warned that we are headed toward a failure in the census. We believe that before America spends $4 billion on the census done by polling, we should find a way to do it the way we have for 200 years, by counting each American.

MANAGED CARE REFORM

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

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

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

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

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

THE FIRESTORM COMETH

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

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

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

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

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

CENSUS

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

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

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

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

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

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

The Clerk read the title of the resolution.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 506

Resolved,

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

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

SEC. 2. VOUCHERS.

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

SEC. 3. LIMITATION.

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

SEC. 4. REGULATIONS.

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

SEC. 5. ADJUSTMENT AUTHORITY.

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

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

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

The SPEAKER pro tempore. Pursuant to House Resolution 508 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4276.

□ 1025

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole

House on the State of the Union for the further consideration of the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

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

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

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

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

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

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

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

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

AMENDMENT OFFERED BY MR. MOLLOHAN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

Page 45, strike lines 9 through 19 and insert the following: *Provided,* That the Bureau of the Census may use funds appropriated in this Act to continue to plan, test, and prepare to implement a 2000 decennial census that uses statistical sampling methods to improve the accuracy of the enumeration, consistent with the recommendations of the National Academy of Sciences made in response to Public Law 102–135, unless the Supreme Court of the United States rules that these methods are contrary to the Constitution of the United States or title 13 of the United States Code: *Provided further,* That the Bureau of the Census shall also continue to plan, test, and become prepared to implement a 2000 decennial census without using statistical methods, in accordance with the first sentence of section 209(j) of Public Law 105–119, until the Supreme Court has issued decisions in or otherwise disposed of all cases brought pursuant to section 209(b) of Public Law 105–119 and pending as of July 15, 1998 (or the time for appealing such cases to the Supreme Court has expired), and shall continue such preparations beyond that date only if the Supreme Court has held statistical sampling methods to be contrary to the Constitution or such title 13: *Provided further,* That the National Academy of Sciences is requested to review the current plans of the Bureau of the Census to conduct the decennial census using statistical sampling methods and report to the Congress, not later than March 1, 1999, regarding whether these plans are consistent with past recommendations made by the Academy, and whether, in the judgment of the Academy (or an appropriate expert committee thereof), these plans represent the most feasible means of producing the most accurate determination possible of the actual population.

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

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

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

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

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

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

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

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

□ 1030

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

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

In summary, my amendment does the following:

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

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

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

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

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

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

In the second argument opponents of sampling say that it is bad science. I

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

So what does the bill do that we drafted?

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

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

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

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

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

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

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

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

Yes, this President says:

''Oh no, don't give us half the money for the Census and fund all the other agencies in this bill all the whole year. Cut off all the agencies along with the Census in March,'' the President says, ''and let's shut down the Drug Enforcement Administration, let's shut down

the FBI and the War on Drugs and the War on Crime, let's shut down the State Department around the world and all of the sensitive things that are going on around the world in America's national security interests.''

□ 1045

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

□ 1100

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

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

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

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

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

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

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

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

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

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

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

The gentleman from Colorado (Mr. SKAGGS) will talk about the constitutional issue, but one of the issues that the majority has raised is that the constitutional power of Congress to determine how the census will be conducted is being somehow undermined by the administration. Of course, nothing could be further from the truth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A decade earlier, the Sixth Circuit determined that ''although the Constitution prohibits subterfuge in adjustment of census figures for purposes of redistricting, it does not constrain adjustment of census figures if thoroughly documented and applied in a systematic manner.''

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

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

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

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

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

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

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

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

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

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

Pass the Mollahan amendment.

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

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

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

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

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

□ 1115

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Is the gentleman aware of this statute?

Mr. KNOLLENBERG. I am.

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

Mr. SAWYER. Mr. Chairman, we learned a great deal from the 1990 census, but one thing was crystal clear: Our changing Nation had outgrown past counting techniques and the traditional censuses are full of mistakes. The idea that traditional counting techniques are more accurate is simply a myth, and the longer the door-to-

door counting process goes on, the more the mistakes are made.

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

BRUCE ALBERTS,
President, NAS; Chairman, NRC.

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

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

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

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

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

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

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

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

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

Thank you for the opportunity to make these comments.

Sincerely yours,

DAVID S. MOORE,
President, American Statistical Association.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

We can see the results.

□ 1130

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

I urge my colleagues to defeat the Mollohan amendment.

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

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

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

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

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

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

Consider this. Buffalo News, June 15, 1998:

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

Consider this also. Newsday, June 16, 1997:

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

Consider the Houston Chronicle, June 4, 1998:

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

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

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

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

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

The Mollohan Amendment will ensure that every citizen is counted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THAT IS WHY WE NEED SAMPLING!

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

What they actually are going to do is count people and then not count them. They are going to replace people who have actually been counted with virtual people that the statisticians make up. And that is not political?

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

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

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

Tony Coehlo did it better than anyone else. He moved rapidly through the ranks of Democratic leadership, became Majority Whip; and then in the

words of those famous poet songwriters, Paul Simon & Garfunkel, he was ''one step ahead of the shoe shine, two steps away from the county line; he was just trying to keep his customers satisfied, satisfied.''

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finally, I plead with my colleagues not to play partisan games that could jeopardize the census. Do not insist, on a partisan basis, for the first time, on an incomplete count and adjustment. Let us go forward, as we always have in the past, with a complete enumeration and do all that we can to make it as complete as is humanly possible. Then adjust if you think it improves things and we will settle it in court.

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

Defeat the Mollohan Amendment!

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

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

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

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

Polling is what statistical sampling is. I know my colleagues do not want

to use that word because the President sent a memo saying do not use that word. They tested it and it does not test very well. But statistical sampling is polling.

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

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

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

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

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

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

□ 1145

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In the 1990 census I worked as a lawyer in the Arizona legislature advising the legislature on restricting. I worked every day on census tracks and census blocks. I can tell Members that while

sampling, or polling, as the proponents of the Mollohan amendment want, may work in theory, in practice it will not work. And beyond that, the census sampling proposal by the Census Bureau this year is fundamentally unfair to minorities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

None of us believe that newspapers are always right, but we must admit that a cross section of them often have their fingers on the pulse of the people and all the way across America, Roll Call here in D.C., the Chicago Sun Times, the Buffalo News, the Chicago Tribune, the Christian Science Monitor, the New York Times, the Los Angeles Times, the Atlanta Constitution, the Bangor Maine Daily News, the St. Louis Post Dispatch, the Commercial Appeal in Memphis, the Houston Chronicle, the Dallas Morning News and others have all written about scientific sampling and full funding for the Census.

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

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

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

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

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

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

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

The U.S. Constitution requires that a census be conducted every ten years in order to apportion the House of Representatives among

the 50 states. The entire configuration and redrawing of legislative districts from federal to state to local jurisdictions is based on the census and helps ensure the democratic principle of equal representation.

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

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

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

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

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

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

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

□ 1200

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finally Mr. Chairman, I am concerned about the potential for political manipulation in this plan. Although the Clinton Administration has assured us that politics will not be part of this census, I am not convinced. They have said ''trust us'' before, remember Citizenship USA. For instance, the decision to count only 90 percent of the population is itself an arbitrary figure. I have heard no scientific rationale why 90 percent is the magic number. What if they are not able to reach this goal? Does this mean that the Census will have failed? Not according to the Census Bureau. The dirty little secret of this plan is that the poll, not actual enumeration, is their first priority. In short, under the Census scheme proposed by this Administration, actually counting people is incidental to the final count—our population, and it's characteristics, will be determined by polling guesstimates. Why did the Census Bureau decide that they needed to count 90 percent of the population? Mr. Chairman, it is my belief that this figure itself was chosen for political reasons—it was the smallest number they felt the Congress and the American people

could swallow. The plan to count 90 percent is a fig leaf, a subterfuge, a sham designed to cover-up their population polling scheme. Make no mistake about it, the final numbers will be determined by a poll and they will not be dependent in any way, shape, or form upon actual enumeration. Furthermore, if for any reason the polling scheme fails, we are up the proverbial creek because the Census Bureau will have stopped counting at 90 percent.

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

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

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

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

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

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

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

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

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

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

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

The American people deserve an accurate count.

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

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

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

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

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

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

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

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

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

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

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

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

That is why the Mollohan amendment says:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

He said: ''Let us use statistical sampling.''

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

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

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

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

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

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

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

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

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

That is what this argument is about.

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

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

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

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

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

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

(Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

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

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

□ 1215

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

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

I have been working on this census issue since the 104th Congress. Mr. CLINGER was the chairman of the committee at that time. I could not get a sentence to the front. Once we got a sentence to the front, we could not get a hearing. So it has been just a sequential means of gagging the Democrats about the census.

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

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

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

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

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

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

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

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

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

Mr. MILLER of Florida. Mr. Chairman, I completely agree with the gentlewoman that we need to get people.

When I was on the floor earlier, I spoke about how we need to work together to get people in the local communities. In the Haitian community in Miami, we need to get Haitians. We will get legislation to give the government all the possibilities. That is exactly what we need to do.

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

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

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

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Census Bureau has created a plan that will count everyone. It is a plan that relies on the most modern scientific methods to supplement the traditional head count, and will save us hundreds of millions of dollars in costs.

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

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

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

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

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

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

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

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

Mr. MICA. Mr. Chairman, this is not a complex issue. This is an issue about

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

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

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

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

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

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

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

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

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

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

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

CENSUS 2000: EXPERTS SUPPORT AN ACCURATE CENSUS USING STATISTICAL SAMPLING

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

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

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

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

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

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

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

[From Roll Call, July 16, 1998]

Y2K II

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

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

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

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

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

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

[From the Washington Post, July 15, 1998]

GAMES WITH THE CENSUS

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

But the Republican leadership doesn't want to do it. They argue that sampling is illegal, in that the Constitution requires an ''actual enumeration,'' and that even if not illegal it is suspect and susceptible to manipulation. They also worry that a census adjusted to eliminate the undercount could

cost them seats and, conceivably, even control of the House in the next redistricting. On the other hand, they don't want to be put in the position of seeming in an election year to advocate less than full rights for minority groups and the poor.

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

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

[From the Scranton Times, June 27, 1998]

KEEP POLITICS OUT OF CENSUS

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

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

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

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

GOP WORRIED ABOUT CONGRESSIONAL SEATS

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

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

CONSTITUTION PROVIDES FOR INNOVATION

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

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

[From the Buffalo News, June 15, 1998]

MAKE THE CENSUS AN ACCURATE COUNT

Why are Republicans afraid of a more accurate census?

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

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

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

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

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

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

But the argument really is more about political power than logic. Republicans privately fear that a census that reveals more minorities and poor people could lead to a redrawing of legislative districts in ways that threaten GOP office holders. That could shift the balance of power in the House or in some state legislatures.

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

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

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

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

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

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

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

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

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

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

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

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

But because experience shows that it is impossible to contact everyone (and expensive to try), the census workers will aim to reach a minimum of 90 percent of the households in each census tract. The difference will be imputed on the basis of the data of those who

were reached in follow-up visits. In addition, a sample of 750,000 households nationwide will be made as a safety check on the calculations.

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

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

[From the Chicago Tribune, June 6, 1998]

THE WISDOM OF CENSUS SAMPLING

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

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

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

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

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

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

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

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

DOWN FOR THE COUNT?

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

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

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

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

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

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

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

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

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

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

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

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

TAKING LEAVE OF THE CENSUS

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

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

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

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

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

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

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

When a congressional conference committee takes up the debate in coming days over how to conduct the 2000 census, the Senate version of the bill should prevail. That version would sensibly permit the Census Bureau to use scientifically sound sampling methods to augment the direct count, thus

avoiding an undercount like the 1990 fiasco that probably cost California a couple of seats in the House of Representatives and up to $1 billion in federal population-based funding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[From the Atlanta Constitution, Aug. 1997]

POWER STRUGGLE BEHIND CENSUS DEBATE

A long-simmering fight on Capitol Hill over how the United States counts its citizens in 2000 may strike many Americans as arcane. What difference does it make, they may wonder, whether the Census Bureau tries to count every nose or instead uses statistical sampling techniques to fill in the gaps in its tallies?

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

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

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

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

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

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

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

[From Newsday, June 16, 1997]

THE NEXT CENSUS OUGHT TO COUNT ALL AMERICANS

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

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

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

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

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

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

2000 AND COUNTING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

GOP PLAYS GAMES WITH THE CENSUS

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

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

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

So Republicans don't care about the facts. But they do care about losing congressional seats if those people who are routinely missed—mainly minorities and children—are fully counted. There's no question that an actual body count will miss some of them, as it did in 1990, when 4.7 million people or 1.8 percent of the population wasn't counted, including 67,000 Missourians and 162,000 Illinoisans. Some 5 percent each were Hispanics, African-Americans and Indians.

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

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

NATIONAL HEAD COUNT

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

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

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

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

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

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

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

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

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

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

[From the Houston Chronicle, June 23, 1997]

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

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

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

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

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

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

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

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

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

[From the Houston Chronicle, June 4, 1998]

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

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

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

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

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

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

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

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

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

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

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

CENSUS—CONGRESS NEEDS TO FUND NEW APPROACHES

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

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

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

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

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

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

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

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

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

[From the Bakersfield Californian, May 28, 1997]

NEW CENSUS SUPPLEMENT GOOD

The plan by the federal Bureau of the Census to supplement the actual national population count in the year 2000 with statistical projections is a good one. The purpose is to make up for people who are missed.

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

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

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

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

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

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

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

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

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

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

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

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

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

CENSUS POLITICS

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

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

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

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

The Constitution requires an ''enumeration,'' period.

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

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

[From the Boston Globe, May 13, 1997]

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

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

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

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

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

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

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

□ 1230

Mr. ROGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Louisiana (Mr. LIVINGSTON), the very able and distinguished chairman of the full Committee on Appropriations.

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

Mr. LIVINGSTON. Mr. Chairman, hearing some of these speeches from the Democrat side, I have to believe that I am in George Orwell's ''Animal Farm,'' and I am hearing doublespeak. A real count equals polling estimates. Yet, the words ''enumeration'' and ''actual head counting'' means undercounting. Up is down, down is up. Nonsense reigns. If they counted by head 2,000 years ago, we have come a long way, baby. We can estimate how many people are out there in the world.

Mr. Chairman, 200 years ago they were a little behind the times, too. They used the word ''enumeration,'' ''actual enumeration'' every 10 years to determine congressional seats and shape the districts for elected officials, both in Congress and all around the country in local offices, State legislatures and local school boards.

They knew what they were talking about. They knew they had to go around and count people. But that is passe, because we are above that. According to the arguments by the minority, the Administration's polling plan for the year 2000 Census is fine. It would count 90 percent of the population, and estimate, estimate by polling, the remaining population. We can be sure we are right.

How can we be sure we are right when we are not counting people? What statistics reveal is very interesting, but what they conceal is vital. A central problem with polling is the political temptation, which we have seen a lot of in recent years, to adjust the results. Political objectives can shape the assumptions that must be made to frame any formula for making final rulings. That is why we are opposed to it.

Michael Barone, the author of the ''Almanac of American Politics,'' says, ''This is a White House that had no scruples about getting the INS to drop criminal checks on applicants for citizenship so that more Democrats could be naturalized in time for the 1996 elections; why would it suddenly develop scruples about adjusting Census numbers for political purposes?''

George Will, in an op-ed piece, said ''Clinton's proposal for sampling—forever severing this constitutionally mandated exercise from its anchor against politicization—comes in the context of Clinton's lawlessness. Regarding the undeniable potential for political abuse of sampling, Clinton's position is: ''Trust me.''' That is George Will, and both he and I say, no, thank you. We have tried that before.

The Clinton polling proposition will not work. The GAO and the Commerce Inspector General said that, The President's sampling plan, his polling plan, is ''high risk.'' The Census Bureau tried polling in the 1990 Census and it failed. Despite this failure, the Clinton administration is proceeding with a polling plan that is five times as large as 1990, and which must be accomplished in half the time.

The Census Bureau's own study shows polling is less accurate for cities and towns under 100,000 people, where the majority of Americans live. The President has threatened to shut down the entire appropriations for the Departments of Commerce, Justice, and State, unless he gets his way.

That is a blatent attempt by the President to gain political leverage, but of course that is a trick that he has not employed before, by some accounts. The fact is, it is a violation of the agreement reached between the Speaker and the President last year. We should not take cops off the beat. We should not shut down the courts. We should not hamstring our Nation's foreign policy over this problem.

Republicans want and have provided the resources to count everyone, to count everyone. How clear does it have to be? That is not Orwellian, that is not doublespeak; to provide the resources to count everyone.

We have provided $107 million more than the President's fiscal 1999 request. We fenced off the last 6 months of Census funding so that a decision on polling can and will be made in the spring of 1999. That was the deal that the Speaker and the President agreed to last fall. Is there an undercount? Was there an undercount in 1990? We can address that, too.

Kenneth Blackwell, the cochairman of the U.S. Census Monitoring Board, Treasurer for the State of Ohio, argues that a better way than polling to reduce the undercount is to use administrative forms to fill in the gaps. Forms filed with the government agencies that administer public programs are available with up-to-date information.

For example, children under 18 represent 52 percent of the undercount in 1990. Yet, as of 1996, Medicaid had records on 18.3 million people 20 years of age and under. A single mother struggling to make ends meet might not have time to fill out her Census form, but would certainly take the time to fill out Medicaid forms. We do not need polling, we need to count people.

