The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, MARCH 27, 1998, TO FILE 2 PRIVILEGED REPORTS ON BILLS MAKING SUPPLEMENTAL APPROPRIATIONS AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Friday, March 27, 1998 to file two privileged reports on bills, one making emergency supplemental appropriations for fiscal year 1998 and the other making supplemental appropriations for fiscal year 1998.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XXI, all points of order are reserved on the bills.

FAIRNESS FOR SMALL BUSINESS AND EMPLOYEES ACT OF 1998

The SPEAKER pro tempore (Mr. KINGSTON). Pursuant to House Resolution 393 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3246.

☐ 1817

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers, with Mr. MCCOLLUM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Missouri (Mr. CLAY) each will control 30 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. FAWELL), the subcommittee chairman who studies carefully and knows what it is he says.

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

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

Mr. Chairman, H.R. 3246, the Fairness for Small Business and Employees Act is a pro-employee, pro-employer, pro-labor organization bill that is also good for the economy and good for the American taxpayers.

Having introduced last session three of the four bills which comprise the four titles of this legislation, I would like to focus my time on two titles. Title I is a targeted provision intended to help employers who are being damaged and even run out of business due to abusive union ''salting'' tactics. Title IV is a provision allowing small employers and small labor organizations who prevail against the NLRB unfair labor practice complaint to recover their attorney fees and costs.

Title I says simply that someone must be a ''bona fide'' employee applicant before the employer has an obligation to hire them under the National Labor Relations Act. Mr. Chairman, a ''bona fide'' applicant is defined as someone who is not primarily motivated to seek employment to further other employment or other agency status. What this means in layman's terms is that someone who is at least half-motivated to work for the employer is not impacted by this legislation at all.

Now, significantly, and I want to make this clear, the test of whether a job applicant is a ''bona fide applicant'' under Title I is a decision that will, in the first instance, be made by the general counsel of the NLRB. This legislation seeks only to prevent the clear-cut abusive situations in which union agents or employees openly seek a job as a ''salter'' with nonunion businesses.

Mr. Chairman, if people will listen to this one point: A ''salter'' is described in the Organizing Manual of the International Brotherhood of Electrical Workers as an employee who is expected, now get this, and I quote,

> To threaten or actually apply economic pressure necessary to cause the employer to raise his prices to recoup additional costs, scale back his business activities, leave the union's jurisdiction, go out of business.

Now, that is an exact quote in the manual of the International Brotherhood of Electrical Worker's definition of what a salter can be. How is that for a bona fide applicant?

A final point on Title I. This legislation does not overturn, does not overturn the Supreme Court's decision in 1995 in Town & Country. That decision held very narrowly that the definition of an employee under the NLRA can include paid union agents. Title I does not change this, nor the definition of an employee, nor the definition of an employee applicant under the NLRA. They obviously can still be involved in customary efforts to organize a nonunion shop. It simply would make clear that someone must be at least 50 percent motivated to work for the employer to be taken seriously as a job applicant.

Title IV of the Fairness for Small Business and Employees Act is what we call a ''loser pays'' concept, applied against the NLRB when it loses complaints it brings against the very small companies or small labor organizations, those who have no more than 100 employees and a net worth of no more than $1.4 million.

Title IV is a reasonable provision which ensures that taxpayer dollars are spent wisely and effectively. It tells the Board that after it reviews the facts of a case, that before it issues a complaint and starts the serious machinery against the ''little guy,'' whether union or business, that it should be very careful to make sure it has a reasonable case. If the NLRB does move forward against these small entities of modest means and loses the case, then it simply must reimburse the small business or labor organization, the winner's legal expenses.

Title IV is a winner for the small company and the small union who do not have the resources to mount an adequate defense against a well-funded, well-armed National Labor Relations Board who pays, by the way, from the taxes all of the expenses of the complainant, whether it is the union or an employer.

This bill ensures that the little guy has some sort of an incentive to fight a case and ensures that they will not be forced into bankruptcy to defend themselves, as countless employers have been. H.R. 3246 is a narrowly crafted, targeted bill attempting to correct four specific problems at the NLRB. It is benign, and it is fair, and I urge my colleagues to be serious and look at the real facts of this issue.

Mr. CLAY. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SAWYER).

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

Mr. SAWYER. Mr. Chairman, I rise in opposition to the bill.

This country was founded on democratic principles; on majority rule that protects the rights of the minority. Yet for 150 years, we failed to have democracy in the workplace.

In 1935, the passage of the National Labor Relations Act for the first time ensured that workers, unions, and employers were given a forum for resolving labor practice disputes.

Not every worker will join a union, or even has the desire to do so, but democracy in the workplace means that workers can make that choice. The bill before us today would take away that basic worker right to choose whether to join a union.

This legislation is being portrayed as necessary to modernize this law. I agree that given the fundamental changes in the labor market since the 1930's this law may be ripe for reform. But we must not undermine the principles of democracy that it took so long for workers to get.

In its 1994 report, the Dunlop Commission recommended a number of changes that

would help clarify and update federal labor law. Unfortunately, the cosponsors of this bill did not attempt to integrate those changes into law. Instead, this bill would make it more difficult for those who want to exercise long-established and fundamental rights and responsibilities in their workplace, and make it more difficult for the Board to be an even handed arbiter of honest disagreements that arise from time to time.

Despite the nation's current economic strength, there is still a contingent of workers who have failed to benefit from this prosperity. The collective bargaining process provides a forum for workers and employers to discuss workplace conditions in an equitable way. This is especially important as companies wrestle with investment decisions in a changing technological environment and as workers struggle to adapt to that change.

Mr. Chairman, this bill would undermine democracy in the workplace. I urge my colleagues to reject this bill and to begin the serious work of ensuring that our nation's labor laws reflect the labor market of today.

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

From the start of the 104th Congress, the Republican leadership has tried to undermine workers' rights, tried to stop the minimum wage increases, trying to take away overtime pay, trying to gut workplace and environmental safety laws. Now, these same forces are trying to deny workers the right to join unions.

This bill is an assault on the National Labor Relations Act, which protects the right of workers to engage in collective bargaining. There are valid reasons why we should all support this right. Workers with union representation earn higher wages than their nonunion counterparts, have better benefits, have greater job security, and are much more productive. This bill destroys the rights of workers to organize. Title I directly overturns the unanimous decision of the United States Supreme Court that upheld the right of workers to engage in lawful organizing activities.

Title I allows employer interrogation of workers regarding their desire to be represented by a union. In effect, Mr. Chairman, this provision resurrects employer black lists and sanctions the no-union, yellow dog contracts that labor law was specifically designed to prohibit.

Supporters contend that H.R. 3246 is necessary because employers are forced to hire uncooperative and unproductive workers. Mr. Chairman, do not be misled. The law does not require any employer to hire anyone; it only prohibits discrimination on the basis of union support. Union organizers may be fired on the same basis as any other worker.

While this bill effectively denies employment to those who wish to form a union, it does nothing to prohibit employers from hiring outside, expensive, union-busting consultants. Other parts of the bill demonstrate an equal disregard for the rights of workers. Title IV effectively denies a whole class of workers any protection under the National Labor Relations Act.

My Republican colleague referred to title IV as the loser pays provision. The term is false. Nothing in this bill requires employers to reimburse taxpayers when the Labor Board prevails in a case, but taxpayers are required to pay if the board does not win. In other words, only one loser pays, and that loser is the taxpayer.

Mr. Chairman, under the Equal Access to Justice Act, the Board is already required to pay lawyer costs for frivolous actions. In fact, the Board must pay any time it takes a position that is not substantially justified in law.

Title IV is especially unfair to workers. Workers have no private right of action under the labor law, and are wholly dependent upon the Board to enforce their rights. However, under title IV, the Board is effectively precluded from acting unless it is guaranteed a win. Such a standard clearly and obviously chills reasonable and legitimate law enforcement efforts.

Finally, Mr. Chairman, this bill upsets a 40-year-old presumption in favor of single-site bargaining units. Under title II, workers may have to organize every facility an employer owns before they have a right to bargain.

This bill is a radical attack on the basic rights of workers, and I urge its defeat.

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

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from Missouri (Mr. TALENT), who has many talents, and is the chairman of the Committee on Small Business.

Mr. TALENT. Mr. Chairman, I thank the gentleman for yielding and for his kind compliments.

I rise in support of the bill on each of its sections, and I want to address specifically the single facility site section and to do that, Mr. Chairman, I need to explain just a little bit of the background about what happens when a union seeks to organize a multifacility site.

□ 1830

That can occur in a lot of different lines of businesses. It can occur where you have a franchisor who owns several different shops or stores, restaurants. It can occur in the trucking business.

When a union wants to organize a site like that, we first have to determine what the appropriate unit is for bargaining. Is it one of the facilities, or is it all of the facilities, or is it some, but not all?

The union has the right in the first instance to file a petition and choose the size of the bargaining unit that it wants. If a union files a petition and limits it to one facility, that is presumptively, under Board law, and has been for 30 years, under both Republican and Democratic boards, that is presumptively the appropriate unit for bargaining.

But it was also possible for the last 30 years for a question to be raised concerning representation, a question to be raised concerning whether that was, indeed, an appropriate unit of bargaining. Then the Board would look at a hearing at a number of different factors. This is the way it has been for a generation.

Mr. Chairman, the key here is to decide whether the control over those facilities is so centralized; whether, for example, labor relations are controlled by one central supervisor at one location, and that controls it for all the locations, that it would be inappropriate, as the Board says, to have bargaining in one location.

You can understand why, Mr. Chairman. We do not want to have a franchisor who has several different chain restaurants, for example, bargaining with different unions in each different restaurant, when the classic tradition has been to have one set of policies, one set of pay, one policy regarding uniforms and vacations and the rest of it.

So the Board looked at a number of different factors to determine whether control was so centralized that one single facility would be an inappropriate unit for bargaining. Then a couple of years ago the Board decided to throw all that out. The Board proposed a rule and made the whole thing turn on the presence or absence of several factors, which really do not have anything to do with what the Board has traditionally considered to be relevant; factors like are the locations more than a mile apart?

What does that have to do with anything? What does that have to do with the stability of collective bargaining? That is what we are trying to achieve with these laws, the stability of labor relations. That is why the National Labor Relations Act was passed in the mid-1930s. Mr. Chairman, you can run a business from around the world today with a fax machine and a phone, so what difference does one mile make?

