against the wishes of the veterans. Abraham Lincoln created the national cemetery system. Illinois is the ''Land of Lincoln.'' This name is not only appropriate for the cemetery in Joliet, it is the only name endorsed by the veterans—those who sacrificed for their country. I will fight to have this retroactive provision changed. I submit a copy of my statement to appear in the CONGRESSIONAL RECORD.

VETERANS OF FOREIGN WARS,
DEPARTMENT OF ILLINOIS,
Springfield, IL, May 21, 1997.

Hon. JERRY WELLER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WELLER: The Department of Illinois, Veterans of Foreign Wars, takes great pride in supporting the introduction of legislation naming the new Veterans Cemetery at the former Joliet Arsenal the ''Abraham Lincoln National Cemetery''.

In naming the 982 acre site after President Abraham Lincoln, we not only acknowledge the role he played in creating the National Cemetery System, but also honor the memory of the courageous men and women who answered our nation's call to defend democracy and freedom.

The Department of Illinois, Veterans of Foreign Wars certainly commend the Department of Veterans Affairs, Department of Defense, Congress and the local communities for their vision and initiatives in acquiring a portion of the former Joliet Army Ammunition Plant, and the beautiful Hoff Woods site for use as the new National Cemetery to serve the veterans and families of this midwest region.

We certainly appreciate your introducing this most important legislation in the House of Representatives and look forward to the passage of same.

With warmest personal regards and best wishes, I remain

Sincerely,

DONALD HARTENBERGER,
Department Commander.

THE AMERICAN LEGION,
DEPARTMENT OF ILLINOIS,
Bloomington, IL, April 10, 1997.

Hon. JERRY WELLER,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE WELLER: The American Legion, Department of Illinois, takes great pride in supporting the introduction of legislation naming the new veterans cemetery at the former Joliet Arsenal the ''Abraham Lincoln National Cemetery.''

On Saturday, April 5, 1997 at Normal, Illinois, our state Executive Committee approved a resolution commending the Department of Veterans Affairs, Department of Defense, Congress and the local communities for their vision and initiatives in acquiring a portion of the former Joliet Army Ammunition Plant, and the beautiful Hoff Woods site, for use as the new National Cemetery to serve the veterans and families of this midwest region.

A copy of the approved resolution is attached and we respectfully urge the Secretary of Veterans Affairs and the United States Congress to confirm the designation of the former Joliet Arsenal as the ''Abraham Lincoln National Cemetery'' to honor all veterans and President Abraham Lincoln, who first established the National Cemetery system.

Sincerely,

VINCENT A. SANZOTTA,
Department Adjutant.

AMVETS,
ILLINOIS STATE HEADQUARTERS,
Springfield, IL, September 26, 1997.

Hon. JERRY WELLER,
Cannon House Office Bldg.,
Washington, DC.

DEAR CONGRESSMAN WELLER: Our last State Executive Committee Meeting, held at the Hilton Hotel, Springfield, Illinois, on September 12–14, 1997. At this meeting it was voted unanimously to endorse your legislation to name the Joliet National Cemetery as the Abraham Lincoln National Cemetery.

Since Mr. Lincoln was instrumental in establishing the first National Cemetery, it is only befitting that he finally receives the honor of having a National Cemetery named after him.

Sincerely,

JERRY F. FOSTER,
Department Commander.

AMERICAN EX-PRISONERS OF WAR,
DEPARTMENT OF ILLINOIS,
Park Ridge, IL, October 21, 1997.

Hon. JERRY WELLER,
130 Cannon Building,
Washington, DC.

DEAR HONORABLE WELLER: We the American Ex-Prisoners of War of the State of Illinois all agree to the naming of the veterans cemetery in Joliet, Illinois to be called Abraham Lincoln Veterans Cemetery.

Thank you for the American Ex–P.O.W.'s for their opinion on this matter.

Sincerely,

DONALD MCCORMICK, *Commander.*

DISABLED AMERICAN VETERANS,
DEPARTMENT OF ILLINOIS,
Oak Park, IL, October 28, 1997.

Hon. JERRY WELLER,
House of Representatives
Washington, DC.

DEAR CONGRESSMAN WELLER: The Department of Illinois, Disabled American Veterans, strongly supports the introduction of legislation naming the new Veterans Cemetery at the former Joliet Arsenal the ''Abraham Lincoln National Cemetery.''

Mr. Lincoln, as we all know, was instrumental in establishing the first National Cemetery and it is only befitting that he receives the honor of having a National Cemetery named after him.

We certainly appreciate your introducing this most important legislation in the House of Representatives because now the veterans and their families in this Midwest region will have a place to rest which they truly deserve and are entitled to.

Sincerely,

GEORGE M. ISDALE, JR.,
Department Adjutant.
TED BUCK,
Department Commander.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to express my support for H.R. 3603, a bill to authorize major medical facility projects for the Veterans' Department.

The bill authorizes the Secretary of Veterans Affairs to carry out major medical facility projects at Department of Veterans Affairs medical centers or outpatient clinics in 8 locations, including one in my home state of Texas. This bill is a result of members from both parties working together to ensure that facilities with the greatest need for construction work will receive the resources necessary to provide high quality care to our veterans.

I'm particularly pleased with the emphasis this bill gives to projects that will increase the VA's ability to provide outpatient care to veterans.

This bill effectively balances our fiscal responsibilities with the needs of these facilities and the veterans who depend on them.

This legislation also stays focused on health care's shifting emphasis from inpatient to ambulatory care by including a number of outpatient projects.

I join my colleagues on both sides of the aisle in supporting this legislation so the men and women who fought for our freedom will be provided with the best possible medical care.