Mr. MOLLOHAN. Mr. Chairman, I am very pleased to yield 2 minutes to the very distinguished gentleman from Ohio (Mr. SAWYER) to speak to this horse and buggy versus modern transportation debate that we have going on here today.

Mr. SAWYER. Mr. Chairman, let me clarify. Within just this past week, the GAO has testified before the Senate Governmental Affairs Committee that the Census Bureau's plan will improve the accuracy of census counts for the Nation, for States, for counties, for cities, and even census tracts, which are the basic building blocks of our democracy. They come to that conclusion because they know this has nothing to do with a poll.

The plan is very different from a poll. The Census Bureau will be making an unprecedented effort to contact virtually every household in the United States to fill out and return the Census questionnaire, and everyone who responds in all of the different ways, the unprecedented number of ways, will be counted. They will not be thrown out.

Beyond that, then, finally, sampling and statistical techniques would be used to supplement that effort in two ways. First is in following up on those households that do not respond, and sending people to them. Then, sampling will also be used to help check on those who might still have been missed or miscounted, even with those new procedures.

If polls were taken in this way, with a major effort to contact everyone in the country, followed by a very large sample to account for those who did not respond, followed by another large quality check, the results would be vastly more accurate, not only than any poll, but certainly than the 1990 Census.

None of this bears any resemblance to the way public opinion polls are taken. That is why the American Statistical Association has been so adamant in their finding that estimation based on statistical sampling, the use of these techniques to improve counts, is a valid and widely used scientific method. The President of that organization wrote that ''The general attacks on sampling that the Census debate has

called forth * * * are uninformed and unjustified. The truth is the Members of these panels are pulled together by their peers among the Nation's leading experts on sampling large human populations.''

My friend, the gentleman from Florida (Mr. MILLER), has said that he can produce reliable and reputable academics who disagree. The chairman and the president of the American Statistical Association agrees that that is the case.

But he writes that ''Those whose names I have seen lack the expertise and experience in sampling that characterize the panel members. Statistics, like medicine, has specialties; one does not seek out a proctologist for heart bypass surgery.''

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PASCRELL), who has worked so hard on this issue.

Mr. PASCRELL. Mr. Chairman, I have heard pretty horrible things on this floor, but I just heard the worst that I have ever heard. To say that someone has the time to fill out a Medicaid form but does not have the time to fill out a census questionnaire misses the whole point. What if you never got a questionnaire in the first place? Oh, there is the rub.

I have heard on this floor a tremendous amount of discussion with little anchor in reality. I have been in two censuses. The enumerators worked very hard to find those people who either, one, did not fill out their questionnaire, or two, never got one in the first place. But in order to get to those people, you have to know where they live. You have to have a housing unit on your form.

The secret, by both Democrats and Republicans, and past administrations have admitted this, the secret to getting an accurate census is to have accurate addresses. In a five-family house, if we have 22 mailboxes, that should give us a clue that we are not going to be able to do this by questionnaire alone. They missed the whole point, and they do it deliberately. They do it deliberately.

This is serious business we are talking about. We cannot call someone who ran the Census under President Bush out of a Democratic liberal think tank. Give me a break. She believes that there is a way, through statistical methods, to come up with an accurate sample. We need to count as many as we can possibly find, and as possibly have filled out census forms, but there will always be those groups or families within units who are never contacted; who do not even know, perhaps, that a census is even going on, for all kinds of reasons, some real and some unreal. But get to the heart and the practice of doing a census. Then we can come to an agreement on what is acceptable and what is not acceptable.

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

Ms. LOFGREN. Mr. Chairman, cities and counties cannot afford an undercount in the next Census. I know that from personal experience. Before coming to the Congress 3 years ago, I served on the Board of Supervisors for Santa Clara County for 14 years. We worked hard during times of declining county revenues to maintain vital services like health care for poor children.

Every city and county needs an accurate Census that counts everybody in order to serve everybody, because each year Census data determines $180 billion in Federal spending. It helps determine money that goes into schools, transit systems, senior citizens' centers, and health care facilities.

People do not disappear when they are not counted. When there is an undercount, as there was in 1990, local taxpayers end up paying for Federal programs. That is why lawsuits were filed in California after the 1990 Census by both Democratic and Republican local officials, because an inaccurate census is not fair to local taxpayers.

In 1990, the undercount in the State of California was estimated to be over 834,000 people. After the last Census we put our thinking caps on. The scientists came together and they came up with a scientific recommendation for a scientific count.

I have heard a lot of discussion here today, but I think the American people are going to be able to figure out what is going on. Some people here are concerned that the people found through scientific methods might vote for Democrats. I do not know whether they will or not, but out in the real world, real local government officials of both parties want an accurate count that the scientists can provide us, so we can be fair to local taxpayers. I urge support of the Mollohan amendment for that reason.

Mr. ROGERS. Mr. Chairman, I yield 2¼ minutes to the very able gentleman from Ohio (Mr. TRAFICANT).

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

Mr. TRAFICANT. Mr. Chairman, there is no one I respect more in the House than the gentleman from West Virginia (Mr. ALAN MOLLOHAN). He is one of our great Members. I disagree with him on this.

This debate is about the Constitution. If the Congress of the United States wants to conduct the Census by sampling, sampling, the Congress of the United States should be able to pass a two-thirds amendment vote to the Constitution of the United States.

I chose to come to the floor for several reasons. Number one, I am hearing all these plaudits about scientists. If the Founders thought so much about scientists, we would be electing scientists, not citizen politicians. People should start being proud of being a politician. We do the work of the people in America.

Let me remind this Congress about a recent study. Ninety-three percent of scientists in America do not believe in God. They said scientists do not believe in God because they are superintelligent, they are so smart. Beam me up, Mr. Chairman. Many of these scientists cannot find a toilet.

The bottom line is this: Every community should be assisting to help conduct a reliable head count Census.

□ 1245

Let me warn the Democrats, sampling is an axe that can cut both ways. Those in fact who support it one day may oppose it another. Those who may benefit one day may get ripped off the other day.

I just want to close out by saying Congress should confine itself to some basic parameters, which include following the Constitution. We were elected and we took an oath to uphold the Constitution, not the charter of the United Nations or some scientific methodology by a group of scientists who, in fact, are not aligned with mainstream America in just their matters of theology. The world was once flat, all the scientists told us that.

My community, they say, will be hurt without sampling. My community will be hurt if we do not have an honest head count because, in the final analysis, whoever is doing that sampling some day might not like the makeup of my district.

I oppose this amendment. I urge that we defeat it.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas (Mr. GREEN).

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

Mr. GREEN. Mr. Chairman, I thank my colleague from West Virginia for yielding me this time.

I rise in support of the Mollohan amendment to ensure an accurate count and the most cost-effective census in the year 2000. I am glad to follow my good friend from Ohio, because I pray that we will have an accurate count so we are on the right side of theology. That is why this amendment is so important.

I am glad the chairman of the Committee on Appropriations agreed that in 1990 there was an undercount. There was, not only in my district in Houston but in the State of Texas and around the country.

In its current form the Commerce, State, Justice appropriations act would hinder the 2000 census. It funds the census only for 6 months and it continues the funding only after Congress determines the counting method to be used. We are not going to be here from October, November or December, maybe half of January, so we are going to set back the census planning even in the year 1999.

This action is shortsighted and will hinder the Bureau's attempt to plan and prepare for the census. The Mollohan amendment will strike that restriction.

It has been estimated that the 1990 census undercounted my home town of Houston by 67,000 people. It is unfair that these people were not counted. The State of Texas lost a billion dollars in Federal funds because of the undercount. That is a billion dollars in title I funding, road construction, senior citizen services. The undercount was so severe that President Clinton actually came in June to the district that I am honored to represent to highlight the needs of an accurate census count.

Dr. Mary Kendrick, Director of the City of Houston Health Department, said at that meeting that accurate census count data is critical to public health. She noted that the census data on child poverty helps determine nutrition and children's nutrition health programs.

Many people are not easily counted, whether they are in an urban area like mine because sometimes they fear the government, or maybe in a rural area like Montana they may not want to send back that form that the government sent, they may not want to answer that door when that enumerator comes by and knocks on that door. But they still deserve to be counted, even if they do not want to be. That is why this amendment is so important.

The Houston Chronicle, on two separate occasions, reported on the need for a fair and accurate census in their editorial. The June 23 editorial said, ''But Texas Republicans should know better than most the stakes riding on a fair and accurate count. Houston has a great deal at stake with the accuracy of the next census.''

Mr. Chairman, I include for the RECORD the following editorials:

[From the Houston Chronicle, June 23, 1997]

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

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

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

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

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

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

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

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

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

[From the Houston Chronicle, June 4, 1998]

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

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

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

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

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

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

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

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

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

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

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois (Mr. BLAGOJEVICH).

Mr. BLAGOJEVICH. Mr. Chairman, the 1990 census was the first U.S. census to be less accurate than the one before it. Approximately 6 million people were not counted in the 1990 census. In the City of Chicago 68,000 people were missed. That is enough people to fill every seat at Soldier Field in Chicago. Those empty seats in our census cost Chicago hundreds of millions of dollars in Federal assistance. It costs your community millions of dollars, too.

Three presidential administrations, the National Academy of Sciences and the General Accounting Office, all looked at the problem of undercounts and determined that using modern statistical methods would help eliminate these mistakes in the future and avoid the kinds of undercounts that resulted by using the old model.

The reasonable approach is to use the same methods that we use when we compute agricultural production, crime statistics, unemployment figures, as well as countless other governmental statistics.

Let us use common sense. Support the Mollohan amendment which does not place restrictions on its ability to provide a fair and accurate count.

Mr. MOLLOHAN. Mr. Chairman, I yield 30 seconds to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Kentucky for yielding me the time.

I stand with the children. I support the Mollohan amendment. And then I would like to convey to all of us words:

''I respectfully request that the census numbers for the State of Georgia be readjusted to reflect the accurate population of the State so as to include the over 300,000 which were not previously included. Without the adjustment, minority voting strength in Georgia will be seriously diluted. Based on available information, without an adjustment to compensate for the undercount, minorities in Georgia could lose two State Senate seats and 4 to 5 House seats. As a result of conversations with black legislators, it is my understanding that they have not only concurred with this request but stated that they believe it is required under the Voting Rights Act.''

Representative NEWT GINGRICH's letter to Robert Mosbacher, Secretary of Commerce, April 30, 1991.

Let us get away from Republican politics. Vote for statistical methods and the Mollohan amendment. Let us count every single American, no matter who they are, and count the children.

Mr. Chairman, I rise to speak on the rule which will govern how we proceed on H.R. 4276, the Commerce Justice, State Appropriations bill. I am grateful to the Rules Committee for allowing the Mollohan amendment to be considered which would restore full funding for a fair and accurate census.

The subject of the Census was addressed in Article I Section 2 of the Constitution of the United States as it states, ''The actual Enumeration shall be made within three years after the first Meeting of the Congress of the United States, and within every subsequent Term of Ten Years.''

With that goal in mind the Bureau of the Census conducted the first National Census in 1790. The census also places our population in a particular location as of census day so

Congress can be reapportioned and the state and local governments redistricted while federal monies can be apportioned.

The ability to use scientific methods during the 2000 Census will insure that any undercounting which may occur in this census because of sparsely populated regions of states like Texas or hard to count urban populated areas like Houston, can be held to a minimum.

Undercounting the results of the 2000 Census would negatively impact Texas' share of federal funds for block grants, housing, education, health, transportation and numerous other federally funded programs.

In 1990, the city of Houston was undercounted by 3.9 percent in that year's Census using the current ''head count'' method which only recorded 1,630,553 residents. That is why I have personally joined a lawsuit along with the mayor of Houston to allow statistical methods to be utilized by the census bureau to be able to count every person.

Based on the scientific method that was prepared for that Census, but never used it is estimated that over 66,000 Houstonians were missed by the 1990 Census.

African-Americans, Hispanics, Asians, and American Indians were missed at a much greater rate than whites. The 1990 Census undercounted approximately 4 million people, about the same number who were counted all together in the first census 200 years ago. Even more troubling, this last census was, for the first time in history, less accurate than its predecessor. The use of modern statistical methods to count in the 2000 census will eliminate undercounting the poor children by 52% and Hispanics and African-Americans.

The undercount was 33 percent greater than the undercount in the 1980 census.

Every American deserves to be counted in the Census. We must have the most accurate census possible. The 1990 census was the first in history to be less accurate than its predecessor. It missed millions of Americans—predominantly children and minorities. In fact, homeless children are particularly vulnerable; without counting them there will be no seats in school for them, no immunizations for them and no housing for them.

Virtually every expert agrees that the way to get the most accurate census possible is by using modern scientific methods to supplement the traditional head count. The Census Bureau's plan will not only produce the most accurate census—it will save literally hundreds of millions of dollars. The Republican plan is geared to undercount the people to their advantage.

Using the 1990 methods will cost close to a billion dollars more and still miss millions of Americans.

Funding the Census Bureau for only six months will cripple its ability to adequately plan and prepare for the largest peace-time mobilization undertaken by the U.S. Government.

The Mollohan amendment requires the Bureau to continue planning for a Census whether it uses modern statistical methods, or the older, less accurate ones, until there is a definitive ruling from the Supreme Court. We need a statistical method, we need an accurate Census in 2000.

Finally, the Constitution states specifically, ''the actual Enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall direct by Law.'' If the Republicans would step aside from politics, clothed in the Constitution we could all absolutely support the Mollohan amendment and support statistical methods for the count.

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

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

Mr. BLUNT. Mr. Chairman, I rise in opposition to this bill. I do not think there is a single Member of this House that would allow polling to be used to decide election results. We should not allow it to be used for this purpose either.

I rise today in strong opposition to the Mollohan amendment.

Republicans are prepared to fund an unprecedented effort to count all Americans because we believe that every American counts.

In fact, Chairman ROGERS has provided $100 million more than the President requested to help ensure that every American is counted.

The Clinton administration plan will delete millions of people who turn in their census forms on time. These people will be removed at random because population polling indicates that their demographic group is overrepresented.

Americans have the right to participate in the census and have their completed census form included in the count. The Clinton administration cannot arbitrarily decide to delete millions of people from the counts based on population guesstimates.

The Clinton administration wants to play politics with the census. I urge you to oppose the Mollohan amendment and support an accurate and honest census.

Mr. ROGERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. MILLER), chairman of the Committee on the Census.

Mr. MILLER of Florida. Mr. Chairman, there has been a lot of exaggeration on the other side about what has been done with the census. Let us make sure we understand.

First of all, the plan proposed by the President does not count 26 to 27 million people; does not count 26 to 27 million people. These are going to be computer-generated people, that they have some smart computers and these smart scientists over at the National Academy of Sciences. The National Academy of Sciences has a theory. The plan requires hundreds of thousands of people to implement.

We need a General Schwarzkopf to run this issue, not a bunch of academics. That is what our goal is, to have an accurate census, to count everybody.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from Georgia (Mr. GINGRICH), distinguished Speaker of the House.

The CHAIRMAN. The gentleman from Georgia (Mr. GINGRICH) is recognized for 4¼ minutes.

Mr. GINGRICH. Mr. Chairman, I thank my friend from Kentucky for yielding time to me, and I commend him for the very hard work he has done working with the gentleman from Florida to develop an honest and a direct approach to a very serious problem.

Let me say to my colleagues in the Democratic Party, I am really puzzled by what has happened on the issue of the census, because I think it comes from a complete misunderstanding of what we are trying to accomplish.

The census is at the center of the American political system. It is the device which came out of the Constitutional Convention by which the Founding Fathers said the House of Representatives would represent people. And they then faced the challenge in 1787, but how do you represent people unless you know where they are? And they then faced the challenge in a very primitive country of how do you find all these people who are scattered, without telephones, without e-mail, without faxes, without a U.S. Postal Service as of 1787. They said, well, once every 10 years we will organize a mass effort and we will count every person. The term in the Constitution was ''actual enumeration.''

Now, they went through actual enumerations in 1790, 1800, 1810, 1820. This went up every decade. It was required. It is actually written in the Constitution that we shall have an actual enumeration. And somehow in the most primitive of circumstances, without Xeroxes, without fax machines, they managed to count people.

Then in the modern era several things happened. One is, big government became so incompetent, so bureaucratic, that in fact it broke down. The census of 1990 was the first time in many years that we actually did an inadequate job of counting.

The second thing happened. We developed much higher standards of accuracy.

A third thing happened, which is that some neighborhoods became harder to count, largely for two reasons: one, because some neighborhoods seemed dangerous and people were reluctant to go back in them on a regular basis; and, second, because some neighborhoods had substantial numbers of people who were illegally here and it was tricky to go and knock on the door and say, ''Hi, I am from the government,'' because people then tended to not answer the door.

So there were undercounts to some degree. We are also now dramatically more mobile, although the truth is, if you went back to 1790 or 1830, this has always been a remarkably mobile country, but we are now even more mobile. People move around a lot. You see this, for example, in school registrations where kids will come and go in three month cycles rather than year long cycles.

Having said all that, I want to make clear what our position is. We are prepared to work with the Democratic Caucus to provide the resources to count accurately every person in America. We are prepared, if necessary,

to hire the Post Office, which has the highest level of accuracy in knowing neighborhoods. We are prepared to start by counting the poorest neighborhoods first so we have the highest level of controlled, managed accuracy. We want to ensure that every single American is counted, every American.