Another factor, whether there are more than 15 employees in the facility, it is a totally arbitrary criterion. So Congress for the last 2 years has passed riders in appropriations bills saying, no, do not implement that rule. It will disrupt collective bargaining, it is frankly kind of silly, and do not do that.

Now what we have is an opportunity to enshrine into law the standard that has been applied for 30 years that was developed by the Kennedy-Johnson Board in the sixties. It has worked very well. It is not overburdensome. It allows these matters to be taken up in a hearing, to be disposed of. Let us do that with this bill. Let us preserve the stability of labor relations in this country, and with regard to this important aspect of collective bargaining.

Mr. CLAY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. BONIOR), the minority whip.

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

Mr. Chairman, this bill is a dangerous, a dangerous attack on America's working families and their right to organize. It is dangerous because it says some Americans do not have the same rights to free speech as the rest of us. It is dangerous because it says some Americans do not have the right to voluntarily join together in pursuit of a common goal. It is dangerous because it encourages employers to discriminate against people simply on the basis of their beliefs.

It is about silencing the voices of people who speak out for decent wages, for basic health care, for a secure retirement. It is about silencing the voices of people who make this country work and expect the same rights as any other American, the right to express their own beliefs and act upon them.

This bill is radical. It singles out people who believe in unions. It is aimed at people with the courage to stand up against injustice and intimidation to organize democratic elections for their co-workers, so they might decide for themselves whether or not they want a union, people like Betty Dumas, a woman who worked for 18 years at the Avondale Shipyard in Louisiana, who was fired because she refused to denounce her democratically elected union. Betty Dumas was fired because of her beliefs.

So what is next? Are we to sanction discrimination because of religious beliefs, because someone is Catholic or Jewish or Baptist or Muslim? Such discrimination I think everyone would agree is morally repugnant, but this bill is no different. It overturns a unanimous Supreme Court decision that prohibits discrimination based upon people's affiliation with organizations outside of work.

It sanctions discrimination against people who believe in unions, organizations that speak out for working families on issues like raising the minimum wage, extending Medicare, protecting Social Security.

This country was founded by people who fought and died for the freedom to freely associate, to elect their own leaders, and to speak their own beliefs. This bill would take away these rights from millions of American families. Once some Americans begin to lose their constitutional rights, once we say it is okay to discriminate against some people simply on the basis of their beliefs, the rights of everyone are endangered.

This bill is cynical. It is a politically motivated attempt to silence the voices of America's working families. It is a shameful attack on all of us, and it threatens the constitutional rights that Americans hold dear.

It is almost impossible today in this country to organize, anyway. To come to the floor with a bill like this that would shut down the limited window that people have to express their views and to organize for a better living for them and their families is an outrage. I urge my colleagues to vote against this bill.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina (Mr. BALLENGER), someone who knows what is in the legislation.

Mr. BALLENGER. Mr. Chairman, I would like to ask a question: Why would any small business man who is sane hire someone to unionize his business? It does not make sense. Yet, the present law today demands that he must.

Some unions have concocted the ideal trap for employers, an unscrupulous workplace Catch-22 called salting. Dozens of union activists will show up at a nonunion company and apply for work. If they are not hired, they file an unfair labor practice charge. If they are hired, they disrupt the workplace, destroy property, and do whatever it takes to get themselves fired. Then they file an unfair labor practice charge, alleging wrongful discharge.

Do Members know how long it takes today for the NLRB to settle this? It takes an unlawful discharge union activist case, treated like any other labor dispute. Right now the median time for the NLRB to process an unfair labor practice case is 546 days. Imagine a small business man having to face this legal charge. The uncertainty for all sides can be maddening.

The answer is to clarify the rules so an employer is not forced to hire nor keep on the job any person with ulterior motives. The proposed measure takes pains not to infringe upon employees' existing protections, such as the right to organize.

Mr. Chairman, this bill, that is the only part of this bill that has any reason for the unions to fight. In reality, for years they have been taking the small business man for granted. I think we need to pass this bill.

Mr. CLAY. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), someone who knows more about this bill than anybody in the House.

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

Mr. ANDREWS. Mr. Chairman, I thank the gentleman for yielding me the time, and for his compliment.

Mr. Chairman, I rise to oppose this bill because of what it does to working people, what it does to working people and what it says to all people.

To understand what is wrong with this bill, we have to walk in the shoes of someone who wants a job and needs a job who does not intend to organize a union, who does not intend to do that.

If that person is denied that job because sometime in their past they have been a union officer, a union organizer, or even a union member, they have all kinds of rights. They can file a complaint with the National Labor Relations Board, and many months and many, many dollars later they can get a decision.

If they do not like that decision, they can hire an attorney. Many months and many dollars after they have hired an attorney, they can get another decision. After the decision has been made, they can have their attorney file or fight an appeal. Many months and many dollars after they have fought and determined the appeal, they get an outcome.

I may not be the expert that the gentleman from Missouri (Mr. CLAY) says on this bill, but I do have some common sense, and I know this, people who are looking for a job cannot afford to wait many months for an answer. They cannot afford the many dollars they would have to pay an attorney. They will not get the job they need because they had the audacity in the past to lead or join a union. That is what this bill does to men and women who need work and are pursuing it legitimately.

We should oppose this bill because of why it is being done. This is not a statement of fact, it is a statement of opinion. But I suspect if organized labor had slouched away from the challenge of the 1994 majority and never raised a fight, never tried to assist those of us who fight for working families to win the majority back, we would never be here this afternoon doing this. Because this is not about labor law reform, this is about retribution for people standing up for their rights at the polls and in campaigns across the country.

We ought to oppose this bill because of what this bill says. This bill is not worthy of the 1990s, it is worthy of the 1950s, because it does not remind me of the great efforts to write labor law, it reminds me of the McCarthy era in this country, when we had lists of people who could not get work.

That is what is going to happen if this bill becomes law. There will be lists of people who are troublemakers, who do not think and act the right way. The list will circulate, because she had the audacity to join a union, or he had the audacity to run for the presidency of a union.

Mr. Chairman, I oppose the bill.

Mr. GOODLING. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I rise in very strong support of H.R. 3246, the Fairness to Small Business and Employees Act. I believe it strikes a unique balance that gives the more than 22 million small businesses in America relief against a very well-fortified bureaucratic NLRB, and gives employees something called ''justice on time'' to get their jobs back.

Title I, as we have heard, deals with the unions' practice of salting; some might say espionage, but it is salting, they say. It is unfortunate that many of my colleagues on the other side of the aisle have succumbed to the typical union practice of never letting the facts get in the way of a good story.

Title I sends a clear message that if a paid union employee's primary purpose is to work for the employer, he or she is protected. If, however, that person is found to be there to disrupt or

inflict economic hardship on an employer, the law will not and it should not protect them.

Title II codifies the NLRB's longstanding practice of giving employers the right to argue before the Board whether a single site, and this has been repeated over and over this afternoon, whether a single site should be considered part of a bargaining unit. The Board's promotion of a one-size-fits-all approach was ill-conceived, it ignores reality, and it is inflexible in today's competitive global economy, which has also been pointed out.

Title III ensures that employees, their families and children, should not have to wait over a year for resolution of their cases, for over a year. The Board's bureaucratic practice thumbs its nose at these hardworking men and women by taking a median time of almost 600 days, and in some cases, 800 days to decide their fate. That is wrong, it is unacceptable, and it is frankly disrespectful. H.R. 3246 corrects this by making the NLRB issue a final decision within a year. This is justice on time.

Title IV, finally, protects the little guy against the heavy-handed lawyer-fortified NLRB. It will make the Board think twice before they bring a case against a small business or a labor organization. I did say labor organization. If they lose, the Board, not the little guy, should pay for the attorneys' fees and the expenses the company or the union had to spend to defend itself.

Mr. Chairman, this is a good bill. It is a fair and balanced bill. I commend the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Illinois (Mr. FAWELL) for their efforts to bring this bill to the floor, and I urge my colleagues to vote for its passage. It is common sense.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. OWENS).

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

Mr. OWENS. Mr. Chairman, this is not a fair and balanced bill. This is a bill filled with dirty tricks. The tricks are pretty obvious. This bill to restrict workers from organizing is radical and extreme. The bill is part of a larger plot to create a separate America for working families and their representatives. We want workers to abide by rules that we are not making for anybody else.

□ 1845

We do not require loyalty oaths for any other category of employees. Only the workers are required; middle management will not be required and technicians will not be required to take loyalty oaths. If the bill did that, of course, we would place businesses at a great disadvantage.

Mr. Chairman, as I said before, if Bill Gates of Microsoft required that every young person coming into his company must take a loyalty oath that they are there to be ''bona fide''; They are never going to be entrepreneurs on their own; they are not going to walk away with certain secrets; they are forever loyal to the company; then he would destroy his own company.

Mr. Chairman, this bill is just one of about 10 more bills that we can expect which constitute a battery of assaults in the 105th Congress on working families. It is a renewal of the assaults that took place in the 104th Congress.

Labor unions have been good for America. The Republican attack is violating a commonsense bond, a commonsense covenant with the larger society. Labor unions are responsible for a lot of good things that have happened, including their drive and their willingness to take the case for the minimum wage to the American people, resulting in public opinion being changed in ways, marshaled in ways which the Republican majority could not ignore last year.

Last year, NLRB destruction was attempted. In 1994, the assault was to wipe out the effectiveness of the NLRB by cutting its budget drastically. Now they are proposing that they speed up their deliberations. I think a lot of workers and unions would love to have NLRB speed up also. But are my colleagues on the other side of the aisle ready to say that they are willing now to give additional funding for NLRB and do what is needed to make it effective?

The Reagan and Bush years almost destroyed the effectiveness of the NLRB. Let us restore the effectiveness by restoring their funding and let them serve the interests of both workers and business.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MCKEON), a fine subcommittee chairman.

Mr. MCKEON. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time and commend him for his leadership on this bill. I also wish to commend the gentleman from Illinois (Mr. FAWELL), chairman of the subcommittee, for the fine work that he has done in bringing this bill to the floor.