Mr. STUMP. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the bill, H.R. 3603, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1315

COLLECTIONS OF INFORMATION ANTIPIRACY ACT

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2652) to amend title 17, United States Code, to prevent the misappropriation of collections of information, as amended.

The Clerk read as follows:

H.R. 2652

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 ''Collections of Information Antipiracy Act''.

SEC. 2. MISAPPROPRIATION OF COLLECTIONS OF INFORMATION.

Title 17, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 12—MISAPPROPRIATION OF COLLECTIONS OF INFORMATION

''§ 1201. Definitions

''As used in this chapter:

''(1) COLLECTION OF INFORMATION.—The term 'collection of information' means information that has been collected and has been organized for the purpose of bringing discrete items of information together in one place or through one source so that users may access them.

''(2) INFORMATION.—The term 'information' means facts, data, works of authorship, or any other intangible material capable of being collected and organized in a systematic way.

''(3) POTENTIAL MARKET.—The term 'potential market' means any market that a person claiming protection under section 1202 has current and demonstrable plans to exploit or that is commonly exploited by persons offering similar products or services incorporating collections of information.

''(4) COMMERCE.—The term 'commerce' means all commerce which may be lawfully regulated by the Congress.

''(5) PRODUCT OR SERVICE.—A product or service incorporating a collection of information does not include a product or service incorporating a collection of information gathered, organized, or maintained to address, route, forward, transmit, or store digital online communications or provide or receive access to connections for digital online communications.

''§ 1202. Prohibition against misappropriation

''Any person who extracts, or uses in commerce, all or a substantial part, measured either quantitatively or qualitatively, of a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources, so as to cause harm to the actual or potential market of that other person, or a successor in interest of that other person, for a product or service that incorporates that collection of information and is offered or intended to be offered for sale or otherwise in commerce by that other person, or a successor in interest of that person, shall be liable to that person or successor in interest for the remedies set forth in section 1206.

''§ 1203. Permitted acts

''(a) INDIVIDUAL ITEMS OF INFORMATION AND OTHER INSUBSTANTIAL PARTS.—Nothing in this chapter shall prevent the extraction or use of an individual item of information, or other insubstantial part of a collection of information, in itself. An individual item of information, including a work of authorship, shall not itself be considered a substantial part of a collection of information under section 1202. Nothing in this subsection shall permit the repeated or systematic extraction or use of individual items or insubstantial parts of a collection of information so as to circumvent the prohibition contained in section 1202.

''(b) GATHERING OR USE OF INFORMATION OBTAINED THROUGH OTHER MEANS.—Nothing in this chapter shall restrict any person from independently gathering information or using information obtained by means other than extracting it from a collection of information gathered, organized, or maintained by another person through the investment of substantial monetary or other resources.

''(c) USE OF INFORMATION FOR VERIFICATION.—Nothing in this chapter shall restrict any person from extracting information, or from using information within any entity or organization, for the sole purpose of verifying the accuracy of information independently gathered, organized, or maintained by that person. Under no circumstances shall the information so extracted or used be made available to others in a manner that harms the actual or potential market for the collection of information from which it is extracted or used.

''(d) NONPROFIT EDUCATIONAL, SCIENTIFIC, OR RESEARCH USES.—Nothing in this chapter shall restrict any person from extracting or using information for nonprofit educational, scientific, or research purposes in a manner that does not harm the actual or potential market for the product or service referred to in section 1202.

''(e) NEWS REPORTING.—Nothing in this chapter shall restrict any person from extracting or using information for the sole purpose of news reporting, including news gathering, dissemination, and comment, unless the information so extracted or used is time sensitive, has been gathered by a news reporting entity for distribution to a particular market, and has not yet been distributed to that market, and the extraction or use is part of a consistent pattern engaged in for the purpose of direct competition in that market.

''(f) TRANSFER OF COPY.—Nothing in this chapter shall restrict the owner of a particular lawfully made copy of all or part of a collection of information from selling or otherwise disposing of the possession of that copy.

''§ 1204. Exclusions

''(a) GOVERNMENT COLLECTIONS OF INFORMATION.—

''(1) EXCLUSION.—Protection under this chapter shall not extend to collections of information gathered, organized, or maintained by or for a government entity, whether Federal, State, or local, including any employee or agent of such entity, or any person exclusively licensed by such entity, within the scope of the employment, agency, or license. Nothing in this subsection shall preclude protection under this chapter for information gathered, organized, or maintained by such an agent or licensee that is not within the scope of such agency or license, or by a Federal or State educational institution in the course of engaging in education or scholarship.

''(2) EXCEPTION.—The exclusion under paragraph (1) does not apply to any information required to be collected and disseminated—

''(A) under the Securities Exchange Act of 1934 by a national securities exchange, a registered securities association, or a registered securities information processor, subject to section 1205(g) of this title; or

''(B) under the Commodity Exchange Act by a contract market, subject to section 1205(g) of this title.

''(b) COMPUTER PROGRAMS.—

''(1) PROTECTION NOT EXTENDED.—Subject to paragraph (2), protection under this chapter shall not extend to computer programs, including, but not limited to, any computer program used in the manufacture, production, operation, or maintenance of a collection of information, or any element of a computer program necessary to its operation.

''(2) INCORPORATED COLLECTIONS OF INFORMATION.—A collection of information that is otherwise subject to protection under this chapter is not disqualified from such protection solely because it is incorporated into a computer program.

''§ 1205. Relationship to other laws

''(a) OTHER RIGHTS NOT AFFECTED.—Subject to subsection (b), nothing in this chapter shall affect rights, limitations, or remedies concerning copyright, or any other rights or obligations relating to information, including laws with respect to patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract.