But here is the danger. There is a theory. The theory is you could take polls. First of all, if you look at the accuracy of the polls taken last year in the Presidential campaign, they were often off by as much as 10 points. Most of you have been elected in races where you know from your own polling you were often off, up or down, by 5 or 10 points in the poll. You can take polls theoretically.

But there are two dangers with taking polls. The first is, what works in aggregate at a national level is absurd at a local level. The mathematician at the National Academy of Sciences could say, gee, on aggregate if you are trying to measure 262 million people, artificially do not count people, so you create an artificial universe to get an accurate count of 262 million. That sounds theoretically fine.

The flaw is, if you are trying to count Cambodians, Serbians, and El Salvadorans in Los Angeles, polling is the worst possible way to do it because you get grotesquely inaccurate numbers. So you do not get an actual count. You do not know who is actually there. What you get is some mathematical theory that works nationally and is grotesquely distorted at the local level.

There is a second problem. Who is going to be in charge of the polling? This is the whole base of the Founding Fathers in the Federalist Papers and the Constitution. The current Secretary of Commerce, who is a man I admire a great deal and worked with in passing the North American Free Trade Agreement, represents a family who for many years had held office in Chicago based on a machine. Chicago is a city with a great history that you could vote for several lifetimes because you could vote long after you passed away. But at least in Chicago you had to have lived; that is, you were in the cemetery because you had once been alive.

Now we have this new theory, which is that politicians could simulate a virtual reality of virtual citizens who have a virtual existence, except they would be translated by law so that you literally would undercount real citizens in order to invent virtual citizens. I think that transfers to politicians a level of power which none of the Founding Fathers would agree with.

So here is my offer to the President and the Democratic Caucus. You work with us and we will meet whatever standard is humanly attainable of accurately counting every person of every ethnic background in every neighborhood in the entire country.

We will design it so we use, if necessary, postal employees. We will design it so we start with the poorest neighborhoods. We will design it so we overachieve and we double, triple and quadruple count, if necessary, but we will get it done. But that would be fair. That would be accurate. That would ensure we actually had enumerated real people.

But please do not ask the people of the United States to rely on politicians controlling pollsters to invent virtual people to get a grossly inaccurate count on behalf of some political party, because that undermines the Constitution and that undermines the very political process.

I urge a ''no'' vote on the Mollohan amendment.

Mr. STARK. Mr. Chairman, I rise today in support of the Mollohan amendment to H.R. 4276, the Commerce-Justice-State Appropriations for FY 1999. The Mollohan amendment removes funding restrictions from the Census Bureau so that they may continue with the task at hand—providing a fair and accurate Census 2000 for the American people.

The goal is clear. The only way to provide a fair and accurate count for the 2000 census is through statistical sampling. The Republican-led Congress insists on full enumeration without the use of sampling. In addition, they are obstructing the success of the entire 2000 census by limiting its funds to only half of the appropriated amount. This in turn may cause irreparable damage to the entire census, leaving an accurate count beyond the realm of possibility.

One might wonder why the majority party insists on wasting taxpayer's money to hinder such a vital component of the democratic process. Understandably, the majority party is afraid of losing control over the House of Representatives as we enter a new millennium. Our Founding Fathers intended for population enumeration to provide for fair representation of the American people in the House of Representatives. This did not happen in the 1990 Census and now we must take steps to correct the problem.

In the 1990, the Census numbers were over 10 percent in error. This translates to 26 million mistakes. The 1990 Census under-counted 8.4 million people and 4.4 million people were double-counted in the United States. In California alone, 834,516 people were not counted. This was the highest under-count in the nation!! The people of California have been deprived of fair representation for the past eight years.

Of the various racial groups, the largest to be under-counted were amongst the Hispanic population with 5% of this group under-counted. In addition, 4.4% of blacks and 4.5% of Indian Americans were under-counted due to errors that statistical sampling can adjust for in the future. The economically disadvantaged and minorities are being excluded from valuable federal programs. Under-counting means millions of federal dollars are lost for California's 13th District as well as for districts across the nation.

I am not suggesting we replace direct counting methods with modern statistical techniques. We should, however, supplement direct counting with sampling to ensure an accurate count. Two very reputable groups agree that statistical sampling should be used in the upcoming census. The General Accounting Office and the National Academy of Sciences both endorse statistical sampling to avoid an inaccurate census. Memos from the Department of Justice under both Presidents Bush and Clinton state that the use of sampling is both Constitutional and legal. The only major organization that opposes statistical methods in the 2000 census is the Republican National Committee.

Partisan politics cannot play a role in Census 2000. We must prevent the majority party from attempting to strip the American people from their Constitutional right to equal representation. We can start by supporting the Mollohan amendment.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman. I urge all my colleagues to support the Mollohan amendment. A fair and accurate census is necessary if we are to be a country which stands for inclusion over exclusion.

The infamous census of 1990 missed 4.7 million people—1.8 percent of the population, compared with 1.2 percent in 1980 and 2.7 percent in 1970.

This undercount was not evenly distributed—a disproportionate number of minorities, children and renters in urban and rural areas were missed.

In addition, the census cost us an exorbitant amount of money—$2.6 million dollars—for a faulty, inaccurate count of Americans.

This is upper income people are overcounted by an unknown number because of completing their forms at their second homes as well as their primary residences. I support the methodology of statistical sampling. The American Statistical Association and the National Academy of Sciences has recommended this methodology as the best and cheapest way to count 90 percent of U.S. residents.

In Texas, we need all our residents counted, specially the Latino population.

IN the Latino community, there was a 5% undercount in the 1990 census. this undercount has had significant negative effects on Latino access to resources.

I urge my colleagues to support the Mollohan amendment so that all our residents are counted, and not missed by the blinded eye.

Mr. THOMPSON. Mr. Chairman, the 2000 census must be the most accurate census ever taken in American history. Period. I can not understand the controversy that surrounds this issue. Everyone seems to agree that the most relevant, current scientific methods should be used to count every single man, woman, and child in this country.

So what is the problem? Why can certain members come to the floor and make the claim, ''we want to count everyone,'' when in actuality they have made no efforts to recommend a method of enumeration that works better than the statistical methods supported by the American Academy of Sciences, the American Statistical Association, the Population Association of America, and the Panel to Evaluate Alternative Census Methodologies at the National Research Council.

The facts surrounding the 2000 census are simple and conclusive. We know that the 1990 census resulted in over one million Americans not being counted. Most of those individuals were people of African American, Latino, and Asian descent. They were urban, poor and rural. We know that a large portion of the undercount consisted of children. We know

that the 1990 census was not nearly as accurate or representative as it should have been.

As Members of Congress, it is our responsibility to work with the Census Bureau—not against them—to develop a method that will count every American in this nation. Holding the 2000 census hostage to ridiculous partisan game will do nothing but undermine the legitimate efforts being made to accurately enumerate American citizens.

Personally, I'm less concerned with the partisan tone this debate has taken than I am with counting the Mississippians who were missed in the 1990 census. More than 21,000 of the 55,500 Mississippian who were missed in the last Census, 38%, were from Mississippi's Second Congressional District, the District I represent. Let's look at who they were: 1.3% were White; 3.5% were African American; 3.6% were Asian; 7.3% were Native American; 4.8% were Hispanic; and 4.5% were children.

The real, tangible impact of this debate has been glossed over. According to the Census Bureau, my District has the third highest percentage of people in poverty (37.7%). It has the fifth highest percentage of families in poverty (31%), and the third highest percentage of households in poverty (35.2%). This year, some of the counties in my District have had unemployment rates of 20% and higher. What we are really talking about here, is that the 55,500 people in my state who were not counted, represent children who were turned away form HeadStart, poor families who could not get public housing, and other vulnerable constituencies who were turned away from receiving forms of invaluable financial aid.

I know that many Members of Congress have adopted a real ''slash and burn'' mentality when it comes to budgetary spending, but I refuse to be a hypocrite. I will say right here, right now that if families and children in my District will positively benefit from federal spending, then show me where to sign up.

If there is a better method out there to conduct the census, then let's see it. Otherwise, let's put an end to the grandstanding and the pontificating and count Americans. The time for the Census Bureau to determine logistical specifics for the next census is rapidly approaching, and in layman's terms, ''it's time to put up or shut up.'' If there is another plan that enjoys the wide spread support of the scientific community, It's see it. If there is another way of counting Americans at has been endorsed by the Carter, Bush, and Clinton Administrations, please bring it forward.

Once again, Mr. Speaker, I do not understand how anyone could be opposed to correcting the undercounts that occurred during the last census in minority, poor, urban and rural communities. How can anyone be opposed to counting the one-in-ten African-America males who were missed in the last census, or support turning poor children away from public housing? Therein, Mr. Speaker, lies the real debate.

Mr. FAZIO of California. Mr. Chairman, I rise in support of Mr. MOLLOHAN's amendment. I am sure all of us can agree that the 2000 Census should be fair and accurate and include everybody. But, for the past two years the majority party has played politics with the Census and not allowed the Census Bureau to get on with their plan.

Tragically, the 1990 Census had the largest undercount in history. It is estimated that 10 million citizens were counted incorrectly, with a total of 4 million Americans not accounted for at all.

The Republicans are scared that accounting for all Americans will affect their chances at the polls. They would rather deny Federal funding to those in our country who need it most—young children and the poor, who are the most hard-hit groups in an undercount—than get an accurate picture for the next congressional redistricting.

Now that the majority party has put the sampling debate into the jurisdiction of the courts, the political arguments have become all but academic. Yet we still have language in this bill that withholds half of the funding needed by the Census Bureau to prepare for the 2000 Census.

What are the Republicans afraid of? Are they worried that the courts won't rule in their favor?

Join me in putting politics aside and allowing the Census Bureau to go forward. I urge you to support Mr. MOLLOHAN's amendment.

□ 1300

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. MOLLOHAN).

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. Pursuant to House Resolution 508, the Chair will reduce to 5 minutes the minimum time for each electronic vote on the amendments that were debated last evening, on which proceedings will resume immediately after this 15-minute vote on the Mollohan amendment.

The vote was taken by electronic device, and there were—ayes 201, noes 227, not voting 7, as follows:

[Roll No. 388]

AYES—201

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

NOES—227

Aderholt	Everett	Leach
Archer	Ewing	Lewis (CA)
Armey	Fawell	Lewis (KY)
Bachus	Foley	Linder
Baker	Forbes	Livingston
Ballenger	Fossella	LoBiondo
Barr	Fowler	Lucas
Barrett (NE)	Fox	Manzullo
Bartlett	Franks (NJ)	McCollum
Barton	Frelinghuysen	McCrery
Bass	Gallegly	McDade
Bateman	Ganske	McHugh
Bereuter	Gekas	McIntosh
Bilbray	Gibbons	McKeon
Bilirakis	Gilchrest	Metcalf
Bliley	Gillmor	Mica
Blunt	Gilman	Miller (FL)
Boehlert	Gingrich	Moran (KS)
Boehner	Goode	Myrick
Bonilla	Goodlatte	Nethercutt
Bono	Goodling	Neumann
Boswell	Goss	Ney
Brady (TX)	Graham	Northup
Bryant	Granger	Norwood
Bunning	Greenwood	Nussle
Burr	Gutknecht	Oxley
Burton	Hall (TX)	Packard
Buyer	Hansen	Pappas
Callahan	Hastert	Parker
Calvert	Hastings (WA)	Paul
Camp	Hayworth	Paxon
Campbell	Hefley	Pease
Canady	Herger	Peterson (PA)
Cannon	Hill	Petri
Castle	Hilleary	Pitts
Chabot	Hobson	Pombo
Chambliss	Hoekstra	Porter
Chenoweth	Horn	Portman
Christensen	Hostettler	Pryce (OH)
Coble	Houghton	Quinn
Coburn	Hulshof	Radanovich
Collins	Hunter	Ramstad
Combest	Hutchinson	Redmond
Cook	Hyde	Regula
Cooksey	Inglis	Riggs
Cox	Istook	Riley
Crane	Jenkins	Rogan
Crapo	Johnson (CT)	Rogers
Cubin	Johnson, Sam	Rohrabacher
Davis (VA)	Jones	Ros-Lehtinen
Deal	Kasich	Roukema
DeLay	Kelly	Royce
Diaz-Balart	Kim	Ryun
Dickey	King (NY)	Salmon
Doolittle	Kingston	Sanford
Dreier	Klug	Saxton
Duncan	Knollenberg	Scarborough
Dunn	Kolbe	Schaefer, Dan
Ehlers	LaHood	Schaffer, Bob
Ehrlich	Largent	Sensenbrenner
Emerson	Latham	Sessions
English	LaTourette	Shadegg
Ensign	Lazio	Shaw

Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Clay
Cunningham
Gonzalez
McInnis
Pickering
Waters
Weldon (PA)

□ 1320

Ms. RIVERS and Mr. OWENS changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

Amendment No. 44 offered by the gentleman from New Jersey (Mr. PALLONE); the amendment offered by the gentleman from New York (Mr. ENGEL); amendment No. 15 offered by the gentleman from California (Mr. ROYCE); amendment No. 3 offered by the gentleman from Maryland (Mr. BARTLETT); and amendment No. 8 offered by the gentleman from Missouri (Mr. TALENT).

AMENDMENT NO. 44 OFFERED BY MR. PALLONE

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New Jersey (Mr. PALLONE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 44 offered by Mr. PALLONE:

Page 52, line 13, after the dollar amount, insert the following: ''(increased by $8,000,000)''.

Page 52, line 25, after the dollar amount, insert the following: ''(increased by $8,000,000)''.

Page 53, line 1, after the dollar amount, insert the following: ''(increased by $8,000,000)''.

Page 53, line 5, after the dollar amount, insert the following: ''(increased by $8,000,000)''.

Page 54 line 18, after the dollar amount, insert the following: ''(reduced by $15,000,000)''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 158, noes 267, not voting 9, as follows:

[Roll No. 389]

AYES—158

Ackerman
Allen
Andrews
Baldacci
Ballenger
Barcia
Bass
Becerra
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brady (PA)
Brown (OH)
Burr
Campbell
Capps
Cardin
Carson
Castle
Clement
Costello
Cummings
DeGette
Delahunt
DeLauro
Dingell
Doggett
Ehlers
Engel
Ensign
Eshoo
Ewing
Farr
Fattah
Fawell
Filner
Foley
Forbes
Fossella
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Graham
Gutierrez
Hall (OH)
Hamilton
Harman
Hefley
Hinchey
Hinojosa
Hoekstra
Hooley
Hoyer
Hulshof
Jackson (IL)
Johnson (CT)
Johnson (WI)
Jones
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Klink
LaFalce
Lampson
LaTourette
Lazio
Leach
Lee
Lewis (GA)
LoBiondo
Lowey
Luther
Maloney (CT)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Payne
Pelosi
Poshard
Rahall
Ramstad
Rangel
Reyes
Rivers
Roemer
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sanchez
Sawyer
Saxton
Schumer
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Stabenow
Stark
Strickland
Sununu
Tierney
Towns
Turner
Upton
Vento
Visclosky
Walsh
Waxman
Weller
Weygand
White
Wynn

NOES—267

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Bentsen
Bereuter
Berry
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (CA)
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Coyne
Cramer
Crane
Crapo
Cubin
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Etheridge
Evans
Everett
Fowler
Frost
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hill
Hilleary
Hilliard
Hobson
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lantos
Largent
Latham
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
Lofgren
Lucas
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McInnis
McIntosh
McKeon
Meek (FL)
Metcalf
Mica
Millender-McDonald
Miller (FL)
Minge
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Parker
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Stump
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Velazquez
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Wexler
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)

NOT VOTING—9

Clay
Cox
Cunningham
Fazio
Ford
Gonzalez
Maloney (NY)
Pickering
Weldon (PA)

□ 1328

Mr. KENNEDY of Massachusetts and Mr. FOLEY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. ENGEL

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. ENGEL) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGEL:

Page 47, line 11, after the dollar amount insert the following: ''(increased by $5,000,000)''.

Page 92, line 25, after the dollar amount insert the following: ''(reduced by $5,000,000)''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 168, noes 259, not voting 7, as follows:

[Roll No. 390]

AYES—168

Baesler
Barcia
Barrett (WI)
Bass
Becerra
Bereuter
Berman
Berry
Bilbray
Bishop
Blumenauer
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (OH)
Capps
Cardin
Carson
Castle
Clement
Clyburn
Coyne
Cramer
Cummings
Danner
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Farr
Fawell
Filner
Forbes
Ford
Frank (MA)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gordon
Hall (OH)
Hamilton
Harman
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hoyer
Hulshof
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kelly
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kucinich
LaFalce
LaHood
Largent
Lazio
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McKinney
McNulty
Meehan
Meeks (NY)
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Pomeroy
Porter
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Riley
Rivers
Rodriguez
Roemer
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Serrano
Sherman
Skaggs
Slaughter
Snowbarger
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thompson
Thurman
Tiahrt
Tierney
Towns
Velazquez
Vento
Visclosky
Wamp
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—259

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bentsen
Bilirakis
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Borski
Brady (PA)
Brady (TX)
Brown (FL)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Evans
Everett
Ewing
Fattah
Fazio
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hooley
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kim
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Lampson
Lantos
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manzullo
Martinez
McCollum
McCrery
McDade
McDermott
McHugh
McIntosh
McIntyre
McKeon
Meek (FL)
Menendez
Metcalf
Mica
Miller (FL)
Moakley
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snyder
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Torres
Traficant
Turner
Upton
Walsh
Waters
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Clay
Cunningham
Gonzalez
Kingston
McInnis
Pickering
Weldon (PA)

☐ 1336

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 15 OFFERED BY MR. ROYCE

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. ROYCE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. ROYCE:

Page 51, line 9, insert ''(reduced by $180,200,000)'' after ''$180,200,000''.

