¶41.3 MESSAGE FROM THE PRESIDENT

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

¶41.4 MESSAGE FROM THE PRESIDENT—NUCLEAR NON-PROLIFERATION AGREEMENTS

The SPEAKER pro tempore, Mr. SHAYS, laid before the House a message from the President, which was read as follows:

To the Congress of the United States:

The United States has been engaged in nuclear cooperation with the European Community (now European Union) for many years. This cooperation was initiated under agreements that were concluded in 1957 and 1968 between the United States and the European Atomic Energy Community (EURATOM) and that expire December 31, 1995. Since the inception of this cooperation, EURATOM has adhered to all its obligations under those agreements.

The Nuclear Non-Proliferation Act of 1978 amended the Atomic Energy Act of 1954 to establish new nuclear export criteria, including a requirement that the United States have a right to consent to the reprocessing of fuel exported from the United States. Our present agreements for cooperation with EURATOM do not contain such a right. To avoid disrupting cooperation with EURATOM, a proviso was included in the law to enable continued cooperation until March 10, 1980, if EURATOM agreed to negotiations concerning our cooperation agreements. EURATOM agreed in 1978 to such negotiations.

The law also provides that nuclear cooperation with EURATOM can be extended on an annual basis after March 10, 1980, upon determination by the President that failure to cooperate would be seriously prejudicial to the achievement of U.S. nonproliferation objectives or otherwise jeopardize the common defense and security, and after notification to the Congress. President Carter made such a determination 15 years ago and signed Executive Order No. 12193, permitting nuclear cooperation with EURATOM to continue until March 10, 1981. Presidents Reagan and Bush made similar determinations and signed Executive orders each year during their terms. I signed Executive Order No. 12840 in 1993 and Executive Order No. 12903 in 1994, which extended cooperation until March 10, 1994, and March 10, 1995, respectively.

In addition to numerous informal contacts, the United States has engaged in frequent talks with EURATOM regarding the renegotiation of the U.S.–EURATOM agreements for cooperation. Talks were conducted in November 1978; September 1979; April 1980; January 1982; November 1983; March 1984; May, September, and November 1985; April and July 1986; September 1987; September and November 1988; July and December 1989; February, April, October, and December 1990; and September 1991. Formal negotiations on a new agreement were held in April, September, and December 1992; March, July, and October 1993; June, October, and December 1994; and January and February 1995. They are expected to continue.

I believe that it is essential that cooperation between the United States and EURATOM continue, and likewise, that we work closely with our allies to counter the threat of proliferation of nuclear explosives. Not only would a disruption of nuclear cooperation with EURATOM eliminate any chance of progress in our negotiations with that organization related to our agreements, it would also cause serious problems in our overall relationships. Accordingly, I have determined that failure to continue peaceful nuclear cooperation with EURATOM would be seriously prejudicial to the achievement of U.S. nonproliferation objectives and would jeopardize the common defense and security of the United States. I therefore intend to sign an Executive order to extend the waiver of the application of the relevant export criterion of the Atomic Energy Act until the current agreements expire on December 31, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 9, 1995.*

By unanimous consent, the message was referred to the Committee on International Relations and ordered to be printed (H. Doc. 104–54).

¶41.5 SUBPOENA

The SPEAKER pro tempore, Mr. SHAYS, laid before the House a communication, which was read as follows:

Washington, DC, March 7, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L(50) of the Rules of the House that a staff person in my office has received a subpoena for testimony and documents concerning constituent casework. The subpoena was issued by the Middlesex County Probate and Family Court of the Commonwealth of Massachusetts.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

EDWARD J. MARKEY,
Member of Congress.

¶41.6 SUBPOENA

The SPEAKER pro tempore, Mr. SHAYS, laid before the House a communication, which was read as follows:

Washington, DC, March 8, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the Eastern District of Virginia for materials related to a civil case.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

KWEISI MFUME,
Member of Congress.

¶41.7 PROVIDING FOR THE FURTHER CONSIDERATION OF H.R. 956

Mr. LINDER, by direction of the Committee on Rules, called up the following resolution (H. Res. 109):

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. No further general debate shall be in order. The bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on the Judiciary, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute consisting of the text of H.R. 1075. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those specified in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order specified in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

When said resolution was considered.

Mr. LINDER submitted the following amendment:

Page 2, line 11, insert the following before the period: ‘‘, provided that the amendments numbered 1 and 12 printed in that report shall be considered in the forms specified in section 2 of this resolution’’; and

At the end of the resolution add the following:

SEC. 2. (a) The amendment numbered 1 in the report accompanying this resolution shall be considered in the following form:

Page 7, insert after line 3 the following:

‘‘(c) Notwithstanding any other provision of law, any person, except a person excluded from the definition of product seller, engaged in the business of renting or leasing a product shall be subject to liability pursuant to subsection (a) of this section, but shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.’’.