''(b) PREEMPTION OF STATE LAW.—On or after the effective date of this chapter, all rights that are equivalent to the rights specified in section 1202 with respect to the subject matter of this chapter shall be governed exclusively by Federal law, and no person is entitled to any equivalent right in such subject matter under the common law or statutes of any State. State laws with respect to trademark, design rights, antitrust, trade secrets, privacy, access to public documents, and the law of contract shall not be deemed to provide equivalent rights for purposes of this subsection.

''(c) RELATIONSHIP TO COPYRIGHT.—Protection under this chapter is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection or limitation, including, but not limited to, fair use, in any work of authorship that is contained in or consists in whole or part of a collection of information. This chapter does not provide any greater protection to a work of authorship contained in a collection of information, other than a work that is itself a collection of information, than is available to that work under any other chapter of this title.

''(d) ANTITRUST.—Nothing in this chapter shall limit in any way the constraints on the manner in which products and services may be provided to the public that are imposed by Federal and State antitrust laws, including those regarding single suppliers of products and services.

''(e) LICENSING.—Nothing in this chapter shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of collections of information.

''(f) COMMUNICATIONS ACT OF 1934.—Nothing in this chapter shall affect the operation of the provisions of the Communications Act of 1934 (47 U.S.C. 151 et seq.), or shall restrict any person from extracting or using subscriber list information, as such term is defined in section 222(f)(3) of the Communications Act of 1934 (47 U.S.C. 222(f)(3)), for the purpose of publishing telephone directories in any format.

''(g) SECURITIES EXCHANGE ACT OF 1934 AND COMMODITY EXCHANGE ACT.—Nothing in this chapter shall affect—

''(1) the operation of the provisions of the Securities Exchange Act of 1934 (15 U.S.C. 58a et seq.) or the Commodity Exchange Act (7 U.S.C. 1 et seq.);

''(2) the public nature of information with respect to quotations for and transactions in securities that is collected, processed, distributed, or published pursuant to the requirements of the Securities Exchange Act of 1934;

''(3) the obligations of national securities exchanges, registered securities associations, or registered information processors under the Securities Exchange Act of 1934; or

''(4) the jurisdiction or authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission.

''§ 1206. Civil remedies

''(a) CIVIL ACTIONS.—Any person who is injured by a violation of section 1202 may bring a civil action for such a violation in an appropriate United States district court without regard to the amount in controversy, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.

''(b) TEMPORARY AND PERMANENT INJUNCTIONS.—Any court having jurisdiction of a civil action under this section shall have the power to grant temporary and permanent injunctions, according to the principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of section 1202. Any such injunction may be served anywhere in the United States on the person enjoined, and may be enforced by proceedings in contempt or otherwise by any United States district court having jurisdiction over that person.

''(c) IMPOUNDMENT.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of all copies of contents of a collection of information extracted or used in violation of section 1202, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced. The court may, as part of a final judgment or decree finding a violation of section 1202, order the remedial modification or destruction of all copies of contents of a collection of information extracted or used in violation of section 1202, and of all masters, tapes, disks, diskettes, or other articles by means of which such copies may be reproduced.

''(d) MONETARY RELIEF.—When a violation of section 1202 has been established in any civil action arising under this section, the

plaintiff shall be entitled to recover any damages sustained by the plaintiff and defendant's profits not taken into account in computing the damages sustained by the plaintiff. The court shall assess such profits or damages or cause the same to be assessed under its direction. In assessing profits the plaintiff shall be required to prove defendant's gross revenue only; defendant must prove all elements of cost or deduction claims. In assessing damages the court may enter judgment, according to the circumstances of the case, for any sum above the amount found as actual damages, not exceeding three times such amount. The court in its discretion may award reasonable costs and attorney's fees to the prevailing party and shall award such costs and fees where it determines that an action was brought under this chapter in bad faith against a nonprofit educational, scientific, or research institution, library, or archives, or an employee or agent of such an entity, acting within the scope of his or her employment.

''(e) REDUCTION OR REMISSION OF MONETARY RELIEF FOR NONPROFIT EDUCATIONAL, SCIENTIFIC, OR RESEARCH INSTITUTIONS.—The court shall reduce or remit entirely monetary relief under subsection (d) in any case in which a defendant believed and had reasonable grounds for believing that his or her conduct was permissible under this chapter, if the defendant was an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

''(f) ACTIONS AGAINST UNITED STATES GOVERNMENT.—Subsections (b) and (c) shall not apply to any action against the United States Government.

''(g) RELIEF AGAINST STATE ENTITIES.—The relief provided under this section shall be available against a State governmental entity to the extent permitted by applicable law.

''§ 1207. Criminal offenses and penalties

''(a) VIOLATION.—

''(1) IN GENERAL.—Any person who violates section 1202 willfully, and—

''(A) does so for direct or indirect commercial advantage or financial gain, or

''(B) causes loss or damage aggregating $10,000 or more in any 1-year period to the person who gathered, organized, or maintained the information concerned,

shall be punished as provided in subsection (b).

''(2) INAPPLICABILITY.—This section shall not apply to an employee or agent of a nonprofit educational, scientific, or research institution, library, or archives acting within the scope of his or her employment.

''(b) PENALTIES.—An offense under subsection (a) shall be punishable by a fine of not more than $250,000 or imprisonment for not more than 5 years, or both. A second or subsequent offense under subsection (a) shall be punishable by a fine of not more than $500,000 or imprisonment for not more than 10 years, or both.

''§ 1208. Limitations on actions

''(a) CRIMINAL PROCEEDINGS.—No criminal proceeding shall be maintained under this chapter unless it is commenced within three years after the cause of action arises.

