverage, quote unquote. It is time that we stood and stood tall for the Flatow family.

Mr. SAXTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. FOX).

Mr. FOX of Pennsylvania. Mr. Chairman, I rise in support of the Saxton amendment.

Mr. SAXTON. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New Jersey (Mr. SAXTON). I congratulate him for it.

The life of Alysa Flatow was only 20 years long, and I am sure that her family feels a pain that is beyond description. But I am also sure that we can do something collectively here tonight that will help her life have even more meaning than it has already had.

We can change the law of our country and say to terrorists, whether in Iran

or around the world, that in this country you will be held accountable. If you appear before our courts and you are adjudicated guilty, you cannot find a loophole or an escape.

This is a legacy that this young woman's life can leave for generations to come that if, God forbid, if someone else is a victim of terrorism, those terrorists can and will be held accountable in a U.S. court of law.

I urge the amendment's adoption.

Mr. SAXTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, we have no objection to the amendment. As the gentleman from Wisconsin indicated, this needs to be discussed at some point before and during conference to be sure we are consistent on our policy. But we have no objection to this amendment and congratulate the gentleman.

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

Mr. SAXTON. Mr. Chairman, I thank very much the chairman and the ranking member and all those who have spoken in favor of this amendment tonight.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. SAXTON).

The amendment was agreed to.

AMENDMENT NO. 23 OFFERED BY MR. HOLDEN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 23 offered by Mr. HOLDEN: Page 124, insert the following after line 2:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. (a) Section 118 of title 28, United States Code, is amended—

(1) in subsection (a) by striking "Philadelphia, and Schuylkill" and inserting "and Philadelphia"; and

(2) in subsection (b) by inserting "Schuylkill," after "Potter,".

(b)(1) This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

The CHAIRMAN. Pursuant to the previous order of the House of today, the gentleman from Pennsylvania (Mr. HOLDEN) and a Member opposed each will control 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. HOLDEN).

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

What my amendment will do is to transfer Schuylkill, Pennsylvania from the Eastern Judicial District of Pennsylvania to the Middle Judicial District of Pennsylvania.

This provision overwhelmingly passed the House as part of H.R. 2294, the Federal Courts Improvement Act. However, the other body has notified us that they will not be able to address this piece of legislation in this session because of the few remaining legislative days on the calendar. So this is an amendment of convenience, an amendment of convenience to the citizens of Schuylkill County who are now forced to drive in excess of 2 hours to Philadelphia to serve on jury duty or for other court business.

If Schuylkill County is moved to the Middle District of Pennsylvania, the citizens of Schuylkill County will only have to travel a distance of about 55 or 60 miles, less than an hour on interstate 81, to the State Capital of Harrisburg.

This is a noncontroversial amendment, Mr. Chairman. Both chief judges of the Eastern District and of the Middle District have no opposition to it. The Bar Association of Schuylkill County is in favor of it.

I know from my days of serving as sheriff of Schuylkill County, the citizens will appreciate not having to drive all the way to Philadelphia to serve on jury duty.

I would like to thank the gentleman from Kentucky (Mr. ROGERS) and the gentleman from West Virginia (Mr. MOLLOHAN) for their assistance in this matter, as well as the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) for their assistance in the previous legislation.

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

Mr. HOLDEN. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, we have examined the amendment and discussed it with the gentleman in detail, and we have no objection.

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

The CHAIRMAN. Does any Member claim the time in opposition?

If not, the question is on the amendment offered by the gentleman from Pennsylvania (Mr. HOLDEN).

The amendment was agreed to.

AMENDMENT NO. 35 OFFERED BY MR. STEARNS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 35 offered by Mr. STEARNS:

TITLE IX—INTERNET GAMBLING PROHIBITION

SEC. 901. SHORT TITLE.

This title may be cited as the "Internet Gambling Prohibition Act of 1998".

SEC. 902. DEFINITIONS.

Section 1081 of title 18, United States Code, is amended—

(1) in the matter immediately following the colon, by designating the first 5 undesignated paragraphs as paragraphs (1) through (5), respectively, and indenting each paragraph 2 ems to the right; and

(2) by adding at the end the following:

"(6) BETS OR WAGERS.—The term 'bets or wagers'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, sporting event of others, or of any game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28, United States Code; and

"(D) does not include—

"(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

"(iii) a contract of indemnity or guarantee;

"(iv) a contract for life, health, or accident insurance; or

"(v) participation in a game or contest, otherwise lawful under applicable Federal or State law—

"(I) that, by its terms or rules, is not dependent on the outcome of any single sporting event, any series or sporting events, any tournament, or the individual performance of 1 or more athletes or teams in a single sporting event;

"(II) in which the outcome is determined by accumulated statistical results of games or contests involving the performances of amateur or professional athletes or teams; and

"(III) in which the winner or winners may receive a prize or award;

(otherwise known as a 'fantasy sport league' or a 'rotisserie league') if such participation is without charge to the participant or any charge to a participant is limited to a reasonable administrative fee.

"(7) FOREIGN JURISDICTION.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(8) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term 'information assisting in the placing of a bet or wager'—

"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to accept or place a bet or wager; and

"(B) does not include—

"(i) information concerning parimutuel pools that is exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction

in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

"(ii) information exchanged between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

"(iii) information exchanged between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

"(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

"(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.".

SEC. 903. PROHIBITION ON INTERNET GAMBLING.

(a) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"§ 1085. Internet gambling

"(a) DEFINITIONS.—In this section:

"(1) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term 'closed-loop subscriber-based service' means any information service or system that uses—

"(A) a device or combination of devices—

"(i) expressly authorized and operated in accordance with the laws of a State for the purposes described in subsection (e); and

"(ii) by which a person located within a State must subscribe to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

"(B) a customer verification system to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

"(C) appropriate data security standards to prevent unauthorized access.

"(2) GAMBLING BUSINESS.—The term 'gambling business' means a business that is conducted at a gambling establishment, or that—

"(A) involves—

"(i) the placing, receiving, or otherwise making of bets or wagers; or

"(ii) offers to engage in placing, receiving, or otherwise making bets or wagers;

"(B) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(C) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

"(3) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that uses a public communication infrastructure or operates in interstate or foreign commerce to provide or enable computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

"(4) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(5) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity.

"(6) PRIVATE NETWORK.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

"(A) private dedicated lines; or

"(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

"(7) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

"(b) GAMBLING.—

"(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager with any person; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager with the intent to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) three times the greater of—

"(I) the total amount that the person is found to have wagered through the Internet or other interactive computer service; or

"(II) the total amount that the person is found to have received as a result of such wagering; or

"(ii) $500;

"(B) imprisoned not more than 3 months; or

"(C) both.

"(c) GAMBLING BUSINESSES.—

"(1) PROHIBITION.—Subject to subsection (e), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person engaged in a gambling business who violates paragraph (1) shall be—

"(A) fined in an amount that is not more than the greater of—

"(i) the amount that such person received in bets or wagers as a result of engaging in that business in violation of this subsection; or

"(ii) $20,000;

"(B) imprisoned not more than 4 years; or

"(C) both.

"(d) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may, as an additional penalty, enter a permanent injunction enjoining the transmission of bets or wagers or information assisting in the placing of a bet or wager.

"(e) EXCEPTIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the prohibitions in this section shall not apply to any—

"(A) otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery or a racing or parimutuel activity, or a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries, (if the lottery or activity is expressly authorized, and licensed or regulated, under applicable Federal or State law) on—

"(i) an interactive computer service that uses a private network, if each person placing or otherwise making that bet or wager is physically located at a facility that is open to the general public; or

"(ii) a closed-loop subscriber-based service that is wholly intrastate; or

"(B) otherwise lawful bet or wager for class II or class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) that is placed, received, or otherwise made on a closed-loop subscriber-based service or an interactive computer service that uses a private network, if—

"(i) each person placing, receiving, or otherwise making that bet or wager is physically located on Indian land; and

"(ii) all games that constitute class III gaming are conducted in accordance with an applicable Tribal-State compact entered into under section 11(d) of the Indian Gaming Regulatory Act (25 U.S.C. 2701(d)) by a State in which each person placing, receiving, or otherwise making that bet or wager is physically located.

"(2) INAPPLICABILITY OF EXCEPTION TO BETS OR WAGERS MADE BY AGENTS OR PROXIES.—An exception under subparagraph (A) or (B) of paragraph (1) shall not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service. Nothing in this paragraph shall be construed to prohibit the owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

"(f) STATE LAW.—Nothing in this section shall be construed to create immunity from criminal prosecution or civil liability under the law of any State.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

"1085. Internet gambling.".

SEC. 904. CIVIL REMEDIES.

(a) IN GENERAL.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of section 1085 of title 18, United States Code, as added by section 903, by issuing appropriate orders.

(b) PROCEEDINGS.—

(1) INSTITUTION BY FEDERAL GOVERNMENT.—The United States may institute proceedings under this section. Upon application of the United States, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

(A) IN GENERAL.—Subject to subparagraph (B), the attorney general of a State (or other appropriate State official) in which a violation of section 1085 of title 18, United States Code, as added by section 903, is alleged to have occurred, or may occur, after providing written notice to the United States, may institute proceedings under this section. Upon

application of the attorney general (or other appropriate State official) of the affected State, the district court may enter a temporary restraining order or an injunction against any person to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

(B) INDIAN LANDS.—With respect to a violation of section 1085 of title 18, United States Code, as added by section 903, that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authority under subparagraph (A) shall be limited to the remedies under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), including any applicable Tribal-State compact negotiated under section 11 of that Act (25 U.S.C. 2710).

(3) ORDERS AND INJUNCTIONS AGAINST INTERNET SERVICE PROVIDERS.—Notwithstanding paragraph (1) or (2), the following rules shall apply in any proceeding instituted under this subsection in which application is made for a temporary restraining order or an injunction against an interactive computer service:

(A) SCOPE OF RELIEF.—

(i) If the violation of section 1085 of title 18, United States Code, originates with a customer of the interactive computer service's system or network, the court may require the service to terminate the specified account or accounts of the customer, or of any readily identifiable successor in interest, who is using such service to place, receive or otherwise make a bet or wager, engage in a gambling business, or to initiate a transmission that violates such section 1085.

(ii) Any other relief ordered by the court shall be technically feasible for the system or network in question under current conditions, reasonably effective in preventing a violation of section 1085, of title 18, United States Code, and shall not unreasonably interfere with access to lawful material at other online locations.

(iii) No relief shall be issued under subparagraph (A)(ii) if the interactive computer service demonstrates, after an opportunity to appear at a hearing, that such relief is not economically reasonable for the system or network in question under current conditions.

(B) CONSIDERATIONS.—In the case of an application for relief under subparagraph (A)(ii), the court shall consider, in addition to all other factors that the court shall consider in the exercise of its equitable discretion, whether—

(i) such relief either singularly or in combination with such other injunctions issued against the same service under this subsection, would seriously burden the operation of the service's system network compared with other comparably effective means of preventing violations of section 1085 of title 18, United States Code;

(ii) in the case of an application for a temporary restraining order or an injunction to prevent a violation of section 1085 of title 18, United States Code, by a gambling business (as is defined in such section 1085) located outside the United States, the relief is more burdensome to the service than taking comparably effective steps to block access to specific, identified sites used by the gambling business located outside the United States; and

(iii) in the case of an application for a temporary order or an injunction to prevent a violation of section 1085 of title 18, United States Code, as added by section 903, relating to material or activity located within the United States, whether less burdensome, but comparably effective means are available to block access by a customer of the service's system or network to information or activity that violates such section 1085.

(C) FINDINGS.—In any order issued by the court under this subsection, the court shall set forth the reasons for its issuance, shall be specific in its terms, and shall describe in reasonable detail, and not be reference to the complaint or other document, the act or acts sought to be restrained and the general steps to be taken to comply with the order.

(4) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to this subsection shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the injunction that the United States or the State, as applicable, will not seek a permanent injunction.

(c) EXPEDITED PROCEEDINGS.—

(1) IN GENERAL.—In addition to proceedings under subsection (b), a district court may enter a temporary restraining order against a person alleged to be in violation of section 1085 of title 18, United States Code, as added by section 903, upon application of the United States under subsection (b)(1), or the attorney general (or other appropriate State official) of an affected State under subsection (b)(2), without notice and the opportunity for a hearing, if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the transmission at issue violates section 1085 of title 18, United States Code, as added by section 903.

(2) EXPIRATION.—A temporary restraining order entered under this subsection shall expire on the earlier of—

(A) the expiration of the 30-day period beginning on the date on which the order is entered; or

(B) the date on which a preliminary injunction is granted or denied.

(3) HEARINGS.—A hearing requested concerning an order entered under this subsection shall be held at the earliest practicable time.

(d) RULE OF CONSTRUCTION.—In the absence of fraud or bad faith, no interactive computer service (as defined in section 1085(a) of title 18, United States Code, as added by section 903) shall be liable for any damages, penalty, or forfeiture, civil or criminal, for any reasonable course of action taken to comply with a court order issued under subsection (b) or (c) of this section.

(e) PROTECTION OF PRIVACY.—Nothing in this title or the amendments made by this title shall be construed to authorize an affirmative obligation on an interactive computer service—

(1) to monitor use of its service; or

(2) except as required by an order of a court, to access, remove or disable access to material where such material reveals conduct prohibited by this section and the amendments made by this section.

(f) NO EFFECT ON OTHER REMEDIES.—Nothing in this section shall be construed to affect any remedy under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law. The availability of relief under this section shall not depend on, or be affected by, the initiation or resolution of any action under section 1084 or 1085 of title 18, United States Code, as amended by this title, or under any other Federal or State law.

(g) CONTINUOUS JURISDICTION.—The court shall have continuous jurisdiction under this section to enforce section 1085 of title 18, United States Code, as added by section 903.

SEC. 905. REPORT ON ENFORCEMENT.

Not later than 3 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that includes—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by section 903;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money being used to gamble on the Internet.

SEC. 906. REPORT ON COSTS.

Not later than 3 years after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress that includes—

(1) an analysis of existing and potential methods or technologies for filtering or screening transmissions in violation of section 1085 of title 18, United States Code, as added by section 903, that originate outside of the territorial boundaries of any State or the United States;

(2) a review of the effect, if any, on interactive computer services of any court ordered temporary restraining orders or injunctions imposed on those services under this section;

(3) a calculation of the cost to the economy of illegal gambling on the Internet, and other societal costs of such gambling; and

(4) an estimate of the effect, if any, on the Internet caused by any court ordered temporary restraining orders or injunctions imposed under this title.

SEC. 907. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. MILLER of California. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from California (Mr. MILLER) reserves a point of order.

Pursuant to the previous order of the House of today, the gentleman from Florida (Mr. STEARNS) and a Member opposed each will control 2½ minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

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

I tell my colleague who objected, I intend to withdraw this amendment after a short statement, after engaging in a colloquy with a few Members on my side and also one on his side.

I realize that prohibiting Internet gambling is a hot button issue today, but I think there is a majority in Congress that strongly believes that such a prohibition is needed to prevent the disease of gambling from infecting the Internet. That is why I have offered the same bill that Senator KYL has offered

in the Senate that passed by 90 to 10, and I believe introducing the Kyl language here in the House would be very important.

I want to move that forward. I have received strong support both in the committee, the Committee on Commerce, as well as from the National Football League, the National Collegiate Athletic Association, National Association of Attorneys General and other groups that are adversely affected with the continuance of Internet gambling.

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

Mr. GOODLATTE. Mr. Chairman, I appreciate the gentleman's interest in this issue.

As he knows, illegal gambling on the Internet is a rapidly growing industry. The Justice Department estimates that $600 million was bet illegally on sports alone over the Internet last year, a tenfold increase over the previous year. I applaud my friend from Arizona, Mr. KYL, in the Senate for moving legislation in the other body. I want to assure my friend from Florida that we are currently working in the Committee on the Judiciary to move corresponding legislation before the August recess.

I thank the gentleman for yielding, and I appreciate the Gentleman's interest in this issue. Illegal gambling on the internet is a rapidly growing industry—the Justice Department estimates that $600 million was bet illegally on sports alone over the internet last year, a tenfold increase over 1996. Congress must take action this year to curb illegal internet gambling, and I have introduced legislation that would clamp down on this type of activity.

I applaud my friend from Arizona for moving legislation in the other body to address this issue, and I want to assure my friend from Florida that we are currently working in the Judiciary Committee to move corresponding legislation before the August recess. As my friend is aware, however, a number of areas and concerns surrounding this issue are still outstanding, and I want to assure the Gentleman that we are currently working with all parties to resolve those issues as we continue to move the process forward. I would therefore at this time ask that the Gentleman withdraw his amendment, so that we might continue working through the Committee process to produce a strong piece of legislation to combat internet gambling.

Mr. STEARNS. Mr. Chairman, I thank the gentleman. I recognize there are some areas of the Senate bill that need to be improved and clarified, particularly with the treatment of sports fantasy and educational games and treatment of advertising. As the process moves forward in the House, I look forward to working with the gentleman.

Mr. Chairman, I yield to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I share the concern of the gentleman that Internet gaming is a very serious problem. It is my understanding that the gentleman is going to withdraw his amendment and that the chairman of the Committee on Commerce has agreed to hold a hearing on his bill in September.

I appreciate that the gentleman has agreed to consider an amendment, I hope the gentleman from Virginia (Mr. GOODLATTE) would, too, that would leave the enforcement of Indian gaming with the National Indian Gaming Commission which was established under the Indian Gaming Regulatory Act passed by Congress in 1988. I certainly share his concern on this Internet gaming.

The National Indian Gaming Commission is the Federal entity that should enforce the restrictions on Indian Internet gaming under the gentleman's bill.

Mr. STEARNS. Mr. Chairman, I thank the gentleman. I think we can also take that into account.

The CHAIRMAN. The time of the gentleman from Florida (Mr. STEARNS) has expired.

Mr. ROGERS. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Kentucky (Mr. ROGERS) is recognized for 2½ minutes.

Mr. ROGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I yield to gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, I applaud my friend and colleague from Florida for his interest in placing a ban on Internet gambling. This issue not only is very important to the people of Nevada but absolutely is essential to protect American children as well as the integrity of the legalized gambling industry.

Allowing gambling to be performed on the Internet would open the floodgates for corruption, abuse and fraud. Internet gambling is a virtual Pandora's box that, if opened, would have an irreversible effect on millions of American people.

Banning Internet gaming is necessary to prevent widespread abuse from occurring. Unscrupulous operators could bilk millions of dollars out of unsuspecting customers, leaving the affected without recourse.

□ 2145

Another risk presented by Internet gaming involves young children in regulated gaming establishments all across this country. Security guards are required to check by law the identification of anyone appearing to be below the age of 21. With Internet gaming, however, minors, armed with nothing more than a credit card number, could easily access these gaming sites and literally squander their families' savings and income. Mr. Chairman, on the Internet gaming children can establish overseas betting accounts easier than they can sneak into an R-rated movie.

With all the rise in computers and Internet access, Internet gaming operations are growing equally as fast. We must not forget that there are millions of innocent users that could become serious victims if we are not careful in managing this incredible tool.

There are 50 million households with computers and 25 million of these computers have access to the Internet. Experts are predicting an explosion in the growth of households with Internet access. By the turn of the century, most schools and libraries will be on-line. It is important to recognize that the computer industry is not the only one profiting off of the explosion in computer availability. Internet gaming operations are growing equally as fast.