Page 51, line 10, insert ''(reduced by $43,000,000)'' after ''$43,000,000''.

Page 51, line 12, insert ''(reduced by $500,000)'' after ''$500,000''.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 137, noes 291, not voting 6, as follows:

[Roll No. 391]

AYES—137

Andrews
Archer
Armey
Bachus
Ballenger
Barr
Barrett (WI)
Bass
Berry
Bilirakis
Boehner
Camp
Campbell
Cannon
Chabot
Chenoweth
Coble
Coburn
Collins
Cooksey
Cox
Crane
Crapo
Cubin
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Foley
Fossella
Fox
Frelinghuysen
Ganske
Gibbons
Goodlatte
Goodling
Goss
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hutchinson
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Kasich
Klug
Knollenberg
Kolbe
Largent
Latham
Leach
Linder
Livingston
LoBiondo
Lucas
McCollum
McInnis
McIntosh
McIntyre
McKeon
McKinney
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Pappas
Paul
Paxon
Pease
Peterson (MN)
Petri
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Ramstad
Riggs
Rogan
Rohrabacher
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shays
Shimkus
Smith (MI)
Smith (NJ)
Smith, Linda
Snowbarger
Stearns
Strickland
Stump
Sununu
Talent
Thornberry
Thune
Tiahrt
Upton
Visclosky
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield

NOES—291

Abercrombie
Ackerman
Aderholt
Allen
Baesler
Baker
Baldacci
Barcia
Barrett (NE)
Bartlett
Barton
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Capps
Cardin
Carson
Castle
Chambliss
Christensen
Clayton
Clement
Clyburn
Combest
Condit
Conyers
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Goode
Gordon
Graham
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hastings (WA)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Hunter
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)

King (NY)
Kingston
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
Lofgren
Lowey
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Redmond
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer, Bob
Schumer
Scott
Serrano
Shaw
Sherman
Shuster
Sisisky
Skeen
Skelton
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stark
Stenholm
Stokes
Stupak
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
Wexler
Weygand
Wicker
Wilson
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—6

Clay
Cunningham
Gonzalez
Pickering
Skaggs
Slaughter

☐ 1344

Mr. SESSIONS changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY BARTLETT OF MARYLAND

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Maryland (Mr. BARTLETT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BARTLETT of Maryland:

Page 78, strike line 15, and all that follows through line 6 on page 79.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 151, noes 279, not voting 4, as follows:

[Roll No. 392]

AYES—151

Aderholt
Armey
Bachus
Baker
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Blunt
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Duncan
Ehrlich
Emerson
Ensign
Everett
Foley
Fossella
Gekas
Gibbons
Goode
Goodlatte
Goodling
Graham
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kaptur
Kingston
Largent
Lewis (KY)
Linder
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Pappas
Paul
Paxon
Pease
Peterson (PA)
Petri
Pitts
Pombo
Radanovich
Rangel
Redmond
Riley
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Skeen
Smith (MI)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Talent
Tauzin
Taylor (MS)
Thornberry
Thune
Tiahrt
Traficant
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Young (AK)

NOES—279

Abercrombie
Ackerman
Allen
Andrews
Archer
Baesler
Baldacci
Ballenger
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Boehner
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (CA)
Brown (FL)
Brown (OH)
Callahan
Calvert
Campbell
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gordon
Goss
Granger
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Parker
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reyes
Riggs
Rivers
Rodriguez
Rogers
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Sununu
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—4

Clay
Cunningham
Gonzalez
Pickering

☐ 1354

Mr. KINGSTON changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MR. TALENT

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the Amendment No. 8 offered by the gentleman from Missouri (Mr. TALENT) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. TALENT:

Page 102, line 15 insert ''(increased by $7,090,000)'' after the dollar amount.

Page 103, line 7 insert ''(decreased by $7,090,000)'' after the dollar amount.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 312, noes, 114, not voting 8, as follows:

[Roll No. 393]

AYES—312

Ackerman	Frelinghuysen	McKinney
Aderholt	Furse	McNulty
Allen	Gallegly	Meehan
Archer	Ganske	Metcalf
Armey	Gephardt	Mica
Bachus	Gibbons	Millender-McDonald
Baesler	Gilchrest	Miller (FL)
Baker	Gillmor	Mink
Baldacci	Gilman	Moran (KS)
Ballenger	Goode	Morella
Barcia	Goodlatte	Nethercutt
Barr	Goodling	Neumann
Barrett (NE)	Gordon	Ney
Barrett (WI)	Goss	Northup
Bartlett	Graham	Norwood
Barton	Granger	Nussle
Bass	Greenwood	Obey
Bateman	Gutknecht	Ortiz
Bentsen	Hamilton	Oxley
Bereuter	Hansen	Packard
Berry	Harman	Pappas
Bilbray	Hastert	Parker
Bilirakis	Hastings (WA)	Paul
Bishop	Hayworth	Paxon
Blagojevich	Hefley	Pease
Bliley	Herger	Peterson (PA)
Blumenauer	Hill	Petri
Blunt	Hilleary	Pitts
Boehlert	Hobson	Pombo
Boehner	Hoekstra	Pomeroy
Bonilla	Holden	Porter
Bonior	Hooley	Portman
Bono	Horn	Poshard
Boswell	Hostettler	Pryce (OH)
Brady (TX)	Hulshof	Quinn
Brown (FL)	Hunter	Radanovich
Bryant	Hutchinson	Rahall
Bunning	Hyde	Ramstad
Burr	Inglis	Redmond
Burton	Istook	Regula
Buyer	Jackson (IL)	Riggs
Callahan	Jackson-Lee (TX)	Riley
Calvert	Jenkins	Roemer
Camp	John	Rogan
Campbell	Johnson (CT)	Rogers
Canady	Johnson (WI)	Rohrabacher
Cannon	Jones	Ros-Lehtinen
Capps	Kanjorski	Rothman
Castle	Kaptur	Roukema
Chabot	Kasich	Roybal-Allard
Chambliss	Kelly	Royce
Chenoweth	Kennedy (MA)	Rush
Christensen	Kennelly	Ryun
Coble	Kim	Salmon
Coburn	Kind (WI)	Sandlin
Collins	King (NY)	Sanford
Combest	Kingston	Scarborough
Condit	Klink	Schaefer, Dan
Conyers	Klug	Schaffer, Bob
Cook	Knollenberg	Schumer
Cooksey	Kolbe	Sensenbrenner
Costello	LaHood	Sessions
Cox	Lampson	Shadegg
Cramer	Largent	Shaw
Crane	Latham	Shays
Cubin	LaTourette	Sherman
Danner	Lazio	Shimkus
Davis (IL)	Leach	Shuster
Davis (VA)	Levin	Sisisky
Deal	Lewis (CA)	Skeen
DeFazio	Lewis (KY)	Skelton
DeLay	Linder	Smith (MI)
Deutsch	Lipinski	Smith (NJ)
Diaz-Balart	Livingston	Smith (OR)
Dickey	LoBiondo	Smith (TX)
Doggett	Lucas	Smith, Adam
Doolittle	Luther	Smith, Linda
Dreier	Maloney (CT)	Snowbarger
Duncan	Maloney (NY)	Snyder
Dunn	Manton	Solomon
Edwards	Manzullo	Souder
Ehlers	Martinez	Spence
Ehrlich	McCarthy (MO)	Spratt
Emerson	McCarthy (NY)	Stabenow
English	McCollum	Stearns
Ensign	McCrery	Stenholm
Everett	McDade	Stump
Ewing	McDermott	Sununu
Fawell	McGovern	Talent
Fazio	McHale	Tanner
Foley	McHugh	Tauscher
Forbes	McInnis	Tauzin
Fossella	McIntosh	Taylor (MS)
Fowler	McIntyre	Taylor (NC)
Fox	McKeon	Thomas
Franks (NJ)		
Thornberry	Walsh	Weygand
Thune	Wamp	White
Tiahrt	Waters	Whitfield
Tierney	Watkins	Wicker
Torres	Watts (OK)	Wilson
Traficant	Weldon (FL)	Wolf
Turner	Weldon (PA)	Young (AK)
Upton	Weller	Young (FL)
Velazquez	Wexler	

NOES—114

Abercrombie	Gutierrez	Olver
Andrews	Hall (OH)	Owens
Becerra	Hall (TX)	Pallone
Berman	Hastings (FL)	Pascrell
Borski	Hefner	Pastor
Boucher	Hilliard	Payne
Boyd	Hinchey	Pelosi
Brady (PA)	Hinojosa	Peterson (MN)
Brown (CA)	Houghton	Pickett
Brown (OH)	Hoyer	Price (NC)
Cardin	Jefferson	Rangel
Carson	Johnson, E. B.	Reyes
Clayton	Johnson, Sam	Rivers
Clyburn	Kennedy (RI)	Rodriguez
Coyne	Kildee	Sabo
Cummings	Kilpatrick	Sanchez
Davis (FL)	Kleczka	Sanders
DeGette	Kucinich	Sawyer
Delahunt	LaFalce	Saxton
DeLauro	Lantos	Scott
Dicks	Lee	Serrano
Dingell	Lofgren	Skaggs
Dixon	Lowey	Slaughter
Dooley	Markey	Stark
Doyle	Mascara	Stokes
Engel	Matsui	Strickland
Eshoo	Meek (FL)	Stupak
Etheridge	Meeks (NY)	Thompson
Evans	Menendez	Thurman
Farr	Miller (CA)	Towns
Fattah	Minge	Vento
Filner	Moakley	Visclosky
Ford	Mollohan	Watt (NC)
Frank (MA)	Moran (VA)	Waxman
Frost	Murtha	Wise
Gejdenson	Nadler	Woolsey
Gekas	Neal	Wynn
Green	Oberstar	Yates

NOT VOTING—8

Clay	Cunningham	Myrick
Clement	Gonzalez	Pickering
Crapo	Lewis (GA)	

□ 1401

Ms. LEE changed her vote from ''aye'' to ''no.''

Ms. BROWN of Florida changed her vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. PEASE). Are there further amendments?

AMENDMENT OFFERED BY MR. STEARNS

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. STEARNS:

Page 78, line 19, strike ''$475,000,000,'' and insert ''$365,800,000,''.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, August 4, 1998, the gentleman from Florida (Mr. STEARNS) and a Member opposed will each control 7½ minutes.

The Chair recognizes the gentleman from Florida (Mr. STEARNS).

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

Mr. Chairman, my amendment would strike $109.2 million in the bill for United States arrears to the United Nations. Now, earlier we had an amendment from the gentleman from Maryland (Mr. BARTLETT) which struck all the money. I am striking less than 25 percent. So this is a modest proposal, and I hope my colleagues will take that into consideration, because I saw that the gentleman from Maryland (Mr. BARTLETT) lost on his amendment.

According to the GAO study released in June of 1998, the United Nations itself recognizes that the UN owes the United States about $109.2 million for reimbursement for U.S. contributions for peacekeeping. The chart I have here on my left from the GAO study shows that the United States is owed the second highest amount of reimbursement for peacekeeping operations, second, of course, only to France, at $151.2 million.

Of course, the $109.2 million that I propose in my amendment the UN does recognize does not take into account the multimillions we have spent in various peacekeeping operations, as my good friend from Maryland (Mr. BARTLETT) has already pointed out.

Mr. Chairman, I personally applaud the Committee on Appropriations for what they are doing, trying to pare down the U.S. arrears amount, specifically in regard to the peacekeeping effort. The appropriators have provided a reduced amount of $475 million from what the accounting-impaired United Nations claims is owed, and the appropriators are appropriating this appropriation to actual authorization legislation that is intended to push reform at the United Nations.

The GAO report indicates that the UN even calculates peacekeeping arrears amounts that we are intentionally withholding for legislative and policy reasons. For instance, Congress placed a cap on the peacekeeping assessment charged by the UN. The UN at that time assessed a peacekeeping charge to the U.S. at an exaggerated 31.7 percent rate that was set by the General Assembly to cover peacekeeping contribution shortfalls following the breakup of the Soviet Union.

Congress thought that the assessment rate was too high and implemented a policy cap for the peacekeeping at 30.4 percent, which was still too high, in my opinion. But even this reduction reduced our financial obligation to the UN for peacekeeping by $123 million.

After the UN peacekeeping fiasco in Somalia, in which 19 heroic American service members lost their lives, Congress in 1995 further pursued a legislative cap on peacekeeping assessments at 25 percent after October 1, 1995. This lower assessment pursued by Congress has led to an additional $128 million in American taxpayer savings. But instead of recognizing that the U.S. has chosen for valid policy and legislative reasons to permanently withhold $251 million from the UN for peacekeeping assessments, the UN is still maintaining, is still maintaining, Mr. Chairman, we owe them an additional $251 million.

I strongly believe that we need to further reduce this funding for peacekeeping arrears, to continue sending to the Secretary General and the rest of the United Nations a message that dramatic, widespread reform has to be implemented, including significant bureaucratic staff cuts and budget reductions.

My continued problem with the United Nations is its refusal to implement such reforms, although the U.S. has been breathing down its neck for some time.

Mr. Chairman, the Washington Post quoted the former UN Secretary General Boutros Boutros-Ghali as saying that, ''Perhaps half the United Nations staff does nothing useful.''

Congress has consistently demanded reductions in the UN worldwide staff of 53,000 people, not including 10,000 consultants or the peacekeeping forces which reached 80,000 in 1993. As you saw in the Washington Times yesterday, they have the most generous salary and benefits package in public life. In fact, the United Nations donates 16 percent of your salary in your thrift savings accounts, in addition to your 7.5, and you are almost up to 24 percent of your salary. Plus, as you saw, the Secretary General makes $300,000, and there are roughly 3,622 of these people who range from almost $50,000 to $300,000 in salary.

Most UN salaries are tax-free. Many employees have rent subsidies up to $3,800 a month and also have annual education grants of $12,675 per child. We could perhaps argue on the floor today about these perks, and colleagues on this side or that side that defend the UN will say ''Well, Cliff, you are exaggerating.'' I would just like to say that if you read the Washington Times article, it is pretty clear that all of us would agree it is pretty generous.

What is the solution? Well, the Secretary General says we are going to do reform. He plans to consolidate 12 secretarial departments into five. Remember now, he is just taking these 12 departments and making five of them, but he is not reducing, not cutting, any employee in these 12 departments. He has a 9,000-strong secretarial staff.

The Secretary General also proposes three economic development departments representing $122 million of the Secretary's budget and employing 700 people be reduced to one department. Again, he is talking about reform but there is no reduction in employees or expenditures. No reduction in people, no reduction in expenditures, and he calls that reform. Any of the Fortune 500 companies who did that would be laughed out of the convention center by their stockholders.

Also two human rights offices in Geneva are merged into one. That sounds good. But, again, no reduction in employees.

Mr. Chairman, I do not think there has been any reform by the Secretary General, and I would be glad to hear if my opponents disagree. But I say we must continue in Congress to limit any appropriations for alleged U.S. arrears until a comprehensive reform plan is in place at the United Nations. As a responsible representative of these great American people, we can do nothing less this afternoon.

So I urge my colleagues to support my modest amendment, modest amendment, to reduce the money from the appropriators, roughly $475 million, just reduce it by $109.2 million.

Mr. Chairman, I will conclude by saying that regardless of what side you are on in this debate, you have to understand that any bureaucratic institution can reform itself and reduce its staff, but this body is not doing it. I urge Members to support my amendment.

The CHAIRMAN pro tempore. Does any Member seek time in opposition to the amendment?

Mr. ROGERS. Mr. Chairman, I claim the time in opposition.

The CHAIRMAN pro tempore. The gentleman from Kentucky is recognized for 7½ minutes.

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

Mr. Chairman, the notion of reducing arrearages at the United Nations is a good idea. The only problem is that in the Gilman-Helms authorization conference report which we refer to, this credit has already been used to reduce the amount of arrearages that will be paid, so these funds have already been used up.

Agreeing to this amendment will do nothing more than undermine the authorization bill that is currently pending. So it puts at risk the entire scheme to obtain reforms, reduce the U.S. assessment rate, write off remaining arrears, and cap appropriations to international organizations, which this subcommittee has been trying to do for many years.

So the gentleman's idea is a good idea. In fact, it is such a good idea, we have already done it. It assures that the U.N. makes good on what it owes the U.S., but it has already been done. So, consequently, I oppose the amendment and urge Members to vote ''no''.

Mr. Chairman, I yield 1 minute to the gentleman from West Virginia (Mr. MOLLOHAN.)

Mr. MOLLOHAN. Mr. Chairman, I guess I, in a way, am repeating some of the sentiments the chairman expressed. I do not understand the theory of this amendment. As I understood it, we have used these strong negotiations and the leverage of the Committee on Appropriations to effect significant reforms at the United Nations. And while the gentleman, as I understood his statement, represented that we have not effected reforms, that is not my understanding.