Mr. Chairman, I rise in strong support of the Fairness for Small Business and Employees Act. H.R. 3246 is one of the most important pro-business, pro-employee bills before the House during this Congress. I am proud to say that I am a cosponsor of this legislation.

Mr. Chairman, as a small businessman, I am well aware of the burden of Federal taxes and regulations on our Nation's businesses. During the 105th Congress, we have fought hard to provide relief from these hardships. Last summer we enacted the Taxpayer Relief Act which provided billions of dollars in tax relief through capital gains and estate tax cuts. And now today, we are addressing the need for regulatory and legal relief.

Under this bill, we will make critical changes to the National Labor Relations Act that will ensure a more level playing field for small businesses, small unions, and employees.

H.R. 3246 incorporated four pieces of legislation that address distinctive parts of our labor law. Together, the Truth in Employment Act, the Fair Hearing Act, the Justice On Time Act, and the Fair Act accomplish much-needed reform to our Nation's labor laws.

For example, under H.R. 3246, an employer will be secure in the knowledge that an employee he or she hires is a bona fide applicant who is there to work, not there to harass or disrupt employee-company operations.

And then once they are working, employees are ensured that they will be given timely legal recourse in the event they feel their rights have been violated. Taken as a whole, these measures help correct some of the unfairness in Federal labor law and the NLRB. We need to remove these excessive, burdensome, and unfair regulations that create additional hurdles on our Nation's businesses, and I urge my colleagues to vote for H.R. 3246.

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

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, the Fairness for Small Business and Employees Act is neither. It certainly is not fair to employees and it is certainly not fair to small businesses.

Mr. Chairman, H.R. 3246 allows any employer, large or small, to refuse employment to workers because of suspected labor union affiliations. Suspected.

This is the road that this Congress and this country should not and cannot go down. First of all, the right to organize and join a labor union is a basic American civil right. Unions give American workers a voice at their jobs and they give the union worker a voice in our economy. They also give American workers a voice in our electoral process, but that is another bill we are going to have to fight.

This bill, H.R. 3246, allows employers to refuse to give jobs to workers they suspect will organize other employees to join a union. Suspect.

Once employers can refuse to hire suspected union members, what will come next? Some employers may want to refuse to hire a young woman because they suspect she will get pregnant someday, or an older man because they suspect he will take too many sick days. We could end up with employers telling job applicants, I am just not going to hire you because I do not like the way you look.

Mr. Chairman, it is every American's right not to be judged by suspicions. Surely American workers have this right too.

H.R. 3246 punishes American workers. It is antiworker, it is anti-American. And I do not suspect, but I know, we must vote it down.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Nebraska (Mr. BARRETT).

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. GOODLING) for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3246. The purpose of the legislation, as I see it, is to help small businesses and labor organizations in defending themselves against government bureaucracy, to ensure that employees entitled to reinstatement get their jobs back quickly, and to protect the right of employers to have a hearing to present their case in certain representation cases and, of course, to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers.

H.R. 3246 contains four narrowly drafted titles addressing four specific problem in the National Labor Relations Act. The legislation recognizes that the NLRB, which is supposed to be a neutral referee in labor disputes, is applying the law in a way that not only harms small employers, business and unions, but does a great disservice to hardworking men and women who may have been wrongly discharged.

Mr. Chairman, title 4 of the bill is modeled on the effective ''loser pays'' concept and requires the NLRB to pay attorney's fees and expenses of small employers of modest means, including businesses and labor organizations, who win their cases against the Board.

H.R. 3246 only applies to the smallest businesses and unions which have 100 employees or fewer and a net worth of $1.4 million or less.

The bill before us today would force the government to consider carefully the merits of the case before it proceeded against a small entity with few financial resources.

Right now, small employers often settle with the Board rather than spend significant amounts of money and time in litigation. I believe Chairman GOODLING's legislation would make certain that small employers and unions have an incentive to stand up for their rights by fighting cases of questionable merit.

Mr. Chairman, I urge my colleagues to support H.R. 3246.

Mr. CLAY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SANCHEZ).

(Ms. SANCHEZ asked and was given permission to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Chairman, I ask my colleagues to reject H.R. 3246. It should be titled the ''Silence Working Families Act.'' It is a shame that the House is jeopardizing the living standards of working families.

As a result of the National Labor Relations Act and other Federal laws, working families have livable wages and job protections. And now the House is attempting to roll back the clock on American labor law.

Mr. Chairman, because workers can organize to represent themselves, workers are able to raise their families and to make this country strong. If workers have a pension, they can thank organized workers. Thank them again for the minimum wage. Thank them for the 8-hour day, for the 40-hour work week, for overtime pay and for compensatory time off. They can thank organized workers for workplace safety, for grievance procedures, and perhaps, most importantly, for health benefits.

Before workers could organize and represent themselves, we did not have maternity leave, let alone paid leave. These are just some of the improvements that all working families in the United States enjoy because of the struggles of organized labor.

Mr. Chairman, I ask my colleagues to reject H.R. 3246.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BRADY).

Mr. BRADY. Mr. Chairman, thank goodness that the practice of salting is not applied to Members of Congress, because if the equivalent of salting were applied to us, we would easily see this scenario: If a Democratic Congressman or woman with a strong, proud, liberal philosophy were to seek applicants for an important job in their office, under salting an applicant who minimally met the criteria for that job position could walk in in a ''Rush is Right'' T-shirt and proclaim to that Congressman or woman that ''I have no intention of representing your constituents, of serving the people in your district. My sole job in this job is to organize the workers on your staff against you, to create an environment resentful of your philosophy. And if you do not go along with this process, I have a right to bring your office and your staff down.''

If that Congressman or woman were to make the right decision and not hire that person, they would be subject to a National Labor Relations Board complaint, subject to spending thousands of dollars to defend a reasonable decision, and perhaps compelled to hire that person.

As ridiculous as that seems, as crazy as it seems to push that merit and productivity as criteria out the window, small businesses face that same ridiculous scenario every day. Families who have risked their savings to trade a job, and who are fighting in the marketplace, are handcuffed to hire the best people, the most qualified, the meritorious people who can help them achieve their dream, and they face this every day.

Mr. Chairman, we need to pass this bill to bring some reasonableness and fairness into the decision making of small businesses. I urge my colleagues' support for this fairness and a healthier work environment.

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

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

Mr. GEPHARDT. Mr. Chairman, there they go again. The Republican leadership has once again launched a major attack on working families and the unions that simply try to represent their interests.

Just last week, Republicans passed a campaign reform bill through committee which has as its centerpiece a worker gag rule which would silence the voice of American workers by shutting them out of the political process.

Now, today Republicans have brought to the floor a bill which represents a frontal assault on the National Labor Relations Act and the rights it preserves for millions of working people across this country.

Mr. Chairman, this Republican bill would make it more difficult for workers to organize and easier for employers to get away with violating labor laws.

The most egregious part of this bill is the so-called antisalting provision which would seriously undermine the organized labor movement in the United States. Under the Republican bill, businesses could refuse to hire or fire people, just because the employer suspects them of trying to organize their workplace.

☐ 1900

This legislation would overturn a unanimous Supreme Court decision which held that union organizers are entitled to the same worker protections as any other employee. In addition, the Republican bill, through the attorneys' fees provisions, would have a significant chilling effect on future NLRB actions, making it less likely that American workers will have their right vigorously defended and preserved.

Finally, the Republican bill provides employers with a new way to delay and challenge union elections and restrict the NLRB's ability to reach a fair and just conclusion on unfair labor practice complaints.

In conclusion, Mr. Chairman, one of the most precious freedoms of the working men and women in this country is their right to organize. The bill Republicans have brought to the floor today would have a devastating effect on the labor movement in this country, which has done so much to ensure that working Americans earn livable wages and have decent benefits for their families.

President Clinton has already pledged to veto this harmful legislation. I urge my colleagues on both sides of the aisle to vote against this bill and stand up for the rights of the hard-working men and women of this country.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding.

I would urge some of the previous speakers at some point recently to read the bill, because if they had read the bill, they would not have made the statements that were just made. In America, if we want the unemployed to have jobs, if we want working families and the underemployed to have better jobs, we need to nourish and be fair with small business.

The Fortune 500 companies are not growing. The small businesses are growing and will grow faster if we are fair with them. What is wrong with someone, who mortgages everything they own to start a business, to ask for loyalty from those they hire to help them build that business, and if they are there to help them do that, they are going to support them? That is America.

What is wrong with a hearing process to decide if they are being organized, and they have three or four sites, whether it is going to be a single site or collective? That is America.

What is wrong with putting a limit on a decision to 1 year? A year is long enough to have delay.

What is wrong with when the big NLRB, with all of our money and all of their lawyers, comes down on small businesses unfairly, and it is proven they were unfair, that that small business can at least get its legal fees back? That is the what America ought to be standing for and what America is all about.

Those who have talked about all the labor issues of the past have not read this bill. This bill is fair to small business giving an equal, level playing field so that we can grow small businesses, so unemployed people can have jobs, so underemployed people can have a better job. It is about fairness.

If we in this Congress are fair to small business, this country will grow and the workers of America will have choices of jobs.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, H.R. 3246 is a terribly unfair bill, but it is part of a wider assault on the rights of workers to free association. This bill would turn back the clock to a time when employers had absolute power over the lives of workers and their families. It would effectively blacklist people who believe that employees need to band together to pursue their collective interest.

This bill would have a huge negative impact on the rights of all working people, making it far more difficult for the NLRB to carry out our Nation's industrial relations laws. This bill would have a devastating impact on our Nation's workers and the building and construction trades.

Every day millions of men and women go to work building the roads and bridges, building the high-rise office towers, building the schools that our Nation depends upon. These workers risk their lives every day to build America and to maintain our infrastructure. They work under harsh conditions. They are compelled to move from job to job, from one employer to another, to make a decent living.

What keeps these workers productive is the skills that they have received from thousands of joint apprenticeship programs, high-quality programs that are only available to them because of their affiliation with construction unions. It is their union membership and their dedication to training, to education, to quality work which allows them to contribute to our economy. And they are proud to carry their union membership from job to job.

This bill would make these hard-working Americans second-class citizens. It would allow employers to fire construction workers, or not hire them in the first place, simply because they have chosen union membership. This is blatantly unfair. It is discriminatory. It is unworthy of the democratic traditions of the Nation. The right to organize, the right to join a union are not simply political rights, they are moral rights essentially to protect liberty and equality and justice.