Most would agree that the Internet is a great educational tool and an extremely valuable source for all sorts of information. This resource must be shielded from the dangers associated with its unrestricted use. We must not forget that there are millions of innocent users that could become serious victims if we are not careful in managing this incredible tool.

Mr. Chairman, I applaud Mr. STEARNS for brining this issue to the House floor.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume to recognize the hard work that other Members have done here tonight and also to recognize my good friend, the gentleman from Florida (Mr. MCCOLLUM), who has worked hard on this, as well as the gentleman from New Jersey (Mr. LOBIONDO) and others who are supporting this.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Florida.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding and thank him for withdrawing the amendment and appreciate the concerns he has raised about further refinement of this amendment and legislation.

I also want to raise concerns about the treatment of the Indian Gaming Regulatory Act under the provisions of the amendment as written, and would hope that they would take into consideration the fact that that is the Federal regulatory agency for the regulation of Indian gaming.

Mr. STEARNS. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. MCINTOSH

Mr. MCINTOSH. 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. MCINTOSH:

At the end of the bill (immediately before the short title), insert the following new section:

SEC. . None of the funds appropriated or otherwise made available by this Act may be used for participation by United States delegates to the Standing Consultative Commission in any activity of the Commission to implement the Memorandum of Understanding Relating to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems of May 26, 1972, entered into in New York on September 26, 1997, by the United States, Russia, Kazakhstan, Belarus, and Ukraine.

The CHAIRMAN. Pursuant to the order of the House today, the gentleman from Indiana (Mr. MCINTOSH) and a Member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, I yield myself 2½ minutes.

How quickly we forget, or fail to learn the most important lessons of history. It was just 60 years ago when Winston Churchill struggled mightily to build a defensive air radar system in Britain to protect against Nazi threat. The British establishment, the appeasers, as he called them, mocked and scoffed him for this effort. They said there was no threat. How wrong they were. Because Churchill persevered, they did build a radar system and beat the Nazis.

Today, we are engaged in a similar debate. The cosponsor of this amendment, the gentleman from Pennsylvania (Mr. WELDON), has worked to bring to our attention since 1995, and the gentleman from Louisiana (Mr. LIVINGSTON), for many, many years, that there is a real threat of a ballistic missile attack on the United States. Yet the State Department establishment, like that of Britain in the 1930s, ignores or ridicules those who recognize a missile threat, but they do so at each of our peril.

The gentleman from Pennsylvania (Mr. WELDON) and I are introducing this amendment because the American people deserve to have a choice in this decision. The Clinton administration is trying to negotiate a new antiballistic missile treaty with the four successor states to the Soviet Union and to implement it without sending it to the Senate for ratification.

Now, a complete, fair and open debate is needed on renewing this ABM Treaty, and the Senate should have the opportunity to act properly and ratify any such treaty.

The fact is, today we do not have the ability to intercept a single missile fired at us by an enemy or a madman. Americans would be shocked if they found this out, but it is the truth. What is even worse about this new ABM Treaty is not only will a national missile defense system not be possible, but there are new restrictions on a theater missile defense program that could protect our troops overseas.

My amendment, quite simply, would say the bureaucracy responsible for implementing the ABM Treaty cannot spend any funds for further implementing the new treaty or any policies consistent with a new treaty.

Mr. Chairman, I finish by asking my colleagues a rhetorical question. What would they do the day after a missile attack from Iran, Iraq, Libya, or North Korea destroyed one of our cities? The very next day we would all be on this House floor demanding there be construction of such a missile protection system repelling such an attack.

Why wait for the tragedy? Let us do something now and spare the lives of the innocent Americans that would be lost. Please join me in approving this amendment to the bill.

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

Mr. OBEY. Mr. Chairman, I rise in opposition to this amendment, and I yield myself 5 minutes.

Mr. Chairman, I want to state from the outset that the intent of this amendment is a blatant attempt to negate the United States' obligation to continue to adhere to the antiballistic missile treaty so that proponents of deployment of additional missile defense systems in the U.S. can justify their campaign to deploy just such a system.

In my view, the deployment of such additional systems would not only violate U.S. treaty obligations with Russia but, more importantly, would destabilize our national security by setting back ongoing arms control negotiations with Russia and other former Soviet republics, and by encouraging newly emerging nuclear states to proceed without restrictions.

Many of the proponents of this amendment continue to be critical of this administration's policies to restrain India and Pakistan from conducting nuclear tests. Now, their efforts may have fallen short of their goals and, indeed, the world has become less secure today as a result. But the question is what is the next step?

The proponents of this amendment would have us throw out a standing arms control treaty that has been in place since 1972 so that they can pursue an expensive and widely premature plan to deploy an elaborate missile defense system that is years away from being able to work.

The administration's intentions with respect to the Memorandum of Understanding on the ABM Treaty's succession have been made abundantly clear and are enunciated in a letter of May 21st from the President to the chairman of the authorizing committees. That letter says plainly that the administration "will provide to the Senate, for its advice and consent, the Memorandum of Understanding of the ABM Treaty's succession." The letter further clarifies that, "Despite the breakup of the Soviet Union, the ABM Treaty is still in force with Russia and notification of the MOU is necessary to remove any ambiguities about how the treaty applies to other countries."

It is also clearly the understanding that the administration intends to submit the MOU on the ABM Treaty's succession after the Russian Duma has ratified START II. The timing of the submission to the Senate is based on the orderly progression of arms control regimes and was, in fact, developed in cooperation with the relevant parties of the U.S. Senate.

This amendment stops all activity to bring the Memorandum of Understanding on the ABM Treaty's succession to reality. I wonder how the passage of this amendment will affect the Russian Duma and the prospects of their action? I wonder what signals it sends to India and Pakistan, who are on the verge of war in Kashmir, both armed with nuclear weapons?

A vote for this amendment is a vote to unilaterally abrogate the ABM Treaty on the basis of 20 minutes debate in the middle of the night. That is what this supposedly modest amendment tries to do. A vote against this amendment is a vote to recognize that Congress should not take such irresponsible actions without clearly thinking out the consequences.

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

Mr. MCINTOSH. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, I rise in support of the gentleman's amendment.

I think about the ABM Treaty that was implemented between the Soviet Union and the United States in 1972 in an entirely different political world and in an entirely different technological world. Those were different times. They threatened to blow us up, we threatened to blow them up.

The Soviet Union does not exist any more, but the ABM Treaty is here, notwithstanding the fact that the technological developments of the computer age have totally transformed this dangerous world of ours.

Look at the headlines: May 1st. China targets nukes at the U.S. June 16th. China assists Iran, Libya with missiles. June 17th. North Korea admits missile sales. Then we see the Indian and the Pakistani bombs blow up.

We are living in a nuclear age and the arms negotiators are still negotiating a 1972 treaty with the old Soviet Union that does not even exist.

We have to give up this arms negotiation. It does not work. Let us defend Americans. Let us start deploying missile systems that intercept their missiles and we do not have to worry about

who blows up the next bomb in the next place.

We need do defend our American citizens. We need to defend the continental United States. We need to defend U.S. troops abroad. We need to defend our allies all around the world.

We could do it if this President use one word that has been absent in his vocabulary in the 6 years that he has been President of the United States: Deployment, deployment of missile defense systems.

This gentleman's amendment simple says, let us stop this arms negotiation, or at least if you are going to revise the ABM Treaty of 1972, come to the Senate for the advice and consent demanded under the Constitution of the United States and make sure that what you are doing has any logic and common sense whatsoever, because right now it does not.

I urge the adoption of the gentleman's amendment.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Chairman, let us understand what this is really all about. this is the de facto abrogation of the ABM Treaty because we would be prohibited, under the terms of this amendment, from participating in the Standing Consultative Committee under the ABM Treaty, which is the body that deals with compliance issues.

How will that be interpreted by the Russians who are still debating START II ratification? It will be seen by them as essentially an abrogation, as the start down the road toward the development of a broad missile defense system in this country.

That, in turn, will mean that all of our efforts to reduce nuclear missile armaments in the old Soviet Union, now in Russia, will grind to a halt and play directly into the hands of the nationalist sentiments in Russia to hang on to every missile that they now possess.

Now, if we think that is going to produce a more secure world for the United States, I beg to differ.

This is fundamentally, profoundly nuts. It is going in absolutely the wrong direction. It is inviting an aggravation in a very, very dicey and delicate path that we are trying to walk down, nuclear disarmament and the reduction of nuclear arms.

Now, if that is what the other side wants, so be it, but let us not pretend that anything else is at issue here but that fundamental question of a fork in the road. Do we want to continue to work with the Russians to reduce their stockpiles, to get the START III, to bring down the level of nuclear threat in the world?

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

Mr. SKAGGS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman acknowledge that despite the passage of some 5 years' of time the Russians have yet to even ratify START II, let alone START III?

Mr. SKAGGS. We have already acknowledged that and it is a prerequisite to getting to START III, which I assume the gentleman would agree would be in our national interest, but maybe not. Maybe he thinks we should hang on to more nuclear weapons.

Mr. LIVINGSTON. If the gentleman will continue to yield, I think the first thing to do is to defend the American people.

Mr. SKAGGS. Mr. Chairman, reclaiming my time, that is the practical consequence of the adoption of this amendment. Members should be under no illusion to the contrary. This amendment guts the ABM Treaty. It prohibits our participation in compliance activities. It will be seen, without any question, by the Russians as a reversal afield on the whole regime of nuclear arms limitation.

Mr. MCINTOSH. Mr. Chairman, how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Indiana (Mr. MCINTOSH) has 5½ minutes remaining and the gentleman from Wisconsin (Mr. OBEY) has 5 minutes remaining, and the right to close.

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

Mr. Chairman, I would note that the proponents of ABM refer to that system as MAD. If they think this is nuts, that is MAD, mutually assured destruction. It is truly madness that we would hold innocent populations hostage the way we have.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WELDON).

□ 2200

Mr. WELDON of Pennsylvania. Mr. Chairman, let us get our facts straight here. I chair the Duma Congress Study Group. I probably spend as much time with members of Duma as any Member of this Congress. In fact, I know over 200 of them personally.

Let us not put rhetoric on the table. Let us talk about this amendment. This amendment does not abrogate the ABM Treaty. In fact, I have been the one to offer to stand up and oppose any attempt to deliberately abrogate the Treaty.

What does it do? It stops this administration from imposing significant amendments and expansion of the ABM Treaty that harm our national security without the advice and consent of the Senate. That is all it does.

Five times this body has gone on the record and said that the U.S. Senate must be consulted. The ranking member of the full Committee on Appropriations just made a statement. He said the President said he will submit that to the Senate.

Well, I will call to the attention of my colleague and friend a letter sent on May 1, 1998, by Secretary Cohen to the services saying, "you will begin to implement the Missile Defense Treaty signed." That has already been done.

And following that, the Secretary for Research and Development, John Douglas, has begun already implementing this agreement without the Senate even being considered to give the document to them. That is already in place.

What we are saying is give the Senate the chance. Why do we say that? Now, the gentleman talked about the negotiations in Geneva. I went there. I think I am the only House member that sat across from General Koltunof, the chief Russian negotiator, for 2½ hours.

I said to the general, why do you want to expand the Treaty to include Belorus, Kazakhstan, and Ukraine? They do not have ICBMs. He said, congressman, you are asking that question to the wrong person. We did propose to expand the ABM Treaty. The gentleman sitting next to you, Stanley Rivilus, our chief negotiator.

Why do we want to expand the ABM Treaty, because it locks us into a treaty that we cannot modify for our own best interests. What about the demarcation limitations, the other expansion? The demarcation limitations do not down our missile defense capability.

Let me show my colleagues something that I got today. This is a document of the most capable Russian air defense system that they just tried to sell to Israel. This system we cannot match. It is better than PAC–3 when it is deployed. It is called the ANTEI–2500.

This system, I wonder where the demarcation numbers came from. This system just barely complies with them. So now what we found is this administration has agreed to demarcation standards that benefit Russia, that give Russia a capability that we cannot go beyond, even though this system is better than our PAC–3.

If my colleagues support Israel, if they support Israel's defense, if they support the defense of this country and our ability to develop capable theater missile defense systems, then they will support this amendment. All it does is it says that we will withhold the funding from ACTA until the Senate is given the required documentation. That is all it does.

It does not abrogate any treaty. It does not control the administration. It says, let the Congress play its rightful role. And I think this Congress deserves to do that because we need to understand our lives and our friends and our allies who are at risk here.

Mr. OBEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Wisconsin has 5 minutes remaining.

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

With all due respect to the expertise of the gentleman who just spoke, for this Congress, at a little after 10:00 in the evening, with no hearings and no reasonably thoughtful debate on the subject, for this Congress to take an action which prevents this administration from proceeding to do anything to modernize the very treaty that the other side says must be modernized would be the consummate act of arrogance and ridiculousness performed by this Congress in the entire session. It would bring great discredit on the Congress, and we ought not to do that.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

This is not an issue about the role of missile defenses. In the wake of the end of the Cold War and in the context of a very dangerous world where rogue states and accidental launches loom larger than ever in terms of the problems, I think it is appropriate to think about and reconsider questions of missile defenses.

The fact is every single active program that we are involved in the area of theater missile defenses PAC-3, THAAD, U.S. Navy Area Wide, all under development, researched, every one of them as currently configured and designed are fully compliant with the ABM Treaty.

This is a question about the breakup of the Soviet Union, when we signed, just like we did with START II, when we signed those obligations to the successor states, Russia, Kazakhstan, Ukraine, Belorus, whether those obligations are going to apply.

The administration has made it absolutely clear, as soon as the Duma ratifies START II, the President is going to Russia to advance that cause in the next few weeks, he will submit to the Senate for ratification not only the memorandum of understanding but the two agreements related to it that are cause of concern.

The Senate will have every opportunity to exercise its constitutional rights with respect to these particular issues.

Stopping the funding for the Standing Consultative Committee and for our ability to participate in it does not advance the cause. Let us get down to the basic questions. What kinds of missile defenses are feasible? To what extent do we need to break out of ABM? To what extent do we have a strategy to do this in cooperation with Russia and the other parties down to the ABM agreement in a way that both is in our interests and something that we can convince is in their interest as well so we can protect against the concerns that the proponents of this amendment want?

I urge a no vote on the amendment.

Mr. MCINTOSH. Mr. Chairman, how much time is remaining?

The CHAIRMAN. The gentleman from Indiana (Mr. MCINTOSH) has 2¼ minutes remaining. The gentleman from Wisconsin (Mr. OBEY) has 2½ minutes remaining.

Mr. MCINTOSH. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. WELDON).

Mr. WELDON of Pennsylvania. Mr. Chairman, let me answer the distinguished ranking member.

First of all, he says there has been no debate on this issue. I would remind my colleague there have been 5 separate votes on this issue on this floor. And I will include those votes, in the CONGRESSIONAL RECORD.

Since 1995, this body has voted 5 times, overwhelmingly each time, to require that this administration before it takes plans to implement submit that treaty to the Senate.

Our point is that this administration is already implementing the terms of the agreement. I just read to the gentleman a letter dated May 1, 1998, from Secretary Cohen to the services saying to proceed with implementing new missile defense treaties. Agreed to in September of 1997.

It is already underway. It is preceding even giving the treaty to the Senate which this body has voted on 5 times overwhelmingly in favor of. You have to match the facts with the rhetoric, and the rhetoric coming from that side just does not match the facts. Support the amendment of the gentleman.

Mr. MCINTOSH. Mr. Chairman, I yield 30 seconds to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, let me just say we have had a vote earlier on the Kolbe amendment. Perhaps my colleagues saw the Kolbe amendment pass. I think it was almost 400.

The problem is here in the House we are starting to feel the President is moving out not just on his own agenda, whether it be domestic or social, he is also moving out on a military agenda. As the gentleman from Pennsylvania (Mr. WELDON) mentioned, he is using the word "proceed" forward with a treaty without going to the Senate to ratify.

So it is appropriate today, tonight when we think about the executive orders, to also put in perspective that the President is moving out on a defense agenda without Congress, and all my colleague is saying is hold it, hold it. Let us not move forward without the Senate.

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

I would point out that in 1996, this House passed a virtually identical amendment that the gentleman from Louisiana (Mr. LIVINGSTON) brought to the floor.

Mr. Chairman, I yield the remaining 45 seconds to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. Mr. Chairman, I thank the gentleman for yielding.

I rise in strong support of the McIntosh-Weldon amendment. The Clinton administration's record on missile defense has been very, very weak. Incredibly, on June 23, the President vetoed the Iran Missile Proliferation Sanction Act. And only one month later, on July 23, the White House confirmed that Iran had tested a missile with a range of 800 miles the previous day.

Clearly, Cold War or no Cold War, the world remains a very dangerous place. Unfortunately, the Clinton administration consistently fails to see that danger.

Rogue nations are continuing to attempt to acquire nuclear weaponry. And our liberal friends are always saying that we must do this for the children, do that for the children. If we really want to do something for the children of this Nation, we ought to make sure that they are protected from the threat of nuclear weapons falling upon their home towns.

Mr. MCINTOSH. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Chairman, I rise in support of this amendment.

Mr. OBEY. Mr. Chairman, could I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Wisconsin (Mr. OBEY) has 2½ minutes remaining.

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

Mr. Chairman, if the gentleman from Pennsylvania (Mr. WELDON) is going to quote me, just for the heck of it, it would be nice if he would quote me accurately.

I never said that there was no debate in the Congress on this subject. I said that there was no thoughtful debate tonight, and I stand by that comment.

I will simply say, Mr. Chairman, that despite all of the rhetoric tonight, the practical effect of this action is to unilaterally take the United States out of compliance with the ABM Treaty. That is no response that any responsible legislative body would make, and I cannot believe that the gentleman is suggesting that we do anything like it.

Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. SPRATT) for closing.

Mr. SPRATT. Mr. Chairman, there is a season for everything. There is a time to ratify START II, and that is now, immediately, as soon as we can get the Duma to do it. And then there is a time to ratify START III. It comes

right on the heels of START II. And that should come immediately. It should come next after we have completed the work on START II.

Once we do that we will have the warheads in each of our arsenals down to 2,000 to 3,000 strategic warheads each. At that point in time, it will be the season to take up the ABM Treaty and look at it, because in many ways it is a relic of the Cold War and it has outlived many of its purposes.

But, for the time being, it is a symbol of stability. We pull the rug out from the ABM, the Standing Consultative Committee, we abruptly cut off funding, and that is a signal to the Russians that they better be careful and think twice about ratifying START II. And everything begins to become unraveled.

There is nothing in these negotiations that gives rise to any immediate problems. We are trying to define the demarcation between strategic and theater weapons. In doing so, we have chosen to define the difference as being the planner in which the system, the interceptor, is tested. Is it tested against an incoming object that would be the speed of an RV coming from the exoatmosphere if launched by an ICBM, or is it traveling at the speed of a tactical or theater missile, a much lower speed? If it is tested only against the latter, then it is a theater defense system. If it is tested against an ICBM speed RV, then it is a strategic system.

It is a practical distinction. I do not think it serves a great deal of purpose. But, for the time being, in order to maintain our relations with the Soviets, with the Russians, to stabilize them to try to get START II ratified and START III negotiated, it makes sense not to rattle their cage on the ABM Treaty.