We have a budget cap at the UN. We have reduced employment by 1,000. I am advised at the United Nations we have a Secretary General function operating and we have new financial management, and we have combined departments.

Now, one might draw a bottom line on all that and say it equals zero. I would draw a bottom line on it and say we have been pretty darn successful in moving a large organization in the right direction. I think this effort to cut the appropriation, which is the very incentive to effect these reforms, is the exact wrong thing to do.

Mr. ROGERS. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. GILMAN), the chairman of the Committee on International Relations.

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

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

Mr. Chairman, I rise in opposition to the amendment offered by the distinguished gentleman from Florida (Mr. STEARNS). I believe the adoption of this Stearns amendment would undercut our efforts to achieve meaningful permanent reforms at the UN, and would actually prevent the U.S. from reducing our annual assessments to the UN.

The UN has already instituted a series of so-called Track-2 reforms that will streamline their departments, reduce staffing and improve the efficiency of their operations based upon our initial discussions with them about the amount due from the United States. For a largely token reduction in our arrearage payments to the UN of $109 million, we would be jeopardizing our efforts to lower our assessments from 25 to 22 and actually 20 percent, and, in the process, would prevent us from realizing taxpayer savings of up to $1 billion over a 10-year time frame.

Moreover, on March 26 of this year, by voice vote, the House passed an authorization measure authorizing the payment of UN arrearages in exchange for the implementation of a comprehensive package of reforms which are already under way.

□ 1415

We should not be taking any nickel and dime approaches embodied in this amendment. As the chairman of the Committee on International Relations, I will be working with our colleagues on the Committee on Appropriations to assure timely and prompt reimbursement and repayment of U.S. costs associated with U.S. peacekeeping operations. Moreover, over the past 5 years our overall peacekeeping costs have dropped by over 60 percent.

My colleagues should be aware that the adoption of this amendment would prevent our Nation from, one, putting a cap on our contribution to all international organizations at $900 million per year; secondly, assuring that we will retain our voting rights at the U.N. General Assembly; and third, mandating that the U.N. has instituted a procurement system prohibiting punitive actions against contractors that challenge contract awards and complain about delayed payments.

Accordingly, Mr. Chairman, this amendment is counterproductive. I

urge my colleagues to vote no on the Stearns amendment.

Mr. ROGERS. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. BERMAN), ranking member of the Committee on International Relations.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from Kentucky (Chairman ROGERS) for yielding time to me.

To my distinguished colleague, the gentleman from Florida (Mr. STEARNS), I would recommend he go see a movie called The Producers, a Mel Brooks film, where two guys are putting together a play they were sure would be a flop. It was called Springtime for Hitler. They sold 1,000 percent of the play, knowing it would fail, but it turned out the play was a big hit, and now they have to deal with all the people they had promised this.

As the gentleman from Kentucky (Mr. ROGERS) pointed out, a deal was made between the authorizers of both Houses in the majority party and the appropriators to deduct $109 million because of the offsets of the money that we have paid. We can get into a great debate about whether we should have done that, but it was done.

The authorization plan lays out in tranches, contingent on certain reforms, this payment schedule. Last year the gentleman from Kentucky (Chairman ROGERS) appropriated $100 million as the first tranche. Now we are having the second tranche. Next year will be the third tranche. The total figure comes to somewhere around $800 and something million. I do not remember the exact dollar amount. It already deducts the $109 million.

To do this now is to sell the same deal once again, double the amount of the offset, over what it legitimately should be. So even on the mathematics, even if we accept every premise of everything the gentleman has said, and even if we ignore the fact that all this money is contingent on, one, the passage of an authorization bill, if I am correct, and secondly, the implementation of reforms, which the authorization is geared to, even if we accept all of that, this amendment should still be voted down because we have already deducted the $109 million from the total amount that we are authorizing and appropriating, according to this 3-year schedule.

This amendment should really be withdrawn. If it is not going to be, I would urge my colleagues to reject it, because the whole logic of it is faulty. The money has been taken. The money will be contingent on the reforms the gentleman seeks, and the whole appropriation is contingent on the passage of an already-agreed upon authorization amount which has been left hanging only because of a dispute about the family planning monies and the Mexico City policy. So I urge a no vote.

Mrs. LOWEY. Mr. Chairman, I rise in strong opposition to the Stearns amendment.

Congressman STEARNS and I agree on one thing: The provisions relating to the United Nations in the bill before us are unacceptable. Unfortunately, that is where our agreement on this issue ends.

I believe the funding level this bill includes for the U.N. is woefully inadequate. The United States owes more than $1 billion to the U.N. in arrears. But this bill provides just $475 million—less than half—of our debt. And it makes even that small amount contingent upon the enactment of legislation authorizing this funding, which, conveniently enough, is lying dead in a dormant conference committee.

So I too think that we need to change the U.N. provisions included in this bill. But Mr. STEARNS' amendment goes in exactly the wrong direction.

This amendment hinders the United States from taking even the first, paltry step included in this bill toward fulfilling its debt to the U.N.

Mr. STEARNS cloaks his amendment in the rhetoric of reform, and claims that his amendment will somehow take us down that path.

But let's be very clear, Mr. Chairman. This amendment is not about U.N. reform. This amendment is simply about blocking the United States from fulfilling its financial obligations to the U.N.

I don't think there is anyone in this House who is not supportive of further U.N. reform. That is why we worked to elect Secretary General Kofi Annan. That is why the U.N. has begun to implement reforms developed and demanded by the United States. And that is why we will continue to advocate far-reaching reforms throughout the U.N. system.

The United States has a tremendous amount of influence within the U.N., but that level of influence is rapidly decreasing.

Our debt to the U.N. is draining our power in the organization, creating a climate of resistance to U.S. proposals and even endangering our vote in the General Assembly.

The U.N. has historically served U.S. interests, but our debt is making it hard for the organization to carry out its activities. The Stearns amendment will only make this situation worse.

In the interest of U.S. national security and in the interest of reforming the U.N., I urge my colleagues to vote ''no'' on the Stearns amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Chairman, on that I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Florida (Mr. STEARNS) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 28 OFFERED BY MR. CALLAHAN

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 28 offered by Mr. CALLAHAN:

Page 53, line 6, after the dollar amount insert ''(reduced by $29,000,000)''.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, August 4, 1998, the gentleman from Alabama (Mr. CALLAHAN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Mr. Chairman, I have introduced a bill to reduce the appropriations to the National Marine Fisheries by $29 million. It is my ultimate intention to withdraw this amendment, but it gives me the opportunity to bring to the Members' attention something that I think is a very serious thing facing this Nation.

The United States Coast Guard is obligated to enforce all of the rules and regulations that are implemented and adopted by the National Marine Fisheries. So the scenario is that the National Marine Fisheries Service, without a word, without anything else, one bureaucrat, can issue a rule or regulation and pick up the telephone and call the Commandant of the Coast Guard and say, tomorrow morning send your people out and enforce this new rule we have implemented.

The administration this year has asked for more money, believe it or not, to enforce fisheries laws than they have requested for drug interdiction activities. That, Mr. Chairman, is misplaced priorities at its greatest possible moment.

Let me just give a scenario of something that conceivably could take place. We have a young man who wants to be in the United States Coast Guard. He goes to high school, he goes to college. Then he goes to the Coast Guard Academy. He gets his commission. He marries his childhood sweetheart. They move into a nice little bungalow. Lo and behold, he is called on his first tour of duty. He has to leave his wife and his bungalow. He has to go do what he is commissioned to do, and that is to protect the shores of the United States of America.

Can we imagine what happens when he comes back 10 days later and docks his ship and gets off the ship, runs home, he kisses his wife, and says, honey, I am back. She is happy to see him. He says, honey, you are not going to believe what happened this week, my first week asea in the United States Coast Guard.

Would you believe, he tells his wife, that I actually caught a fellow out in the Gulf of Mexico with a 10-inch snapper; and the violation of the law, because it has to be about 15 inches? So I took my multi-million dollar cutter, after I saw him with my field glasses, and I rushed over there with my 15-member crew and we boarded this boat. Not only did he violate that one-snapper regulation by it being too small, he also found out that the guy had five snappers. Can you imagine that, he says? And we arrested that guy and confiscated his boat.

His wife said, ''Oh, honey I am so proud of you. But I saw the darnedest thing on television today. I saw where 500 children died this week because they were using drugs, drugs that probably came through the Gulf of Mexico.''

We have misplaced priorities, Mr. Chairman, with respect to how we fund the United States Coast Guard. The Commandant of the Coast Guard has told us that he has an insufficient amount of money to even implement the activities that they did this year, much less increase the activities that need to be done to eliminate the drug infusion into the United States of America.

The National Marine Fisheries Service is out of control. We need to send them a message. I would not be able to successfully cut their appropriation. I never thought that I could. I just wanted to use this opportunity to bring to Members' attention, to bring to light, to the light of day, something that explains that the United States Fisheries Association, the National Marine Fisheries, is a bureaucratic, overzealous agency that is out of control, and that we ought not to be spending the hundreds of millions of dollars that we are spending to fund this agency, only to let the Coast Guard go wanting.

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

Mr. CALLAHAN. I yield to the gentleman from Kentucky, a landlocked State, I might add, who recognizes the importance of the United States Coast Guard.

Mr. ROGERS. Mr. Chairman, I want to commend the gentleman for bringing this matter before the House. He did so in the Subcommittee on Transportation of the Committee on Appropriations, on which he and I are both members. He did so before the full committee and now before the full House, so I want to commend the gentleman for pointing out that this administration has cut the number of hours that they are allowing the Coast Guard to patrol for drugs coming through the Caribbean, and are increasing the number of hours that they require the Coast Guard to patrol for violations of the fisheries laws.

We all want the fisheries laws enforced, but which is more important to us, keeping our kids from dying, or catching somebody with a fish an inch too long? I commend the gentleman.

Mr. CALLAHAN. The gentleman is absolutely right, they have turned the Coast Guard into the meter maids of the Gulf of Mexico.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. CALLAHAN

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

Page 62, beginning at line 15, strike section 210 and insert the following:

SEC. 210. (a) IN GENERAL.—Each of the States of Alabama, Louisiana, and Mississippi has exclusive fishery management authority over all fish in the Gulf of Mexico within 3 leagues of the coast of that State, effective July 1, 1999.

(b) FISH DEFINED.—In this section, the term ''fish'' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

The CHAIRMAN pro tempore. Pursuant to House Resolution 508, the gentleman from Alabama (Mr. CALLAHAN) and a Member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Alabama (Mr. CALLAHAN).

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

Mr. Chairman, the language included in my amendment is an effort to provide jurisdictional parity for fisheries enforcement for the States of Alabama, Louisiana, Mississippi, with the States of Florida and Texas. These jurisdictions were originally agreed to as part of the treaty agreements which brought each State into the Federal union.

The amendment which I am proposing today would clarify some technical concerns, and allow that date certain implementation of July 1, 1999, which would allow the States of Alabama, Louisiana, and Mississippi an appropriate amount of time, timetable for the execution of this jurisdictional provision.

It would replace the nine mile provision contained in the bill as passed by the full Committee on Appropriations with three marine leagues. It is a technical amendment amending language that is in the bill. It simply amends the language to make absolutely certain that we are only talking about fisheries, and it changes three miles, or nine miles, to three leagues, which is a term we need to do that.

So it is a very simple, clarifying amendment to an amendment that was unanimously adopted by the Committee on Appropriations, and also was agreed upon by the chairman of the Committee on Resources, the gentleman from Alaska (MR. YOUNG).

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

Mr. GILCHREST. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Maryland (Mr. GILCHREST) is recognized for 10 minutes in opposition.

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

Mr. Chairman, I rise in reluctant opposition, because I think the motivations on the part of the people that want to extend the State jurisdiction for Mississippi, Alabama, and Louisiana are of the highest, and I think they want to do their best for people that they represent in this particular area.

My opposition comes in three areas. One is an area that we always discuss here on the House floor, the difference between an appropriation jurisdiction and an authorization jurisdiction.

There were no hearings held in this particular legislation. We do not know its impact on the States. We do not know its impact on the commercial fishery. We do not know its impact on the charter boat fishery. We do not know its impact on the shrimp fishery. There is a whole range of questions that are still out there that we do not have any real answers for that could be resolved through hearings.

Let me discuss briefly some of the volatile debates we have had around here that have been resolved during the course of hearings. We have always had problems with logging issues. Through the course of hearings, we came up with, in northern California, the Quincy Library solution, with the gentleman from California (Mr. WALLY HERGER).

We have seen solutions with the Committee on Agriculture on logging and grazing. A couple of years ago this Congress, in a bipartisan way, came together to deal with the Magnuson Act, which was to have a plan across State boundaries, across the wide oceans of the jurisdiction that the United States has in its coastal areas, to understand the need for good, science-based management plans on a resource that can be overfished.

So, number one, it is really important, it is vital, not only for this Congress but for the very fishermen in the Gulf of Mexico, for us to understand the full ramifications of what this amendment will do, what this rider will do, without any hearings.

Number two, this, I guess, could be stated as an unfunded mandate. I want to read two short paragraphs, one from the Governor of Louisiana and one from the Department of Marine Resources in Mississippi. The Governor of Louisiana says: ''I am also advised that the bill is an unfunded mandate, and provides no funds for Louisiana's Department of Wildlife and Fisheries to perform the functions required,'' and that the bill may be effective as early as, and we now know it would not be effective until July 1, 1999.

□ 1430

We are looking into the issue of an unfunded mandate. Basically Mr. Woods from Mississippi says the same thing. How will they develop their management plan? What will that cost? What are the costs of enforcement?

I would like to make a quick comment about the Coast Guard in response to my good friend, the gentleman from Alabama (Mr. CALLAHAN).

While the Coast Guard is out there monitoring the fisheries, they are also monitoring illegal immigrants to our country. They are also checking out drug interdiction. They are also looking into environmental pollution.

There is a whole range of things that the Coast Guard does with fisheries enforcement, not to mention the fact it is a huge, many multibillion dollar industry, that the Coast Guard is out there preventing many other countries from illegally fishing in our waters.

The last comment I want to make is about conservation. I want to focus on the red snapper in particular. The red snapper, mature red snapper fish are for the most part caught outside State waters. That is outside of 9 miles if this passes. That is fine. But the immature red snapper, 80 percent of the immature red snapper fish are within State waters. Many of those red snappers, without bycatch reduction devices, are lost to bycatch. That means they never grow up and they can never be caught by the commercial fishermen outside these territorial waters who, by the way, the commercial fishing communities, the red snapper commercial fishermen are opposed to this amendment.

If we do not have some sense of where the waters flow, about how to consistently manage and sustain these resources, we are going to lose these resources. So for a conservation effort to increase the stock of red snapper, to find the way to manage the shrimp trawling industry, we need to defeat this particular amendment by the gentleman from Alabama.

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

Mr. CALLAHAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the Committee on Appropriations.

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

Mr. LIVINGSTON. Mr. Chairman, in deference to the arguments advanced by my former shipmate, the gentleman from Maryland (Mr. GILCHREST), an outstanding Congressman, an ex-marine and a great American hero, I would simply say that I respectfully disagree with him on this point.

We are always hearing about federalism, restoring the power to the States. I think that means equal power to the States and that all Americans stand equally under the eyes of the law. That is not the case when it comes to limits for fisheries or for any other purposes of the Outer Continental Shelf.

The fact is, as my friend, the gentleman from Louisiana (Mr. TAUZIN) will say, red snapper are doing fine. There are plenty of red snapper. And the unfunded mandates, I do not think that is a problem because the Federal Government did not worry about that when they made the shrimpers carry BRDs or TEDs or any of the other excluder devices that they mandated from here in Washington, so the unfunded mandates really is not an issue.

What is an issue is federalism, equal opportunity for States. In Alaska, they have a 12-mile limit, extending their jurisdiction out 12 miles for the supervision of some of their fisheries. In the States of California and Oregon and Washington, for the purpose of supervising the development of a particular species of crab they are talking about 200 miles, 200 miles reaching out beyond the borders of their shorelines.

In Texas and in Florida, which the last time I looked at my map bounded the States of Alabama, Mississippi and Louisiana, the outreach is 9 to 10 miles. But for whatever reason, and I did inquire of my friend from Maryland the other day what the reason was, he says, you guys came into the country under different circumstances, almost 200 years ago, whatever reason it is, we have got a 3-mile limit in Louisiana. Mississippi and Alabama have a 3-mile limit.

If Texas and Florida are on either sides of us on the Gulf of Mexico and if they have to live by certain fisheries rules, I think the fish swim in the same water. They do not stop at the border and check, am I in a Texas border or am I in a Florida border, and then I can swim out 10 miles, but I am in the Louisiana border, I can only swim out 3 miles. That is ridiculous.

We ought to have the same rules, the same laws for the fish and the people. The outreach ought to be the same number of miles, whether it is 3 miles or 10 miles, it ought to be the same. Texas and Florida do not want to go to 3 miles. They want to stay at 10 miles. So it seems only proper that Mississippi, Alabama and Louisiana ought to be 10 miles as well.

The opponents of this amendment do not want this extension of fishery rights for our states but, just the past Monday under suspension vote as part of H.R. 3460, they granted the states of California, Oregon, and Washington state jurisdiction for a major crab fishery out to 200 miles!