(b) The amendment numbered 12 in the report accompanying this resolution shall be considered in the following form:

Page 19 redesignate section 202 as section 203 and after line 19 insert the following:

SEC. 202. LIMITATION ON NONECONOMIC DAMAGES IN HEALTH CARE LIABILITY ACTIONS.

(a) MAXIMUM AWARD OF NONECONOMIC DAMAGES.—In any health care liability action, in addition to actual damages or punitive damages, or both, a claimant may also be awarded noneconomic damages, including damages awarded to compensate injured feelings, such as pain and suffering and emotional distress. The maximum amount of such damages that may be awarded to a claimant shall be $250,000. Such maximum amount shall apply regardless of the number of parties against whom the action is brought, and regardless of the number of claims or actions brought with respect to the health care injury. An award for future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the limitation on noneconomic damages, but an award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment or by amendment of the judgment after entry. An award of damages for noneconomic losses in excess of $250,000 shall be reduced to $250,000 before accounting for any other reduction in damages required by law. If separate awards of damages for past and future noneconomic damages are rendered and the combined award exceeds $250,000, the award of damages for future noneconomic losses shall be reduced first.

(b) APPLICABILITY.—Except as provided in section 401, this section shall apply to any health care liability action brought in any Federal or State court on any theory or pursuant to any alternative dispute resolution process where noneconomic damages are sought. This section does not create a cause of action for noneconomic damages. This section does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of noneconomic damages. This section does not preempt any State law enacted before the date of the enactment of this Act that places a cap on the total liability in a health care liability action.

(d) DEFINITIONS.—As used in this section—

(a) The term ''claimant'' means any person who asserts a health care liability claim or brings a health care liability action, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent or a minor.

(b) The term ''economic loss'' has the same meaning as defined at section 203(3).

(c) The term ''health care liability action'' means a civil action brought in a State or Federal court or pursuant to any alternative dispute resolution process, against a health care provider, an entity which is obligated to provide or pay for health benefits under any health plan (including any person or entity acting under a contract or arrangement to provide or administer any health benefit), or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, in which the claimant alleges a claim (including third party claims, cross claims, counter claims, or distribution claims) based upon the provision of (or the failure to provide or pay for) health care services or the use of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, or defendants or causes of action.

Page 17, line 10, insert ''AND OTHER'' after ''PUNITIVE''.

After debate,

Mr. LINDER moved the previous question on the amendment and the resolution.

The question being put, viva voce,

Will the House now order the previous question on the amendment and the resolution?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

Mr. FROST objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 234 / Nays ..... 191 }

¶41.8 [Roll No. 217]

YEAS—234

Allard, Archer, Bachus, Baesler, Baker (CA), Baker (LA), Ballenger, Barr, Barrett (NE), Bartlett, Barton, Bass, Bateman, Bereuter, Bilbray, Bilirakis, Bliley, Blute, Boehlert, Boehner, Bonilla, Bono, Brewster, Brownback, Bryant (TN), Bunn, Bunning, Burr, Burton, Buyer, Callahan, Calvert, Camp, Canady, Castle, Chabot, Chambliss, Chenoweth, Christensen, Chrysler, Clinger, Coble, Coburn, Collins (GA), Combest, Condit, Cooley, Cox, Crane, Crapo, Cremeans, Cubin, Cunningham, Danner, Davis, Deal, DeLay, Diaz-Balart, Dickey, Doolittle, Dornan, Dreier, Duncan, Dunn, Ehlers, Ehrlich, Emerson, English, Ensign, Everett, Ewing, Fawell, Fields (TX), Flanagan, Foley, Forbes, Fowler, Fox, Franks (CT), Franks (NJ), Frelinghuysen, Frisa, Funderburk, Gallegly, Ganske, Gekas, Geren, Gilchrest, Gillmor, Gilman, Goodlatte, Goodling, Goss, Gunderson, Gutknecht, Hall (TX), Hancock, Hansen, Hastert, Hastings (WA), Hayworth, Hefley, Heineman, Herger, Hilleary, Hobson, Hoekstra, Hoke, Horn, Houghton, Hunter, Hutchinson, Hyde, Inglis, Johnson (CT), Johnson, Sam, Jones, Kasich, Kelly, Kim, King, Kingston, Klug, Knollenberg, Kolbe, LaHood, Largent, Latham, LaTourette, Laughlin, Lazio, Leach, Lewis (CA), Lewis (KY), Lightfoot, Linder, Livingston, Longley, Lucas, Manzullo, Martini, McCollum, McCrery, McDade, McHugh, McInnis, McIntosh, McKeon, Metcalf, Meyers, Mica, Miller (FL), Molinari, Moorhead, Morella, Myers, Myrick, Nethercutt, Neumann, Ney, Norwood, Nussle, Oxley, Packard, Parker, Paxon, Peterson (MN), Petri, Pombo, Porter, Portman, Pryce, Quillen, Quinn, Radanovich, Ramstad, Regula, Riggs, Roberts, Rogers, Rohrabacher, Ros-Lehtinen, Roth, Roukema, Royce, Salmon, Sanford, Saxton, Scarborough, Schaefer, Schiff, Seastrand, Sensenbrenner, Shadegg, Shaw, Shays, Shuster, Skeen, Smith (MI), Smith (NJ), Smith (TX), Smith (WA), Solomon, Souder, Spence, Stearns, Stenholm, Stockman, Stump, Talent, Tate, Taylor (NC), Thomas, Thornberry, Tiahrt, Torkildsen, Upton, Vucanovich, Waldholtz, Walker, Walsh, Wamp, Watts (OK), Weldon (FL), Weldon (PA), Weller, White, Whitfield, Wicker, Wolf, Young (AK), Young (FL), Zeliff, Zimmer