This is not the kind of diplomacy or legislation we need now. It is not necessary. The law is already on the books. And it is not going to impede one single thing if these demarcation rules were implemented by the President.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment offered by the distinguished gentleman form Indiana, Mr. MCINTOSH.

The amendment is designed to correct something that shouldn't require correcting, but regrettably does.

Ever since the collapse of the Soviet Union, there has been a question about which countries, if any, succeeded to the obligations of the Soviet Union under various arms control treaties. This question has been particularly acute with regard to the Anti-Ballistic Missile, or ABM, Treaty.

The administration has had a very hard time making up its mind about what countries, if any, succeeded automatically to the Soviet Union's obligations under the ABM Treaty. At one point, they appeared to suggest there was no automatic successor at all. More recently, they have implied that Russia alone is the successor.

The Heritage Foundation recently released an excellent legal analysis concluding that, as a matter of international and domestic law, there is no successor and therefore the ABM Treaty has lapsed.

In an effort to clarify the legal situation, I have exchanged a series of letters with the President on this subject. I ask unanimous consent that this correspondence be inserted in the RECORD at this point.

The administration has attempted to deal with this uncertainty by negotiating a Memorandum of Understanding that would make four countries successors to the Soviet Union for purposes of the ABM Treaty: Russia, Ukraine, Belarus, and Kazakhstan. Under pressure from the Senate, the President has agreed to submit this Memorandum of Understanding for Senate advice and consent.

Many Members of both the House and the Senate question the wisdom of the Memorandum of Understanding, and perhaps because of this, the President has delayed submitting it to the Senate.

The McIntosh amendment deals with the likelihood that the administration will act as though the Memorandum of Understanding is in effect even though it has not been approved by the Senate. It is designed, in other words, to hold the President to his commitment to the Senate.

I would note the obvious fact that this amendment is not intended to prevent U.S. participation in the Standing Consultative Commission if the President submits and the Senate ratifies the Memorandum of Understanding on succession.

Under the rules of the House governing our deliberations today, however, it is not in order to include such an exception in the text of the amendment. I am sure that this is a matter that will be addressed in conference.

It is a very good amendment, and it deserves our support.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, June 16, 1997.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Last week the House of Representatives approved H.R. 1758, the "European Security Act of 1997." I originally introduced this legislation on April 24th of this year with the cosponsorship of Dick Armey, Jerry Solomon, Porter Goss, Curt Weldon, and others to address a number of issues bearing on U.S. relations with Russia.

Pursuant to House Resolution 159, the European Security Act as passed by the House has been appended to H.R. 1757, the "Foreign Relations Authorization Act for Fiscal Year 1998 and 1999." Inasmuch as the Senate companion measure to H.R. 1757 is scheduled for Senate floor action this week, it appears likely that the European Security Act will be addressed in a House-Senate conference committee in the very near future.

As we prepare for conference on the European Security Act, we find it necessary to ask for additional information relevant to one of the bill's provisions relating to multilateralization of the Anti-Ballistic Missile (ABM) Treaty.

Section 6(c)(1) of the European Security Act states that:

"It is the sense of the Congress that until the United States has taken the steps necessary to ensure that the ABM Treaty remains a bilateral treaty between the United States and the Russian Federation (such state being the only successor state of the Union of Soviet Socialist Republics that has deployed or realistically may deploy an anti-ballistic missile defense system), no ABM/TMD demarcation agreement will be considered for approval for entry into force with respect to the United States . . ."

I am aware that, subsequent to the introduction of the European Security Act, the Senate on May 14th approved Treaty Doc. No. 105–5, a resolution advising and consenting to ratification of the CFE Flank Agreement. Condition 9 of this resolution required the President to:

". . . certify to Congress that he will submit for Senate advice and consent to ratification any international agreement . . . that would add one or more countries as States Parties to the ABM Treaty, or otherwise convert the ABM Treaty from a bilateral treaty to a multilateral treaty . . ."

I am further aware that, on May 15th, you submitted to Congress the certification required by Condition 9 of Treaty Doc. No. 105–5.

In order to help the conferees on the European Security Act understand the degree to which section 6(c)(1) of that bill has been addressed (and perhaps rendered unnecessary) by Condition 9 of Treaty Doc. 105–5, I would appreciate receiving your prompt response to the following questions:

1. In the view of the Administration, what countries in addition to the United States are today parties to the ABM Treaty?

2. What countries sent representatives to the most recent meeting of the Standing Consultative Commission in Geneva?

3. To the extent that the list of countries identified in response to question no. 1 includes countries in addition to those identified in response to question no. 2, does the Administration believe that those additional countries have the legal right to send representatives to meetings of the Standing Consultative Commission and otherwise participate in the administration of the ABM Treaty?

4. To the extent that the list of countries identified in response to question no. 1 includes countries in addition to those identified in response to question no. 2, why are those additional countries not currently participating in the Standing Consultative Commission? Are those additional countries aware that, in the view of the United States Government, they are parties to and are bound by the ABM Treaty? On what date were they informed of this fact by the United States Government?

5. To the extent that the list of countries identified in response to question no. 2 includes countries in addition to those identified in response to question no. 1, what is the legal justification for the participation of those additional countries in the Standing Consultative Commission?

6. Does the Administration currently intend to conclude with Russia, Ukraine, Kazakhstan, Belarus, or any other of the newly independent states an agreement or agreements regarding ABM Treaty succession?

7. In the event that the Senate fails to act on an agreement submitted to it by the Administration regarding ABM Treaty succession, what countries in addition to the United States will, in the view of the Administration, be parties to the ABM Treaty?

8. In the event that the Senate votes to reject an agreement submitted to it by the Administration regarding ABM Treaty succession, what countries in addition to the

United States will, in the view of the Administration, be parties to the ABM Treaty?

9. Apart from the consequences that would flow from Senate approval of, rejection of, or inaction on an agreement submitted to it by the Administration regarding ABM Treaty succession, what other developments, if any, may lead to a change in the list of countries that are today parties to the ABM Treaty?

10. Apart from the consequences that would flow from the Senate approval of, rejection of, or inaction on an agreement submitted to it by the Administration regarding ABM Treaty succession, what other developments, if any, may lead to a change in the list of countries legally entitled to send representatives to meetings of the Standing Consultative Commission and otherwise participate in the administration of the ABM Treaty?

I appreciate your cooperation in this matter.

With warmest regards,

Sincerely,

BENJAMIN A. GILMAN,
Chairman.

THE WHITE HOUSE,
Washington, November 21, 1997.

Hon. BENJAMIN A. GILMAN,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning the Anti-Ballistic Missile (ABM) Treaty succession arrangements. As you know, after discussion between our staffs, we deferred this formal response to your letter pending completion of the ABM-related agreements, including the Memorandum of Understanding (MOU) on ABM Treaty succession. These documents were signed on September 26, 1997, and mark, along with the START II documents that were signed the same day, a significant step forward. The MOU, as well as the agreements relating to the demarcation between theater and strategic ballistic missile defense systems, will be provided to the Senate for its advice and consent. Thus, the Congressional concerns that you raised related to approval of these agreements have been directly addressed.

You raised a number of questions on ABM Treaty succession generally. Let me make a few background points. The MOU on succession was the result of detailed negotiations spanning several years. When the USSR dissolved at the end of 1991, it became necessary to reach agreement as to which former Soviet states would collectively assume its rights and obligations under the Treaty (which clearly continued in force by its own terms). The United States took the view that, as a general principle, agreements between the United States and the USSR that were in force at the time of the dissolution of the Soviet Union would be presumed to continue in force as to the former Republics. It became clear, however, particularly in the area of arms control, that a case-by-case review of each agreement was necessary.

In dealing with matters of succession, a key U.S. objective has been to preserve the substance of the original treaty regime as closely as possible. This was true with respect to the elaboration of the MOU as well. Accordingly, the MOU works to preserve the original object and purpose of the Treaty. For example, it restricts the four successor states to only those rights held by the former Soviet Union by limiting them collectively to no more than 100 interceptors on 100 launchers at a single ABM deployment area and precluding the transfer of ABM systems and components to states that are not Party to the Treaty. Neither a simple recognition of Russia as the sole ABM successor (which would have ignored several former Soviet states with significant ABM interests) nor a simple recognition of all NIS states as full ABM successors would have preserved fully the original purpose and substance of the Treaty, as approved by the Senate in 1972.

Our willingness to work with key successor states, in addition to Russia, on strategic arms control issues has served, and will continue to serve, U.S. national security interests. Under the Lisbon Protocol to the START I Treaty, Belarus, Kazakhstan, Russia and Ukraine, the successor states on whose territory all strategic offensive arms of the former Soviet Union were based and all declared START-related facilities were located, assumed the rights and obligations of the former Soviet Union under the START I Treaty. The Protocol also obligated Belaraus, Kazakhstan, and Ukraine to adhere to the Treaty on the Nonproliferation of Nuclear Weapons. Both the Bush Administration and Clinton Administration engaged in major diplomatic initiatives to ensure implementation of the Lisbon Protocol, especially with respect to the removal of all nuclear warheads from Ukraine, Belarus, and Kazakhstan; the accession of these successor states to the Nonproliferation Treaty; and the entry into force of START I.

For certain key successor states to the former Soviet Union, ABM Treaty succession was, and remains, a priority issue. Ukraine, in particular, has made clear to us that it considers Ukraine's legal status under the ABM Treaty to be the same as under the INF Treaty (to which it is considered a Party) and that, in its view, its succession status with regard to both Treaties should be the same.

There are many complex factors in our strategic relationship with the former Soviet states. Had we been unwilling to engage with states in addition to Russia on key arms control agreements (START, INF and ABM), it is unlikely that we would have achieved the kind of comprehensive resolution of issues related to the disposition of strategic assets that has been achieved. A change in course at this time that would exclude key successor states from the ABM succession formula could place at risk continued progress on strategic arms and other nuclear matters.

Since the last review of the ABM Treaty in 1993 (required every five years by the terms of the Treaty, Belarus, Kazakhstan, Russia, and Ukraine—each of which have ABM Treaty-related assets on its territory—have been the only former Soviet republics that have participated in the ABM Treaty-related discussions held in the Standing Consultative Commission (SCC). While the other eight former Soviet republics have been informed of SCC sessions, none has participated, and three—Armenia, Azerbaijan, and Moldovia—have expressed their lack of interest in being considered as Parties to the Treaty. Indeed, it has become clear over the past four years of negotiations that, in addition to Russia, the former Soviet republics of Belarus, Kazakhstan, and Ukraine have substantial interest in the specific subject matter of the Treaty. For these reasons, prior to the signing of the MOU, the United States notified the other eight new independent states of our intentions to bring the succession issue to closure and to sign the MOU with Belarus, Kazakhstan, the Russian Federation, and Ukraine, recognizing that these four successor states along with the United States, constitute the Parties to the ABM Treaty.

Upon its entry into force, the MOU will confirm the four former Soviet states participating in the SCC as the successor states to the Soviet Union for purposes of the Treaty. This does not constitute a substantive modification of rights and obligations under the Treaty; rather, it is a recognition of the status of those former Soviet republics in light of dissolution of the USSR. As a practical matter, the recently signed SCC regulations make clear that the increased SCC participation will be structured in a way similar to, and having the same effect as, that which has been successful for the United States in working with Belarus, Kazakhstan, Russia and Ukraine in implementing the START and INF Treaties.

As to your question regarding the possibility that the Senate might fail to act upon or might reject the MOU on succession, we believe that the case for all the ABM-related agreements, including the MOU on succession, will prevail on its merits. We further believe that the package of agreements serves U.S. national security and foreign policy objectives. If, however, the Senate were to fail to act or to disagree and disapprove the agreements, succession arrangements will simply remain unsettled. The ABM Treaty itself would clearly remain in force.

We appreciate this opportunity to clarify the record in this area and look forward to future opportunities to communicate and consult with you on these matters.

Sincerely,

BILL CLINTON.

CONGRESS OF THE UNITED STATES,
Washington, DC, March 3, 1998.

THE PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We appreciate your response of November 21, 1997, to Chairman Gulman's letter of June 16, 1997, regarding the proposed multilateralization of the Anti-Ballistic Missile (ABM) Treaty. We appreciate as well your making Administration lawyers available to meet with congressional staff on January 30, 1998, to elaborate on your November 21st response.

The most important legal question that arises in connection with multilateralization of the ABM Treaty is the first question posed in Chairman Gilman's letter: In the view of the Administration, what countries in addition to the United States are today parties to the ABM Treaty?

Your response to this question appears to be: Until an agreement on succession to the ABM Treaty comes into force, the identity of the other party or parties to the ABM Treaty is "unsettled." Indeed, when asked on January 30th whether Russia, Ukraine, Uzbekistan, or any other country that emerged from the Soviet Union is today prohibited by the ABM Treaty from deploying an ABM system at more than one site, Administration lawyers stated repeatedly that it is "unclear" whether any of these countries is so bound.

The Administration's response is profoundly disturbing. If it is unclear as a matter of law whether Russia or any other country that emerged from the Soviet Union is today bound by the ABM Treaty, then it also should be unclear whether the United States is so bound. Yet the Administration has insisted for years that the United States remains fully bound by the ABM Treaty.

With regard to ballistic missile defense, for example, the Administration has argued consistently that the United States should not

test or deploy certain systems that could provide our nation highly effective protection against ballistic missile attack because such systems would violate our nation's obligations under the ABM Treaty. It now appears, however, that the Administration views the United States, at least for the time being, as the only country that is clearly subject to those obligations.

It is obvious to us, however, that under basic principles of international law a treaty requires more than one state party in order to give rise to binding legal obligations. If the Administration is unable to identify any country in addition to the United States that is today clearly bound by the ABM Treaty, then there is no country that the United States can look to today to uphold the obligations previously imposed on the Soviet Union by the Treaty, and no country that today is entitled to complain if the United States fails to uphold the Treaty.

If, in fact, the Administration does not consider the United States to be the only country that is today clearly bound by the ABM Treaty, we would appreciate your identifying for us the other country (or countries) that is today party to—and bound by—the Treaty. In the absence of such clarification, we will have no choice but to conclude that the ABM Treaty has lapsed until such time as the Senate approves a succession agreement reviving the Treaty.

Thank you for your attention to this inquiry.

With best wishes,

Sincerely,

BENJAMIN A. GILMAN,
Chairman, Committee on International Relations.

JESSE HELMS,
Chairman, Committee on Foreign Relations.

THE WHITE HOUSE,
Washington, May 21, 1998.

Hon. BENJAMIN GILMAN,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning the Anti-Ballistic Missile (ABM) Treaty succession arrangements. As I said in my letter of November 21, 1997, the Administration will provide to the Senate for its advice and consent the Memorandum of Understanding (MOU) on ABM Treaty succession, which was signed on September 26, 1997. Moreover, the MOU will settle ABM Treaty succession. Upon its entry into force, the MOU will confirm Belarus, Kazakhstan, Russia, and Ukraine as the successor states to the Soviet Union for purposes of the Treaty and make clear that only these four states, along with the United States, are the ABM Treaty Parties.

In your letter of March 3, you state that if the Administration is unable to identify any country in addition to the United States that is clearly bound by the Treaty, then you would have no choice but to conclude that the Treaty has lapsed until such time as the Senate approves a succession agreement reviving the Treaty.

Following the dissolution of the Soviet Union, ten of the twelve states of the former Soviet Union initially asserted a right in a Commonwealth of Independent States resolution, signed on October 9, 1992, in Bishkek, to assume obligations as successor states to the Soviet Union for purposes of the Treaty. Only four of these states have subsequently participated in the work of the Standing Consultative Commission (SCC), and none of the other six has reacted negatively when we informed each of them that, pursuant to the MOU, it will not be recognized as an ABM successor state. A principal advantage of the Senate's approving the MOU is that the MOU's entry into force will effectively dispose of any such claim by any of the other six states.

In contrast, Belarus, Kazakhstan and Ukraine each has ABM Treaty-related assets on its territory; each has participated in the work of the SCC; and each has affirmed its desire to succeed to the obligations of the former Soviet Union under the Treaty.

Thus, a strong case can be made that, even without the MOU, these three states are Parties to the Treaty.

Finally, the United States and Russia clearly are Parties to the Treaty. Each has reaffirmed its intention to be bound by the Treaty; each has actively participated in every phase of the implementation of the Treaty, including the work of the SCC; and each has on its territory extensive ABM Treaty-related facilities.

Thus, there is no question that the ABM Treaty has continued in force and will continue in force even if the MOU is not ratified. However, the entry into force of the MOU remains essential. As I pointed out in my letter of November 21, the United States has a clear interest both in confirming that these states (and only these states) are bound by the obligations of the Treaty, and in resolving definitively the issues about ABM Treaty succession that are dealt with in the MOU. Without the MOU, ambiguity will remain about the extent to which states other than Russia are Parties, and about the way in which ABM Treaty obligations apply to the successors to the Soviet Union. Equally important, maintaining the viability of the ABM Treaty is key to further reductions in strategic offensive forces under START II and START III.

I appreciate this further opportunity to clarify the record in this area.

Sincerely,

BILL CLINTON.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) will be postponed.

AMENDMENT NO. 49 OFFERED BY MR. KUCINICH

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 49 offered by Mr. KUCINICH:

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used for the filing of a complaint, or any motion seeking declaratory or injunctive relief pursuant thereto, in any legal action brought under section 102(b)(2) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3312(b)(2)) or section 102(b)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3512(b)(2)).

Mr. KUCINICH. Mr. Chairman, imagine that your hometown or state passes a law that promotes restitution for Holocaust victims whose gold was pulled from their mouths, melted down, and then deposited in Swiss accounts by Nazis. And imagine that the World Trade Organization, an international tribunal of unelected trade bureaucrats, decides in Geneva that the law is inconsistent with international trade and investment agreements.

Then the mayor and town legislature are hauled into federal court by the administration of the United States Government.

□ 2215

According to the GATT and NAFTA implementing legislation, the administration can sue to preempt the law and enforce the WTO decree, a power that was formerly reserved only for the United States Congress. The amendment that I offer this evening would deny funds for a Federal legal challenge against our State and local governments.

I offer this amendment because Congress gave too much power to the administration by permitting it to preempt the laws of local and State governments on the grounds that they are inconsistent with international trade and investment agreements. That is the function of Congress. My amendment would effectively restore the separation of powers that has existed until 1993. It would protect important and valuable State and local laws.

The administration has already stated its opposition to New York City's Holocaust victims compensation law. Unless we pass this amendment, the administration will be able to sue New York City and any other jurisdiction that dares to adopt such legislation. At risk, too, are the Burma selective purchase laws that 22 cities and four States around the country have enacted or are considering. Those are laws like the ones passed by Massachusetts, New York City and Portland, Oregon that limit municipal tax dollars from going to the military regime in Burma through companies that do business in Burma. Nearly every State in the Nation has laws that are at risk if we do not pass this amendment tonight.

Besides giving a club to the administration, the GATT and NAFTA implementing legislation has sent a chilling effect over local lawmaking. Earlier this year the State of Maryland considered passing a selective purchase law to promote human rights and to correct environmental abuses in Nigeria. The Federal Government showed up in Annapolis to warn lawmakers that the

Maryland law would be GATT illegal. The threat of a Federal lawsuit backed up the State Department official's warning. In the face of such pressure, Maryland backed down.