''(b) CIVIL ACTIONS.—No civil action shall be maintained under this chapter unless it is commenced within three years after the cause of action arises or claim accrues.

''(c) ADDITIONAL LIMITATION.—No criminal or civil action shall be maintained under this chapter for the extraction or use of all or a substantial part of a collection of information that occurs more than 15 years after the investment of resources that qualified the portion of the collection of information for protection under this chapter that is extracted or used.''.

SEC. 3. CONFORMING AMENDMENT.

The table of chapters for title 17, United States Code, is amended by adding at the end the following:

''12. Misappropriation of Collections of Information ..... 1201''.

SEC. 4. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) DISTRICT COURT JURISDICTION.—Section 1338 of title 28, United States Code, is amended—

(1) in the section heading by inserting ''**misappropriations of collections of information,**'' after ''**trade-marks,**''; and

(2) by adding at the end the following:

''(d) The district courts shall have original jurisdiction of any civil action arising under chapter 12 of title 17, relating to misappropriation of collections of information. Such jurisdiction shall be exclusive of the courts of the States, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity.''.

(b) CONFORMING AMENDMENT.—The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by inserting ''misappropriations of collections of information,'' after ''trademarks,''.

(c) COURT OF FEDERAL CLAIMS JURISDICTION.—Section 1498(e) of title 28, United States Code, is amended by inserting ''and to protections afforded collections of information under chapter 12 of title 17'' after ''chapter 9 of title 17''.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act, and shall apply to acts committed on or after that date.

(b) PRIOR ACTS NOT AFFECTED.—No person shall be liable under chapter 12 of title 17, United States Code, as added by section 2 of this Act, for the use of information lawfully extracted from a collection of information prior to the effective date of this Act, by that person or by that person's predecessor in interest.

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Madam Speaker, I rise in support of H.R. 2652, the Collections of Information Antipiracy Act, and urge my colleagues to support this important bill. Developing, compiling, distributing, and maintaining commercially significant collections of information requires substantial investments of time, personnel, and money. Information companies, especially small businesses, must dedicate massive resources when gathering and verifying factual material, presenting it in a user-friendly way, and keeping it current for and useful to customers.

H.R. 2652, Madam Speaker, prohibits the misappropriation of valuable commercial collections by unscrupulous competitors who grab data collected by others, repackage it, and market a product that threatens competitive injury to the original collection.

This protection is modeled in part on the Lanham Act, which already makes similar kinds of unfair competition a civil wrong under Federal law. Importantly, this bill maintains existing protection for collections of information afforded by copyright and contract rights. It is intended to supplement these legal rights, not to replace them.

The Collections of Information Antipiracy Act is a balanced proposal. It is aimed at actual or threatened competitive injury for misappropriation of collections of information, not at noncompetitive uses. The goal is to stimulate the creation of even more collections and to encourage even more competition among them. The bill avoids conferring any monopoly on facts or taking any other steps that might be inconsistent with these goals.

The version under consideration today contains several noncontroversial technical amendments. The legislation is necessary, in my opinion, and well-balanced, and I urge my colleagues to support it.

Madam Speaker, I would be remiss if I did not mention this. Much information has been disseminated about this bill, and I want to advise the Members of a couple facts that I think are pertinent.

Last February, in fact, the afternoon of the hearing that was conducted, we met with representatives of the university community and asked them for specific instances where they would be concerned about this bill, that we might be able to correct some problems or concerns. None was forthcoming.

As recently as yesterday, a representative from the university community made it clear that he could not give one specific instance where detriment would result, but that he felt that maybe some future unforeseen circumstance might crop up. Madam Speaker, that could happen with any legislation.

I will be doggone if I am going to stand in the path of small businesses and perhaps encourage their bankruptcy ultimately in the fear of a prospective unforeseen circumstance. If that circumstance does arise, then we will repair it and correct it at the time.

The libraries, we met with our friends from the American Library Association, again, last February, asking them, tell us what is wrong and we will fix it. A total of 10 amendments have been made a part of this bill, 10 amendments that were forthcoming from earlier opponents of the bill.

I think we have done all we can do. I think we have a good piece of legislation here. I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of this bill. The principle is very straightforward. The Supreme Court decided a while ago that people who put together the phone book could not have a property interest in the phone numbers. We do not actually deal with that decision here. That particular decision is not overturned.

But it did leave at risk work that people do to collect information. Essentially the state of the law now, opponents to this bill want the state of the law to remain such that you can go through considerable work to compile data. People who have been in the data compilation business know that it is often not fun. It can be very hard work. It can be unexciting work. But it could give you a very useful work product.

What we are being asked to do by those who simply want to defeat this bill is to leave that work totally unprotected legally as far as the Federal government is concerned. You do the work, you do all the research, and you come up with a significantly useful collection of information. This law says anybody else who wants to can go and take that and do whatever they want with it.

We do in this bill, to the extent that we were capable of doing it, make a distinction. Nothing in this bill in any way retards the intellectual use of that data. A scoundrel who wants to do research and publish some of it as part of his or her study, if you want to go to the data collection and usurp from it so you can prove your point, you can do it. If you want to go to the data collection and reproduce it and get paid for reproducing somebody else's work, this bill says you cannot.

So that is the distinction we have tried to draw between making the intellectual product here fully accessible but protecting it commercially. If in fact you leave it unprotected commercially, you will almost certainly have less work done.

The notion that people should go and do this, do all this data collection, with their work product totally unprotected from anybody else who wants to use it for any purpose, including passing it on, selling it to somebody else, seems to me to be in error.