NAYS—191

Abercrombie, Ackerman, Andrews, Baldacci, Barcia, Barrett (WI), Becerra, Beilenson, Bentsen, Berman, Bevill, Bishop, Bonior, Borski, Boucher, Browder, Brown (CA), Brown (FL), Brown (OH), Bryant (TX), Cardin, Chapman, Clay, Clayton, Clement, Clyburn, Coleman, Collins (IL), Collins (MI), Conyers, Costello, Coyne, Cramer, de la Garza, DeFazio, DeLauro, Deutsch, Dicks, Dingell, Dixon, Doggett, Dooley, Doyle, Durbin, Edwards, Engel, Eshoo, Evans, Farr, Fattah, Fazio, Fields (LA), Filner, Flake, Foglietta, Ford, Frank (MA), Frost, Furse, Gejdenson, Gephardt, Gibbons, Gonzalez, Gordon, Graham, Green, Gutierrez, Hall (OH), Hamilton, Harman, Hastings (FL), Hayes, Hefner, Hilliard, Hinchey, Holden, Hoyer, Jackson-Lee, Jacobs, Jefferson, Johnson (SD), Johnson, E.B., Johnston, Kanjorski, Kaptur, Kennedy (MA), Kennedy (RI), Kennelly, Kildee, Kleczka, Klink, LaFalce, Lantos, Levin, Lewis (GA), Lincoln, Lipinski, Lofgren, Lowey, Luther, Maloney, Manton, Markey, Martinez, Mascara, Matsui, McCarthy, McDermott, McHale, McKinney, McNulty, Meehan, Meek, Menendez, Mfume, Miller (CA), Mineta, Minge, Mink, Moakley, Mollohan, Montgomery, Murtha, Nadler, Neal, Oberstar, Obey, Olver, Ortiz, Orton, Owens, Pallone, Pastor, Payne (NJ), Payne (VA), Pelosi, Peterson (FL), Pickett, Pomeroy, Poshard, Rahall, Reed, Reynolds, Richardson, Rivers, Roemer, Rose, Roybal-Allard, Rush, Sabo, Sanders, Sawyer, Schroeder, Schumer, Scott, Serrano, Sisisky, Skaggs, Skelton, Slaughter, Spratt, Stark, Stokes, Studds, Stupak, Tanner, Tauzin, Taylor (MS), Tejeda, Thompson, Thornton, Thurman, Torres, Torricelli, Towns, Traficant, Tucker, Velazquez, Vento, Visclosky, Volkmer, Ward, Waters, Watt (NC), Waxman, Williams, Wilson, Wise, Wyden, Wynn, Yates

NOT VOTING—9

Armey, Dellums, Greenwood, Hostettler, Istook, LoBiondo, Moran, Rangel, Woolsey

So the previous question on the amendment and the resolution was ordered.

The question being put, viva voce,

Will the House agree to said amendment?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

So the amendment was agreed to.

The question being put, viva voce,

Will the House agree to said resolution, as amended?

The SPEAKER pro tempore, Mr. EWING, announced that the yeas had it.

Mr. MOAKLEY demanded a recorded vote on agreeing to said resolution, as amended, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.