Not long ago, a repressive racist regime ran South Africa with an iron fist. Our cities and States responded with selective purchase and divestment laws. As Randall Robinson, President of TransAfrica said, "Had we been bound by such trade rules as these during our struggle to free South Africa, Nelson Mandela might still be imprisoned."

Mr. Chairman, some opponents of this amendment have claimed that State laws such as New York City's contemplated Holocaust victims compensation law are unconstitutional. That is not true. We agree with the conclusion of Ronald Reagan's Justice Department that State and local governments have the constitutional authority to determine with whom they do business. That opinion is founded firmly on Supreme Court decisions.

Some opponents have said the administration is not required to sue State and local governments on the basis of any WTO decision, so this amendment is not necessary. That is not true. Consider the GATT panel order in the case commonly known as Beer II. There the GATT panel wrote that the States had to comply with GATT decisions and the Federal Government was required to force compliance. The GATT panel said, "GATT law is part of Federal law in the United States and as such is superior to GATT-inconsistent State law."

Now, Mr. Chairman, this amendment, the Kucinich/Sanders/Ros-Lehtinen/DeFazio/Stearns amendment has received widespread support from a representative coalition of civic organizations: B'nai B'rith, Sierra Club, American Cause, the U.S. Business and Industry Council, Public Citizen, American Jewish Congress, Free Burma Coalition, TransAfrica, Simon Wiesenthal Center, Africa Fund, American Lands Alliance, Ralph Nader, Randall Robinson, Pat Buchanan and Bay Buchanan, Citizens Trades Campaign, the Preamble Center, Co-op America, the PEN American Center, the Front Range Fair Trade Coalition of Colorado, Alliance for Democracy, Open Society Institute's Burma Project, Citizens for Participation in Political Action, Seattle Burma Round Table, and the list goes on.

Why have all these groups endorsed the amendment? Because all the citizen groups from the entire political spectrum share a common need for access to a meaningful democratic process. The GATT/NAFTA implementing legislation closed access to the democratic process.

Support our amendment. Support your hometown's constitutional right to legislate on important matters. Support Holocaust victim compensation law. Vote "yes" on Kucinich/Sanders/Ros-Lehtinen/DeFazio/ Stearns.

Mr. CRANE. Mr. Chairman, I rise in opposition to the Kucinich amendment.

Mr. Chairman, this amendment would prohibit the use of any of the funds appropriated by this bill to challenge a State law on the grounds that it is inconsistent with NAFTA or the Uruguay Round Agreements.

Let there be no mistake. This is an anti-trade, anti-export amendment that would have the effect of encouraging States to enact discriminatory statutes in violation of international trade agreements. By denying the Federal Government the constitutional authority to regulate foreign commerce, the amendment would invite trade retaliation against U.S. exports.

In granting Congress the authority "to regulate commerce with foreign nations," Article I, section 8 of the Constitution recognizes the need for uniformity among the States in the conduct of international trade. As Daniel Webster stated, "The prevailing motive was to regulate commerce; to rescue it from the embarrassing and destructive consequences resulting from legislation of so many States, and to place it under the protection of a uniform law." In cases where there is a conflict between an act of Congress that regulates commerce and local or State legislation, Federal law enjoys supremacy.

In order to encourage uniformity among the States, Congress wrote the laws implementing NAFTA and the Uruguay Round Agreements to state plainly that it is the exclusive right of the Federal Government to challenge State laws on the grounds that they violate international trade obligations.

One thing should be made clear in this debate. The authority to bring legal action against the States has never been used during the 50 years that the GATT global trading system has been in effect.

I want to remind my colleagues that Congress established elaborate consultation procedures to protect the interests of States in these matters, and to ensure that representatives of States play a formal role in any international dispute settlement proceeding that concerns their laws and practices.

For those who raise concerns about U.S. sovereignty, I emphasize that the statutes implementing NAFTA and the Uruguay Round Agreements also state that panel reports under the World Trade Organization dispute settlement mechanism or under NAFTA are not binding as a matter of U.S. law and cannot form the basis for bringing suit in U.S. courts. In fact, the Uruguay Round Agreements Act specifically precludes Federal courts from giving WTO panel reports any deference. Thus, in the regulation of foreign commerce, Federal law is the "law of the land," and neither WTO dispute settlement panels, nor the WTO itself, has any power to compel any change in U.S. law or regulation. It is up to the United States government to decide how it will respond, if at all, to WTO and NAFTA panel reports.

Yesterday we considered a resolution calling on the European Union to bring measures that restrict the exports of U.S. beef and bananas into compliance with WTO obligations. The adoption of the Kucinich amendment would directly undermine these efforts to get the EU to come into compliance with its WTO obligations.

This is a flawed amendment put forward by those who desire to build walls of protection around the United States, while sacrificing the benefits of a functioning international trading system for our workers and businesses.

I urge a "no" vote on the amendment offered by the gentleman from Ohio.

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

Mr. Chairman, I rise and urge my colleagues to support the amendment from the distinguished gentleman from Ohio (Mr. KUCINICH). No trade agreement should undermine the values that we have fought so hard for in this country, strong environmental laws, strong health and safety laws, support for human rights. All of these issues have been fought at the State and at the local level through debate, through struggle over the years, and no international organization ought to be able to come in and just shut that off without having folks be able to participate.

Now, some of these agreements are being used to strip away these very important local and State laws that I just mentioned and that the gentleman from Ohio so eloquently illustrated.

What is worse is that the State and the local governments, which are not even at the table when these trade deals are negotiated, are the targets of these efforts. We see threats being made against local sanctions laws, environmental laws, consumer protection laws and Buy American laws, and in States and communities across the country, local initiatives to sanction the regimes in Burma and Nigeria are being undermined. I think it is important to remember that in the 1980s these same local efforts contributed greatly to the ending of apartheid in South Africa and the eventual freeing of Nelson Mandela. We will lose that economic leverage by letting trade deals deny communities their voice on human rights and democracy.

Ultimately we must make sure that our trade agreements do not undermine the ability of our States and communities to protect consumers, to support workers and to protect human rights. But today at the very least, we can protect the rights of States and communities and afford them the due process that we advocate when we come to this floor every day.

Mr. Chairman, I urge my colleagues to vote for the Kucinich amendment. It is an important amendment. If you value what your local officials and your State officials do, if you value devolution which we talk about on this floor often, if you value local control, if you value what is important at the heart of democracy, the local level, please vote for this amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words. I am proud to be a cosponsor of this amendment and I congratulate the gentleman from Ohio (Mr. KUCINICH) for his leadership and his hard work on garnering bipartisan support on this very critical and important item.

The message that this amendment serves to underscore is that diplomacy does not mean surrender. In our eagerness to expand and grow through increased global trade, we must be careful about the concessions that we make. We must be careful not to sacrifice U.S. sovereignty. We must be careful not to sacrifice domestic interest and our American principles in exchange for foreign commitments that are ephemeral at best. We must not allow foreign entities and international tribunals the authority to challenge and to rival the U.S. constitutional framework by doing away with local, State and tribal laws, nor must we allow them to rule on what constitutes American domestic and national security interests. Unfortunately, this is precisely what the World Trade Organization is doing.

Through the various agreements under the jurisdiction of the WTO, no less than seven principles that create the constitutional foundation for the role of States as laboratories of democracies, as former Supreme Court Justice Brandeis once said, are in jeopardy. Several doctrines which the Supreme Court has recognized governing the stewardship of property and natural resources are directly affected. Even free speech in the form of consumer choice campaigns is being threatened as eco-labels, nutrition labels and disclosure of child labor are open to challenges under WTO mandates of uniformity. The WTO threatens such laws as the Burma selective purchase laws which limit municipal tax dollars from going to the military regime in Burma through companies that do business in Burma. It undermines and challenges the use of sanctions at all levels of our government.

According to the Georgetown University Law Center, this also has a profound implication for the future of hundreds of treaties that have yet to develop meaningful enforcement tools.

□ 2230

At immediate risk are the sanctions laws the City of New York and the States of California and New Jersey are considering against Swiss banks that have held assets stolen by the Nazis from Holocaust victims many years ago. Switzerland has already given public notice of its intent to get a ruling from the WTO. The WTO expects us to forget the price that these Holocaust victims have paid, forget fairness and justice, ignore that the Swiss are protecting the rights of the barbaric and brutal Nazi criminals and denying the rights of Holocaust victims.

Is this what we want to defend? Are principles and beliefs that are the rubric of American society to be held hostage by the WTO? The answer, of course, must be a resounding no.

This amendment insures that the ultimate fate of subnational policies and laws are decided by the American political system and not by foreign bureaucrats.

Do not be fooled by opponents of this amendment. The Kucinich-Sanders-Ros-Lehtinen-DeFazio-Stearns amendment does not preclude constitutional challenges to State and local laws. It does, however, prevent the use of taxpayer funds for legal actions which are essentially carrying out the WTO rules.

For these and numerous others, Mr. Chairman, we must support this amendment. I ask my colleagues to render their support and vote in favor of the Kucinich-Sanders-Ros-Lehtinen-DeFazio-Stearns amendment.

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

Mr. ROGERS. Mr. Chairman, I know there are a number of speakers on this important matter on both sides.

In the interests of time, Mr. Chairman, I wonder if we could talk about the possibility of capping the debate at, say, 20 minutes, 10 for each side, or some other figure. I am trying to find something that we can agree upon to somewhat cut off debate at some reasonable hour.

If 20 minutes is too little, perhaps the sponsor would have a better idea?

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

Mr. ROGERS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I would just suggest that Members have been waiting here for many hours. This is an issue of enormous consequence. There are a lot of speakers who would like to speak.

So I do appreciate, I think we appreciate, the gentleman's wanting to move this long, but a lot of people have waited a long time to give their thoughts on this issue.

Mr. ROGERS. Could we agree on, say, a 30-minute total with 15 minutes per side?

Mr. SANDERS. No, Mr. Chairman, I am sorry. I really would like to, but we have too many people who have waited a long time.

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

Mr. Chairman, I rise in strong support of this amendment which brings progressives and conservatives together and a lot of people in between, and let me briefly state what this amendment is not about.

This amendment does not deal with our absurd trade policy which is currently running up a $200 billion deficit, it is costing us millions of jobs and is lowering the standard of American workers. This amendment does not deal with that.

But what this amendment does deal with, which is equally important, is the issue of democracy and national sovereignty and the right of the American people through their local and State elected bodies to make legislation which is in their own best interests.

The Members of Congress who are cosponsoring this legislation, progressives and conservatives, disagree on a lot of things, but what we do not disagree about is that the American people in their cities and their towns and their States have the right to make decisions which affect their own best interests and have the right not to be overridden by a secretive trade organization in Geneva, the World Trade Organization.

Mr. Chairman, for many of us trade is important. We agree trade is important. But it is not more important than human rights or social justice, and it is not more important than the freedom of the American people to exercise their constitutional right to speak out for justice or to protect the environment or to protect the food that we eat or the quality of agriculture in our areas.

Let me give my colleagues a few examples of why this amendment is important:

Recently in Annapolis, Maryland, the legislature in Maryland was discussing a serious way to deal with the military dictatorship in Nigeria, and they had a guest at their hearings, and that guest was from the State Department who told them that he thought it would not be in their best interests or even legal for them to go forward under GATT law to protest and develop legislation in opposition to the military dictatorship in Nigeria.

What is terribly important to understand is that in the 1960s and in the 1970s communities from all over this country came together to speak out against apartheid, and let me quote from what Martin Luther King, Jr., said in 1965 about what was going on in South Africa and how we could oppose it. This is what he said, and I quote:

> We are in an era in which the issue of human rights is the essential question confronting all nations. With respect to South Africa our protest is so muted and peripheral while our trade and investments substantially stimulate their economy to greater heights. We pat South Africa on the wrist, we give them massive support through

American investment in motor and rubber industries. Now is the chance for millions of people to personally give expression to their abhorrence of the world's worst racism. We therefore ask all men of goodwill to take action against apartheid in the following manner. Listen up. Urge your government to support economic sanctions. Don't trade or invest in South Africa until an effective international quarantine of apartheid is established.

The fact of the matter is, if apartheid existed in a country today, or if another Hitler came to power, it would be impossible for the State of Vermont or the State of California to develop economic sanctions to say that companies that invest in those countries could not do business with the State government of Vermont or California or Massachusetts. That seems to me absolutely absurd.

Let me quote from a dear colleague that was sent out by my good friends, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Indiana (Mr. HAMILTON) and they say in opposition to this amendment, quote:

"Multinational companies are being forced to make costly choices between giving up lucrative contracts with government agencies or foregoing business in some of the world's most promising markets."

Yes, that is exactly what we want. If colleagues want to do business with apartheid, if they want to do business with a military dictatorship, then the people of Vermont and the people of California and cities and towns all over this country do have a right to say to those companies:

"You have to make a choice because we believe that human rights is more important."

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

Mr. Chairman, I rise today in support of free trade and against the ad hoc proliferation of State and local trade sanctions being imposed throughout the United States, and I strongly oppose the Kucinich-Sanders amendment, which is designed to protect such sanctions from Federal challenge and would in effect promote free-lance foreign policy making at the State and local level.

I thought that is what we got elected to do, was that the Congress and the President make foreign policy. But apparently, because of this amendment, it means that my home city of Findlay, Ohio, and the city council therein could have a foreign policy. I thought we settled that many, many years ago in this country. Denying contracts to American firms with business commitments in Tibet, Burma or Nigeria may be at first glance on the cutting edge of political correctness, but the real and immediate effect is to punish local businesses who have no control over events in foreign countries.

I would say to my friend from Vermont (Mr. SANDERS) that those companies who are trying to find markets overseas who employ his constituents and my constituents are much more concerned with not only making a profit but employing people than they are having the City of Montpelier, Vermont, or Findlay, Ohio, making foreign policy, and I would say to my friend, and I may have time to yield at the end, and I will be glad to do so if I have, but that is really the issue here, whether in fact the Congress of the United States and the President of the United States have the ability to make foreign policy or we are going to let 50 States and Lord knows how many communities throughout this country make foreign policy. The imposition of State and local sanctions has become almost a fad which will do more harm than good no matter how well-intentioned.

Let me read an editorial in the San Francisco Examiner, and the language suggests that, quote, at the city's current rate of sanctioning it would soon be able to do business only with companies who limited their international work to Monaco and Iceland, end quote.

So the San Francisco Examiner, not exactly a conservative newspaper, I think really hit the nail on the head. State and local sanctions are protectionist, they are anti-trade and may even be unconstitutional. As a matter of fact, I would submit they are unconstitutional. These laws are not always applied consistently and often send mixed signals of the U.S. intent.

Think for a moment. Sanctions could be potentially imposed by 50 States and thousands of municipalities. This could raise serious questions among our trading partners as to the stability and predictability of U.S. business relations. American values and business practices are best advanced through engagement, not by isolating us or angering allies through the threatened use of secondary boycotts. Furthermore, when faced with a mandatory choice businesses may abandon the local government market in favor of the global market which only harms local distributors of the boycotted companies.

The plain facts are that State and local sanctions undermine the unity of U.S. foreign policy and make the U.S. less credible and effective in economic negotiations. That is why the Clinton State Department opposes this amendment. That is why the U.S. Trade Representative also opposes this amendment. State and local sanctions are counterproductive, ineffective and frustrate cooperation with U.S. trading partners who frequently view them as a violation of U.S. international commitments.

Now, Mr. Chairman, in closing let me quote from our distinguished U.S. Trade Representative, Charlene Barshefsky, who has done a superb job in her tenure at USTR. She says about the Kucinich, et al. amendment:

This amendment is unnecessary and ill advised. The amendment appears to be founded on a faulty premise. Global trade rules have been in effect now for over 50 years. Despite scores of panel reports over the past decades, the Federal Government has never, has never brought suit or even threatened suit to enforce a panel report against a State or local government.

She closes with this paragraph:

Over the past 5 years fully one-third of U.S. economic growth has been tied to our dynamic export sector. American workers and companies depend on open markets around the world. Congress and the administration have worked very hard over many decades to put trade rules in place that open those markets and to keep them open through effective dispute settlement procedures. The United States is by far the most frequent user of international dispute settlement mechanisms. They have benefitted U.S. workers and industries across a wide range of sectors and were put in place at U.S. insistence with our sovereignty concerns fully in mind. No change in U.S. law is needed to ensure that this remains the case.

Signed Charlene Barshefsky, U.S. Trade Representative.

That really says it all, and this really comes down to the question of whether the Congress of the United States in our responsibilities to help create foreign policy and trade policy as well as the administration is going to be trumped by some city council somewhere out in the Midwest that I would submit does not have nearly the amount of information available that we do.

Mr. ROGERS. Mr. Chairman, in the interest of trying to preserve time and preserve everyone's right to speak I think we have general agreement on limiting time.

I would like to, with that in mind, propose a unanimous consent that all debate on the amendment be completed after 30 minutes equally divided between the two sides, the gentleman from Ohio controlling his side, the gentleman from Arizona, on the committee, controlling the other side.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman, would the gentleman from Kentucky please restate?

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

Mr. MOLLOHAN. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, the proposal is that the debate be concluded in 30 minutes, divided 15 a side, the gentleman from Ohio controlling his side, the gentleman from Arizona controlling this side.

Mr. MOLLOHAN. Mr. Chairman, I withdraw my reservation of objection.

□ 2245

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) is recognized for 15 minutes.

Mr. KUCINICH. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. Chairman, we have been told by the other side that it is absolutely unnecessary to have this amendment because the United States Government has never used the power of the courts to preempt State and local laws, and it will never do that.

Well, if that is the case, then why do they not just accept the amendment? This only limits the expenditure of funds for the Federal Government to take local and State governments to court when their laws are found to be inconsistent with NAFTA and GATT, international trade agreements, not the Constitution of the United States.

Of course the Federal Government can sue if it violates the Constitution of the United States, but only in the case where their local laws, their local preference, violates the terms of an international trade agreement, which will be decided by secret tribunals overseas. If that is what is before us, they should then accept the amendment.

Further, we have the statement in 1986 of the Justice Department under President Ronald Reagan concluding that State and local laws and anti-apartheid laws were constitutional under the market participation doctrine. They go on to say, the Supreme Court has distinguished, quite properly, between the exercise of proprietary powers and regulatory powers. The Court has shielded proprietary actions from the strictures of the Commerce Clause. State divestment statutes represent, we believe, an exercise of proprietary power.

That goes to the arguments of the gentleman earlier. These are constitutional. This is what our country is all about, it is what it is founded on. Our local and State jurisdictions should be able to express their values in expending the dollars of their taxpayers. That is what this is about.

The largest city in my State, Portland, has imposed restrictions on purchases regarding Burma because of the drug smuggling from Burma, because of the oppression in Burma, because of the fact that they had an election which was won by an 80 percent margin and they refused to recognize it. They are saying something must be done.

We have a bunch of people in the White House, and apparently even here, unwilling to take stern action against Burma, but at least a few cities will stand up for the rights of those people. And that is the way it should be. We should not be threatening them because they are saying you are violating the WTO. You know, those butchers running Myanmar are in fact compliant with WTO, and you cannot do that to them. They are compliant.