One of the things we have done, we have had hearings, and we are told, Madam Speaker, that this is too quickly being done and we should pull this bill. Yes, the people who do not want to deal with it now argue to pull the bill.

Why do people say, let us pull the bill? There are two circumstances in which those of us in the legislative body argue that a bill should be pulled. One, it really did come up too quickly, and we really have not had a chance to look at it.

This bill had its first public hearing in October of last year and then a second public hearing in February of this year. It was voted on in subcommittee two months ago. The number of people who have been prevented from studying this bill by time is zero. People have had months to look at it.

Since we have had two public hearings on the bill, a markup two months ago in subcommittee and then a markup in full committee, and then we were going to be on the calendar last week. One of those terrible legislative diseases known as turfitis, which is particularly virulent at the Subcommittee on Energy and Power; you have got to be careful when you are walking on the first floor past the Subcommittee on Energy and Power. You have got a vicious case of ''It is mine, and nobody else can look at it.'' That will break out. That held us off a week.

At any rate, we have had a lot of time that people are aware of this bill. Still, what is their complaint? We have got to study this some more. They are lucky that this bill is not covered by the data collection, I suppose. They would have a long time to study it.

The point is, Madam Speaker, that you say pull the bill when you do not have any substantive arguments. We all say let us delay it. We all say we are not sure what it does. That is when you do not have substantive arguments. I say that because we have asked for substantive arguments.

I very much agree that full use should be there intellectually. I do not want to interfere with researchers who use those data collections.

I have yet to hear a specific instance of how the legislation we are bringing forward prevents people from doing research, from reading the data and using it in that reasonable way.

We have tried in various ways. People said, well, what about the concept of fair use? It does not technically apply, but it could interfere with figures. We said it does not. We have said this bill specifically allows you to do research, allows you to reproduce some parts of it to make your argument. It does not allow you to simply take other people's work product and sell it and get paid for it.

We have had a series of cases, of meetings and hearings, and no one has come forward with specifics. Look at the literature that has been put out. Various organizations have said this is not a good bill, stop it. But I have not been able to find in any of this literature a specific example of how this legislation will interfere with legitimate intellectual activity.

We make a distinction here in this bill between commercial use of someone else's property and the intellectual use. If people think we have not done the balance perfectly, I would be willing to listen, but they do not want to come forward with specifics.

I want to talk also about my friends, the libraries. Some of my friends are librarians. My chief of staff in Massachusetts was the head of a library board and built a beautiful library building. I think libraries are very important.

To the extent that librarians come and say to us, you are going to prevent our readers from being able to read this, do research with this, write a paper based on it, I would be opposed to the bill if it did that. That is not what they are saying. Essentially what they are saying is, some of the people who have done all this work might charge us more than we want to pay.

We underfund libraries. I think we do. If I were in charge, we would give libraries more money than other places. The answer, however, to a public sector inadequately funding libraries is not to empower libraries to take other people's work product for nothing. The answer is further and better to fund libraries.

So I will await the end of this debate, and thereafter I will still be waiting for specifics. I am available. If people will show myself, the chairman, our very able staffs how this interferes with free and open exchange of information, with intellectual use for this, we will try to change that.

I do not think that is the problem. I think people have been able to get some of this information for free. I suppose, as between paying for it and getting it for free, most of us would rather get it for free, if you assume that there is an endless supply of it coming, and if you assume that people who have to give it to you for free and allow you to reuse it will not stop this kind of work.

I think if we do not pass this, you will begin to see a diminution in the kind of data that is available. Nothing in this bill will interfere with the intellectual use of it, so I hope the bill is passed.

Mr. COBLE. Madam Speaker, I have no speaker, but I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 5 minutes to the very distinguished but not infallible gentleman from California (Mr. BROWN), the ranking member of the Committee on Science.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Madam Speaker, I thank the distinguished gentleman for allowing me to express myself on this bill. I acknowledge that I am distinguished but not infallible. Sometimes I even wonder if I am distinguished.

But let me tell you that without pretending to understand all of the implications of this bill, I found out very quickly, when it was placed on the schedule, that there are a lot of extremely worried people out there who should know what they are talking about or who, on the other hand, may be totally paranoid. It may well be that there are a lot of paranoid people out there.

I suspect that what has happened here is that those organizations, and I

have circulated a ''Dear Colleague'' letter which lists these, and they include some of the most distinguished organizations in this country, beginning with the library associations and the AAAS, American Association for the Advancement of Science, and many others are worried about this bill.

They may be worried because they do not understand it, and I will confess that. Their tactics seem to be not necessarily to kill the bill, but to allow more time for these scholars and academics and so forth to see if they can find flaws in it and to present those flaws for protection.

These individuals and organizations are notoriously slow in their ability to act promptly on legislation and sometimes other things, but that does not mean that they are wrong. When I see a compilation of organizations as broad as have taken a stand in opposition to this bill, I would like to alert a broader audience to the fact that there could be some flaws.

Knowing the distinguished chairman of the subcommittee and the ranking member and having heard their statements, as the gentleman from North Carolina (Mr. COBLE) says, tell us what is wrong and we will fix it, the gentleman from Massachusetts (Mr. FRANK) said the same thing, and similar language, and I have faith that we would do that.

I would like to have my own little laundry list of the things that need to be done here; but, frankly, I do not have the competence to come up with that kind of a list. What I am trying to accomplish here, and I hope that my motives are understood, is to put on the record the concern of some of these groups which I have known and worked with for many, many years. They are all respectable. They all think they know what they are talking about. And put their concerns on the record so that we may get a broader analysis of this.

I would have hoped that this could have been done in the normal legislative process, and that we could have considered this bill, not on suspension, but with an opportunity to debate it and amend it on the floor. Unfortunately, that is not a possibility at this point.