Mr. GOODLING. Mr. Chairman, I yield 2½ minutes to the gentleman from Colorado (Mr. BOB SCHAFFER).

Mr. BOB SCHAFFER of Colorado. Mr. Chairman, I appreciate the gentleman, the distinguished chairman, yielding me the time.

Those who claim that there is some unfairness in this bill, I would submit, probably have not read the bill or are not knowledgeable about the component parts of the legislation. House Resolution 3246 does not affect in any way the legitimate applicant's or employee's rights to engage in union organizing efforts.

I have heard a lot of these stories about salting from many employers within my district in Colorado and other congressional districts in the State of Colorado. Here is how this works, for those who are unfamiliar: A union organizer with the deliberate, distinct purpose of dragging an employer before the Labor Relations Board walks into an employee's place of business and says, ''Please hire me. I am a member of a labor union and I am an organizer and I am here to organize and destroy your place of business.''

The employer takes the application, considers it among all other applicants, and if that employer decides for a variety of reasons, based on merit, based on qualifications, based on completeness of the application, and on many occasions based on whether the applicant signed the application, the employer may decide to hire someone more qualified.

If that occurs, in a salting case, that activity alone almost guarantees and compels a hearing in front of the National Labor Relations Board, a hearing which, if he wants to vindicate himself and declare his innocence and profess it, costs him attorneys' fees, costs him an incredible amount of time, and in the process, drags down his productivity.

What the current law does is to perpetuate a gross unfairness where one class of employees can, in fact, prey upon another group of employees in the same trade; and the only distinction between the two is that one has a singular deliberate motivation to drag down the place of employment of the others who are employed in a particular trade or business.

If someone has at least half on-the-job qualification designation under the bill, why should an employer be obligated to hire them? House Resolution 3246 guarantees small employers a hearing before the National Labor Relations Board. It has been the practice for decades in organizing cases involving single-site locations; it is the epitome of fairness, in my estimation, with workplace fairness and job security and job opportunity.

I think we should not attack those, as my colleagues on the other side of the aisle are suggesting here today, attack those who are legitimately employed, legitimately enjoy their opportunity to work, and are gainfully employed and wish to remain so.

Mr. CLAY. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN (Mr. MCCOLLUM). The gentleman from Missouri (Mr. CLAY) has 9 minutes remaining, and the gentleman from Pennsylvania (Mr. GOODLING) has 6½ minutes.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BECERRA).

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

It strikes me, the perspective of the sponsors of this legislation, I think, was fairly well recapped by the gentleman from North Carolina a few speakers ago who said, ''Why would any small business member hire someone who wants to organize the workplace?'' The answer is, he would not.

Well, that is the attitude of the sponsors of this bill. Right from the start, they suspect anyone they wish to hire to work with them. How sad that there are sponsors who believe that we cannot hire someone who we cannot look at as an enemy in the beginning. What a way to begin a working relationship.

Why would any new employee want to undermine the very employer who will issue her first paycheck? And more than that, if they think of some of our successful small businesses, they originally started as successful family-operated businesses, but once they became too successful they had to hire outside of the family. They expected the same things from these nonfamily employees as they got from their family employees, probably good working competency, commitment to the effort. And the employee, whether family or not, probably expected the same as well, a decent wage, reasonable benefits.

Well, what makes anyone believe that if we start off with suspicions, we are going to be able to treat anyone as a good worker, let alone the family of your business? Unfortunately, that is what this bill says. Beware, any employer; when you hire an employee, be suspicious; never be able to believe that that person you hire wants to make you succeed as well.

How shameful that is that we in Congress will stand here and tell the American people that America's working men and women must be treated with suspicion simply because they wish to work and work under decent working conditions and also receive decent benefits. And if we cannot do that collectively, why do families do so well? They do it collectively.

Let my employee come to any place of work and say, I will work competently for you, hard. I will make you succeed. I will make you have a profit. In return, let me have something decent. And if I wish to do it collectively, as many family-operated businesses do, do not think of me as someone you suspect.

Please defeat this bill.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. FAWELL).

Mr. FAWELL. Mr. Chairman, if I could just get this thought in. The Supreme Court in Town & Country made it very clear that an employer, in dealing with an applicant, has to treat that applicant, even though the applicant is a member of a labor union and even though he may be a paid employee of a labor union, he has got to give him all of the rights of the National Labor Relations Act.

Now, the only thing that the employer is coming back here and saying is, can I not at least, when I know that that person is primarily there, and I have got the facts to prove it and I am going to have to prove it, general counsel is going to have to agree that I can prove it. But if I can show that his primary motivation is going to be able to help some other employer by whom he is employed or to whom he has a loyalty, do I not at least have that much right? Are we going to say to the small business people of America they do not even have that right?

That is what we are trying to express here. And it has nothing to do with taking away the rights of people to collectively bargain or to organize or anything of that sort.

Mr. CLAY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Chairman, I hope the gentleman from Illinois will listen, because his effort to make this Title I benign is very misguided. I want to tell him specifically why he is wrong. By the way, this has nothing to do only with small employers. Title I affects all employers. So do not wrap small employers around Title I, and do not say it applies only to paid union organizers. This applies to any employee, any prospective employee, any person. And here is what it says.

The person comes up, wants a job. This gives the right to the employer to read or try to guess his or her intent. And then if the employer decides what the primary purpose is, it is very clear from their own majority report who has the burden of proof, it is the NLRB, where a charge has been filed that has to show as part of its prima facie case that the employer was wrong.

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

Mr. LEVIN. I yield to the gentleman from Illinois.

Mr. FAWELL. It is the affirmative defense that the employer has to undertake to be able to show.

Mr. LEVIN. But the prima facie case, reading from their own language, the burden is placed on the NLRB.

Now what is going to happen here is, my colleagues are bringing about a chilling effect on the right of people to organize. They are letting an employer guess intent and then make somebody prove that that employer is wrong. That is wrong.

Already the deck is tilted in favor of the employer under the NLRA, as it has been interpreted in terms of captive audience provisions in terms of the right of people to express themselves on the floor of the shop. They cannot do that. And now they want to go one step further and try to chill the traditional American right to associate, to organize. They are wrong.

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Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. VISCLOSKY).

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

Mr. VISCLOSKY. Mr. Chairman, I rise in opposition to H.R. 3246 and would like to take this opportunity to talk about union organizing. The people of the debate here are correct. Much work needs to be done. But the work to be done is not to stifle people's opportunity to associate with one another on an economic basis, but to protect access of workers to legitimate union representation. The real problem which needs to be addressed in this House is that every year clear majorities of workers at businesses across the country indicate their support for union representation and 1, 2 or 3 years later the representation is still not approved because it is tied up with appeals to the National Labor Relations Board. In the meantime, unscrupulous employers too often take advantage of the opportunity to illegally intimidate, fire or commit other unfair labor practices against workers in order to defeat subsequent votes on union representation. H.R. 3246 would simply aggravate this problem. I urge my colleagues to join me in voting against the bill. Instead this House needs to pass real labor law reform.

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. My goodness, how quickly some people forget our history, but we Democrats do not forget. We remember that less than 100 years ago in Centralia, Washington three woodworkers were hanged because they tried to organize the timber industry. But other courageous workers were not intimidated. They went ahead and they organized the mills and the woods. That is our history, too. We have a right in this country to organize. We must not be naive. This bill is anti-labor, it is anti-organizing, it is anti-union. Vote no.

Mr. CLAY. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. GREEN).

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

Mr. GREEN. Mr. Chairman, I thank my good friend from Missouri, the ranking member of the Committee on Education and the Workforce, for yielding me this time. Again the name keeps changing every session. I rise in opposition to the bill. I spoke earlier on the rule. I am glad to have the opportunity to close, because, one, I think this legislation is misguided. The opposition is based on, one, it is a closed rule. There are some of us who would like to have a real debate on labor law reform. Yet from what I understood in committee, the bill came out on a party line vote and here on the floor those of us who may not serve on the committee anymore do not have the opportunity to offer amendments to correct what we see in the legislation. That is why the bill's intent is misguided, but it also did not give us the opportunity today to change it.

The bill withdraws the benefits of free enterprise to the employees. We heard a lot today about free enterprise is great, and it is. We are all products of the free enterprise system. But it includes both the employers and the employees, and that is what this bill takes away, the free enterprise of the employees. This free enterprise system is the greatest in the world and it is the greatest in the world because of the last 50 to 60 years we have recognized that. It has both sides of the bargaining table. This takes away even a level playing field. I do not think the playing field is level today even between the employee and the employer, but this makes it even more unlevel. That is why this bill is so wrong.

I guess I have a concern because only 14 percent of the workforce in the United States is unionized. Granted, there are efforts to organize, but 14 percent. This is like taking a bomb that you could use a fly swatter for if you really needed it. This is so overwhelming for that 14 percent that are unionized. Maybe next year if this bill is not passed, maybe it is 15 percent,

but we have not had this bill in the law and that percentage of unionization has actually gone down.

So what is the need for the legislation? Except to pay back a debt or to pay back what may have happened last year during the elections because organized labor tried to make sure that those of us on the floor of the House understand that, sure, they may be union bosses but they also represent workers and they represent employees to try and have that level playing field.

We do need real labor law reform, Mr. Chairman. I would have liked to have seen a real debate today and a real give and take for labor law reform, to say, yes, okay, maybe you do not like what is happening with salting. Maybe you do not like that. Also I do not like what happens because I see people who do sign cards or do have an election that may take them years before they actually have a contract or have that representation that they voted for. To this day we see people who are fired from their jobs because they voted for a union. It takes them years to get that job back. They ultimately may. But justice delayed is justice denied. That is what is happening today. That is why this bill is so wrong.

I asked earlier under the rule, because I happen to have a card in the union, I did my apprenticeship as a printer but I also went to law school. I said I had learned how to read law as well as print a newspaper. What worries me about page 4 of the bill is where it says, ''Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant.'' My concern is that definition of bona fide employee. I looked in the report. I am concerned that the person who makes that hiring decision out there in the real world will not know what is in this report and does not even have the standard of law. If we want to make sure that they are not going to discriminate against someone because they had a union card or maybe they were a former union member, then we need to put it into law and put those protections in here.