That is absurd. What we need to do here tonight is adopt this amendment and just say in one case and one case only the Federal Government cannot spend these funds. But if it is unconstitutional, fine, they can go to court. But if it is to take a local jurisdiction to court merely because the bureaucrats at the WTO or the bureaucrats who are making the decisions in NAFTA, or Charlene Barshefsky, a former foreign agent, now our Trade Representative, says so, that is not the way this country should be run.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois (Mr. MANZULLO), who has been a strong advocate of expanded trade opportunities.

Mr. MANZULLO. Mr. Chairman, can you imagine State and local governments saying we really do not like these international postal agreements, so we are going to enact a community postal agreement, or perhaps a statewide one; or we think there is an infringement on our sovereignty with the international air space agreements because those airplanes fly over our State, and therefore we think that State and local governments should have the right to enact their own type of agreements dealing with these subjects?

Well, we are not under the Articles of Confederation, we are under the United States Constitution, and it was the Constitution that specifically gave exclusive power to the United States Government, the national government, to deal with issues of foreign policy and especially international trade.

What we have going on in this country, for example, Berkeley City Council added two more oil companies to its boycott list. The council will no longer buy gas from Shell and Chevron because it does business in Nigeria. Since Berkeley has already banned ARCO, Unocal, Mobil and Texaco for doing business in Burma and considered Exxon stained by the Valdez spill, the town is running out of options.

So the issue is not WTO, but simply does the Federal Government or the State and local governments have jurisdiction over international trade policy? We cannot have an international trade policy promulgated by this Congress and then be preempted by 50 States and hundreds of local communities. It simply would not make sense. That is the issue here.

One of the reasons our Founding Fathers moved to adopt the U.S. Constitution in 1779 was that even the States among themselves had their own tariffs and their own foreign policies.

So I would urge Members this evening to vote against this amendment and to say, look, if we want to have a focused international policy, Congress is the place where the issue of Burma should be debated, and it is; Congress is the place where the issue of Nazi gold should be debated, and it is, in the Committee on International Relations, and the sanctions were requested here in this body. All these issues deal with the United States Congress and the authority that we have here. We cannot be preempted by 50 states going their own way.

Mr. KUCINICH. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would say to the gentleman from Illinois (Mr. MANZULLO) and also the gentleman from Ohio (Mr. OXLEY), I do not think they have read the amendment. When they quote Madam Barshefsky, in which she said no panel proceedings have ever been brought against any State or municipal law or regulation, well, perfect, that is what we are talking about.

That is what this amendment is. It is just saying that no State or local laws will be challenged by the Federal Government, just what she said. It fits in perfectly with our amendment, which states basically that you cannot use Federal funds to challenge State and local governments.

So, I do not know, they are talking about the Constitution, they are talking about all these mishmash laws all around our 50 States. They obviously have not read the amendment. We are agreeing with Madam Barshefsky, who basically said that no Federal funds will go towards such challenges. So our amendment matches basically what the traditional recognition is by Barshefsky and everybody else. All we are saying is let us codify it today.

A lot of people say, well, you know, what are we talking about? The States and local communities are not being impacted. No? In my State of Florida, Venezuela brought legal action against Florida under the auspices of the WTO for Florida's oil refinery standards. Now, Florida maintains a very clean air standard to reduce pollution, but Venezuela challenged that standard because the oil produced in Venezuela could not meet the Florida standard. Venezuela was successful, and Florida is now forced to reduce their environmental standards to accommodate the WTO decision.

Do you think that is right? Some of the other things that have been mentioned, the Helms-Burton Act which enacted trade sanctions against Cuba was challenged by the European Community at the World Trade Organization.

Switzerland has indicated that they will bring an action to the WTO against New York City, California and New Jersey for their sanction laws

against Swiss banks that held assets stolen by Nazi Germany from the Holocaust victims for over 40 years. Buy-American provisions in numerous States and localities.

The question before us tonight is how can international agreements go in, overturning laws passed by States and localities that have not been ratified by anybody other than the World Trade Organizations? I certainly would not necessarily endorse every law passed by the City of Berkeley, California, or San Francisco, but are not the laws these localities pass the essence of democracy? And as long as States and localities do not violate the U.S. Constitution, their local laws should be defended by the Federal Government and not challenged and thrown out by the World Trade Organization.

So the bottom line is, Mr. Chairman, this is a very simple amendment, and it is a perfect amendment that matches with Ambassador Barshefsky, that no government will file against State and local governments, and no Federal funds can be used.

So I urge my colleagues to support this amendment and let us move forward.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. PORTMAN), a member of the Committee on Ways and Means.

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

Mr. Chairman, this is an interesting debate. I was over in my office listening to it and decided I should come over and just add my voice. I think it is probably a little confusing to people listening because we are talking about the Constitution and talking about all these trade agreements.

Basically this is just a back-door attempt at protectionism. My good friend from Ohio, from Cleveland, has heavy machinery in his district he wants to export, he has high-tech goods, he has chemicals. My friend from Florida who just spoke has orange juice he wants to send over to the Europeans, the best orange juice in the world. We want those markets to be open.

If we were to pass this amendment tonight, and if we were to take this road in trade which says basically, as my friend just said, that Berkeley, California, can decide whether oranges are going to go from Florida to the European countries, we will in fact have the kind of protectionism and break down the kind of standards that we have set up under the World Trade Organization and under the GATT.

Why? Because what the Europeans will do who are being discriminated against by the policies of Berkeley California, or any other city, is they will retaliate against the United States, and they have every right to do it under these trade agreements. They would not have the right to do it so long as the U.S. follows the rules. But if we do not follow the rules and we allow our cities and States to discriminate against their products, then they can turn around and discriminate against our products, and that is the whole point of these agreements.

If you do not like the NAFTA agreement, which was passed by this Congress when it was under Democratic control, when there was a Democrat in the White House, then let us talk about NAFTA. If you do not like the WTO, which was passed when President Clinton was in office and when the Democrats controlled this Chamber, then let us talk about WTO.

But we have set these things in place so that there is in fact a trade regime, that if a European country discriminates against a product from Cleveland, Ohio, or Cincinnati, Ohio, or Florida, then yes, we as the United States Government can retaliate against that European country.

That is what we are trying to do now with regard to beef hormones, with regard to bananas. We sat here on the floor yesterday and all of us voted for this great resolution to beat up on the Europeans because they have protectionist policies in place, and we insisted that USTR make the Europeans fully comply with the WTO decisions which helped the United States.

Yet we stand here tonight and say that is not going to apply to us. We should let our cities and our States and our counties decide what our trade policy is, and then in turn we are going to allow the Europeans to cut off products that are coming from all over this country.

Let me give you one example of what could happen if we allow this thing to go through. You could have one city, Cleveland, Ohio, my city of Cincinnati, or Berkeley, California, as I said earlier, put in a place a policy that provides discrimination against some product from some company that happens to be European based. The Europeans could then discriminate against a product that does not affect just Berkley, California, or Cleveland, Ohio, or Cincinnati, Ohio, but affects this entire country and affects jobs here in the United States.

One-third of the growth of this wonderful economic situation we find ourselves in today is due to exports. If you want to pull up the ladder, fine, let us talk about that. But let us not go around this backdoor way and say we are not going to have a national trade policy, we are going to have a city trade policy or a county trade policy or a State trade policy, which in turn will allow our trading partners who have agreed to the WTO, who have agreed to NAFTA, to in turn discriminate against our products and hurt all Americans.

So I strongly urge a "no" vote on this. I think we should have more honest discussion about it.

Mr. KUCINICH. Mr. Chairman, I yield three minutes to the gentleman from Illinois (Mr. DAVIS).

□ 2300

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the Kucinich amendment. I ask my colleagues, what with the intimidation of the WTO rules and upcoming Federal lawsuits, what State or local governments will be able to use procurement as instruments for influencing public policy?

If the State and local governments had been bound by such trade rules when many of us joined with the people of South Africa in their struggle for freedom, Nelson Mandela might still be in jail. We would not have been able to use local sanctions as weapons against apartheid in South Africa.

I believe one of the reasons this country remains free is the ability for local people to have initiatives, started at the bottom, implemented by ordinary people, and represented by local officials who oftentimes are closest to them.

Mr. Chairman, when I was a member of the Chicago City Council, alderman of the 29th Ward, I fought for selective contracting policies. I fought for them because the people I represented firmly believed that their local government and businesses should not be doing business with the apartheid regime in South Africa.

In the mid-1980s, the city of Chicago passed a selective contracting policy, along with 50 other cities, five other States, and 14 counties that passed similar ordinances. I, as a local elected official, stood with my constituents, who were courageous enough to organize against the injustices in South Africa. This city ordnance was passed as a monument to the personal undertaking and fearless conviction that the people in my community have.

I hope not to see the day when the Federal Government can overturn this kind of conviction. This was our way, the people's way of supporting the struggle that was led by the people at the bottom, at the very local level of being.

Why is it that every time there is conflict between the people and major corporations, that somehow or another the people get shut out, left at the bottom? There is no fear in a policy like this. All that it really says is let the people decide. That is the democratic way. That is the American way. That is why I support the Kucinich amendment.

Mr. KOLBE. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. JEFFERSON).

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

Mr. Chairman, I think it would be helpful to bring this debate down to

Earth. The fact of it is, no Nation on the face of this Earth uses the WTO dispute resolutions more than the United States does. No Nation wins more battles before the WTO than the United States does. We cannot have it both ways. We cannot have a case where, if we win with the WTO, we say, enforce the agreement; if someone else wins from another country, we say, trash it. Forget about it. It means nothing. Certainly we do not want it to mean anything in any jurisdiction that any of us have anything to do with.

The fact of it is, this debate has already taken place on this floor. It took place when we did the Uruguay Round some few years ago. That established, as if it was not already well-established, that Federal and international law already assures that neither the WTO dispute panels nor the WTO itself have any capacity to compel THE U.S., our U.S. government, to change its laws or change the regulations.

More specifically, only the United States can decide how it will respond, if it does at all, to panel reports. Only the U.S. Congress can change U.S. laws. Trade panel reports are not binding as a matter of U.S. law, and cannot form the basis for bringing suit in U.S. courts. If a suit is brought in U.S. courts, it will not because of a trade panel dispute resolution matter, it will be because the court otherwise has jurisdiction.

Every executive agency, including the office of USTR, is charged with upholding U.S. laws and defending them against challenges. The fears about the Federal Government seeking to sue State governments to comply with international dispute panels is to me totally without merit.

The Kucinich amendment is unnecessary. I think it creates an issue where there is none. I urge my colleagues to oppose it.

Mr. KUCINICH. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. NEY).

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

I just want to congratulate the gentleman from Ohio (Mr. KUCINICH) on this amendment. I think that the debate tonight is really getting off target. There has been talk about our States wanting to get more power in foreign affairs. That is how this debate has been steered. That is not what this is about. It is not about our States wanting foreign powers, this is about foreign powers wanting to take away our States' rights.

It has been said tonight also, in the agreement we cannot find where in fact this interferes with our States' rights or our States' laws. That is not true, because when the WTO rules against our States and local laws, the Federal Government is obligated to pursue every measure, including bringing a legal challenge in Federal court to compel our local governments to repeal that law. That is the use of force to change our laws. This amendment simply prohibits any taxpayers' dollars to be used by the Federal Government in the legal battles against State and local laws.

It was also mentioned when we have the ability to go to WTO, we do it. Ask the steel workers recently about Hamboo in Korea. They had to beg this government to try to do something, with thousands of signatures. We do not win when it comes to this issue for the working people. We only win if an amendment like this is passed.

This amendment sends a message that the American people do not want to transfer power and responsibility from their elected representatives to unelected trade bureaucrats at the WTO in Geneva. Why do Members think fast track went down in this Chamber? Because the American people are sick and tired of giving up our States' rights. Our veterans did not go and fight and die so unelected bureaucrats decide for us in some foreign agreement what our laws are going to be in this country.

It is time to wake up. I am deeply disturbed by the power these international trade organizations have acquired to change our laws. In order to protect American jobs, we need an amendment like this. This is simply fair to American workers, and it is fair to our States' rights. I urge support of the Kucinich amendment.

Mr. KOLBE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. THOMAS), a member of the Committee on Ways and Means.

Mr. THOMAS. Mr. Chairman, would all of the Members for just a minute return with me to 1770? This is not the District of Columbia, it belongs to the State of Maryland. We operate under the Articles of Confederation, and a ship that moves along the Potomac stops in Maryland and has a set of rules. It crosses the river, and it has an entirely different set of rules, because the States set the rules.

The gentleman who spoke earlier said, let the people decide. Excuse me? They did, in 1789. They said, "We, the people of the United States, in order to form a more perfect union." We all agreed to form a more perfect union. Part of those rules are, in Article I, Section 8, "The Congress shall have the power to regulate commerce with foreign nations and among the several States."

When we deal with foreign nations in Article II, it is done by treaties. It says, "The President shall have power, by and with the advice and consent of the Senate, to make treaties." We are dealing with an international organization which the United States relates to through treaty. The WTO cannot make the United States do anything the United States, or a subunit, does not want to do.

Let us look at the tenth amendment: "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved respectively to the people." Foreign relations by treaty, the people of the United States said belong to the Nation.

These Members are talking about returning to the Articles of Confederation, and I cannot believe the gentleman from Vermont quoted a number of States, including the author of this amendment, that had people fight and die to preserve this Union.

Take a look at the Constitution, I say to the Members, if they have not looked at it recently. What they are advocating is the failure to honor the specific language of Article I, Article II, and the tenth amendment. The preamble is not binding, but it starts out, "We, the people." The decision was made a long time ago. This is an absolutely ridiculous amendment.

Mr. KUCINICH. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, on June 16 this House passed a bill to present a Congressional Gold Medal to Nelson Mandela. The long story, to bring us to a point where this body would vote a Congressional Gold Medal to Nelson Mandela, began with Massachusetts University's cutting off their investment in South Africa; with the State of Massachusetts passing a State law prohibiting any contacts with the State of South Africa.

□ 2310

And slowly but surely the international community heard that message, and slowly but surely the international community tightened the reins around South Africa so that Nelson Mandela could become the elected president of that country. It began, though, in Massachusetts.

Another great individual, another winner of the Nobel Peace Prize languished for 5 years under House arrest in Burma, Aung San Suu Kyi, leader of the Burmese people's democracy movement, placed under arrest because she had the temerity to win 82 percent of the vote in a democratic election. The State of Massachusetts has passed a law saying that we do not want to have business relationships with the country of Burma.

Recently, Aung San Suu Kyi was released from House arrest, but the military leaders of Burma still tightly control her movements. And only if we continue to keep the pressure on Burma will Aung San Suu Kyi one day address a joint session of Congress.

Now, the World Trade Organization believes that we should not in Massachusetts be able to take action against Burma. In Massachusetts. I am in favor

of GATT. I am in favor of NAFTA. I am in favor of free trade and global economic competition. The World Trade Organization serves its purpose when it prevents a company from using laws to stifle competition. The World Trade Organization serves its purpose when it prevents a state from stifling competition. But it does not serve our purposes when it denies the freedom of people in countries around the world from being protected by the individual actions of States within our Nation.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. DREIER), the vice chairman of the Committee on Rules and a strong advocate of expanded trade opportunities.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding this time to me, and I have been told by my dear colleague from Cincinnati that the issue of South Africa has been raised throughout this debate. We need to realize that every bit of action that was taken from the United States on the issue of South Africa was taken by the United States Government, as it was outlined very clearly in the arguments provided by my friend from California (Mr. THOMAS).

Mr. Chairman, it is very important to recognize what it is that the authors of this amendment hate. They hate the international economy. They hate the rules-based trading system, which has a very simple and basic goal. Why was it back in 1947 that the General Agreement on Tariffs and Trade was established and expanded to the World Trade Organization today? Why? It was designed to diminish tariff barriers. That is the very simple goal of the WTO.

And while we hear people argue this time and time again, it is important for us to recognize that the WTO cannot change a single law here in the United States. So what we need to do, Mr. Chairman, is we need to realize that our goals are simple: They are to break down barriers, to find new opportunities for U.S. products and services around the world and, very importantly, to maintain and expand the standard of living that we enjoy in the United States, which is as great as any country on the face of the earth. Why? Because the world has access to our consumer market.

Defeat the Kucinich amendment.

Mr. KUCINICH. Mr. Chairman, may I ask the Chair how much time remains on each side?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 30 seconds remaining, and the gentleman from Arizona (Mr. KOLBE) has 2 minutes remaining and has the right to close.

Mr. KOLBE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I rise in opposition to this amendment.

I compliment the advocates of this amendment on the clever way it has been crafted.

It appeals to a broader base of members who support states' rights and are sensitive to the issues of federalism and preserving the 10th Amendment.

Who in their right mind wants to fund the Justice Department at the behest of the World Trade Organization (WTO) to intervene in the courts to overturn and repeal states laws or local ordinances?

That, however, is not the case.

First, the World Trade organization, and its dispute resolution panels, have no power to compel the U.S. to change Federal, State or local laws and regulations; and,

Second, state and local governments that engage in sanctions on foreign governments and their nations are clearly overstepping their authority under the Constitution and engaging in U.S. foreign policy.

Mr. Chairman, the WTO has no authority in the United States.

In fact, the federal law implementing the Uruguay Round specifically precludes U.S. federal courts from giving WTO panel reports any deference.

The truth is that if a WTO panel determines that a U.S. state law violates the WTO Agreement, the federal government is not obligated to do anything.

Under the Uruguay Round, U.S. sovereignty is actually strengthened by granting the United States a number of options that help contain the dispute and protects against the imposition of unilateral sanctions or the initiation of a destructive trade war.

Under the Uruguay Round, the U.S. government can elect to take no action, it can negotiate a mutually acceptable compensation, it can accept the suspension of trade concessions by the prevailing party, or it can intervene in federal court to overturn or nullify the disputed law.

In the past 50 years that the General Agreement on Tariffs and Trade has been in effect, the federal government has never brought a court action to repeal or nullify a state law.

Now let me comment on my second point.

When a local or state government seeks to impose trade sanctions on foreign governments, they are going beyond their constitutional authority and engaging in foreign policy.

Mr. Chairman, I am a strong advocate of protecting the rights of state and local governments.

I was a lead sponsor of the Unfunded Mandate Reform Act that protects state and local governments against the imposition of unfunded federal mandates, laws where we mandate that state and local governments compliance without providing the funds to pay for their implementation.

I also just voted in support of an amendment offered by my colleague JIM KOLBE banning federal funds to implement executive order 13083.

This executive order on federalism was a mistake and is opposed by all state and local elected officials on a bipartisan basis.

But just as we should respect and protect state and local authority, we should protect and respect federal authority and not undermine the ability of the U.S. government to conduct U.S. trade and foreign policy.

The two local laws that have given impetus to this amendment and may come before a WTO dispute panel are the Commonwealth of Massachusetts' procurement policy that penalizes business, U.S. and foreign, that do business with Burma and New York's sanctions on Swiss banks that fail to cooperate with victims of the Holocaust.

I can sympathize and perhaps even support the objectives of both New York and Massachusetts.

But the proper place to establish these policies is at the federal level here in Congress and in the executive branch, not at the state or local level.

If Congress feels as strongly as Massachusetts and New York feel about human rights abuses in Burma or the lack of cooperation Swiss banks have given Holocaust victims, then let us debate the merits of trade sanctions or other action targeted against Burma and Switzerland.

The real issue isn't whether you oppose human rights violations or sympathize with Holocaust victims, the real issue is whether you think the state and local governments should set this nation's foreign policy and trade agenda.