Opponents are trying to claim in the ''Dear Colleagues'' that the states of LA and Mississippi are opposed to these extensions, that they are an un-funded mandate.

But, if you read the letters from these two states you will see that they support extending jurisdiction out to 9 miles if the extension is delayed and if we provide Federal funds to implement state jurisdiction.

The revised Callahan amendment provides this extension by not implementing an extension of the state boundary for fisheries until July, 1999.

And, while direct funding to the states is not provided in this amendment—the Federal government already has grant programs, enforcement dollars and mechanisms in place through the Dingell-Johnson act and this very bill to provide states assistance in managing their fishery resources.

Opponents claim that the Callahan amendment will mean that some fishermen, particularly shrimp fishermen, will have an easier time in Louisiana, Mississippi and Alabama because their state laws or regulations do not yet require that Fish Excluder Devices (FEDs) or Bycatch Reduction Devices (BRDs) be put in their nets.

Again, the Callahan amendment is not effective until July 10 1999, so it will give the states plenty of time to require BRDs or FEDs, if they desire.

The Callahan amendment would leave management of red snapper and other resources to the states where it will be more consistent and fair.

The Commerce Department's National Marine and Fisheries Service (NMFS) and NOAA have consistently failed to develop fair and practical regulations based on all the available scientific data and economic impacts to fishermen.

NMFS consistently has used ''selectively'' chosen data to mandate new regulations like BRDs or FEDs that are advocated by so many here today.

Remember, this (BRD) or Bycatch Reduction Device is really a fancy name coined by the National Marine Fisheries Services (NMFS) so they would not have to call these devices FEDs, Fish Excluder Devices.

These BRDs or FEDs are an un-funded mandate implemented by the Dept. of Commerce and NMFS last April and May for well over 3,000 shrimp fishermen in the Gulf of Mexico to put in his or her shrimp nets because NMFS ''claims'' its ''scientific data'' proved that these devices will help prevent what they termed was significant red snapper bycatch.

When these FEDs or BRDs were mandated by the Federal Government in April of this year, there was no Federal funding that came with this mandate for the over 3,000 shrimp fishermen throughout the Gulf of Mexico.

Between the equipment you have to buy, the number of nets you have to modify, and the labor, these FEDs cost each shrimp fishermen an average of nearly $200—and this does not take into account the extra fuel and other expenses they have to consume to make up for the shrimp lost because the shrimp fishermen now have a TED and a FED in their nets.

And, when the FED/BRD mandate came out earlier this year, there was only one NMFS or Government approved device that the fishermen were allowed to use. It was not until opening day of shrimp season that NMFS approved a second version.

At the same time NMFS was mandating a FED/BRD requirement they said in the same rulemaking that they would conduct a ''four month, intensive research effort * * * at sea to test the effectiveness of BRDs at reducing the mortality of juvenile red snapper. The research will conclusively determine the effectiveness of BRDs under actual operating conditions.''

If they did not have the data and proof, under actual working conditions, why didn't NMFS implement a voluntary program with fishermen as opposed to a Federal un-funded mandate?

Also, talk about selective use of data, just 5 months earlier (in December, 1997) NMFS officials, based on the ''science they developed'', mandated that shrimp fishermen could no longer use certain types of NMFS previously approved ''soft'' TEDs, turtle excluder devices.

NMFS mandated this because they had new ''science'' that indicated that soft TEDs were

not as effective as ''hard'' TEDs in releasing endangered sea turtles.

For the uninitiated, ''soft'' TEDs use rope or flexible rigging as opposed to ''hard'' TEDs that use metal or firm rigging.

NMFS went ahead with the mandate to eliminate previously approved NMFS soft TEDs despite the fact: (1) Most Gulf shrimpers used soft TEDs and would have to replace those TEDs with new ones (In fact shrimper compliance with all TEDs was over 97%); (2) That NMFS was already planning to require BRDs or FEDs; (3) And, that NMFS' own ''scientific'' data and other science strongly indicated that most of the soft TEDs used by shrimpers also happened to be excellent Bycatch Reduction or Fish Excluder Devices; and (4) And, that NMFS' ''science'' and ''data'' justifying the elimination of soft TEDs was only based on 2 small tests.

NMFS takes away one device, soft TEDs, they mandated years ago and that shrimpers were complying with at a 97% compliance rate, even though they had enough science to show that they helped reduce bycatch—something they several months later fishermen must use totally different devices for.

All these inconsistent and irrational Federal policies and regulations in the name of protecting the red snapper.

A species, despite what many claim, is not declining.

The same Gulf of Mexico Fishery Management Council, that opponents say oppose the Callahan amendment, said last February, when it approved a 9.12 million pound catch for red snapper for this year, that the ''red snapper is in a recovery phase. . . .

''(and) positive growth indicators include 5 years of increasing recruitment, increasing numbers of older fish, increasing size of fish harvested, increasing catch rates in the fishery, and expanding juvenile distribution. . . .''

An independent red snapper stock assessment sanctioned by NMFS, and that was conducted by a Dr. Rothschild and the University of Massachusetts, concluded that the red snapper stock appears to be ''healthy'' and that ''recruitment'' is increasing.

NMFS chose not to use this stock assessment. They used their ''own developed science'' to conclude that the red snapper stock was still threatened enough to require the mandatory use of BRDs or FEDs.

Again, extending this fish boundary for our states does not make it easier on fishermen.

Louisiana has as tough or comparable fisheries enforcement laws in almost every area that the Feds do.

In cases where someone catches beyond their limit or is a consistent violator, Louisiana, like the Feds, requires criminal fines, allows for confiscation of property and other penalties.

But, Louisiana goes further—they allow, unlike the Feds in most cases, for additional fines to be paid to the state to help towards restoration of the impacted fishery.

And, Louisiana, I am told, has tougher laws on gill nets. Unlike Federal waters, there is a total ban on gill nets in LA waters except for allowing a special type of strike net, that cannot be left unattended, for only 2 limited species.

Louisiana is properly managing their fisheries and has been for years—if that were not the case Louisiana would not annually be ranked as the top 1, 2, or 3 nationwide producer of blue crabs, oysters and shrimp in the U.S.

According to the Commerce Dept's own figures Louisiana has had 4 of the top 10 port cities with the highest volume of fish and shellfish landings from 1994 through 1996 (the latest figures available).

This is despite the fact that Louisiana is responsible for over 75% of our entire nation's OCS oil and gas production.

I can tell you that we are environmentally sensitive—our state leadership is known for its track record for helping our fisheries, especially recreational fisheries.

If it is good enough for Alaska, Texas, Florida, Oregon, California and Washington—it should be good enough for LA, Alabama and Mississippi.

Mr. GILCHREST. Mr. Chairman, Alaska has a 3-mile jurisdiction, not a 12-mile jurisdiction, and there is only one other situation, that is the State of California, where we have had hearings, and they are managing the Dungeness crab.

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

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment. I think I represent a sense of some fishermen who I represent, and knowledge of the California coastline and essentially West Coast coastlines. This is not good law. This is not good precedent.

As has been stated, the fish stocks do not respect political boundaries, whether they are near shore waters, offshore waters, State waters or exclusive economic zone.

One of the things that we have been trying to do with our management councils is to develop that kind of uniform practice of how you can best fish a fishery without catching in the process what they call the bycatch, which are also, and when you are fishing for shrimp, you are catching three times as much bycatch as you are fish. That bycatch has an economic value. If you are going to wipe out a species by it as a bycatch, you are going to be wiping out somebody else's business.

So in the best economic interest, it does not make sense to essentially give States this exclusive jurisdiction at the expense of other fishermen in the ocean. That is why the council of this jurisdiction is opposed to this. The States indicate they do not have the resources to manage it, have the patrol boats and so on.

It really does makes sense to keep these jurisdictions as they have. These States have coastal Zone Management Plans. They have exclusive authority that has been granted them to regulate in certain instances activities in these zones. So there is essentially a local, State, Federal cooperation that has been working well all these years.

The only reason you want to extend this jurisdiction is to take away Federal Government authority and give it to the States, and that might be in the best interest of some commercial interests in that State, but it will not be in the best interest of all the commercial fisheries interests. It will certainly not be in the best interest of sustaining.

Our most important issue in respect here in making laws is to sustain so future generations can have access to these fisheries.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, let me first tell you that as far as this unfunded mandate argument goes, we have discussed personally this issue with our governor, the head of our natural resources in Louisiana. They tell us it is certainly right and fitting that Louisiana and Mississippi and Alabama should have the same jurisdictional enforcement capacities that Texas and Florida have, and they would be very willing to accept that responsibility if the State was accorded that responsibility in this bill. They are prepared for it.

Of course, our fisheries and wildlife department would love to have more money. That is the reason he mentioned that in his letter. But the truth of the matter is that they want parity of jurisdiction, just as much as the gentleman from Louisiana (Mr. LIVINGSTON) and I, who represent Louisiana, would love our State to have parity of jurisdiction.

I appreciate the gentleman from Maryland about the fiscal state of affairs in Louisiana. I assure you, our State officials are one with us in this request.

Secondly, let me point out that the Callahan amendment makes no change substantively in the fisheries laws. The laws are going to be enforced, whether by the Federal authorities or the State authorities, the same.

Thirdly, the gentleman from Louisiana (Mr. LIVINGSTON) made the point, the fact that in Louisiana, Mississippi and Alabama there is a 3-mile fisheries limit enforcement for State authorities, and in Texas and Florida, 3 leagues enforcement authority. Literally, it sets up a crazy boundary line for enforcement.

It does not mean the Coast Guard is not going to be out there. The Coast Guard will still enforce the laws outside the 3 leagues. It will still be there to protect against drug induction into our country. It will still be there protecting the fisheries laws on its side of that 3 leagues.

This amendment simply means that Louisiana and Mississippi and Alabama would enjoy the same enforcement jurisdictional authority that Texas and Florida have in the same Gulf waters.

Finally, let me point out that the Gulf Fisheries Council finds itself in great problems with our own NMFS authority here in Washington. National Marine Fisheries consistently overrules the Gulf Council. The Gulf Council has great problems with our own authority here in Washington, D.C. But let me assure you of one thing, we in Louisiana are as sincerely interested in

maintaining a red snapper population as any of you, believe me, from California or Maryland may be.

Red snapper are important to our commercial industry. It is also important to our sports fisheries industry. If the commercial red snapper industry is at all worried, it is not worried about who enforces the laws 3 miles or 9 miles or 12 miles outside of our boundaries. They are more concerned that the sports fishermen do not get a bigger share of the quota.

That is the real battle. Right now the few boats who fish commercially take 51 percent of the red snapper quotas right now. Sports fishermen would love to have a bigger share of that. That is a battle they fight at the council level. It has nothing to do with what authority enforces the law.

I can assure you, red snapper is critical to the sportsmen and to the commercial interests in our State and those of us who want to see that wonderful species of fish preserved. We do our job in Louisiana and Mississippi and Alabama to preserve them. We simply want the same authority that is accorded Florida and Texas in that regard.

The CHAIRMAN. The gentleman from Maryland (Mr. GILCHREST) has 2½ minutes remaining, and the gentleman from Alabama (Mr. CALLAHAN) has 2½ minutes remaining and the right to close.

Mr. GILCHREST. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

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

Mr. BOEHLERT. Mr. Chairman, let me point out to my colleagues that this is not a new issue. In 1995 the Republican-controlled Congress spoke loud and clear on the need for bycatch devices. By a vote of 294 to 129 during reauthorization of the Magnuson Act, the House voted to allow the bycatch devices regulations to move forward.

I suggest that Members go back and check their vote in the 104th Congress and be consistent, because absolutely nothing has changed since that time. The red snapper and other fish are just as vulnerable to poor shrimping practices, the bycatch devices are just as effective in reducing the problem.

I urge my colleagues not to be fooled. This is not an amendment to protect States' rights. This is an amendment to undermine environmental protection. This is not an amendment that will correct language in the bill. This is an attempt to block efforts to strike the very damaging language in the bill.

The Gulf of Mexico Fishery Management Council, Gulf charter boat fishermen and red snapper fishermen, as well as environmental groups and the governor of Louisiana, are all adamantly opposed.

Mr. GILCHREST. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. SAXTON).

Mr. SAXTON. Mr. Chairman, I rise in opposition to the Callahan amendment. It is my opinion that this amendment would have a devastating effect on many Gulf of Mexico fisheries.

Let me just say, Mr. Chairman, that I have the utmost regard for the gentleman from Alabama and for his constituents. I would like to point out that we have heard from some of them who oppose the gentleman's amendment. For example, the Gulf of Mexico Fisheries Management Council voted 9 to 2 to oppose the gentleman's amendment.

I also have a communication here from the Clark Seafood Company from Pascagoula, Mississippi. Let me quote from their letter:

''I think Congressman Callahan was probably trying to do something helpful for commercial and recreational fishing when he wrote'' his proposal, ''but his proposal, a rider on the appropriations bill, leaves an awful lot of questions unanswered and could cause some big problems for Gulf fishermen.''

I also have a letter from the Orange County Fishing Association from Orange County, Alabama: ''We fully support the Gulf of Mexico Fishery Management Council's position'' in opposition to the Callahan amendment, they say. ''The National Marine Fisheries Service states that if they lose the valuable miles for bycatch reduction, their only alternative would be to lower the allowable catch for red snapper and thereby extend the closure considerably.''

We have a letter from the Destin Charter Boats Association to the same effect. We have a letter from the Galveston Party Boats, Inc. to the same effect. We have a letter from the Panama Boatman Association and they say, ''This rider will be devastating to the hook and line fishermen in the Gulf of Mexico.''

Mr. Chairman, I include for the RECORD the following correspondence:

CLARK SEAFOOD COMPANY, INC.,
Pascagoula, MS, July 29, 1998.

Hon. TRENT LOTT,
Russell Building,
Washington, DC.

DEAR SENATOR LOTT: I apologize for waiting this late to contact your office about Sonny Callahan's bill to extend the state waters of Mississippi, Alabama and Louisiana out to nine miles.

I think Congressman Callahan was probably trying to do something helpful for commercial and recreational fishing when he wrote his proposed law extending the fisheries jurisdiction in the Gulf out to nine miles. But his proposal, a rider on the appropriations bill, leaves an awful lot of questions unanswered and could cause some big problems for Gulf fishermen and for people like me in the commercial fishing business.

I don't think a law that makes such big changes in the way we operate and that could cost a lot of fishermen a large amount of money should be passed without giving all of us a chance to ask questions about it and at least try to make changes where we see problems. Congressman Goss has tried to make changes to minimize the problems but his efforts raise other questions for us.

I would appreciate it if you would ask Congressman Callahan to remove his rider on the appropriations bill and bring his proposal back to Congress next year as a regular bill. That way we in the fishing industry can study and comment on the bill. If he is unwilling to do that, I would ask you to vote against Congressman Callahan's rider on the appropriations bill.

Thank you for your consideration of my comments on this issue and for your work supporting our seafood businesses.

Sincerely,

PHIL HORN.

ORANGE BEACH FISHING ASSOCIATION,
Orange Beach, AL, July 27, 1998.

U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN, We fully support the Gulf of Mexico Fishery Management Council's position to oppose the rider attached to H.R. 4276 by Congressman Sonny Callahan. It would extend state waters for Alabama, Mississippi and Louisiana from 3 to 9 miles out. Although we believe the primary reason for introducing this rider was intended to support the fishery, ramifications have since been identified that would make the adoption of this rider extremely detrimental to the fishery.

Ten million dollars in studies, funded by Congress, show that reducing shrimp trawl bycatch is the single most important element in the recovery of the red snapper fishery. Studies indicate that the stock could not recover in the allotted time allowed under the Magnuson Act even with a complete closure of the directed red snapper fishery (charter/recreational and commercial) without bycatch reduction. Without 50% reduction in bycatch the fishery cannot recover.

The state of Louisiana has a law that prohibits enforcing bycatch reduction devices or turtle excluder devices in state waters. Last week at the Gulf of Mexico Fishery Management Council Meeting the state of Mississippi's representative stated that they have no intention of requiring bycatch reduction devices in state waters, as did the representative from the State of Alabama.

The National Marine Fisheries Service states that if they lose these valuable miles for bycatch reduction their only alternative would be to lower the total allowable catch for red snapper and thereby extend the closure considerably. Recreational saltwater fishing contributes a $7 billion dollar impact annually to these five states. The consequences of adoption of this rider would destroy the ability to preserve this industry and the impacts associated with it. When you include the economic impact of the commercial fishery as well, the impact of closures is staggering.

Numerous delays (since 1990) on implementing bycatch reduction devices (BRD's) have been granted to the shrimping industry to accommodate design and minimize shrimp loss. During this same period, the directed recreational/charter red snapper fishery has given up 60% of their bag limit and suffered through a 5 week closure. We urge you to oppose this rider so that ALL industries contribute to saving this valuable resource.

Best Regards,

BOBBI M. WALKER,
President.

DESTIN CHARTER BOAT ASSOCIATION,
Destin, FL, July 27, 1998.