That is why this bill ought to be defeated tonight. If it is not defeated, I hope to be able to stand here and oppose it, also, when the President vetoes it.

Mr. GOODLING. Mr. Chairman, I yield myself the balance of my time. This is not legislation that takes a step backward, as some people mention. As a matter of fact, it is an attempt to move into the 21st century. As I indicated before, unless we can get labor and management to move into the 21st century, there is very little hope for us to be competitive with the rest of the world. It is time we understand it is the 21st century, not the 1930s when the labor laws were written, not the 1930s when we talked about men only in the workforce, when we talked about only a manufacturing economy. It is the 21st century. Someone over there said, ''Why would you seek employment to harm the company? No one would ever do anything like that.''

Mr. Chairman, that is what this legislation is about, because that is exactly what is happening. Do not ask me whether that is happening. Listen to someone who was a union organizer who told us before our committee. This is what he said. Why don't we ''spend more time negotiating in good faith with the company we were organizing, especially when we felt we had an employee or two willing to request us as an agent to collective bargaining?''

And what was the response that he got? ''He told us that the NLRB is committed to prosecute every single charge, that there was no expense to us at all for it and that, at the very least, the contractor would be forced to spend time and money to defend themselves. . . .''

That is why these two people who came to a place of employment in Arkansas and were told, ''We don't have any jobs,'' they left, the employer thought, ''Well, that's it.'' Lo and behold, the National Labor Relations Board said, ''No, we have a case against you, a discrimination case.'' He went to his lawyer, his lawyer said, ''You have two choices. You can fight it and win and I'll guarantee you you'll win but it will cost you $23,000. You're a small business, that may put you out of business, but you'll win. Or you can pay $6,000 and lose.'' He did a little arithmetic and said, ''Gee, I've got to pay to lose, otherwise I'm out of business.'' So he paid his $6,000 to lose rather than the $23,000 to win.

How frivolous are these suits? Time and time and time again. Let me just read my colleagues a list. From Indiana, 96 charges, 96 dismissed by the National Labor Relations Board. But what did it cost the small business? $250,000, to get 96 cases dismissed. From Maine, 14 dismissed without merit. What did it cost the small business? $100,000. In Missouri, 47 dismissed, one settled for $200. What did it cost? $150,000. Little Rock, Arkansas, 20 dismissed, $80,000.

All we are saying here is that your motivation to be employed, at least 50 percent of it should be a motivation to improve the company, to work to help make the company successful, so that you get higher wages, so that you get higher fringe benefits. That is all it says. In another part of the legislation, I have watched in my district and throughout this country people lose jobs, businesses go out of business. Why? Time and time again they were sitting there waiting rather than negotiating in good faith, labor and management both, waiting for the NLRB to act, because they both thought they will act in their favor, and they took 1 year, 2 years, 3 years. Finally, no jobs, no business. We are saying in the legislation, act in a year. The employee has the right to know. The employer has the right to know. Then we can get on with the negotiating business. Those who are so concerned, as I am, about the working men and women out there, I hope you will join with me as we move forward with some legislation, because I have been in the backyards of some of those who are speaking today, and I saw the most horrible conditions anyone can ever imagine, and you say, ''It is in America?'' What did I see? No unemployment compensation, no workers' compensation, no OSHA, no wage and hour, a fire trap, they would all die if there were a fire. There is only one exit to get out of the place. No ventilation, no overtime. Most of them were represented by organized labor. Where is the Federal Government? Where is the State government? Where is the city? Where is OSHA? Where is Wage & Hour? Let us really think about the difficult cases that are out there. Let us not try to put people out of business who are trying to do well, because it is the employee that loses the job. We protect the employee, we protect the small business, we protect the small unions in this legislation. That should be a reason for everyone to vote for this legislation.

Mr. NETHERCUTT. Mr. Chairman, I rise today in strong support for the Fairness for Small Business and Employees Act. According to the Small Business Administration, 19 cents out of every revenue dollar is spent on complying with federal, state, and local regulations. When you consider that there are over 22 million small businesses in the United States, these regulations more than add up—they cost jobs—they stifle the American dream.

For too long Congress has passed mandates on small businesses and federal agencies have regulated compliance without even considering its impact on a business.

Mr. Chairman, today Congress is going to do the opposite—we are going to bring some relief to small businesses. I hope my colleagues will review this legislation with small business in their district in mind.

H.R. 3246 has four provisions, but I want to focus my attention on Title I, the Truth in Employment Act. Under current labor law, job applicants may or may not be seeking employment for personal reasons, they may be seeking employment as a union agent solely in order to unionize the organization. This tactic, otherwise known as salting, is not truthful nor does it benefit the company for which they hope to work.

Mr. Chairman, in salting situations a company is put in the difficult position of deciding either to hire a union salt or face NLRB, OSHA and EEOC inquiries and possible federal fines. In some cases, salting has been used by labor unions to harass or disrupt operations of companies that have not been favorable to their cause. This is not right and I believe Congress should act.

A small business in my district has faced salting. The Company had some openings and sought applications. There were salt applicants and non-union applicants. One salt applicant told the company boss that his union determined that this Company was on the union hit list and that it better hire him or face the consequences. The salts had no desire to work at his company—only to unionize it. The company chose to hire the most qualified applicant, which this time was non-union, and his

company was hit with NLRB grievances equal to the number of salt applicants. The company has spent thousands of dollars fighting these and other NLRB grievances. In the end, the federal government forced him through the NLRB to pay backpay and agree to hire those union salts on future jobs—union salts who have no desire to work for his company.

Mr. Chairman, salting affects hard-working small business owners. Unions have a valid place in American enterprise, and most union members are hard working, well intentioned employees. Unions have a heritage of which they are proud, but salting is a practice that hurts the labor movement, gives it a bad name, and doesn't serve well the cause of organized labor. I believe Congress should outlaw this tactic. I urge my colleagues to help small businesses in their district by supporting H.R. 3246.

Mr. KILDEE. Mr. Chairman, I rise today to voice my strong opposition to H.R. 3246. This bill is less about fairness to small business, and more about unfairness to working men and women.

H.R. 3246 would give employers the right to fire or deny employment to any worker they suspect is not a bona fide employee applicant. In the bill's words, someone whose primary purpose is not to work for the employer.

The committee report states that the primary purpose provision would apply to a person who was seeking a job without at least a 50 percent motivation to work for the employer.

What set of scales will employers use to determine what percentage of the employee's motivation is to work for the employer versus working to help organize his or her coworkers?

Mr. Chairman, we are not engaged in an idle academic exercise here.

This legislation will have real-life consequences for real-life men and women in real-life workplaces.

The Dunlop Commission reported that, each year, 10,000 American workers are wrongfully fired from their jobs for trying to organize their co-workers.

H.R. 3246 would further weaken the federal laws which currently provide American workers with a modicum of protection.

As others have pointed out, the U.S. Supreme Court, in an unanimous 1995 decision, ruled that a worker could be both a company employee and a paid union organizer at the same time. The High Court further stated that employers have no legal right to forbid an employee from engaging in organizing activity protected by the NLRA.

Mr. Speaker, H.R. 3246 would overturn that unanimous opinion of the High Court.

H.R. 3246 is a terrible piece of legislation which should offend the sensibilities of every Member of this House who values our American tradition of freedom, fairness, and fair play.

Let's vote down this very bad bill.

Mr. HOYER. Mr. Chairman, I rise today in strong opposition to H.R. 3246, a bill the Republican Leadership has seen fit to name the ''Fairness for Small Business and Employees Act'' but should more appropriately be called a ''Bill to Restrict Workers from Organizing''. This bill should not have been brought to the House floor for a vote. The only reason we are debating this bill today is because the Republican Leadership has, as part of their agenda, set a goal of removing the right of American workers to organize.

The current law protects American workers. An employee who holds a job for the purpose of organizing a particular workplace is an official employee of the company that hired that person. If this worker performs their employment duties satisfactorily, they are protected against discrimination for union activity and affiliation. If H.R. 3246 passes, it will overturn a 1995 unanimous Supreme Court decision that upheld the current law. This bill will give employers the ability to discriminate against workers who exercise the right to organize. The NLRB will be unable to protect workers against unfair employer discrimination.

This anti-labor bill also gives employers the ability to frustrate and delay their employees' choice of union representation. The NLRB, through years of experience, has determined that in most situations, it is appropriate for workers to organize in a single location of a multi-facility business rather than organizing at all locations at once. This bill requires the NLRB to apply a subjective test to determine the appropriate unit to organize. This will allow employers to have control over their workers' right to organize.

Mr. Chairman, H.R. 3246 is unfair to our workers and unfair to America. One of the foundations of this Nation is the right for workers to organize. This bill is at odds with basic principles of American labor law and jeopardizes fundamental worker rights. The bill is a direct and specific attack by the Republican Leadership on American workers and unions and I urge my colleagues to oppose it.

Mr. KLINK. Mr. Speaker, let's face it. It's screw labor week!

My colleagues on the other side of the aisle have decided that they know better than the entire Supreme Court in this instance.

We're not talking about a 5 to 4 decision here, or 6 to 3. Noooo. My Republican friends want to overturn a unanimous, 9 to nothing Supreme Court decision that said that union organizers who apply for and hold jobs for the purpose of organizing employees in a workplace cannot be fired for disloyalty.

By reversing the Supreme Court on this issue, my colleagues are turning labor history on its head and giving employers another tool against organized workers.

And that's what this bill is all about, my friends. It's another battle in the Congressional Republicans continuing campaign against working families.

In the last Congress, the Republican-controlled House tried to repeal the Davis-Bacon Act, which provides for prevailing wages in Federal construction contracts. They tried to repeal the Service Contract Act, which provides for prevailing wages in Federal service contracts. They also tried to abolish the Department of Labor and they cut millions from job-training funding.

They tried to ram through legislation that would allow corporations to raid worker pensions to the tune of $20 billion.

In the 105th Congress, the attack continued within H.R. 1, The Comp Time Act and the ''Team Act.''

Later this week, the Republicans will be at it again. They are bringing the worker gag rule to the floor of the House, which will basically require workers to get a note from their mommy before they can be politically active.

But, before I get off course, let's get back to the Anti-Organizing Act currently before us. Because it goes beyond discrimination in hiring.