□ 1330

But it may be. If we defeat it on suspension, we may be able to bring it back, or we may be able to take corrective action in the Senate. This is my whole purpose, and I confess it quite willingly.

It is my understanding that H.R. 2652 addresses only one aspect of the complex subject of adjusting intellectual property protection laws to meet the demands of the new digital age. Unfortunately, as I have indicated, it may be a flawed and controversial attempt, which should have not come up on the suspension calendar.

The problem is that the bill has not found yet a proper balance between protecting original investments in data bases and the economic and social cost of unduly restricting and discouraging downstream application of these data bases, particularly in regard to uses for basic research or education.

Some of these scientific data bases are extremely large and complex. For example, we are spending billions on an effort to characterize the human genome, and we have thousands of scientists working on it. A portion of that work only, and it may be a small portion, is either patentable or protected under copyright laws. The rest of it is going to be freely available. It may be that this legislation is going to cause considerable problem with that massive collection of research data. I hope that that is not the case, but I do not think anyone can tell you at this point whether it or is not.

Progress in science requires full and open availability of scientific data. New knowledge is built on previous findings and unfettered access and use of factual information. This bill will impede research by restricting the ability of scientists to draw on data, facts and even mathematical formulas from previous scientific work for the production of new and innovative work.

It is for this reason, Madam Speaker, that I ask that the bill be defeated on suspension, and, hopefully, brought back after further study.

H.R. 2652 addresses one aspect of the complex subject of adjusting intellectual property protection laws to meet the demands of the digital age. Unfortunately it is a flawed and controversial attempt, which should not have come to the Floor on the Suspension Calendar.

The problem is that the bill has not found a proper balance between protecting original investments in databases AND the economic and social costs of unduly restricting and discouraging downstream applications of these databases—particularly in regard to uses for basic research and education.

Progress in science requires full and open availability of scientific data. New knowledge is built on previous findings and unfettered access and use of factual information.

The bill will impede research by restricting the ability of scientists to draw on data, facts, and even mathematical formulas from previous scientific work for the production of new, innovative works. To date, these types of activities have not only been permissible, but expressly protected under copyright law and the fair use concept.

By granting unprecedented rights to ownership of facts—not just rights to the expression of facts and information, as is the case for copyright—the bill will certainly increase the costs of research, but more importantly, reduce the openness of exchange of scientific data and information and also reduce collaboration among scientists.

The provisions in the bill that purport to give exceptions for research and education uses are illusory—triggered only if users can show that the use will not harm actual or potential markets. This is far less ''fair use'' than under copyright law.

Also, there is no language for mandatory legal licenses, or other limitations, that would require providers of sole source databases to make data available for research, education, and other public interest uses on fair and equitable terms.

Many fields of inquiry that involve statistical compilations and analysis of raw data would be restricted by this bill, such as climate modeling and economic forecasting. Also, research activities involving collaborative sharing of large data bases, such as the sequencing of the human genome, would be adversely affected.

The stated objective of the bill is to protect against individuals stealing non-copyrightable commercial databases, and then taking away the market of the original compiler of the data. The reach of the bill goes far beyond this goal.

Alternative draft legislation that is narrowly based on misappropriation case law is being worked out by the communities with reservations about H.R. 2652. Such an approach would leave existing research and education uses of databases unchanged, while providing added protections for commercial, noncopyrightable databases.

Any legislative action to protect the contents of databases should proceed using a cautious, minimalist approach that balances the interests of creators, publishers, and users, and of society as a whole.

This is not the approach that was taken in developing H.R. 2652.

Despite concerns raised by libraries, research and educational institutions, commercial database companies, and computer and telecommunications companies, the bill has been brought to the floor as a non-controversial measure under suspension of the rules.

This procedure is inappropriate since it affords no opportunity for Members to offer amendments or present alternative approaches to address the many concerns that have been raised about the bill.

The House should reject H.R. 2652 in its current form, and work toward a compromise, such as the alternative I referred to, that will balance the concerns of the various communities of interest.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself such time as I may consume to make two points.

First, with regard to the human genome, I am glad the gentleman brought that point up. Let me say, I fully respect the gentleman's motives. He performs a very useful service as the leading Democratic member on the Committee on Science, and it is entirely valid for him to be bringing these concerns forward.

The point I would make, not to him, but to those on whose behalf he is quite legitimately speaking here, is that this has been pending business since hearings last October. We have had it before us. At various stages people say we have a problem; we say, fine, let us hear it. Two months ago we had a subcommittee markup. We had a subsequent committee markup. A week ago this bill was pulled off the floor, and tomorrow never comes.

I think it will come, if we in fact vote this bill out of here. By the way, it will not go from here to the President's desk. It will go from here to that august wonderful chamber on the other

side of this building, which, under the House rules, is the beneficiary of all of our good comments, and they will have some time to work on it, and I do not think they are likely to speed it through.

I do believe that if we do not get a bill over there, it is kind of late in the session, measured by the amount of time that has passed, not the amount of bills that have passed, but it is late in the session, and if we do not get it over there, they will never get to the point. And we look forward to the discussion.

Just to give one example, by the way, on the human genome project, that is Federally funded, page 6 of the bill:

> Protection shall not extend to collections of information gathered, organized or maintained by or for a government entity, Federal, State or local, including any employee or agent of such entity or any person exclusively licensed by such entity within the scope of the employment agency licensed.

Indeed, one difference between our version and the European version is they do not exempt, as we do, government information.