Oppose the Kucinich-Sanders amendment and demonstrate your respect for what our Founding Fathers intended.

Preserve the right of Congress to establish U.S. trade and foreign policy.

Mr. KUCINICH. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I rise in strong support of this amendment. What a radical notion, a radical notion, that the people we represent might decide that they do not want to procure in local government articles made with slave labor or made with child labor, or that they would want to keep their food clear of illegal pesticides and toxic materials as the State of California has done.

What a terrible, radical notion to scare the opponents of this amendment. The people that we represent would band together and decide these decisions and make these decisions. They were far ahead of the Federal Government on the issue of South Africa. If the World Trade Organization was around then, Nelson Mandela would never be out of prison.

We have to encourage our citizens to take these actions to protect their activities, to protect their food supply and to protect human rights.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I rise in opposition to this amendment today. We have heard phrases like it will change our laws, as though somehow the U.S. sovereignty was at stake, but we know that is not the case. United States sovereignty is quite intact here.

Let us just look for a moment at what really happens under the WTO or the NAFTA if there is a ruling against us because some State has taken or local government has taken some kind of action.

The United States can choose to do absolutely nothing. We can accept the consequences of it, and then the consequences would be that another government can take, under the NAFTA or the WTO, action against us, can suspend some of the trading rights that they have granted, you say, because some local government has decided to do the same.

So the United States can do nothing, or we can accept it. We can abide by it but we can still do nothing about the local government. We can negotiate a compensation package where we have to pay compensation to the other country but we still have to do nothing.

The fact of the matter is, so far it has never been used by the United States, but let me tell you, ladies and gentlemen, we better keep this arrow in our quiver.

What if, for example, tomorrow the State of California were to say they do not like Japan and they were to ban all trade with Japan? The hundreds of billions of dollars that would be involved here would mean a massive tax on the rest of us to compensate for that.

Now, we have heard about Nelson Mandela and South Africa. The fact is, that was coordinated and done by this Congress, by the United States Government acting in concert with other countries. It was not done by the State of Massachusetts. It was not because of some local government doing it. It was the fact that this Congress took the steps and our executive branch got the efforts of other countries in step with us to make sure that we had this kind of action.

Mr. Chairman, let me just make it very clear I am a strong advocate of States' rights. I offered an amendment earlier on that subject. Article III, section 8 says the power to regulate foreign commerce and the commerce between States shall belong to the Federal Government. It is right here in the Constitution. If ever anybody would read the Constitution, it would be very clear that States' rights works two ways, and the Federal Government has the right to regulate this commerce.

We should vote "no" on this to maintain the ability of the United States to trade and to regulate commerce. Vote "no" on this amendment.

Mr. GEPHARDT. Mr. Chairman, I rise in support of the Kucinich amendment. I appreciate the concerns expressed by some opponents of this legislation that it could undermine the authority of the federal government to represent the United States on foreign policy and trade matters. My vote today is not intended to seek to undermine that authority; rather, it represents my belief that we must have a more activist approach to U.S. foreign and trade policy, one that is more responsive to the concerns of localities, and one that better reflects the values and priorities of the American people.

Clearly, states and localities should not make foreign policy for our federal government, or take actions that undermine the U.S. government's policies. However, in cases where the federal government has failed to assert our fundamental values of freedom, democracy and human rights internationally, these entities have often taken actions that have spurred the federal government to assert U.S. leadership. The most dramatic example of this in recent memory is that of South Africa, where the conviction of individuals in universities, localities and other organizations generated a grassroots movement that propelled our government to impose comprehensive sanctions against the apartheid regime there. This in turn inspired an international effort that contributed to the downfall of South Africa's apartheid government.

All of our nation's democratic institutions should have the opportunity to participate in efforts to promote positive change, both at home and abroad. Unfortunately, too often state and local entities feel that their voices are not heard as the federal government formulates policies that affect all Americans. To remedy this situation, we need a process that is more responsive to the legitimate concerns of localities. This amendment emphasizes the importance of giving localities the ability to voice these concerns, and would promote constructive dialogue rather than confrontation between them and the federal government on these important issues.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

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

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) are postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

The amendment offered by the gentleman from Indiana (Mr. MCINTOSH); amendment No. 49 offered by the gentleman from Ohio (Mr. KUCINICH).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. MCINTOSH

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 240, noes 188, not voting 7, as follows:

[Roll No. 400]

AYES—240

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

NOES—188

Abercrombie
Ackerman
Allen
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—7

Cunningham
Gonzalez
Moakley
Shuster
Smith (OR)
Yates
Young (FL)

□ 2339

Messrs. KIM, MCHALE and GANSKE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2340

AMENDMENT NO. 49 OFFERED BY MR. KUCINICH

The CHAIRMAN. The pending business is demand for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 200, noes 228, not voting 7, as follows:

[Roll No. 401]

AYES—200

Abercrombie
Ackerman
Aderholt
Andrews
Bachus
Baesler
Baldacci
Barcia
Barr
Barrett (WI)
Bartlett
Becerra
Berman
Bishop
Bonior
Borski
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Bunning
Burton
Canady
Capps
Carson
Chabot
Chenoweth
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Cummings
Danner
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dixon
Doggett
Doolittle
Doyle
Duncan
Emerson
Engel
Ensign
Evans
Farr
Fattah
Filner
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Furse
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodling
Gordon
Graham
Green
Gutierrez
Gutknecht
Hall (TX)
Hastings (FL)
Hayworth
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Holden
Hunter
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (WI)
Jones
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kingston
Kleczka
Klink
Kucinich
Lantos
LaTourette
Lee
Lewis (GA)
Lipinski
LoBiondo
Lucas
Maloney (NY)
Manton
Markey
Mascara
McCarthy (NY)
McDade
McGovern
McHugh
McIntosh
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Mink
Mollohan
Murtha
Nadler
Nethercutt
Neumann
Ney
Oberstar
Obey
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pombo
Pomeroy
Poshard
Quinn
Radanovich
Rahall
Rangel
Riley
Rivers
Rodriguez
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sanders
Saxton
Scarborough
Schaffer, Bob
Schumer
Serrano
Shaw
Sherman
Smith (MI)
Smith (NJ)
Smith, Linda
Spence
Stabenow
Stark
Stearns
Stokes
Strickland
Stupak
Taylor (MS)
Thurman
Tierney
Torres
Towns
Traficant
Velazquez
Visclosky
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weldon (PA)
Wexler
Wise
Wolf
Woolsey

NOES—228

Allen
Archer
Armey
Baker
Ballenger
Barrett (NE)
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Brown (CA)
Bryant
Burr
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Cardin
Castle
Chambliss
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Cubin
Davis (FL)
Davis (VA)
Deal
DeLay
Dickey
Dicks
Dingell
Dooley
Dreier
Dunn
Edwards
Ehlers
Ehrlich
English
Eshoo
Etheridge
Everett
Ewing
Fawell
Fazio
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gingrich
Goodlatte
Goss
Granger
Greenwood
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Herger
Hill
Hinojosa
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hutchinson
Hyde
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kasich
Kennelly
Kim
Kind (WI)
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Largent
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lofgren
Lowey
Luther
Maloney (CT)
Manzullo
Martinez
Matsui
McCarthy (MO)
McCollum
McCrery
McDermott
McHale
McInnis
McKeon
Miller (FL)
Minge
Moran (KS)
Moran (VA)
Morella
Myrick
Neal
Northup
Norwood
Nussle
Olver
Ortiz
Oxley
Packard
Parker
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Porter
Portman
Price (NC)
Pryce (OH)
Ramstad
Redmond
Regula
Reyes
Riggs
Roemer
Rogan
Rogers
Roukema
Royce
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Schaefer, Dan
Scott
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Souder
Spratt
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Turner
Upton
Vento
Watt (NC)
Weldon (FL)
Weller
Weygand
White
Whitfield
Wicker
Wilson
Wynn
Young (AK)

NOT VOTING—7

Cunningham
Gonzalez
Moakley
Shuster
Smith (OR)
Yates
Young (FL)

□ 2346

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last three lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Departments of Commerce, Justice, and State, and Judiciary, and Related Agencies Appropriations Act, 1999".

Mr. STUPAK. Mr. Chairman, I rise today to support funding for sea lamprey control in the Great Lakes.

For those who are unfamiliar with the sea lamprey, it is an eel-like creature—introduced into the Great Lakes by foreign ballast water—which attaches itself to fish and literally sucks the life out of the fish.

Without proper treatment, this foreign species would severely threaten the $4 billion per year Great Lakes fishing industry.

While the Great Lakes Fishery Commission has made great strides in fighting the sea lamprey, infestation in the St. Marys River is threatening the lake trout in northern Lake Huron and Lake Michigan.

More sea lamprey are produced in this river than all of the Great Lakes combined. In fact, lamprey levels are rapidly approaching record levels in this area, resulting in the death of 54% of all adult lake trout.

The Senate has specifically designated nearly $9.4 million for the Great Lakes Fishery Commission for fiscal year 1999. Included in this amount is $8.7 million for the Sea Lamprey operations and research program and $1 million to combat the sea lamprey infestation in the St. Marys River in Michigan.

We must stop this problem before we reverse the gains that have been made over the recent years in fighting the sea lamprey in the Great Lakes. It is my hope that the Committee will concur with the Senate on these designations during the conference committee.

Ms. DUNN. Mr. Chairman, I rise today to offer my support to my colleague from Oregon, Mr. DEFAZIO, for his hard work in deterring juveniles from recklessly and carelessly handling guns.

In Washington State alone in the 1996–1997 school year, we had 150 incidents of kids bringing handguns, rifles, or shotguns onto school property. Not only is it a crime under Washington State law, but under Federal Law it is illegal to have a firearm on school grounds. Yet these juveniles are still bringing guns to school and endangering the lives of other students.

For this reason, I am introducing a bill this week with Mr. DEFAZIO to address the problem of guns in school. Rather than mandating new state laws or creating more programs that simply do not work, it is our intention to establish an incentive program for states to create a 24 hour cooling off period for students caught with guns. These kids need to be faced with the responsibility they bear in picking up a gun and possessing it illegally. We cannot allow another Jonesboro Arkansas, or Springfield Oregon incident.

I thank Mr. DEFAZIO for bringing to the attention of the House and I look forward to sponsoring this legislation with him. I also thank Chairman ROGERS for his willingness to work with us as we try to create new ways to discourage violent crime.

The CHAIRMAN. Are there any further amendments?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. HASTINGS of Washington, 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. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 508, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro temore. 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. OBEY

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

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

Mr. OBEY. Yes; I am, Mr. Speaker.

□ 2350

The SPEAKER pro tempore (Mr. PEASE). The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the bill, H.R. 4276, to the Committee on Appropriations.

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 motion to recommit was rejected.

The SPEAKER pro tempore. The question is on passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered; but pursuant to clause 5 of rule I, that vote is postponed momentarily so the Chair may entertain a unanimous consent request.

LIMITING FURTHER AMENDMENTS AND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2183, pursuant to House Resolution 442, which will be the first order of business tomorrow, that the amendments described in this unanimous consent request, that is, the substitute by Mr. TIERNEY, would be debated for 40 minutes; by Mr. FARR for 40 minutes; by Mr. DOOLITTLE for 40 minutes; by Mr. OBEY for 40 minutes; by Mr. HUTCHINSON for 60 minutes; that there be no amendments to those substitutes; and that would conclude campaign reform.

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

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. The unfinished business is the vote on passage of H.R. 4276.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 225, nays 203, not voting 7, as follows:

[Roll No 402]

YEAS—225

Aderholt	Fossella	Murtha
Archer	Fowler	Myrick
Armey	Fox	Nethercutt
Bachus	Franks (NJ)	Ney
Baesler	Frelinghuysen	Northup
Baker	Gallegly	Norwood
Baldacci	Ganske	Nussle
Ballenger	Gekas	Oxley
Barcia	Gilchrest	Packard
Barrett (NE)	Gillmor	Pappas
Barton	Gilman	Parker
Bass	Gingrich	Pascrell
Bateman	Goodling	Paxon
Bereuter	Goss	Pease
Bilbray	Graham	Peterson (PA)
Bilirakis	Granger	Pitts
Blagojevich	Greenwood	Pombo
Bliley	Gutknecht	Porter
Blunt	Hall (TX)	Portman
Boehlert	Hansen	Pryce (OH)
Boehner	Hastert	Quinn
Bonilla	Hastings (WA)	Radanovich
Bono	Hayworth	Rahall
Borski	Hill	Ramstad
Boswell	Hobson	Redmond
Boucher	Hoekstra	Regula
Brady (TX)	Holden	Riggs
Brown (CA)	Hooley	Riley
Bryant	Horn	Rogan
Bunning	Houghton	Rogers
Burr	Hulshof	Rohrabacher
Burton	Hunter	Ros-Lehtinen
Buyer	Hyde	Roukema
Callahan	Inglis	Royce
Calvert	Istook	Ryun
Camp	Jenkins	Salmon
Campbell	Johnson (CT)	Saxton
Canady	Johnson, Sam	Scarborough
Cannon	Jones	Schaefer, Dan
Castle	Kanjorski	Sessions
Chambliss	Kasich	Shadegg
Christensen	Kelly	Shaw
Coble	Kim	Shays
Coburn	King (NY)	Shimkus
Collins	Kingston	Skaggs
Combest	Klug	Skeen
Cook	Knollenberg	Smith (MI)
Cooksey	Kolbe	Smith (NJ)
Cox	LaHood	Smith (TX)
Crane	Latham	Smith, Linda
Crapo	LaTourette	Snowbarger
Cubin	Lazio	Solomon
Davis (VA)	Leach	Souder
Deal	Lewis (CA)	Spence
DeLay	Lewis (KY)	Stabenow
Diaz-Balart	Linder	Strickland
Dickey	Livingston	Sununu
Dicks	LoBiondo	Talent
Dixon	Lucas	Tauzin
Doolittle	Manzullo	Taylor (NC)
Doyle	Mascara	Thomas
Dreier	McCarthy (NY)	Thornberry
Dunn	McCollum	Thune
Ehlers	McCrery	Traficant
Ehrlich	McDade	Upton
Emerson	McHugh	Visclosky
English	McIntosh	Walsh
Everett	McKeon	Watkins
Ewing	Metcalf	Watts (OK)
Farr	Mica	Weldon (FL)
Fawell	Miller (FL)	Weldon (PA)
Foley	Mollohan	Weller
Forbes	Morella	White

Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)

NAYS—203

Abercrombie
Ackerman
Allen
Andrews
Barr
Barrett (WI)
Bartlett
Becerra
Bentsen
Berman
Berry
Bishop
Blumenauer
Bonior
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dingell
Doggett
Dooley
Duncan
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Goode
Goodlatte
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hinojosa
Hostettler
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Largent
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (KS)
Moran (VA)
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pickering
Pickett
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sherman
Sisisky
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stark
Stearns
Stenholm
Stokes
Stump
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tiahrt
Tierney
Torres
Towns
Turner
Velazquez
Vento
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey
Wynn

NOT VOTING—7

Cunningham
Gonzalez
Moakley
Shuster
Smith (OR)
Yates
Young (FL)

□ 0009

Mr. LARGENT changed his vote from "yea" to "nay."

Mr. BALDACCI changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2537

Mr. DeFAZIO. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 2537.

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

There was no objection.

□ 0010

LIMITING FURTHER AMENDMENTS AND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the order of the House just adopted be elaborated as follows:

In consideration of H.R. 2183, pursuant to House Resolution 442, (1) no further amendment shall be in order except those amendments described in this request, which may be offered only in the order stated and shall not be subject to amendment; and (2) the additional period of general debate prescribed under House Resolution 442 shall not exceed the time stated for each amendment in this request, and each amendment shall not otherwise be debatable.

The amendments described in this request are amendments in the nature of a substitute printed in the CONGRESSIONAL RECORD pursuant to clause 6 of rule XXIII and numbered: 15, Mr. TIERNEY, 40 minutes; 7, Mr. FARR of California, 40 minutes; 5, Mr. DOOLITTLE, 40 minutes; 4, Mr. OBEY, 40 minutes; and 8, Mr. HUTCHINSON, 60 minutes.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4380, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1999

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–679) on the resolution (H. Res. 517) providing for consideration of the bill (H.R. 4380) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Wednesday, August 5, 1998.

H.R. 1151. An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCINNIS (at the request of Mr. ARMEY) for today after 1:30 p.m., on account of medical reasons.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 6:15 p.m., on account of physical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PALLONE) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

(The following Members (at the request of Mr. CAMPBELL) to revise and extend their remarks and include extraneous material:)

Mr. CAMPBELL, for 5 minutes, on August 6.

Mr. KINGSTON, for 5 minutes, today.

Mr. FOSSELLA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous material:)

Mr. KIND.
Mr. KANJORSKI.
Mr. LAFALCE.
Mr. STARK.
Ms. NORTON.
Mr. TOWNS.
Mr. SANDERS.
Mr. DIXON.
Mr. FILNER.
Mr. MCDERMOTT.
Mr. TRAFICANT.
Mrs. THURMAN.
Mr. MARKEY.
Mr. OBERSTAR.
Mr. UNDERWOOD.
Mr. RAHALL.
Mr. CUMMINGS.
Mr. PALLONE.
Mr. DEUTSCH.
Mr. SERRANO.
Mr. THOMPSON.

(The following Members (at the request of Mr. CAMPBELL) and to include extraneous material:)

Mr. MICA.
Mrs. JOHNSON of Connecticut.
Mr. NORWOOD.
Mr. BOB SCHAFFER of Colorado.
Mr. PORTER.
Mr. GREENWOOD.
Mr. HILLEARY.
Mr. LUCAS.
Mr. FORBES.
Mr. HERGER.
Mr. GILMAN.
Mr. PAUL.
Mr. PICKERING.
Mrs. EMERSON.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1151. An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 1759. An act to grant a Federal charter to the American GI Forum of the United States.

S. 2143. An act to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes.

S. 2344. An act to amend the Agricultural Market Transaction Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

S.J. Res. 54. A joint resolution finding the Government of Iraq in unacceptable and material breach of its international obligations.

BILL PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that the committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 1151. An act to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit Unions, to enhance supervisory oversight of insured credit unions, and for other purposes.

ADJOURNMENT

Mr. CAMPBELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 15 minutes a.m.), the House adjourned until today, Thursday, August 6, 1998, at 10 a.m.

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. YOUNG of Alaska: Committee on Resources. H.R. 1042. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to extend the Illinois and Michigan Canal Heritage Corridor Commission; with an amendment (Rept. 105-676). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2000. A bill to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes; with an amendment (Rept. 105-677). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2993. A bill to provide for the collection of fees for the making of motion pictures, television productions, and sound tracks in National Park System and National Wildlife Refuge System units, and for other purposes; with an amendment (Rept. 105-678). Referred to the Committee of the Whole House on the State of the Union.

[Filed on August 6 (Legislative day, August 5), 1998]

Mrs. MYRICK: Committee on Rules. House Resolution 517. Resolution providing for consideration of the bill (H.R. 4380) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105-679). 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. MICA:

H.R. 4401. A bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants; to the Committee on Government Reform and Oversight.