It would also make it harder for workers to organize by forcing them to organize all the facilities of an employer, instead of just one. So if you tried to organize the workers in a McDonalds, you would be forced to organize every worker in every McDonalds in the country.

And while we're at it, lets have the Federal Government pay the legal bills of businesses in National Labor Relations Board disputes. That will only ensure that fewer such cases are brought, and further weaken hard won worker protections.

The masks are off Mr. Chairman. We can see the true agenda this week. It's all about screwing the working families of America.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to HR 3246, a bill that is mislabeled the Fairness For Small Business & Employees Act. It should be titled a Bill to Keep Organizers From Organizing. This bill undercuts the fundamental right of workers to choose a collective bargaining representative free from employer coercion.

This bill just adds to the arsenal of weapons that employers currently use in their anti-union campaigns. Under current law, an employer may lawfully order all employees to listen to a speech or watch a video urging them to vote against union representation. Employees who refuse to attend such anti-union campaign meetings can be disciplined, including being fired.

Employers may also prohibit union organizers from entering their premises throughout the organizing campaign, and may prohibit employees from discussing the union among themselves except during breaks. This bill gives powerful new weapons to employers, large and small, to prevent employees from joining unions.

Let me turn my attention to the issue of ''salting'', because it deals directly with an issue in which the Supreme court has ruled. Contrary to the claims of the bill's supporters, ''salts'' do not come to a company to destroy it. They come to organize the company's employees—not to eliminate their jobs. They understand that they need to fulfill the employer's legitimate expectations.

Salts must obey employer rules that apply to all employees. In addition, employers may lawfully prohibit union activity in work areas during working time. Employees engage in salting activities who do not comply with such rules, or who are insubordinate or incompetent, can be lawfully fired on the same basis as other employees.

Clearly, employers who object to salting do so not because of any inherent unfairness in the practice, but because they object to the fact that the law permits their employees to organize, and prohibits them from firing employees who promote union organizing.

The Supreme Court, in a unanimous 1995 decision, NLRB v. Town and Country Electric, ruled that a worker could be both a company employee and a paid union organizer at the same time, and that an employer has no legal right to require that a worker, as a condition of employment, refrain from engaging in union activity protected by the NLRA. This bill would effectively overturn that ruling. This is unacceptable and should not be allowed.

I urge my colleagues to vote against this bill.

Ms. CHRISTIAN-GREEN. Mr. Chairman, I rise in opposition to H.R. 3246, another example of the majority's continued assault on the

rights of working men and women in this country.

If allowed to become law, H.R. 3246 would shift power away from workers, making it more difficult for them to organize and for the National Labor Relations Board to stop employers from violating labor laws.

When will these attacks on the men and women who are the backbone of this country end?

H.R. 3246 would allow employers to discriminate against people they suspected of trying to organize their workplace by refusing to hire them or firing them if they are already employed at the company. This clearly anti-union bill is intended to overturn a unanimous Supreme Court decision of 1995 which held that a union organizer employed by a company was entitled the same protections as any other employee.

My colleagues, employees' rights are already seriously in jeopardy. Thousands of working Americans lose their jobs every year just for supporting union organizing. H.R. 3246 would make an already difficult period of time for American workers even worse. We must oppose this attempt to give employers a license to discriminate against workers rights to organize and protect the integrity of the National Labor Relations Act as well as the collective bargaining process.

Support our American workers—vote no on H.R. 3246.

Mr. BONILLA. Mr. Chairman, I rise today in support of the Fairness for Small Business and Employees Act. This bill might just as easily be called the No-Brainer Act. If you support creating jobs and promoting a strong economy, you should support this bill. It should be a No-Brainer for all of us to support this goal.

This bill is necessary because for years the NLRB has considered imposing a single site rule. For over 40 years, the courts have interpreted the law to provide employers with the right to a hearing on whether a single facility selected by a union is an appropriate bargaining unit. A reversal of this precedence by NLRB would create a litigation nightmare. Simultaneously, it would increase business costs threatening jobs. It should be a No-Brainer to realize that this is a dangerous path to take. Passage of this bill helps ensure NLRB will not threaten jobs with this approach in the future.

This bill makes other necessary reforms to abuses of the current system of labor-management relations. The bill stops ''salting,'' a practice where union organizers seek employment solely to organize a workforce. It should be a No-Brainer to recognize that a company must make hiring decision based on an employee's genuine interest in contributing to a company's success, not on their desire to promote big labor's agenda. The bill requires the NLRB to issue a final decision on certain unfair labor complaints within a year.

It should be a No-Brainer to support resolving these disputes in a timely manner and not leaving companies in bureaucratic limbo.

Finally, the bill requires the NLRB to pay attorney fees and costs to parties who prevail against the NLRB in administrative and court proceedings. It should be a No-Brainer to support this common sense effort to deter bureaucratic persecution.

The bill before us represents a common sense effort to protect our economic prosperity from costly government interference and small business from big labor.

Mr. SCHUMER. Mr. Chairman, I rise today to oppose H.R. 3246, another attempt by this Republican Congress to cripple the ability of working men and women of America to organize.

At the beginning of the 20th century, workers organized in order to attain a better standard of living for their families. As we approach the end of the century, unions still serve this noble purpose. The bill before us is another partisan attempt to end unions as we know them.

H.R. 3246 would debilitate unions by putting a scarlet letter on union organizers. Title I of this legislation makes it legal for companies to discriminate against job applicants who have been involved in union organizing. Furthermore, it would overturn a unanimous 1995 Supreme Court ruling that allows unions to place organizers in jobs for the purpose of organizing a particular shop.

The workers in my home state of New York cannot afford to lose these protections. Just this month, a U.S. District Judge ordered a company in Syracuse to rehire Kathy Saumier and Clara Sullivan. These two women had been fired for trying to organize a union at the plant because of unsafe working conditions. Under this law, those women would still be jobless because of their activism on behalf of their co-workers, In fact, companies could refuse to hire workers like Kathy Saumier and Clara Sullivan simply because they might become leaders. That is unfair. That is un-American.

Mr. Chairman, to protect American workers, we need to preserve their right to organize. That is why we need to oppose this legislation. I urge my colleagues to vote ''no.''

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 3246 is as follows:

H.R. 3246

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fairness for Small Business and Employees Act of 1998''.

TITLE I—TRUTH IN EMPLOYMENT

SEC. 101. FINDINGS.

Congress finds that:

(1) An atmosphere of trust and civility in labor-management relationships is essential to a productive workplace and a healthy economy.

(2) The tactic of using professional union organizers and agents to infiltrate a targeted employer's workplace, a practice commonly referred to as ''salting'' has evolved into an aggressive form of harassment not contemplated when the National Labor Relations Act was enacted and threatens the balance of rights which is fundamental to our system of collective bargaining.

(3) Increasingly, union organizers are seeking employment with nonunion employers not because of a desire to work for such employers but primarily to organize the employees of such employers or to inflict economic harm specifically designed to put nonunion competitors out of business, or to do both.

(4) While no employer may discriminate against employees based upon the views of employees concerning collective bargaining, an employer should have the right to expect job applicants to be primarily interested in utilizing the skills of the applicants to further the goals of the business of the employer.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining;

(2) to preserve the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act; and

(3) to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.

SEC. 103. PROTECTION OF EMPLOYER RIGHTS.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by adding after and below paragraph (5) the following:

''Nothing in this subsection shall be construed as requiring an employer to employ any person who is not a bona fide employee applicant, in that such person seeks or has sought employment with the employer with the primary purpose of furthering another employment or agency status: *Provided,* That this sentence shall not affect the rights and responsibilities under this Act of any employee who is or was a bona fide employee applicant.''.

TITLE II—FAIR HEARING

SEC. 201. FINDINGS.

The Congress finds the following:

(1) Bargaining unit determinations by their nature require the type of fact-specific analysis that only case-by-case adjudication allows.

(2) The National Labor Relations Board has for decades held hearings to determine the appropriateness of certifying a single location bargaining unit.

(3) The imprecision of a blanket rule limiting the factors considered material to determining the appropriateness of a single location bargaining unit detracts from the National Labor Relations Act's goal of promoting stability in labor relations.

SEC. 202. PURPOSE.

The purpose of this title is to ensure that the National Labor Relations Board conducts a hearing process and specific analysis of whether or not a single location bargaining unit is appropriate, given all of the relevant facts and circumstances of a particular case.

SEC. 203. REPRESENTATIVES AND ELECTIONS.

Section 9(c) of the National Labor Relations Act (29 U.S.C. 159(c)) is amended by adding at the end the following:

''(6) If a petition for an election requests the Board to certify a unit which includes the employees employed at one or more facilities of a multi-facility employer, and in the absence of an agreement by the parties (stipulation for certification upon consent election or agreement for consent election) regarding the appropriateness of the bargaining unit at issue for purposes of subsection (b), the Board shall provide for a hearing upon due notice to determine the appropriateness of the bargaining unit. In making its determination, the Board shall consider functional integration, centralized control, common skills, functions and working conditions, permanent and temporary employee interchange, geographical separation, local autonomy, the number of employees, bargaining history, and such other factors as the Board considers appropriate.''.

TITLE III—JUSTICE ON TIME

SEC. 301. FINDINGS.

The Congress finds the following:

(1) An employee has a right under the National Labor Relations Act to be free from discrimination with regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization. The Congress, the National Labor Relations Board, and the courts have recognized that the discharge of an employee to encourage or discourage union membership has a particularly chilling effect on the exercise of rights provided under section 7.

(2) Although an employee who has been discharged because of support or lack of support for a labor organization has a right to be reinstated to the previously held position with backpay, reinstatement is often ordered months and even years after the initial discharge due to the lengthy delays in the processing of unfair labor practice charges by the National Labor Relations Board and to the several layers of appeal under the National Labor Relations Act.

(3) In order to minimize the chilling effect on the exercise of rights provided under section 7 caused by an unlawful discharge and to maximize the effectiveness of the remedies for unlawful discrimination under the National Labor Relations Act, the National Labor Relations Board should resolve in a timely manner all unfair labor practice complaints alleging that an employee has been unlawfully discharged to encourage or discourage membership in a labor organization.

(4) Expeditious resolution of such complaints would benefit all parties not only by ensuring swift justice, but also by reducing the costs of litigation and backpay awards.