The 100 members and families of the Destin Charter Boat Association stand adamantly opposed to the Callahan rider that has been attached to the appropriations bill H.R. 4276. This bill will be a disaster for the red snappers fisheries and the lives that depend on the recreational and commercial catch of red snappers. The red snapper fisheries will soon

close because the shrimping industry is catching and killing millions of pounds of juvenile red snappers as by-catch to their shrimp catch. These juvenile red snappers are inadvertently caught in the shrimp net and are discarded back into the water dead.

The N.M.F.S. has recognized that the killing of juvenile red snappers as by-catch is one of the leading major causes of the decline of red snapper stocks. N.M.F.S. has recently ordered all shrimp boats in federal waters to utilize a proven and well tested by-catch reduction device (BRD).

The problem is, the shrimping industry is being allowed to kill a large portion of the snapper population as a useless by-catch that they discard and has no value to them whatsoever, while the red snapper fisheries is having their limits and quota's reduced to compensate for the juvenile red snappers that the shrimp industry kills.

The Callahan rider will change the state water boundary lines to 9 miles from 3 miles for all Gulf coast states (except FL where it already is 9 miles). This change will allow the shrimping industry to fish in what was once protected federal waters without the required use of the BRD. Not only will this accelerate the catch of juvenile red snappers, these inshore waters are the main breeding groung for the red snappers stocks. This rider is the worst case scenario for the red snapper fisheries, we are currently facing a Sept. 1st closure because of the large number of red snappers killed as a result of shrimp trawl by-catch.

Everything possible must be done to defeat the Callahan rider to H.R. 4276. The future of our multi million dollar recreational, commercial and charter fishing industry is depended on it. The red snappers that are being killed and discarded as trash, are the life blood of the red snapper fisheries as well as the commercial and recreational fishing industry.

Your help is needed now.

Sincerely,

MIKE ELLER,
President, D.C.B.A.

GALVESTON PARTY BOATS, INC.,
Galveston, TX, July 31, 1998.

Hon. NICHOLAS V. LAMPSON,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE LAMPSON: I am writing to ask your help in defeating a rider attached to H.R. 4276. This rider, sponsored by Rep. Callahan will extend the state waters of Louisiana, Mississippi and Alabama out to nine miles. Newly mandated by-catch reduction devices designed to save juvenile red snapper are not required in state waters, including new areas added as a result of this bill. As such, the National Marine Fisheries Service has stated that extending state waters would require a severe reduction or complete closure of the red snapper fishery in the Gulf of Mexico. As I am sure you already know, our industry is already fighting an uphill battle for survival. The last thing we need is for NMFS to be provided with more ammunition to use as justification for reducing our bag limit and season. Please note in the attached letter from Dr. Kemmerer to Mr. Swingle of the Gulf Council, that NMFS is already pressuring the Gulf Council to reduce our bag limit.

Our information indicates this bill will be voted on this Tuesday, (August 4). Thank you for your time and consideration in this urgent matter.

Sincerely,

ED SCHROEDER.

PANAMA CITY BOATMAN ASSOCIATION,
Panama City, FL, July 27, 1998.

DEAR CONGRESSMAN: The Panama City Boatman Association is extremely concerned about a rider to the Appropriations Bill which has been attached by Congressman Callahan from Alabama. This rider will be devastating to the hook and line fishermen in the Gulf of Mexico. If the Appropriations Bill is passed with this rider, we will be faced with the very real possibility of a recreational red snapper fishery closure this year and a possible continued closure for the next several years. Any recreational fishery closure has severe detrimental social and economic consequences to the local fishing communities and the citizens in general along the Gulf Coast. In fact, this closure and its impact might be something from which many residents of those coastal areas might never fully recover. We implore you to act now to prevent this disaster! The problem is confusing and complex, but perhaps the following explanation of the status of mandatory bycatch reduction in some of the Gulf Coast states will help you see the urgent need for quick action to kill this rider.

Currently the states of Alabama, Mississippi, and Louisiana have state water jurisdiction up to three miles offshore. The states of Florida and Texas have state water jurisdiction up to nine miles offshore. Florida and Texas have state requirements regulating the commercial and recreational red snapper fishery, and Florida requires bycatch reduction devices (BRDs) to be installed in shrimp nets. The National Marine Fisheries Service has required BRDs in federal waters of the Gulf of Mexico since May 14, 1998. The states of Alabama, Mississippi, and Louisiana do not require BRDs in their state waters. Presently, with Alabama, Mississippi and Louisiana extending their state waters to nine miles offshore, the area off their coasts between three and nine miles would not be subjected to the BRD requirement. Thus, those states would not be participating in required bycatch mortality reduction, and consequently, they would sustain the massive killing of juvenile red snapper. Since the hook and line fishery is directly dependent on the percentage of bycatch mortality reduction, it is very clear that the elimination of required bycatch mortality reduction in such a vast area would be deadly to the hook and line red snapper fishery. Something must be done to save these fish.

We plead with you to kill this rider. We are very concerned and conscientious about our fisheries and how they are managed; this rider will cause severe problems and greatly hamper current management efforts to rebuild the currently overfished red snapper fishery. Please insist this rider be removed from the Appropriations Bill!

Thank You,

R.F. ZALES II,
President.

Mr. Chairman, I rise in opposition to the Callahan amendment. This amendment would have a devastating effect on Gulf of Mexico fisheries. It would effectively eliminate the requirement to reduce shrimp trawl bycatch in the Gulf of Mexico. It would undermine the ability of the National Marine Fisheries Service to manage Gulf fisheries. It would set a disastrous precedent for changing jurisdictional boundaries as a means for avoiding necessary marine fisheries conservation and management measures. This amendment would overturn a significant fisheries management decision, made based on science for the benefit of the Gulf's fisheries. Finally, it will place an unfunded mandate on the states, which will presumably be charged with enforcement in the state waters which will be increased threefold.

In addition to the conservation arguments against this amendment, it is the simple truth that not one hearing has been held on the effects of this change. Mr. CALLAHAN's amendment was granted a waiver for authorizing on an appropriations bill, and neither the Committee on Resources or its Subcommittee on Fisheries Conservation, Wildlife and Oceans, which have authorizing jurisdiction over fisheries issues, have had the opportunity to examine this issue. It would be ill-advised to give this amendment the force of law without knowing its effects.

I have letters here from recreational and commercial fishermen from the Gulf of Mexico, most of which implore Congress to reject this amendment until a hearing is held, so that their concerns can be addressed. Also, here is the roll call vote taken by the Gulf of Mexico Fishery Management Council opposing the Callahan amendment. This council was established by the direction of Congress to help conserve fish stocks, so it would be ill-advised to ignore their advice. Finally, I have a copy of the Statement of Administration Policy which clearly states the strong opposition to this measure.

Until the effects of this amendment can be examined, I must strongly oppose the Callahan amendment. I urge all Members concerned about conservation to do the same.

☐ 1445

Mr. Chairman, I ask all my colleagues to oppose the Callahan amendment.

Mr. CALLAHAN. Mr. Chairman, I yield myself the balance of my time just to respond to some of the speakers.

First of all, to the gentleman from New York. This has zero, nothing, to do with the bycatch device. Zero. Period. That is a myth, and I think Members should be aware of that.

Number two, the gentleman from Maryland. I doubt if he has even seen the Gulf of Mexico. I know he has not been shrimping there. I know he has not been fishing there. But I do know that they spend more money in the Chesapeake Bay, in his district, than they do for all of the Gulf of Mexico for research.

Maybe it is time for some parity in that appropriation process. Maybe we ought to take half of the $21 million a year they spend in the Chesapeake and spend it in the Gulf of Mexico. That is an issue we will have to face later.

The gentleman from New Jersey read all of those letters. Now, he read a letter from Orange County, Alabama. Mr. Chairman, there is no Orange County, Alabama. They are fabricating a lot of these things simply to mislead my colleagues.

My amendment does two very simple things: Number one, the National Marine Fisheries is implementing rules and regulations over the objections of the State of Alabama and the States of Louisiana and Mississippi. But, nevertheless, Mr. Chairman, most important, my amendment says that the law that is in the appropriation bill will not be effective until July 1999.

I ask Members to read the amendment. It simply defines fisheries. We wanted to limit it to fisheries only because they were passing out rumors

that it had something to do with oil, which it has nothing to do with oil. So the correcting amendment just delays the effective date until July 1, 1999, and it defines fisheries.

The gentleman from California was very eloquent. But they have a bill in that will be on the floor, probably next week, to extend the boundaries of California. So it is all right for California but it is not all right for Louisiana, Alabama and Mississippi.

Mr. Chairman, I ask that the Members read the amendment and to keep in mind that it simply says that the effective date of the language in the appropriation bill is delayed until July 1, 1999, and it defines fish, meaning fin fish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds. So read the amendment, and I would urge my colleagues to vote for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. CALLAHAN).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Alabama (Mr. CALLAHAN) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 508, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: The amendment offered by the gentleman from Florida (Mr. STEARNS) and the amendment offered by the gentleman from Alabama (Mr. CALLAHAN).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. STEARNS

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida (Mr. STEARNS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

The vote was taken by electronic device, and there were—ayes 165, noes 261, not voting 8, as follows:

[Roll No. 394]

AYES—165

Aderholt	Bartlett	Bryant
Armey	Barton	Bunning
Bachus	Bilirakis	Burr
Baker	Bliley	Burton
Barcia	Blunt	Buyer
Barr	Bonilla	Calvert
Barrett (NE)	Bono	Camp
Canady	Herger	Pombo
Cannon	Hill	Portman
Chabot	Hilleary	Radanovich
Chambliss	Hobson	Redmond
Chenoweth	Hoekstra	Riley
Christensen	Hostettler	Roemer
Coble	Hulshof	Rogan
Coburn	Hunter	Rohrabacher
Collins	Hutchinson	Ros-Lehtinen
Combest	Inglis	Royce
Condit	Istook	Ryun
Cook	Jenkins	Salmon
Cooksey	Johnson, Sam	Sanford
Cox	Jones	Scarborough
Crane	Kasich	Schaefer, Dan
Crapo	Kingston	Schaffer, Bob
Cubin	Klug	Sensenbrenner
Danner	Largent	Sessions
Deal	Lewis (KY)	Shadegg
DeLay	LoBiondo	Shimkus
Diaz-Balart	Lucas	Shuster
Dickey	Manzullo	Skeen
Doolittle	McCollum	Smith (MI)
Duncan	McCrery	Smith (TX)
Dunn	McDade	Smith, Linda
Ehrlich	McInnis	Snowbarger
Emerson	McIntosh	Solomon
Ensign	McIntyre	Souder
Everett	McKeon	Spence
Ewing	Metcalf	Stearns
Foley	Mica	Stump
Fossella	Miller (FL)	Sununu
Fowler	Moran (KS)	Talent
Gallegly	Myrick	Tauzin
Gibbons	Nethercutt	Taylor (MS)
Goode	Neumann	Thornberry
Goodlatte	Ney	Thune
Goodling	Northup	Tiahrt
Goss	Norwood	Traficant
Graham	Nussle	Upton
Granger	Pappas	Wamp
Gutknecht	Paul	Watkins
Hall (TX)	Paxon	Watts (OK)
Hansen	Pease	Weldon (FL)
Hastert	Peterson (MN)	Weller
Hastings (WA)	Peterson (PA)	Whitfield
Hayworth	Petri	Wilson
Hefley	Pitts	Young (FL)

NOES—261

Abercrombie	Delahunt	Hooley
Allen	DeLauro	Horn
Andrews	Deutsch	Houghton
Archer	Dicks	Hoyer
Baesler	Dingell	Hyde
Baldacci	Dixon	Jackson (IL)
Ballenger	Doggett	Jackson-Lee (TX)
Barrett (WI)	Dooley	
Bass	Doyle	Jefferson
Bateman	Dreier	John
Becerra	Edwards	Johnson (CT)
Bentsen	Ehlers	Johnson (WI)
Bereuter	Engel	Johnson, E. B.
Berman	English	Kanjorski
Berry	Eshoo	Kaptur
Bilbray	Etheridge	Kelly
Bishop	Evans	Kennedy (MA)
Blumenauer	Farr	Kennedy (RI)
Boehlert	Fattah	Kennelly
Boehner	Fawell	Kildee
Bonior	Fazio	Kilpatrick
Borski	Filner	Kim
Boswell	Forbes	Kind (WI)
Boucher	Ford	King (NY)
Boyd	Fox	Kleczka
Brady (PA)	Frank (MA)	Klink
Brady (TX)	Franks (NJ)	Knollenberg
Brown (CA)	Frelinghuysen	Kolbe
Brown (FL)	Frost	Kucinich
Brown (OH)	Furse	LaFalce
Callahan	Ganske	LaHood
Campbell	Gejdenson	Lampson
Capps	Gekas	Lantos
Cardin	Gephardt	Latham
Carson	Gilchrest	LaTourette
Castle	Gillmor	Lazio
Clayton	Gordon	Leach
Clement	Green	Lee
Clyburn	Greenwood	Levin
Conyers	Gutierrez	Lewis (CA)
Costello	Hall (OH)	Lewis (GA)
Coyne	Hamilton	Linder
Cramer	Harman	Lipinski
Cummings	Hastings (FL)	Livingston
Davis (FL)	Hefner	Lofgren
Davis (IL)	Hilliard	Lowey
Davis (VA)	Hinchey	Luther
DeFazio	Hinojosa	Maloney (CT)
DeGette	Holden	Maloney (NY)
Manton	Payne	Smith (OR)
Markey	Pelosi	Smith, Adam
Martinez	Pickett	Snyder
Mascara	Pomeroy	Spratt
Matsui	Porter	Stabenow
McCarthy (MO)	Poshard	Stark
McCarthy (NY)	Price (NC)	Stenholm
McDermott	Pryce (OH)	Stokes
McGovern	Quinn	Strickland
McHugh	Rahall	Stupak
McKinney	Ramstad	Tanner
McNulty	Rangel	Tauscher
Meehan	Regula	Taylor (NC)
Meek (FL)	Reyes	Thomas
Meeks (NY)	Riggs	Thompson
Menendez	Rivers	Thurman
Millender-McDonald	Rodriguez	Tierney
	Rogers	Torres
Miller (CA)	Rothman	Towns
Minge	Roukema	Turner
Mink	Roybal-Allard	Velazquez
Moakley	Rush	Vento
Mollohan	Sabo	Visclosky
Moran (VA)	Sanchez	Walsh
Morella	Sanders	Waters
Murtha	Sandlin	Watt (NC)
Nadler	Sawyer	Waxman
Neal	Saxton	Weldon (PA)
Oberstar	Schumer	Wexler
Obey	Scott	Weygand
Olver	Serrano	White
Ortiz	Shaw	Wicker
Owens	Shays	Wise
Oxley	Sherman	Wolf
Packard	Sisisky	Woolsey
Pallone	Skaggs	Wynn
Parker	Skelton	Yates
Pascrell	Slaughter	Young (AK)
Pastor	Smith (NJ)	

NOT VOTING—8

Ackerman	Cunningham	McHale
Blagojevich	Gilman	Pickering
Clay	Gonzalez	

☐ 1513

Mr. KLINK changed his vote from ''aye'' to ''no.''

Messers. BAKER, ROEMER, GALLEGLY and Mrs. CUBIN changed their votes from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Chairman, on rollcall 394, the amendment by the gentleman from Florida (Mr. STEARNS), I was inadvertently detained. Had I been present, I would have voted ''no.''

AMENDMENT OFFERED BY MR. CALLAHAN

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Alabama (Mr. CALLAHAN) on which further proceedings were postponed on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 141, noes 283, not voting 10, as follows:

[Roll No. 395]

AYES—141

Aderholt	Ballenger	Barton
Armey	Barr	Berry
Bachus	Barrett (NE)	Bishop
Baker	Bartlett	Bliley

Blunt
Boehner
Bonilla
Bono
Brady (TX)
Brown (CA)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Chabot
Chambliss
Chenoweth
Coble
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Davis (IL)
Davis (VA)
Deal
DeLay
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hansen
Hastings (WA)
Hayworth
Herger
Hill
Hilleary
Hilliard
Hostettler
Hunter
Hyde
Istook
Jefferson
Jenkins
John
Johnson, Sam
King (NY)
Kingston
Knollenberg
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manton
McCrery
McIntosh
McKeon
Metcalf
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Northup
Norwood
Ortiz
Oxley
Packard
Parker
Paul
Paxon
Peterson (MN)
Peterson (PA)
Pickett
Pitts
Pombo
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Ryun
Salmon
Sessions
Shadegg
Shimkus
Shuster
Sisisky
Skelton
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stump
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Tiahrt
Torres
Wamp
Watts (OK)
White
Wicker
Young (AK)

NOES—283

Abercrombie
Allen
Andrews
Archer
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Christensen
Clayton
Clement
Clyburn
Conyers
Costello
Cox
Coyne
Cummings
Danner
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Houghton
Hoyer
Hulshof
Hutchinson
Inglis
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
Kleczka
Klink
Klug
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Neumann
Ney
Nussle
Oberstar
Obey
Olver
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pease
Pelosi
Petri
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Sununu
Talent
Tanner
Tauscher
Thune
Thurman
Tierney
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watkins
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

NOT VOTING—10

Ackerman
Buyer
Clay
Coburn
Cunningham
Gonzalez
McDade
McHale
Pickering
Stupak

□ 1520

Mr. CAMP and Mr. FROST changed their vote from ''aye'' to ''no.''

Mr. SKELTON changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 24 OFFERED BY MR. GILCHREST

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. GILCHREST:

Page 62, beginning at line 15, strike section 210.