Mr. BROWN of California. Madam Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. BROWN of California. Madam Speaker, I am glad the gentleman made this point. As the gentleman probably knows, there has been considerable publicity within the last few weeks about a private research organization which has stated it can do the remainder of the human genome project faster and quicker than the government-funded projects. I have no idea what the impact of this legislation will be.

Mr. FRANK of Massachusetts. Madam Speaker, reclaiming my time, I will tell the gentleman what the impact is. If we go forward with the government funded proposal, and he has more to say about that than I do, and I have a suggestion, which is cancel that wasteful space station and do that instead with this money and do it quicker, with the shortfall from the Russians that you are going to have to make up, but if we go ahead and do this governmentally funded, that work will not be protectable and it will remain fully open. The fact that some other privately funded entity has chosen to do the work will have no negative effect on people's access to the work that is government funded.

Mr. BROWN of California. Madam Speaker, I am glad for that assurance.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 3 minutes to the distinguished gentlewoman from the District of Columbia (Ms. NORTON)

Ms. NORTON. Madam Speaker, I thank my good friend, the distinguished ranking member, for yielding time to me, and I thank both the distinguished chair and the distinguished ranking member for pressing forward with such persistence in the wake of some considerable resistance, and not ''Waiting for Godot'' in the absence of anything concrete.

Madam Speaker, I am very afraid that Federal copyright law is in danger of becoming a dinosaur if we do not learn to keep up with the technology. I would be the first, as a First Amendment lawyer in my early days, to stand on the other side if I thought there were a real danger here.

But in fact there is another kind of danger, Madam Speaker; there is a new kind of plagiarism, much of it coming out of the new technology. The new plagiarism robs companies who, by the sweat of their proverbial brows, develop collections that we all need and use every day.

These data base providers have no rights that pirates are bound to respect. Some of the victims, are familiar names, such as NASDAQ, based here in the district. Many more of them are small businesses like Warren Publishing, a company also located in this city. Georgia pirates copied Warren Publishing's unique and original cable system Factbook and sold it under their own name for very little because the pirates did not have to invest the hundreds of thousands of dollars in human, technical and financial resources that Warren Publishing put in to research, to update and to verify the product. Nevertheless, the 11th Circuit discarded Warren Publishing's original contributions altogether simply because the company had worked from a larger and less well-defined listing.

As one known for paying close attention to First Amendment issues, I have felt an obligation to inspect the bill carefully to make sure that educational institutions and researchers are not deterred in the marketplace of free exchange of information and ideas.

I am still an academic, a tenured professor of law at Georgetown University law school who teaches a course there every year and who is working on a book. I would not want to be part and parcel of deterring other researchers. But in an age of instant communication, Federal copyright law must keep up with technology, or risk stifling the development of usable information and the creative entrepreneurship that the new technology allows, not to mention the increase in jobs that businesses like Warren Publishing and NASDAQ are creating every day.

Mr. FRANK of Massachusetts. Madam Speaker, I yield back the balance of my time.

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

Madam Speaker, I will sum up very briefly. My friend the gentleman from Massachusetts (Mr. FRANK) and the gentlewoman from the District of Columbia (Ms. NORTON) have pretty well touched it.

I say to my friend the gentleman from California (Mr. BROWN), I am not talking about you, but some people in this fray have inserted paranoia, deception and fear into this message, and then they are very cleverly targeting that message to a select group. Well, if you do that, chances are you are going to get some attention.

But as the gentleman from Massachusetts said and as I said, this has been before us since last October. It has been on the table. We have begged people to come forward, and some did come forward, and we took their amendments and worked them into the bill.

This is a good bill, Madam Speaker, and I urge my colleagues to support it.

Mr. DELAHUNT. Madam Speaker, I rise in strong support of H.R. 2652, the Collections of Information Antipiracy Act.

Collections of information—''databases''—have become an indispensable feature of today's information society. By organizing billions of bits of raw data into retrievable form, databases enable medical researchers, travel writers, legal professionals, historians, business managers and consumers to navigate the expanding universe of human knowledge to find the information they need.

The creation and maintenance of an electronic database is a labor-intensive process that requires an enormous investment of time and resources. Yet thanks to digital technology, the end product can be copied and distributed by unscrupulous competitors with only a few clicks of a mouse.

Under current law, there is little the creator of the database can do to prevent this. For many years, federal courts afforded copyright protection to compilations developed through significant investments of time and hard work—the ''sweat of the brow.'' But in a 1991 decision, Feist Publications v. Rural Telephone Service Co., the Supreme Court discarded the ''sweat of the brow'' doctrine, and announced that compilations would henceforth merit copyright protection only if the arrangement of the information displays a sufficient degree of originality—a standard which, by their nature, few databases are likely to meet.

Without effective legal protection against piracy, companies will have little incentive to continue to invest their time and money in database development. Should they fail to do so, it is the public that will be the poorer for it.

The Collections of Information Antipiracy Act will address this problem by prohibiting the misappropriation for commercial purposes of collections of information whose compilation has required the investment of substantial time and resources.

At the same time, the bill is drafted so as not to inhibit free access to information for non-profit, educational, scientific or research purposes.

Mr. Speaker, this is a balanced and sensible response to the problem of database piracy, and I urge my colleagues to give it their support.

Mr. COBLE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 2652, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LIMITING JURISDICTION OF FEDERAL COURTS WITH RESPECT TO PRISON RELEASE ORDERS

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3718) to limit the jurisdiction of the Federal courts with respect to prison release orders.

The Clerk read as follows:

H.R. 3718

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

SECTION 1. LIMITATION ON PRISONER RELEASE ORDERS.