SEC. 302. PURPOSE.

The purpose of this title is to ensure that the National Labor Relations Board resolves in a timely manner all unfair labor practice complaints alleging that an employee has been unlawfully discharged to encourage or discourage membership in a labor organization.

SEC. 303. TIMELY RESOLUTION.

Section 10(m) of the National Labor Relations Act is amended by adding at the end the following new sentence: ''Whenever a complaint is issued as provided in subsection (b) upon a charge that any person has engaged in or is engaging in an unfair labor practice within the meaning of subsection (a)(3) or (b)(2) of section 8 involving an unlawful discharge, the Board shall state its findings of fact and issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice and to take such affirmative action, including reinstatement of an employee with or without backpay, as will effectuate the policies of this Act, or shall state its findings of fact and issue an order dismissing the said complaint, not later than 365 days after the filing of the unfair labor practice charge with the Board except in cases of extreme complexity. The Board shall submit a report annually to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate regarding any cases pending for more than 1 year, including an explanation of the factors contributing to such a delay and recommendations for prompt resolution of such cases.''.

SEC. 304. REGULATIONS.

The Board may issue such regulations as are necessary to carry out the purposes of this title.

TITLE IV—ATTORNEYS FEES

SEC. 401. FINDINGS AND PURPOSE.

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

(1) Certain small businesses and labor organizations are at a great disadvantage in terms of expertise and resources when facing actions brought by the National Labor Relations Board.

(2) The attempt to ''level the playing field'' for small businesses and labor organizations by means of the Equal Access to Justice Act has proven ineffective and has been underutilized by these small entities in their actions before the National Labor Relations Board.

(3) The greater expertise and resources of the National Labor Relations Board as compared with those of small businesses and labor organizations necessitate a standard that awards fees and costs to certain small entities when they prevail against the National Labor Relations Board.

(b) PURPOSE.—It is the purpose of this title—

(1) to ensure that certain small businesses and labor organizations will not be deterred from seeking review of, or defending against, actions brought against them by the National Labor Relations Board because of the expense involved in securing vindication of their rights;

(2) to reduce the disparity in resources and expertise between certain small businesses and labor organizations and the National Labor Relations Board; and

(3) to make the National Labor Relations Board more accountable for its enforcement actions against certain small businesses and labor organizations by awarding fees and costs to these entities when they prevail against the National Labor Relations Board.

SEC. 402. AMENDMENT TO NATIONAL LABOR RELATIONS ACT.

The National Labor Relations Act (29 U.S.C. 151 and following) is amended by adding at the end the following new section:

''AWARDS OF ATTORNEYS' FEES AND COSTS

''SEC. 20. (a) ADMINISTRATIVE PROCEEDINGS.—An employer who, or a labor organization that—

''(1) is the prevailing party in an adversary adjudication conducted by the Board under this or any other Act, and

''(2) had not more than 100 employees and a net worth of not more than $1,400,000 at the time the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Board was substantially justified or special circumstances make an award unjust. For purposes of this subsection, the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

''(b) COURT PROCEEDINGS.—An employer who, or a labor organization that—

''(1) is the prevailing party in a civil action, including proceedings for judicial review of agency action by the Board, brought by or against the Board, and

''(2) had not more than 100 employees and a net worth of not more than $1,400,000 at the time the civil action was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) or this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.''.

SEC. 403. APPLICABILITY.

(a) AGENCY PROCEEDINGS.—Subsection (a) of section 20 of the National Labor Relations Act, as added by section 402 of this Act, applies to agency proceedings commenced on or after the date of the enactment of this Act.

(b) COURT PROCEEDINGS.—Subsection (b) of section 20 of the National Labor Relations Act, as added by section 402 of this Act, applies to civil actions commenced on or after the date of the enactment of this Act.

The CHAIRMAN. No amendment to the bill is in order except the amendment printed in House Report 105–463, which may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, pursuant to the rule, I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GOODLING:

Page 4, line 17, before the first period, insert '', including the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania (Mr. GOODLING) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, my amendment further spells out in the most direct and clear manner possible the intent of title I, which ensures that the truth in employment provisions of the Fairness for Small Business and Employees Act do not infringe upon any rights or protection for employees under the National Labor Relations Act. My amendment lays out specifically some of the important essential rights granted workers under the NLRA which are not impacted under title I so long as an individual is a bona fide employee applicant in that they are at least half motivated to work for the employer. While H.R. 3246, as currently drafted, does make clear that title I shall not affect the rights and responsibilities under this act of any employee who is or was a bona fide employee applicant, my amendment makes it explicitly clear that this includes the right to self-organization, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

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Under my amendment, there should be absolutely no confusion whatsoever that H.R. 3246 does not seek to punish anyone for their union activities. It simply amends the NLRA to clarify that an employer is not required to hire anyone who seeks a job primarily to further other employment or agency status. So long as someone is at least half motivated to be a productive employee, then title I does not apply to them at all.

Title I of H.R. 3246 is only intended to address the egregious, abusive, salting practices involving individuals who, it is clear, are not applying for a job to go to work every day and be a productive worker, but rather applying so they can start filing frivolous charges, and I read all of those frivolous charges that are always thrown out, but rather are applying so they can start filing frivolous charges against the employer with NLRB in an attempt to cost the company money defending itself.

Mr. FAWELL. Mr. Chairman, would the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, there has been a lot of information floating around this week that title I of the Fairness for Small Business and Employees Act would gut workers' rights under the National Labor Relations Act and would take away employees' right to organize and participate in legitimate collective bargaining activities.

Does H.R. 3246 do any of this?

Mr. GOODLING. It does not. In fact, as I pointed out, the legislation has a provision spelling out quite clearly that nothing in the act shall, quote, affect the rights and responsibilities granted by the NRA, quote, of any employee who is or was a bona fide employee applicant. The amendment I have offered is intended to provide all the more assurance that title I in no way would infringe on any NRA rights.

Mr. FAWELL. And what does all this mean in English?

Mr. GOODLING. It means that if an individual applies for a job at a company and expresses at least 50 percent interest in actually working there, then that individual is entitled to all the rights granted by the National Labor Relations Act. In fact, an individual could very well be a paid union organizer, and title I would not impact them one bit, so long as they are not applying for the job with the primary purpose of furthering interest of some other employer.

Mr. FAWELL. You have mentioned this 50 percent test several times. Who would determine what the level is of a applicant's motivation to work for the employer?

Mr. GOODLING. The level of intent would be determined by the general counsel of the National Labor Relations Board, and someone just a little while ago said we are putting it on the National Labor Relations Board. That is exactly who makes the decisions now. We are not giving them anything new. The same individual makes the determination of the intent of employers under current case law. If the appropriate referee of a employer's intent is the NLRB's general counsel, then certainly an appropriate referee of an employee's intent is also NLRB's general counsel.

Mr. FAWELL. I have also heard it said this week that union salting is protected by the United States Supreme Court in its unanimous 1995 Town and Country decision, and that title I seeks to overturn this case which held that union organizers are employees under the NLRA and enjoy all of the act's protections.

Mr. GOODLING. That is deliberate misinformation as well. The holding of NLRB versus Town and Country Electric was very narrow. The Supreme Court held simply that paid union organizers can fall within the liberal statutory definition of ''employee'' contained in section 23 of the NLRA.

Title I of the Fairness for Small Business and Employees Act does not change the definition of ''employee'' or ''employee applicant'' under the NLRA. It simply would change the NLRB's enforcement of section A by declaring that employers may refuse to hire individuals who are not at least half motivated to work for the employer. So long as even a paid union organizer is at least 50 percent motivated to work for the employer, he or she can not be refused a job in violation of section 8(A).

Title I thus established a test which does not seek to overrule Town and Country, does not infringe on the legitimate rights of bona fide employees and employee applicants to organize on behalf of unions within the workplace. Indeed, the Supreme Court's holding that an individual can be servant of two masters at the same time is similarly left untouched.

The CHAIRMAN. Is there an opponent of the amendment who seeks recognition?

Mr. CLAY. Mr. Chairman, I am not opposed to the amendment, but I ask to claim the time in opposition so I can speak in favor of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri for 10 minutes.

Mr. CLAY. Mr. Chairman, the majority must have some serious misgivings about title I of its own bill. Earlier this week, the gentleman from Illinois (Mr. FAWELL), chairman of the subcommittee, prefiled and then withdrew an amendment to strike title I from the bill. Now the gentleman from Pennsylvania is trying to salvage this extreme and reckless title through this amendment.

The truth is this amendment does nothing to fix this bill. It merely restates the current law protections while still allowing employers to refuse employment to workers, based on the outside group affiliations.

I have no intentions of opposing the amendment because it does nothing.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Chairman, I thank the ranking member for yielding this time to me.

I also support the amendment, but I do want to speak about how little I think it does to improve the very negative underlying bill.

I find it rather ironic that the party of Abraham Lincoln would be pursuing a piece of legislation that has such negative implications for people's individual liberty and autonomy. It is a concern that really has not been brought up yet about this bill, but it is a very practical one, and I want to spend a few minutes talking about it.

A few minutes ago, our friends from Pennsylvania and Illinois said that the party who would determine the employee's intent as to primary purpose would be the general counsel of the National Labor Relations Board. In fact, as a practical matter, the first person who would determine the employee's principal purpose would be the employer. The employer is going to determine what the principal or primary purpose of the employee is.

How exactly is the employer going to do that? Is the employer going to speak? I assume the employer is going to interview the employee, and most employees are going to say, my purpose is to do the job well. Then the employer has to start to ask other questions. Is the employer going to ask the spouse of the applicant what the applicant said to his or her spouse? Is the employer going to ask prior employers of the employee further information than that which would be on the normal letter of reference? Is the employer going to go to persons that the applicant may have talked to at the place of religious worship or at a social gathering or political gathering the person may have gone to?

I would suggest to my colleagues that the practical implication of this bill is that it opens up an Orwellian can of worms where an employer clearly has the right to ask all kinds of questions about what the employee's motive might be, and that Orwellian can of worms runs into some very real privacy considerations of the applicant or employee.