By Mr. WELDON of Pennsylvania (for himself, Mr. SPRATT, Mr. PICKETT, Mr. EVERETT, Mr. ARMEY, Mr. ABERCROMBIE, Mr. BARTLETT of Maryland, Mr. RYUN, Ms. GRANGER, Mr. WATTS of Oklahoma, Mr. SPENCE, Mr. ANDREWS, Mr. SNYDER, Mr. HALL of Texas, Mr. DICKS, Mr. TURNER, Mr. LIVINGSTON, Mr. ORTIZ, Mr. SISISKY, Mr. HOYER, Mr. COX of California, Mr. SHADEGG, Mr. DELAY, Mr. BEREUTER, Mr. THORNBERRY, Mr. SKELTON, Mr. BATEMAN, Mr. HUNTER, Mr. REYES, Mr. SAXTON, Mr. GILMAN, Ms. DUNN of Washington, Mr. GOSS, Mr. SOLOMON, Mrs. CUBIN, Mr. BLAGOJEVICH, Mr. TANNER, Ms. SANCHEZ, Mr. TAYLOR of Mississippi, Mr. GOODE, Mr. STENHOLM, Mr. BERRY, Mr. EDWARDS, Mr. UNDERWOOD, Mr. BOB SCHAFFER, Mr. GIBBONS, Mr. MEEHAN, Mr. CRAMER, and Mr. ADERHOLT):

H.R. 4402. A bill to declare it to be the policy of the United States to deploy a national missile defense; to the Committee on National Security, and in addition to the Committee on International Relations, 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. STARK (for himself, Mr. CARDIN, Mr. KLECZKA, and Mr. LEWIS of Georgia):

H.R. 4403. A bill to amend title XVIII of the Social Security Act to provide for coverage of substitute adult day care services under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HILLEARY (for himself, Mr. RAHALL, Mr. ADERHOLT, Mr. COOK, Mr. HALL of Texas, Mr. MCINTOSH, Mr. SANDERS, and Ms. STABENOW):

H.R. 4404. A bill to amend title XVIII of the Social Security Act to modify the standards for calculating the per beneficiary payment limits under the interim payment system for home health services furnished by home health agencies under the Medicare Program and the standards for setting payments rates under the prospective payment system for such services to achieve fair reimbursement payment rates; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ADERHOLT:

H.R. 4405. A bill to amend section 3332 of title 31, United States Code, to allow recipients of Federal payments to "opt out" of the direct deposit requirements under the EFT '99 program; to the Committee on Government Reform and Oversight.

By Mr. FILNER:

H.R. 4406. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to provide that any participant or beneficiary under an employee benefit plan shall be entitled to de novo review in court of benefit determinations under such plan; to the Committee on Education and the Workforce.

By Mr. HERGER (for himself, Mr. MATSUI, Mr. ENSIGN, Mr. MCCRERY, Mr. MCDERMOTT, Mrs. THURMAN, Mr. SMITH of Oregon, Mr. POMBO, Mr. HUNTER, Mr. DOOLEY of California, Mr. GIBBONS, and Mr. BLUMENAUER):

H.R. 4407. A bill to amend the Internal Revenue Code of 1986 to provide that the credit for electricity produced from certain renewable resources shall apply to electricity produced from all biomass facilities and to extend the placed in service deadline for such credit; to the Committee on Ways and Means.

By Mr. HUNTER:

H.R. 4408. A bill to amend the Internal Revenue Code of 1986 to provide that tips shall not be subject to income or employment taxes; to the Committee on Ways and Means.

By Mr. LUCAS of Oklahoma (for himself and Mr. WATKINS):

H.R. 4409. A bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as

part of water resource projects previously funded by the Secretary under such Act or related laws; to the Committee on Agriculture, and in addition to the Committees on Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LAFALCE (for himself, Mr. YATES, and Mr. KENNEDY of Massachusetts):

H.R. 4410. A bill to amend the Truth in Lending Act to protect consumers from certain unreasonable practices of credit cards issuers which result in cancellation of credit, higher fees or rates of interest, or other penalties that result in higher or unnecessary costs to card holders who pay credit card balances in full, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. MALONEY of Connecticut:

H.R. 4411. A bill to amend the Internal Revenue Code of 1986 to allow employers who maintain a self-insured health plan for their employees a credit against income tax for a portion of the cost paid for providing health coverage for their employees; to the Committee on Ways and Means.

By Mr. MARKEY:

H.R. 4412. A bill to impose restrictions on the sale of cigars; to the Committee on Commerce.

By Mr. McDERMOTT:

H.R. 4413. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to assure prompt payment of participating providers under health plans; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, 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. NEUMANN:

H.R. 4414. A bill to amend the Internal Revenue Code of 1986 to repeal the 1993 increase in taxes on Social Security benefits; to the Committee on Ways and Means, and in addition to the Committee on the Budget, 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. TRAFICANT:

H.R. 4415. A bill to amend title 5, United States Code, to provide that the mandatory retirement age for members of the Capitol Police be increased from 57 to 60; to the Committee on House Oversight, and in addition to the Committee on 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. CALVERT:

H. Con. Res. 318. Concurrent resolution expressing the sense of the Congress that the Federal Trade Commission should exercise its broad authority under the Federal Trade Commission Act to investigate businesses that are engaging in the deceptive advertising practice of misrepresenting their geographic locations in telephone listings, Internet advertisements, and other advertising media; to the Committee on Commerce.

By Mr. HALL of Ohio:

H. Con. Res. 319. Concurrent resolution honoring the accomplishments of members of the United States Air Force and other Americans working under Air Force leadership who contributed to the development of supersonic flight technology; to the Committee on National Security.

By Mr. SHIMKUS (for himself and Mr. KUCINICH):

H. Con. Res. 320. Concurrent resolution supporting the Baltic people of Estonia, Latvia, and Lithuania, and condemning the Nazi-Soviet Pact of Non-Aggression of August 23, 1939; to the Committee on International Relations.

By Mr. SNOWBARGER (for himself, Mr. TALENT, Mr. HOSTETTLER, Mr. BURTON of Indiana, and Mr. TIAHRT):

H. Con. Res. 321. Concurrent resolution expressing the sense of the Congress that money saved from efforts to combat waste, fraud, and abuse in the Medicare Program should be deposited in the Federal Hospital Insurance Trust Fund to ensure the financial integrity of the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 465: Mrs. THURMAN.
H.R. 519: Mr. DEUTSCH.
H.R. 857: Mr. BILIRAKIS.
H.R. 979: Mr. FAWELL.
H.R. 1035: Mr. HALL of Texas.
H.R. 1061: Mr. SANDERS.
H.R. 1126: Mr. WATT of North Carolina.
H.R. 1168: Mr. LIPINSKI, Mr. TANNER, Mr. SOUDER, Mr. ENSIGN, and Mr. EVERETT.
H.R. 1202: Mr. McGOVERN and Mr. POSHARD.
H.R. 1401: Mr. JOHNSON of Wisconsin and Mr. EVANS.
H.R. 1531: Ms. WATERS.
H.R. 1760: Mr. HOSTETTLER.
H.R. 2072: Mr. BENTSEN.
H.R. 2189: Mr. KING of New York.
H.R. 2321: Mr. RUSH.
H.R. 2380: Mr. WELLER.
H.R. 2504: Mr. HUTCHINSON.
H.R. 2524: Ms. KILPATRICK and Mr. VENTO.
H.R. 2526: Mr. OLVER.
H.R. 2537: Mr. HAYWORTH.
H.R. 2609: Mr. SPRATT.
H.R. 2635: Mrs. THURMAN.
H.R. 2733: Mr. GILMAN, Mr. RADANOVICH, Mr. CASTLE, Mr. DIXON, Mrs. KELLY, Mr. MILLER of Florida, and Mr. POSHARD.
H.R. 2821: Mr. METCALF.
H.R. 2923: Mr. BERRY.
H.R. 2953: Mr. RANGEL.
H.R. 2955: Mr. LIPINSKI, Mr. SPRATT, and Mr. BROWN of Ohio.
H.R. 2968: Mr. GOODLING.
H.R. 2995: Mr. RANGEL and Mrs. THURMAN.
H.R. 3049: Mr. PAYNE.
H.R. 3064: Mr. TRAFICANT and Mr. YATES.
H.R. 3066: Mr. SCHUMER.
H.R. 3177: Mrs. LINDA SMITH of Washington.
H.R. 3248: Mr. UPTON.
H.R. 3400: Mr. ENGEL and Mr. MILLER of California.
H.R. 3602: Mr. BUYER.
H.R. 3622: Mr. MOAKLEY.
H.R. 3637: Mr. BISHOP and Mr. FOX of Pennsylvania.
H.R. 3659: Ms. BROWN of Florida, Mr. ENSIGN, Mr. MINGE, and Mr. HANSEN.
H.R. 3687: Mr. COMBEST.
H.R. 3702: Mr. FALEOMAVAEGA, Mr. STUPAK, and Mr. ALLEN.
H.R. 3710: Mr. BLILEY, Mr. MANZULLO, Mr. GOODLING, Mr. DOOLEY of California, Mr. JACKSON of Illinois, Mr. JOHN, Mr. ENGLISH of Pennsylvania, Mr. BOEHLERT, Ms. FURSE, Ms. KILPATRICK, Mr. MINGE, Mr. YOUNG of Alaska, and Mr. BILIRAKIS.
H.R. 3738: Mr. MORAN of Virginia, Mr. LAMPSON, Mr. LEWIS of Georgia, Mr. BALDACCI, Mr. LUTHER, Mrs. CAPPS, and Ms. SLAUGHTER.
H.R. 3749: Mr. LATOURETTE.
H.R. 3766: Mr. BOYD.
H.R. 3779: Mr. MANTON, Ms. McCARTHY of Missouri, Mrs. MALONEY of New York, Mrs. LOWEY, Mr. RANGEL, Mr. SERRANO, Mr. WYNN, Mr. ETHERIDGE, Ms. DANNER, Mr. MASCARA, Mr. BOEHLERT, Mr. MOAKLEY, and Mr. McGOVERN.
H.R. 3780: Mr. HOUGHTON and Mrs. ROUKEMA.
H.R. 3795: Mr. EHRLICH.
H.R. 3837: Mr. BARRETT of Wisconsin and Mr. LEWIS of Georgia.
H.R. 3879: Mr. RYUN, Mr. COBURN, and Mr. HINOJOSA.
H.R. 3905: Mr. NORWOOD and Mr. DEAL of Georgia.
H.R. 3925: Mr. BALDACCI.
H.R. 3935: Mr. YATES, Mr. McGOVERN, Mr. KENNEDY of Rhode Island, Ms. JACKSON-LEE of Texas, Mr. TIERNEY, Mr. MEEHAN, Mr. OLVER, Ms. PELOSI, Mr. NEAL of Massachusetts, Mr. DELAHUNT, Mr. SERRANO, and Mr. NADLER.
H.R. 4006: Mr. WELDON of Florida.
H.R. 4027: Ms. KAPTUR and Mr. STENHOLM.
H.R. 4031: Mr. LANTOS.
H.R. 4118: Mr. SAWYER.
H.R. 4125: Mr. GOODLATTE.
H.R. 4126: Mr. RILEY.
H.R. 4151: Mr. ABERCROMBIE.
H.R. 4155: Mr. REGULA and Mr. ENGLISH of Pennsylvania.
H.R. 4196: Ms. MORAN of Kansas and Mrs. EMERSON.
H.R. 4199: Ms. DELAURO, Mrs. KELLY, Mr. GILMAN, Mrs. MALONEY of New York, and Mr. ANDREWS.
H.R. 4200: Mrs. KELLY, Mr. GILMAN, Mrs. MALONEY of New York, and Mr. ANDREWS.
H.R. 4211: Mr. CALVERT, Ms. BROWN of Florida, Mr. CRAMER, Mr. BISHOP, Mr. LIPINSKI, Mr. HORN, Mr. WATT of North Carolina, Mr. UNDERWOOD, Mr. RANGEL, Mr. SPRATT, Mr. SCOTT, and Mr. SABO.
H.R. 4224: Mr. SANDLIN.
H.R. 4233: Mr. ENGEL, Mr. LANTOS, Mrs. MORELLA, Mr. KENNEDY of Massachusetts, and Mr. BLAGOJEVICH.
H.R. 4257: Mr. FATTAH.
H.R. 4285: Mr. CHRISTENSEN.
H.R. 4296: Mr. McHUGH, Mr. ENGLISH of Pennsylvania, and Mr. DAVIS of Virginia.
H.R. 4308: Mr. UNDERWOOD and Mr. MARKEY.
H.R. 4309: Mr. UNDERWOOD and Mr. MARKEY.
H.R. 4327: Mr. RYUN.
H.R. 4332: Mr. HERGER, Mr. ENSIGN, Mr. LIPINSKI, and Mrs. THURMAN.
H.R. 4339: Mr. SPENCE, Mr. STUPAK, and Mr. KLINK.
H.R. 4340: Mr. CARDIN, Mr. FOX of Pennsylvania, and Mrs. MYRICK.
H.R. 4361: Mr. FOLEY.
H.R. 4367: Mr. SMITH of New Jersey.
H.R. 4370: Mr. Towns, Mr. TURNER, and Mrs. CAPPS.
H.R. 4399: Mr. WATKINS, Mr. CRAPO, and Mr. HILL.
H. Con. Res. 39: Mr. PORTER.
H. Con. Res. 185: Mr. ROTHMAN, Mr. WAXMAN, and Mr. WATT of North Carolina.

H. Con. Res. 203: Mr. MARKEY.

H. Con. Res. 254: Mr. PORTER.

H. Con. Res. 258: Ms. ESHOO.

H. Con. Res. 299: Mrs. EMERSON, Mr. RADANOVICH, and Mr. GOODLING.

H. Con. Res. 304: Mrs. MALONEY of New York.

H. Res. 312: Mr. DAVIS of Illinois and Mr. RODRIGUEZ.

H. Res. 381: Mr. STUMP.

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. 2537: Mr. DEFAZIO.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3012

OFFERED BY: MR. POMEROY

(Amendment in the Nature of a Substitue)

Amendment No. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dakota Water Resources Act of 1998".

SEC. 2. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89–108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "of" and inserting "within";

(B) in paragraph (5), by striking "more timely" and inserting "appropriate"; and

(C) in paragraph (7), by striking "federally-assisted water resource development project providing irrigation for 130,940 acres of land" and inserting "multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows";

(2) in subsection (b)—

(A) by inserting ", jointly with the State of North Dakota," after "construct";

(B) by striking "the irrigation of 130,940 acres" and inserting "irrigation";

(C) by striking "fish and wildlife conservation" and inserting "fish, wildlife, and other natural resource conservation";

(D) by inserting "augmented stream flows, ground water recharge," after "flood control,"; and

(E) by inserting "(as modified by the Dakota Water Resources Act of 1998)" before the period at the end;

(3) in subsection (e), by striking "terminated" and all that follows and inserting "terminated."; and

(4) by striking subsections (f) and (g) and inserting the following:

"(f) COSTS.—

"(1) ESTIMATE.—The Secretary shall estimate—

"(A) the actual construction costs of the facilities (including mitigation facilities) in existence as of the date of enactment of the Dakota Water Resources Act of 1998; and

"(B) the annual operation, maintenance, and replacement costs associated with the used and unused capacity of the features in existence as of that date.

"(2) REPAYMENT CONTRACT.—An appropriate repayment contract shall be negotiated that provides for the making of a payment for each payment period in an amount that is commensurate with the percentage of the total capacity of the project that is in actual use during the payment period.

"(3) OPERATION AND MAINTENANCE COSTS.—The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share attributable to the capacity of the facilities (including mitigation facilities) that remain unused.

"(g) AGREEMENT BETWEEN THE SECRETARY AND THE STATE.—The Secretary shall enter into 1 or more agreements with the State of North Dakota to carry out this Act, including operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State.

"(h) BOUNDARY WATERS TREATY OF 1909.—

"(1) DELIVERY OF WATER INTO THE HUDSON BAY BASIN.—Water systems constructed under this Act may deliver Missouri River water into the Hudson Bay basin only after the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, determines that adequate treatment has been provided to meet the requirements of the Treaty Between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the 'Boundary Waters Treaty of 1909').

"(2) COSTS.—All costs of construction, operation, maintenance, and replacement of water treatment and related facilities authorized by this Act and attributable to meeting the requirements of the treaty referred to in paragraph (1) shall be nonreimbursable.".

SEC. 3. FISH AND WILDLIFE.

Section 2 of Public Law 89–108 (79 Stat. 433; 100 Stat. 419) is amended—

(1) by striking subsections (b), (c), and (d) and inserting the following:

"(b) FISH AND WILDLIFE COSTS.—All fish and wildlife enhancement costs incurred in connection with waterfowl refuges, waterfowl production areas, and wildlife conservation areas proposed for Federal or State administration shall be nonreimbursable.

"(c) RECREATION AREAS.—

"(1) COSTS.—If non-Federal public bodies continue to agree to administer land and water areas approved for recreation and agree to bear not less than 50 percent of the separable costs of the unit allocated to recreation and attributable to those areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be nonreimbursable.

"(2) APPROVAL.—The recreation areas shall be approved by the Secretary in consultation and coordination with the State of North Dakota.

"(d) NON-FEDERAL SHARE.—The non-Federal share of the separable capital costs of the unit allocated to recreation shall be borne by non-Federal interests, using the following methods, as the Secretary may determine to be appropriate:

"(1) Services in kind.

"(2) Payment, or provision of lands, interests therein, or facilities for the unit.

"(3) Repayment, with interest, within 50 years of first use of unit recreation facilities.";

(2) in subsection (e)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting "(1)" after "(e)";

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the first sentence—

(I) by striking "within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement" and inserting "to administer for recreation"; and

(II) by striking "which are not included within Federal waterfowl refuges and waterfowl production areas"; and

(ii) in the second sentence, by striking "or fish and wildlife enhancement"; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking ", within ten years after initial operation of the unit,"; and

(ii) by striking "paragraph (1) of this subsection" and inserting "paragraph (2)";

(3) in subsection (f), by striking "and fish and wildlife enhancement"; and

(4) in subsection (j)—

(A) in paragraph (1), by striking "prior to the completion of construction of Lonetree Dam and Reservoir"; and

(B) by adding at the end the following:

"(4) TAAYER RESERVOIR.—Taayer Reservoir is deauthorized as a project feature. The Secretary, acting through the Commissioner of Reclamation, shall acquire (including acquisition through donation or exchange) up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary shall acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary shall provide for appropriate visitor access and control at the refuge.

"(5) DEAUTHORIZATION OF LONETREE DAM AND RESERVOIR.—The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site as a wildlife conservation area. The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the wildlife conservation area as an enhancement feature, the costs of which shall be paid by the Secretary. If the features selected under section 8 include a buried pipeline and appurtenances between the McClusky Canal and New Rockford Canal, the use of the wildlife conservation area and Sheyenne Lake National Wildlife Refuge for such route is hereby authorized.".

SEC. 4. INTEREST CALCULATION.

Section 4 of Public Law 89–108 (100 Stat. 435) is amended by adding at the end the following: "Interest during construction shall be calculated only until such date as the Secretary declares any particular feature to be substantially complete, regardless of whether the feature is placed into service.".

SEC. 5. IRRIGATION FACILITIES.

Section 5 of Public Law 89–108 (100 Stat. 419) is amended—

(1) by striking "SEC. 5. (a)(1)" and all that follows through subsection (c) and inserting the following:

"SEC. 5. IRRIGATION FACILITIES.