(a) IN GENERAL.—Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1632. Limitation on prisoner release orders

''(a) LIMITATION.—Notwithstanding section 3626(a)(3) of title 18 or any other provision of law, in a civil action with respect to prison conditions, no court of the United States or other court listed in section 610 shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison, on the basis of prison conditions, of any person subject to incarceration, detention, or admission to a facility because of a conviction of a felony under the laws of the relevant jurisdiction, or a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction.

''(b) DEFINITIONS.—As used in this section—

''(1) the terms 'civil action with respect to prison conditions', 'prisoner', 'prisoner release order', and 'prison' have the meanings given those terms in section 3626(g) of title 18; and

''(2) the term 'prison conditions' means conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

''1632. Limitation on prisoner release orders.''.

(c) CONSENT DECREES.—

(1) TERMINATION OF EXISTING CONSENT DECREES.—Any consent decree that was entered into before the date of the enactment of the Prison Litigation Reform Act of 1995, that is in effect on the day before the date of the enactment of this Act, and that provides for remedies relating to prison conditions shall cease to be effective on the date of the enactment of this Act.

(2) DEFINITIONS.—As used in this subsection—

(A) the term ''consent decree'' has the meaning given that term in section 3626(g) of title 18, United States Code; and

(B) the term ''prison conditions'' has the meaning given that term in section 1632(c) of title 28, United States Code, as added by subsection (a) of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3718.

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

There was no objection.

Mr. COBLE. Madam Speaker, I yield such time as he may consume to the author of the bill, the gentleman from Texas (Mr. DELAY), the distinguished majority whip.

Mr. DeLAY. Madam Speaker, I thank the gentleman from North Carolina for yielding me this time.

Madam Speaker, I rise today in support of my bill, H.R. 3718. This bill is simple. It ends forever the early release of violent felons and convicted drug dealers by judges who care more about the ACLU's prisoners rights wish-list than about the Constitution and the safety of our towns and communities and fellow citizens.

Under the threat of Federal courts, states are being forced to prematurely release convicts because of what activist judges call ''prison overcrowding.'' In Philadelphia, for instance, Federal Judge Norma Shapiro has used complaints filed by individual inmates to gain control over the prison system and established a cap on the number of prisoners. To meet that cap, she ordered the release of 500 prisoners per week.

In an 18 month period alone, 9,732 arrestees out on the streets of Philadelphia on pretrial release because of her prison caps were arrested on second charges, including 79 murders, 90 rapes, 701 burglaries, 959 robberies, 1,113 assaults, 2,215 drug offenses and 2,748 thefts.

How does she sleep at night? Each one of these crimes was committed against a person with a family dreaming of a safe and peaceful future, a future that was snuffed out by a judge who has a perverted view of the Constitution.

Of course, Judge Shapiro is not alone. There are many other examples. In a Texas case that dates back to 1972, Federal Judge William Wayne Justice took control of the Texas prison system and dictated changes in basic inmate disciplinary practices that wrested administrative authority from staff and resulted in rampant violence behind bars.

Under the threats of Judge Justice, Texas was forced to adopt what is known as the ''nutty release'' law that mandates good time credit for prisoners. Murderers and drug dealers who should be behind bars are now walking the streets of our Texas neighborhoods, thanks to Judge Justice.

Wesley Wayne Miller was convicted in 1982 of a brutal murder. He served only 9 years of a 25 year sentence for butchering a 18-year-old Fort Worth girl. Now, after another crime spree, he was rearrested.

Huey Meaux was sentenced to 15 years for molesting a teenage girl. He was eligible for parole this September, after serving only 2 years in prison.

Kenneth McDuff was on death row for murder when his sentence was commuted. He ended up murdering someone else.

In addition to the cost to society of Judge Justice's activism, Texas is reeling from the financial impact of Judge Justice's sweeping order.

I remember back when I was in the State legislature, the State of Texas spent about $8 per prisoner per day keeping prisoners. By 1994, when the full force of Judge Justice's edict was finally being felt, the State was spending more than $40 every day for each prisoner. Now, that is a five-fold increase over a period when the State's prison population barely doubled.

The truth is, no matter how Congress and State legislatures try to get tough on crime, we will not be effective until we deal with the judicial activism. The courts have undone almost every major anti-crime initiative passed by the Legislative Branch. In the 1980's, as many states passed mandatory minimum sentencing laws, the judges checkmated the public by imposing prison caps.

□ 1345

When this Congress mandated the end of consent decrees regarding prison overcrowding in 1995, some courts just ignored our mandate.

There is an activist judge behind each of the most perverse failures of today's justice system: violent offenders serving barely 40 percent of their sentences; 3½ million criminals, most of them repeat offenders, on the streets, on probation or parole; 35 percent of all persons arrested for violent crime on probation, parole, or pretrial release at the time of their arrest.

The Constitution of the United States gives us the power to take back our streets. Article III allows the Congress of the United States to set jurisdictional restraints on the courts, and my bill will set such restraints.

I presume we will hear cries of court-stripping by opponents of my bill. These cries, however, will come from the same people who voted to limit the jurisdiction of Federal courts in the 1990 civil rights bill.

Let us not forget the pleas of our current Chief Justice of the United States, William Rehnquist. In his 1997 year-end report on the Federal judiciary, he said, ''I therefore call on Congress to consider legislative proposals that would reduce the jurisdiction of Federal courts.'' We should heed Justice Rehnquist's call right here, right now, today.

Madam Speaker, this bill is identical to the amendment that I offered several weeks ago to H.R. 1252, the Judicial Reform Act. My amendment passed at that time 367 to 52. That is right, 367 yeas and 52 nays.

While that is an overwhelming victory, it is not enough. I am saddened, I am saddened that 52 Members of this body could so callously vote against protecting the families they represent.