I am sure that Abraham Lincoln, who founded his party in part on the principle of individual liberty and autonomy, would be rather surprised to know that one of the prices now of applying for a job is evidently giving the employer to whom you have applied carte blanche to find out what you think and what you say to people outside the normal job application process. And if this were to become law, which I doubt and hope does not occur, I wonder exactly how this inquiry would be conducted and by whom. It is one more reason, whether any union or not any union, whether in the work

force or not in the work force, it is one more reason to oppose this underlying piece of legislation.

Mr. GOODLING. Mr. Chairman, I yield myself 2 minutes.

I wish to continue the colloquy with the gentleman from Illinois (Mr. FAWELL).

As I was indicating, title I thus establishes a test which does not seek to overrule, does not seek to overrule Town and Country, does not infringe on the legitimate rights of bona fide employees and employee applicants to organize on behalf of unions within the workplace. Indeed the Supreme Court's holding that an individual can be a servant of two masters at the same time is similarly left untouched. Title I simply calls for at least 50 percent to be for the employer. If an applicant cannot show the NLRB's general counsel that he or she sought the job at least half because they really wanted to be an employee, then I believe we would all agree that the employer should not have to hire them.

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

Mr. GOODLING. I yield to the gentleman from Illinois.

Mr. FAWELL. So under H.R. 3246, Mr. Chairman, even organizers are not prohibited from getting jobs.

Mr. GOODLING. That is correct. Title I is completely consistent with the policies of the National Labor Relations Act. All the legislation does is give the employer some comfort that it is hiring someone who really wants to work for the employer, and as my amendment points out with particularity, title I in no way infringes on the rights granted by the National Labor Relations Act.

I would hope my colleagues on both sides of the aisle support my amendment, which while granting some protection to the employers against clear instances of salting abuses, also makes crystal clear this legislation does not in any way scale back on the rights contained in the National Labor Relations Act.

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

Mr. CLAY. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding and I appreciate the gentleman from Pennsylvania, the chairman, trying to correct the impression that I have from this bill. I think the problem is that this bill tends to want to throw out the existing law and existing court cases with regards to what constitutes a bona fide employee. The court has ruled on this, and the effect of this, of course, is to drag it back into court, change the circumstances and to undercut the ability of someone to be employed that happens to harbor the notion of organizing and of exercising their freedom to in fact seek a collective bargaining election or join a union.

That is what this is all about. It just reshuffles the deck to bring it back up against the court with the option that they can undercut that person's ability to do what they see and what we think is proper in a free economy.

As has been said by my colleague from New Jersey, I think this goes right to the issue of mind control. This invites absolute control by the employers over the thoughts and over the views of employees with regards to how they ought to be organized and their opportunity to attain decent working conditions and wages.

Mr. Chairman, I rise in opposition to this bill H.R. 3246.

This measure has numerous provisions which are specifically defined to frustrate the ability of working men and women from organizing and joining a union. The result denys the fundamental freedom of association and speech at the care of our society and our basic freedoms.

The collective bargaining process is the vehicle that serves the workers and employer to achieve an agreed upon condition on the job with a fair wage and benefits.

Unfortunately because of the evolution of our U.S. mixed economy labor unions and organization represent less than 20% of our total labor force. This is also a result of the fact that labor law and policy has not kept pace with the changes and a concerted effort by many business to contest and successfully resist efforts by workers to achieve union representation and access to the collective bargaining process.

Ths bill before the House will make that process even more difficult. In a situation where workers are already at a disadvantage this bill seek to tilt the table and stack the deck against worker.

Working men and women deserve a fair shake and regards the law as a measure to undercut and shred what remains of our labor laws.

Ths bill plan and simple permits an employer to fire or not even hire a person who has an interest and may play a role in organizing a collective bargaining election. Today that is an unfair labor practice, but this proposes to make such an discriminatory action legal. Today a prospective worker's values and thoughts are private and an employer appropriately consider a employment situation based on qualification and the willingness of a worker to perform his or her assigned tasks. This bill crosses the line into mind control and invites absolute employer control of the workers private thoughts and values as to their interest in collective bargaining and joining a union. Control of the communication and the thoughts of a worker deny the fundamental freedoms that characterize a free society and a free labor force.

Additionally this measure which purports to advocate for small business denys a collective bargaining election for a separate work place, rather it mandates that the collective bargaining election must take place on an overly broad basis rather than permit a one location election—turning a single facility collective bargaining election into a multi-state or even national collective bargaining election. Both the provision to prevent the hiring and permitting the firing of a employee and the mandate to deny a single site election over turn court cases and current law that permits union organization on this basis.

This legislation turns the process of litigation and National Labor Relations Board appeals inside out requiring in the bill that small business must be compensated if they prevail in a decision. Today the NLRB and court have such discretion, but to require such no matter the circumstance will assure that almost all decision will be carried forth with the hope of success and payment.

These measure certainly don't achieve a common sense result in terms of labor-management accord and fair treatment, rather they are a transparent attempt to superimpose a disadvantage upon working men and women and their access to the collective bargaining process. One may wonder if this is some part of retaliation for the fact that organized labor has become more politically active in recent years and that this is some small minds is the may to penalize labor.

These actions are poor policy and the wrong was to force or win the day. The reaction to this bill can only be to reject the proponents and to re-double the effort to change the political equation.

Rather than loading the NLRB down with more paper work and appeals and requests for report along with the mandate to pay legal fees for those who successfully appeal. Congress should provide the resources that would address the backlog that has been building up the past decade to permit timely investigation and decision making by the NLRB.

This measure is a bad faith effort to disadvantage workers and the unions they may choose to represent them. I certainly urge its defeat.

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

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

I would merely indicate to the gentleman who just spoke that obviously he has little faith in the general counsel at the National Labor Relations Board. I will guarantee him that all employees have great confidence in that general counsel. I will guarantee him that organized labor has great confidence in that general counsel at the National Labor Relations Board.

Let me close simply by repeating what was said in an editorial in a paper that I read today: It is reassuring to know that some relief is being considered for the real victims of status quo: workers, small businesses, and small unions.

Let me repeat that: It is reassuring to know that some relief is being considered for the real victims of status quo: workers, small businesses and small unions.

My colleagues have an opportunity to help all three. All they have to do is vote yes on the amendment and on the legislation.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 398, noes 0, not voting 32, as follows:.

[Roll No. 77]

AYES—398

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
Bonior
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cummings
Cunningham
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
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (CT)
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
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
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
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
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
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—32

Bonilla
Brown (FL)
Cannon
Cardin
Conyers
Cooksey
Crapo
Engel
Ford
Gonzalez
Harman
Hefner
Houghton
Hunter
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Markey
McDade
McDermott
McNulty
Millender-McDonald
Payne
Rangel
Rogers
Royce
Sherman
Smith (OR)
Smith (TX)
Waters
Yates

□ 2003

Messrs. BOUCHER, CUNNINGS, OBERSTAR and STARK changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SHERMAN. Mr. Chairman, during roll call vote number 77 on the Goodling Amendment to H.R. 3246 I was unavoidably detained. Had I been present, I would have voted yes.

The CHAIRMAN. No other amendment being in order under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TIAHRT) having assumed the chair, Mr. MCCOLLUM, 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. 3246) to assist small businesses and labor organizations in defending themselves against government bureaucracy; to ensure that employees entitled to reinstatement get their jobs back quickly; to protect the right of employers to have a hearing to present their case in certain representation cases; and to prevent the use of the National Labor Relations Act for the purpose of disrupting or inflicting economic harm on employers, pursuant to House Resolution 393, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. CLAY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 200, not voting 29, as follows:

[Roll No. 78]

AYES—202

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McIntyre
McKeon
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rohrabacher
Roukema
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan

Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith, Linda
Snowbarger
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (FL)

NOES—200

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (OH)
Campbell
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McHugh
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Shimkus
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wise
Woolsey
Wynn
Young (AK)

NOT VOTING—29

Bonilla
Brown (FL)
Cannon
Cardin
Conyers
Cooksey
Crapo
Engel
Ford
Gilman
Gonzalez
Harman
Houghton
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
McDade
McDermott
McNulty
Millender-McDonald
Payne
Rangel
Rogers
Ros-Lehtinen
Royce
Smith (TX)
Solomon
Waters
Yates

□ 2022

The Clerk announced the following pair on this vote:

Mr. Bonilla for, with Mr. McDade against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, during the final vote on H.R. 3246 (Rollcall 78) I was in the Chamber and attempted to vote, but the Speaker closed the vote before I could cast my vote. I attempted to secure the attention of the Chair but was unseccessful. Had I been allowed to vote I would have voted ''no.''

GENERAL LEAVE

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3246, the bill just passed.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2515, FOREST RECOVERY AND PROTECTION ACT OF 1998, AND LIMITATION OF TIME FOR AMENDMENT PROCESS

Mr. SMITH of Oregon. Mr. Speaker, I ask unanimous consent that House Resolution 394, the rule, be considered as adopted, and that during consideration of H.R. 2515, the forestry bill, in the Committee of the Whole, pursuant to that resolution, 1, that the amendment in the nature of a substitute made in order as original text be considered as read; and 2, after general debate, the bill be considered for amendment under the 5-minute rule for a period not to extend beyond 1:30 p.m. on Friday, March 27, 1997.

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

There was no objection.

The text of House Resolution 394 is as follows:

H. RES. 394

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2515) to address the declining health of forests on Federal lands in the United States through a program of recovery and protection consistent with the requirements of existing public land management and environmental laws, to establish a program to inventory, monitor, and analyze public and private forests and their resources, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment recommended by the Committee on Agriculture now printed in the bill, 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. 3530. Each section of that amendment in the nature of a substitute shall be considered as read. Points of order against that amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI or clause 5(a) of rule XXI are waived. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. 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.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 202

Mr. NETHERCUTT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor to H.R. 202.

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

There was no objection.

PERMISSION FOR AUTHORIZATION TO SIGN AND SUBMIT REQUESTS TO ADD COSPONSORS TO H.R. 2009

Mrs. CAPPS. Mr. Speaker, I ask unanimous consent that I may be authorized to sign and submit requests to add cosponsors to the bill, H.R. 2009.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

□ 2030

PERSONAL EXPLANATION

Ms. ROS-LEHTINEN. Mr. Speaker, I would like the RECORD to reflect that I would have voted ''no'' on H.R. 3246, but the gavel was pounded before I registered my vote. I tried to