"(a) IN GENERAL.—

"(1) AUTHORIZED DEVELOPMENT.—In addition to the 5,000-acre Oakes Test Area in existence on the date of enactment of the Dakota Water Resources Act of 1998, the Secretary may develop irrigation in—

"(A) the Turtle Lake service area (13,700 acres);

"(B) the McClusky Canal service area (10,000 acres); and

"(C) if the investment costs are fully reimbursed without aid to irrigation from the Pick-Sloan Missouri Basin Program, the New Rockford Canal service area (1,200 acres).

"(2) DEVELOPMENT NOT AUTHORIZED.—None of the irrigation authorized by this section may be developed in the Hudson Bay/Devils Lake Basin.

"(3) NO EXCESS DEVELOPMENT.—The Secretary shall not develop irrigation in the service areas described in paragraph (1) in excess of the acreage specified in that paragraph, except that the Secretary shall develop up to 28,000 acres of irrigation in other areas of North Dakota (such as the Elk/Charbonneau, Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer areas) that are not located in the Hudson Bay/Devils Lake drainage basin or James River drainage basin.

"(4) PUMPING POWER.—Irrigation development authorized by this section shall be considered authorized units of the Pick-Sloan Missouri Basin Program and eligible to receive project pumping power.

"(5) PRINCIPLE SUPPLY WORKS.—The Secretary shall complete and maintain the principle supply works as identified in the 1984 Garrison Diversion Unit Commission Final Report dated December 20, 1984 as modified by the Dakota Water Resources Act of 1998.";

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking "(a)(1)" and inserting "(a)";

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking "Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)" and inserting "Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary,"; and

(5) by adding at the end the following:

"(e) IRRIGATION REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall investigate and prepare a detailed report on the undesignated 28,000 acres in subsection (a)(3) as to costs and benefits for any irrigation units to be developed under Reclamation law.

"(2) FINDING.—The report shall include a finding on the financial and engineering feasibility of the proposed irrigation unit, but shall be limited to the undesignated 28,000 acres.

"(3) AUTHORIZATION.—If the Secretary finds that the proposed construction is feasible, such irrigation units are authorized without further Act of Congress.

"(4) DOCUMENTATION.—No expenditure for the construction of facilities authorized under this section shall be made until after the Secretary, in cooperation with the State of North Dakota, has prepared the appropriate documentation in accordance with section 1 and pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and indirect impacts of implementing the report.".

SEC. 6. POWER.

Section 6 of Public Law 89-108 (79 Stat. 435; 100 Stat. 421) is amended—

(1) in subsection (b)—

(A) by striking "Notwithstanding the provisions of" and inserting "Pursuant to the provisions of"; and

(B) by striking "revenues," and all that follows and inserting "revenues."; and

(2) by striking subsection (c) and inserting the following:

"(c) NO INCREASE IN RATES OR AFFECT ON REPAYMENT METHODOLOGY.—In accordance with the last sentence of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3), section 1(e) shall not result in any reallocation of project costs and shall not result in increased rates to Pick-Sloan Missouri Basin Program customers. Nothing in the Dakota Water Resources Act of 1998 alters or affects in any way the repayment methodology in effect as of the date of enactment of that Act for other features of the Pick-Sloan Missouri Basin Program.".

SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Section 7 of Public Law 89-108 (100 Stat. 422) is amended—

(1) in subsection (a)(3)—

(A) in the second sentence—

(i) by striking "The non-Federal share" and inserting "Unless otherwise provided in this Act, the non-Federal share";

(ii) by striking "each water system" and inserting "water systems";

(iii) by inserting after the second sentence the following: "The State may use the Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water systems. The State shall use the proceeds of repaid loans for municipal, rural, and industrial water systems."; and

(iv) by striking the last sentence and inserting the following: "The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State of North Dakota shall be eligible for funding under the terms of this section. Funding provided under this section for the Red River Valley Water Supply Project shall be in addition to funding for that project under section 10(a)(1)(B). The amount of non-Federal contributions made after May 12, 1986, that exceeds the 25 percent requirement shall be credited to the State for future use in municipal, rural, and industrial projects under this section."; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

"(b) WATER CONSERVATION PROGRAM.—The State of North Dakota may use funds provided under subsections (a) and (b)(1)(A) of section 10 to develop and implement a water conservation program. The Secretary and the State shall jointly establish water conservation goals to meet the purposes of the State program and to improve the availability of water supplies to meet the purposes of this Act. If the State achieves the established water conservation goals, the non-Federal cost share for future projects under subsection (a)(3) shall be reduced to 24.5 percent.

"(c) NONREIMBURSABILITY OF COSTS.—With respect to the Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in North Dakota, the costs of the features constructed on the Missouri River by the Secretary of the Army before the date of enactment of the Dakota Water Resources Act of 1998 shall be nonreimbursable.

"(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL WATER SUPPLY.—The Secretary shall construct, operate, and maintain such municipal, rural, and industrial water systems as the Secretary determines to be necessary to meet the economic, public health, and environmental needs of the Fort Berthold, Standing Rock, Turtle Mountain (including the Trenton Indian Service Area), and Fort Totten Indian Reservations and adjacent areas.".

SEC. 8. SPECIFIC FEATURES.

(a) IN GENERAL.—Public Law 89-108 (100 Stat. 423) is amended by striking section 8 and inserting the following:

"SEC. 8. SPECIFIC FEATURES.

"(a) RED RIVER VALLEY WATER SUPPLY PROJECT.—

"(1) IN GENERAL.—The Secretary shall construct a feature or features to deliver Missouri River water to the Sheyenne River water supply and release facility or such other feature or features as are selected under subsection (d).

"(2) DESIGN AND CONSTRUCTION.—The feature shall be designed and constructed to meet only the water delivery requirements of the irrigation areas, municipal, rural, and industrial water supply needs, ground water recharge, and streamflow augmentation (as described in subsection (b)(2)) authorized by this Act.

"(3) COMMENCEMENT OF CONSTRUCTION.—The Secretary may not commence construction on the feature until a master repayment contract or water service agreement consistent with this Act between the Secretary and the appropriate non-Federal entity has been executed.

"(b) REPORT ON RED RIVER VALLEY WATER NEEDS AND DELIVERY OPTIONS.—

"(1) IN GENERAL.—Pursuant to section 1(g), not later than 90 days after the date of enactment of the Dakota Water Resources Act of 1998, the Secretary and the State of North Dakota shall jointly submit to Congress a report on the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley.

"(2) NEEDS.—The needs addressed in the report shall include such needs as—

"(A) augmenting streamflows; and

"(B) enhancing—

"(i) municipal, rural, and industrial water supplies;

"(ii) water quality;

"(iii) aquatic environment; and

"(iv) recreation.

"(3) STUDIES.—Existing and ongoing studies by the Bureau of Reclamation on Red River Water Supply needs and options shall be deemed to meet the requirements of this section.

"(c) ENVIRONMENTAL IMPACT STATEMENTS.—

"(1) DRAFT.—

"(A) DEADLINE.—Pursuant to an agreement between the Secretary and the State of North Dakota as authorized under section 1(g), not later than 1 year after the date of enactment of the Dakota Water Resources Act of 1998, the Secretary and the State of North Dakota shall jointly prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including possible alternatives for delivering Missouri River water to the Red River Valley.

"(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete the draft environmental impact statement within 1 year after the date

of enactment of the Dakota Water Resources Act of 1998, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

"(2) FINAL.—

"(A) DEADLINE.—Not later than 1 year after filing the draft environmental impact statement, a final environmental impact statement shall be prepared and published.

"(B) REPORT ON STATUS.—If the Secretary and State of North Dakota cannot prepare and complete a final environmental impact statement within 1 year of the completion of the draft environmental impact statement, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

"(d) PROCESS FOR SELECTION.—

"(1) IN GENERAL.—After reviewing the final report required by subsection (b)(1) and complying with subsection (c), the Secretary, in consultation and coordination with the State of North Dakota in coordination with affected local communities, shall select 1 or more project features described in subsection (a) that will meet the comprehensive water quality and quantity needs of the Red River Valley.

"(2) AGREEMENTS.—Not later than 180 days after the record of decision has been executed, the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features selected.

"(e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES.—The Secretary shall construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water or any other amount determined in the reports under this section, for the cities of Fargo and Grand Forks and surrounding communities, or such other feature or features as may be selected under subsection (d).".

SEC. 9. OAKES TEST AREA TITLE TRANSFER.

Public Law 89-108 (100 Stat. 423) is amended by striking section 9 and inserting the following:

"SEC. 9. OAKES TEST AREA TITLE TRANSFER.

"(a) IN GENERAL.—Not later than 2 years after execution of a record of decision under section 8(d) on whether to use the New Rockford Canal as a means of delivering water to the Red River Basin as described in section 8, the Secretary shall enter into an agreement with the State of North Dakota, or its designee, to convey title and all or any rights, interests, and obligations of the United States in and to the Oakes Test Area as constructed and operated under Public Law 99-294 (100 Stat. 418) under such terms and conditions as the Secretary believes would fully protect the public interest.

"(b) TERMS AND CONDITIONS.—The agreement shall define the terms and conditions of the transfer of the facilities, lands, mineral estate, easements, rights-of-way and water rights including the avoidance of costs that the Federal Government would otherwise incur in the case of a failure to agree under subsection (d).

"(c) COMPLIANCE.—The action of the Secretary under this section shall comply with all applicable requirements of Federal, State, and local law.

"(d) FAILURE TO AGREE.—If an agreement is not reached within the time limit specified in subsection (a), the Secretary shall dispose of the Oakes Test Area facilities under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of Public Law 89-108 (100 Stat. 424; 106 Stat. 4669, 4739)

(1) in subsection (a)—

(A) by striking "(a)(1) There are authorized" and inserting the following:

"(a) WATER DISTRIBUTION FEATURES.—

"(1) IN GENERAL.—

"(A) MAIN STEM SUPPLY WORKS.—There is authorized";

(B) in paragraph (1)—

(i) in the first sentence, by striking "$270,395,000 for carrying out the provisions of section 5(a) through 5(c) and section 8(a)(1) of this Act" and inserting "$164,000,000 to carry out section 5(a)";

(ii) by inserting after subparagraph (A) (as designated by clause (i)) the following:

"(B) RED RIVER VALLEY WATER SUPPLY PROJECT.—There is authorized to be appropriated to carry out section 8(a)(1) $200,000,000."; and

(iii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There is" and inserting the following:

"(2) INDIAN IRRIGATION.—

"(A) IN GENERAL.—There is";

(ii) by striking "$7,910,000 for carrying out section 5(e) of this Act" and inserting "$7,910,000 to carry out section 5(c)"; and

(iii) by striking "Such sums" and inserting the following:

"(B) AVAILABILITY.—Such sums";

(2) in subsection (b)—

(A) by striking "(b)(1) There is" and inserting the following:

"(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY.—

"(1) STATEWIDE.—

"(A) INITIAL AMOUNT.—There is";

(B) in paragraph (1)—

(i) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(a) $300,000,000."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There are authorized to be appropriated $61,000,000" and all that follows through "Act." and inserting the following:

"(2) INDIAN MUNICIPAL, RURAL, AND INDUSTRIAL AND OTHER DELIVERY FEATURES.—

"(A) INITIAL AMOUNT.—There is authorized to be appropriated—

"(i) to carry out section 8(a)(5), $40,500,000; and

"(ii) to carry out section 7(d), $20,500,000.";

(ii) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—

"(i) IN GENERAL.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(d) $200,000,000.

"(ii) ALLOCATION.—The amount under clause (i) shall be allocated as follows:

"(I) $30,000,000 to the Fort Totten Indian Reservation.

"(II) $70,000,000 to the Fort Berthold Indian Reservation.

"(IV) $80,000,000 to the Standing Rock Indian Reservation.

"(V) $20,000,000 to the Turtle Mountain Indian Reservation."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums";

(3) in subsection (c)—

(A) by striking "(c) There is" and inserting the following:

"(c) RESOURCES TRUST AND OTHER PROVISIONS.—

"(1) INITIAL AMOUNT.—There is"; and

(B) by striking the second and third sentences and inserting the following:

"(2) ADDITIONAL AMOUNT.—In addition to amount under paragraph (1), there are authorized to be appropriated—

"(A) $6,500,000 to carry out recreational projects; and

"(B) an additional $25,000,000 to carry out section 11;

to remain available until expended.

"(3) RECREATIONAL PROJECTS.—Of the funds authorized under paragraph (2) for recreational projects, up to $1,500,000 may be used to fund a wetland interpretive center in the State of North Dakota.

"(4) OPERATION AND MAINTENANCE.—

"(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary for operation and maintenance of the unit (including the mitigation and enhancement features).

"(B) AUTHORIZATION LIMITS.—Expenditures for operation and maintenance of features substantially completed and features constructed before the date of enactment of the Dakota Water Resources Act of 1998, including funds expended for such purposes since the date of enactment of Public Law 99-294, shall not be counted against the authorization limits in this section.

"(5) MITIGATION AND ENHANCEMENT LAND.—On or about the date on which the features authorized by section 8(a) are operational, a separate account in the Natural Resources Trust authorized by section 11 shall be established for operation and maintenance of the mitigation and enhancement land associated with the unit."; and

(4) by striking subsection (e) and inserting the following:

"(e) INDEXING.—The $300,000,000 amount under subsection (b)(1)(B), the $200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 1998 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.

"(f) FOUR BEARS BRIDGE.—There is authorized to be appropriated, for demolition of the existing structure and construction of the Four Bears Bridge across Lake Sakakawea within the Fort Berthold Indian Reservation, $40,000,000.".

SEC. 11. NATURAL RESOURCES TRUST.

Section 11 of Public Law 89-108 (100 Stat. 424) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CONTRIBUTION.—

"(1) INITIAL AUTHORIZATION.—

"(A) IN GENERAL.—From the sums appropriated under section 10 for the Garrison Diversion Unit, the Secretary shall make an annual Federal contribution to a Natural Resources Trust established by non-Federal interests in accordance with subsection (b) and operated in accordance with subsection (c).

"(B) AMOUNT.—The total amount of Federal contributions under subparagraph (A) shall not exceed $12,000,000.

"(2) ADDITIONAL AUTHORIZATION.—

"(A) IN GENERAL.—In addition to the amount authorized in paragraph (1), the Secretary shall make annual Federal contributions to the Natural Resources Trust until the amount authorized by section 10(c)(2)(B) is reached, in the manner stated in subparagraph (B).

"(B) ANNUAL AMOUNT.—The amount of the contribution under subparagraph (A) for each fiscal year shall be the amount that is equal to 5 percent of the total amount that is appropriated for the fiscal year under subsections (a)(1)(B) and (b)(1)(B) of section 10.

"(C) LIMITATION ON AVAILABILITY OF FUNDS.—Of the amount authorized by section 10(c)(2)(B), not more than $10,000,000 shall be made available until the date on which the features authorized by section 8(a) are operational and meet the objectives of section 8(a), as determined by the Secretary and the State of North Dakota.";

(2) in subsection (b), by striking "Wetlands Trust" and inserting "Natural Resources Trust"; and

(3) in subsection (c)—

(A) by striking "Wetland Trust" and inserting "Natural Resources Trust";

(B) by striking "are met" and inserting "is met";

(C) in paragraph (1), by inserting ", grassland conservation and riparian areas" after "habitat"; and

(D) in paragraph (2), by adding at the end the following:

"(C) The power to fund incentives for conservation practices by landowners.".

H.R. 3892

OFFERED BY: MR. RIGGS

AMENDMENT NO. 7: Page 13, after line 18, insert the following:

"(E) Developing tutoring programs for English language learners that provide early intervention and intensive instruction in order to improve academic achievement, to increase graduation rates among English language learners, and to prepare students for transition as soon as possible into classrooms where instruction is not tailored for English language learners or immigrant children and youth.

Page 13, line 19, strike "(E)" and insert "(F)".

H.R. 3892

OFFERED BY: MR. RIGGS

AMENDMENT NO. 8: Page 17, line 17, strike "and"

Page 17, line 19, strike the period at the end and insert "; and".

Page 17, after line 19, insert the following:

"(C) the number and percentage of students in the programs and activities mastering the English language by the end of each school year.

Page 19, after line 2, insert the following:

"(4) EVALUATION MEASURES.—In prescribing the form of an evaluation provided by an entity under paragraph (1), a State shall approve evaluation measures for use under paragraph (3) that are designed to assess—

"(A) oral language proficiency in kindergarten;

"(B) oral language proficiency, including speaking and listening skills, in first grade; and

"(C) both oral language proficiency, including speaking and listening skills, and reading and writing proficiency in grades two and higher.

H.R. 3892

OFFERED BY: MR. RIGGS

AMENDMENT NO. 9: Page 19, line 5, strike "(b) and (c)," and insert "(b), (c), and (d),".

Page 20, after line 13, insert the following:

"(d) MINIMUM ALLOTMENT.—

"(1) IN GENERAL.—Notwithstanding subsections (a) through (c), the Secretary shall not allot to any State, for fiscal years 1999 through 2003, an amount that is less than 100 percent of the baseline amount for the State.

"(2) BASELINE AMOUNT DEFINED.—For purposes of this subsection, the term 'baseline amount', when used with respect to a State, means the total amount received under parts A and C of this title for fiscal year 1998 by the State, the State educational agency, and all local educational agencies of the State.

"(3) RATABLE REDUCTION.—If the amount available for allotment under this section for any fiscal year is insufficient to permit the Secretary to comply with paragraph (1), the Secretary shall ratably reduce the allotments to all States for such year.

Page 20, line 14, strike "(d)" and insert "(e)".

Page 20, line 24, strike "(e)" and insert "(f)".

H.R. 3892

OFFERED BY: MR. SCOTT

AMENDMENT NO. 10: Beginning on page 29, strike line 3 through page 30, line 10.

Page 30, line 11, strike "**7406.**" and insert "**7404.**".

H.R. 3892

OFFERED BY: MR. YOUNG OF ALASKA

AMENDMENT NO. 11: Page 25, strike line 9.

Page 25, line 13, strike "and" and insert "or".

Page 25, after line 13, insert the following:

"(iii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency, except that, for purposes of subsections (a) and (d) of section 7124, an individual described in section 7112(a), who is served by a person considered to be a local educational agency under such section, shall not be considered an English language learner; and

H.R. 4380

OFFERED BY: MS. NORTON

AMENDMENT NO. 1: Page 8, line 22, insert "(increased by $573,000)" after "$164,144,000".

Page 8, line 23, insert "(increased by $573,000)" after "$136,485,000".

Page 9, line 4, insert after "purposes:" the following: "*Provided further*, That $573,000 of such amount shall be for Advisory Neighborhood Commissions established pursuant to section 738 of the District of Columbia Home Rule Act".

H.R. 4380

OFFERED BY: MS. NORTON

AMENDMENT NO. 2: Page 42, line 3, strike "funds" and insert "Federal funds".

H.R. 4380

OFFERED BY: MS. NORTON

AMENDMENT NO. 3: Page 57, strike line 20 and all that follows through page 58, line 2 (and redesignate the succeeding provisions accordingly).

H.R. 4380

OFFERED BY: MS. NORTON

AMENDMENT NO. 4: Page 58, strike lines 3 through 5 (and redesignate the succeeding provision accordingly).