The CHAIRMAN. Pursuant to the order of the House of Tuesday, August 4, 1998, the gentleman from Maryland (Mr. GILCHREST) and a Member opposed will each control 7½ minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume. The issue that we are dealing with right now, this motion to strike, is to take the language out of the appropriations bill dealing with extending the State jurisdiction in the Gulf of Mexico of Mississippi, Louisiana, and Alabama from 3 miles to 3 leagues, or 9.2 miles.

I have grave reservations about this language in the appropriations bill. Number one, mainly because it has not gone through a process, it has not gone through the authorizing committees. We do not know the kinds of management plans that we will deal with in these that are now presently Federal waters. There are a whole host of other problems that I think the authorizing committees could deal with and in the next session of Congress we may, and I feel fairly confident could come up with a way to find a compromise or a solution to this particular problem.

The other issue here is an issue, and I recognize this is an issue in dispute, but it deals with unfunded mandates. If these State waters are extended out to three leagues, the Governor of Louisiana has told us that he does not have the money to create a fisheries management plan and he does not have the money for enforcement. The Secretary of Marine Resources in the State of Mississippi has said basically the same thing. So this is going to cost those States a little money.

The other issue is conservation. The conservation issues which deal with these are Federal waters. The Gulf of Mexico, these waters, do not recognize any kind of boundaries. It is inherent in the marine ecosystem that these fish swim from one place to another. There are no barriers. There are no political boundary lines. There is just a fishery. So to ensure a sustainable fishery, we have created basically through the Magnuson-Stevens Act a method by which the Federal Government works with the States to sustain these fisheries. If we carve up these waters, especially the waters in these particular sensitive areas, that fisheries management plan to sustain the fisheries will not work and will basically collapse in my judgment.

I feel that we should hold hearings on this issue. I know it is important to the people in the region, many people depend on jobs in this particular area, but the process is to go through the committee, the questions will be answered about conservation, unfunded mandates, the State synchronizing their management plans, and I feel the process will work a lot better.

I urge my colleagues to vote ''yes'' on this motion to strike.

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

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Alabama (Mr. CALLAHAN) is recognized for 7½ minutes.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume. In 1861, the State of Alabama joined with a bunch of other States and we tried to move our boundaries a little north. The people in New Jersey and California and New York fought us and pushed us back, so we lost that battle to expand our boundaries north.

This year we decided to expand our boundaries south, thinking no one would be opposed to Alabama extending its boundaries out into the Gulf of Mexico like the State of California is going to do next week, extending their

boundaries out into the Pacific Ocean. But once again, we were beat 2–1.

There is no sense in taking this body through another debate on the same issue. At the time of the vote, I am not going to ask for a recorded vote and will accept defeat with humility.

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

Mr. GILCHREST. Mr. Chairman, I yield myself such time as I may consume. I want to say also with great humility that the gentleman from Alabama has expressed himself extremely well. This is an issue that we will revisit. I would look forward to working with him and the other gentleman on this amendment in the future very closely.

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

Mr. GILCHREST. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I just might remind him that while New York and New Jersey and California were not on our side in the battle that took place in the last century, most of the people from Maryland were. But this year things have changed. I thank the gentleman for yielding.

Mr. GILCHREST. The gentleman from Alabama's words are well spoken. Maryland was a border State. We stayed with the union. But this is not about a fight between the North and the South. This is about a battle that all of us take together to sustain the resources of this great country for future generations.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. GILCHREST).

The amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that the remainder of the bill, through page 124, line 2, be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading on September 30, 1998, $45,326,000 are rescinded.

LEGAL ACTIVITIES

UNITED STATES TRUSTEE SYSTEM FUND

(RESCISSION)

Of the unobligated balances available from offsetting collections derived from fees collected pursuant to 28 U.S.C. 589a(b), $17,000,000 are rescinded.

TITLE VIII—CITIZENS PROTECTION

SHORT TITLE

SEC. 801. This title may be cited as the ''Citizens Protection Act of 1998''.

AMENDMENT NO. 11 OFFERED BY MR. HUTCHINSON

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. HUTCHINSON: Strike title VIII.

□ 1550

The CHAIRMAN. Does the gentleman from Arkansas (Mr. HUTCHINSON) ask unanimous consent to have the amendment considered now?

Mr. HUTCHINSON. Mr. Chairman, I ask unanimous consent that this amendment be considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

Mr. MCDADE. Reserving the right to object, Mr. Chairman, and I shall not object; I just want to assure that I get the time. There is 20 minutes, I believe, on each side, we have an agreement, and I rise in opposition to the gentleman's amendment and request the opportunity to control the 20 minutes.

PARLIAMENTARY INQUIRY

Mr. MOLLOHAN. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. Is there objection to the amendment to strike title VIII at this time?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman.

The CHAIRMAN. The gentleman from West Virginia reserves the right to object and will state his reservation.

Mr. MOLLOHAN. Mr. Chairman, where are we? What are we doing right now?

The CHAIRMAN. The Clerk has just read section 801.

Mr. MOLLOHAN. Mr. Chairman, the gentleman from Michigan (Mr. CONYERS) was standing and was not recognized.

Mr. CONYERS. Mr. Chairman, I believe my amendment was pending at the desk and was preferential, and with the cooperation of my colleague on the Committee on the Judiciary I ask that it be called up.

PARLIAMENTARY INQUIRY

Mr. HUTCHINSON. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HUTCHINSON. The parliamentary inquiry is that I have an amendment at the desk, I was recognized, there was a unanimous-consent request that I be allowed to proceed with my amendment, and I ask the Chair to rule on that.

The CHAIRMAN. The gentleman will suspend.

The gentleman did ask for unanimous consent to consider an amendment striking all of title VIII that has not been granted at this time. There has been reservations against that at this time.

So the question is:

Is there objection to the gentleman considering his amendment at this time?

Mr. CONYERS. Reserving the right to object, Mr. Chairman, all I ask my colleague:

I have a preferential motion, and his is one to strike, that it go at the proper time. I mean what is the problem?

Mr. MCDADE. Mr. Chairman, I say to my colleagues that when the gentleman from Arkansas made his request, I reserved to claim the 20 minutes time in opposition that has been agreed to as the original drafter of the amendment that is in the bill.

I would suggest the gentleman from Arkansas be permitted to go forward. It is a straight up-or-down motion on whether or not we should strike the title.

The CHAIRMAN. The Chair just reminds the gentleman from Pennsylvania that the Committee is not at that point yet. At the appropriate time there may be a time limitation.

The Chair might make the recommendation that the gentleman from Arkansas (Mr. HUTCHINSON) wait until the title is considered as read, and he can offer his amendment so that the gentleman from Michigan (Mr. CONYERS), whose amendment would be in order when section 802 is read, can make it. That way we would follow order.

Mr. ROGERS. Mr. Chairman, may I ask what paragraph we are on at this moment?

The CHAIRMAN. The Clerk has read section 801.

Mr. ROGERS. And, Mr. Chairman, if the gentleman from Arkansas (Mr. HUTCHINSON) moves to strike section 801——

Mr. HUTCHINSON. Mr. Chairman, I move to strike section 801.

Mr. ROGERS. Would that be in order, and would that supersede the Conyers amendment?

The CHAIRMAN. The gentleman could withdraw his request and offer another amendment to section 801, in which case it would be in order.

Mr. CONYERS. Reserving the right to object, Mr. Chairman, may I explain to the distinguished chairman and my friend from Pennsylvania that this is a preferential motion? It is a motion, a perfecting motion that takes precedence over a motion to strike, and it is not inconsistent with anything that any of my colleagues are trying to do.

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. ROGERS. If the gentleman from Michigan (Mr. CONYERS) would listen, I think if the gentleman from Arkansas' motion is related to section 801, the Conyers amendment, I think, relates to section 802, if I am not mistaken.

If that is correct, Mr. Chairman, would it not be that the Hutchinson motion would come first?

The CHAIRMAN. That is correct.

Mr. CONYERS. Continuing to reserve the right to object, Mr. Chairman, this is not about this bill or anything else.

This is the rules of the House. A preferential, a perfecting, amendment has preference over a motion to strike. This is not just for my colleague's bill or this moment. That is the way the House runs. And to my good friend from Pennsylvania, his right to control time is in no way impeded or blocked by what I am doing. When it comes up, that will still be in order.

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

Mr. CONYERS. I yield to the gentleman from Pennsylvania.

Mr. MCDADE. Mr. Chairman, I think it works both ways.

Mr. CONYERS. No, it is not both ways. This is the rules of the House, and I ask the Chair to give me a little assistance here.

I was on my feet, and we have not approved of the right of my dear friend from Arkansas (Mr. HUTCHINSON) to go forward.

I reserve the right to object, and it looks like I am not going to have much alternative.

The CHAIRMAN. The Chair is prepared to try to straighten this out.

The Chair is advised that a motion to strike the title which is what the gentleman from Arkansas is preparing to do, and a preferential motion to amend section 802, which the gentleman from Michigan has, could both be pending at the same time, which then would lead the Chair to make a decision.

Mr. CONYERS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas to strike title VIII?

There was no objection.

Without objection, title VIII is considered read.

There was no objection.

The text of title VIII is as follows:

INTERPRETATION

SEC. 802. As used in this title and the amendments made by this title, the term ''employee'' includes an attorney, investigator, or other employee of the Department of Justice as well as an attorney, investigator, or accountant, acting under the authority of the Department of Justice.

SUBTITLE A—ETHICAL STANDARDS FOR FEDERAL PROSECUTORS

ETHICAL STANDARDS FOR FEDERAL PROSECUTORS

SEC. 811. (a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

''ETHICAL STANDARDS FOR ATTORNEYS FOR THE GOVERNMENT

''SEC. 530B. (a) An attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each State where such attorney engages in that attorney's duties, to the same extent and in the same manner as other attorneys in that State.

''(b) The Attorney General shall make and amend rules of the Department of Justice to assure compliance with this section.

''(c) As used in this section, the term 'attorney for the Government' includes any attorney described in section 77.2(a) of part 77 of title 28 of the Code of Federal Regulations.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''530B. Ethical standards for attorneys for the Government.''.

SUBTITLE B—PUNISHABLE CONDUCT

PUNISHABLE CONDUCT

SEC. 821. (a) VIOLATIONS.—The Attorney General shall establish, by plain rule, that it shall be punishable conduct for any Department of Justice employee to—

(1) in the absence of probable cause seek the indictment of any person;

(2) fail promptly to release information that would exonerate a person under indictment;

(3) intentionally mislead a court as to the guilt of any person;

(4) intentionally or knowingly misstate evidence;

(5) intentionally or knowingly alter evidence;

(6) attempt to influence or color a witness' testimony;

(7) act to frustrate or impede a defendant's right to discovery;

(8) offer or provide sexual activities to any government witness or potential witness;

(9) leak or otherwise improperly disseminate information to any person during an investigation; or

(10) engage in conduct that discredits the Department.

(b) PENALTIES.—The Attorney General shall establish penalties for engaging in conduct described in subsection (a) that shall include—

(1) probation;

(2) demotion;

(3) dismissal;

(4) referral of ethical charges to the bar;

(5) loss of pension or other retirement benefits;

(6) suspension from employment; and

(7) referral of the allegations, if appropriate, to a grand jury for possible criminal prosecution.

COMPLAINTS

SEC. 822. (a) WRITTEN STATEMENT.—A person who believes that an employee of the Department of Justice has engaged in conduct described in section 821(a) may submit a written statement, in such form as the Attorney General may require, describing the alleged conduct.

(b) PRELIMINARY INVESTIGATION.—Not later than 30 days after receipt of a written statement submitted under subsection (a), the Attorney General shall conduct a preliminary investigation and determine whether the allegations contained in such written statement warrant further investigation.

(c) INVESTIGATION AND PENALTY.—If the Attorney General determines after conducting a preliminary investigation under subsection (a) that further investigation is warranted, the Attorney General shall within 90 days further investigate the allegations and, if the Attorney General determines that a preponderance of the evidence supports the allegations, impose an appropriate penalty.

MISCONDUCT REVIEW BOARD

SEC. 823. (a) ESTABLISHMENT.—There is established as an independent establishment a board to be known as the ''Misconduct Review Board'' (hereinafter in this title referred to as the ''Board'').

(b) MEMBERSHIP.—The Board shall consist of—

(1) three voting members appointed by the President, one of whom the President shall designate as Chairperson;

(2) two non-voting members appointed by the Speaker of the House of Representatives, one of whom shall be a Republican and one of whom shall be a Democrat; and

(3) two non-voting members appointed by the Majority Leader of the Senate, one of whom shall be a Republican and one of whom shall be a Democrat.

(c) NON-VOTING MEMBERS SERVE ADVISORY ROLE ONLY.—The non-voting members shall serve on the Board in an advisory capacity only and shall not take part in any decisions of the Board.

(d) SUBMISSION OF WRITTEN STATEMENT TO BOARD.—If the Attorney General makes no determination pursuant to section 822(b) or imposes no penalty under section 822(c), a person who submitted a written statement under section 822(a) may submit such written statement to the Board.

(e) REVIEW OF ATTORNEY GENERAL DETERMINATION.—The Board shall review all determinations made by the Attorney General under sections 822(b) or 822(c).

(f) BOARD INVESTIGATION.—In reviewing a determination with respect to a written statement under subsection (e), or a written statement submitted under subsection (d), the Board may investigate the allegations made in the written statement as the Board considers appropriate.

(g) SUBPOENA POWER.—

(1) IN GENERAL.—The Board may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Board. The attendance of witnesses and the production of evidence may be required from any place within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Board may apply to a United States district court for an order requiring that person to appear before the Board to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(h) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of its voting members. All meetings shall be open to the public. The Board is authorized to sit where the Board considers most convenient given the facts of a particular complaint, but shall give due consideration to conducting its activities in the judicial district where the complainant resides.

(i) DECISIONS.—Decisions of the Board shall be made by majority vote of the voting members.

(j) AUTHORITY TO IMPOSE PENALTY.—After conducting such independent review and investigation as it deems appropriate, the Board by a majority vote of its voting members may impose a penalty, including dismissal, as provided in section 821(b) as it considers appropriate.

(k) COMPENSATION.—

(1) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Board who are full-time officers or employees of the United States, including Members of Congress, may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with

sections 5702 and 5703 of title 5, United States Code.

(l) EXPERTS AND CONSULTANTS.—The Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed $200 per day.

(m) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Board to assist it in carrying out its duties under this title.

(n) OBTAINING OFFICIAL DATA.—The Board may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairperson of the Board, the head of that department or agency shall furnish that information to the Board.

(o) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(p) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Board, the Administrator of General Services shall provide to the Board, on a reimbursable basis, the administrative support services necessary for the Board to carry out its responsibilities under this title.

(q) CONTRACT AUTHORITY.—The Board may contract with and compensate government and private agencies or persons for services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes. The gentleman from Pennsylvania (Mr. MCDADE) has requested time in opposition and, therefore, will be recognized for a like time.

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman?

The CHAIRMAN. The gentleman will state his reservation.

Mr. MOLLOHAN. Mr. Chairman, reserving the right to object, there is no time agreement being offered, proposed, on this amendment?

The CHAIRMAN. The gentleman is correct. There is no time agreement at this point.

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

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

Mr. ROGERS. Mr. Chairman, this gentleman would be amenable to such a request.

Mr. MOLLOHAN. Mr. Chairman, we cannot.

Mr. ROGERS. The gentleman from West Virginia cannot agree to a time?

Mr. MOLLOHAN. We cannot agree to a time.

The CHAIRMAN. Without objection, the title is considereed read and the gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 5 minutes on his motion.

PARLIAMENTARY INQUIRY

Mr. MCDADE. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MCDADE. I just need to be clear, Mr. Chairman.

I believe the Chair said to the gentleman from Arkansas that he gets 5 minutes.

The CHAIRMAN. The Chair advises the gentleman the Committee is under the 5-minute rule, so the gentleman is recognized for 5 minutes on his amendment.

Mr. MCDADE. And how much time am I allowed, may I ask the Chair?

The CHAIRMAN. Does the gentleman stand in opposition?

Mr. MCDADE. I did.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. MCDADE) will be recognized for 5 minutes at the end of Mr. HUTCHINSON's debate.

Mr. MCDADE. Everybody gets 5 minutes?

The CHAIRMAN. That is correct, the 5-minute rule.

Mr. HUTCHINSON. Mr. Chairman, I rise in support of the Hutchinson–Barr–Bryant amendment.

The distinguished gentleman from Kentucky (Mr. ROGERS) has done a masterful job in developing this appropriations bill. The title VIII, which our amendment would strike, goes far afield from the ordinary requirements of the spending bill. It includes almost verbatim the well intentioned, but ill advised, Citizen Protection Act. Including this legislative title in the bill violates the normal process in this House by bypassing committee hearings and markups, but even more importantly, it is wrong on substance. The proposed title VIII, which is the subject of our amendment, would cut to the heart of our Federal system of justice and would cripple the war on drugs, and for that reason it is understandable that the National Director of Drug Control Policy, Barry McCaffrey, opposes this provision as well as the DEA, the FBI and the National Sheriffs Association. Even though the authors of title VIII are sincere in their efforts, the effect would be devastating and demoralizing to our agents and officers risking their lives each day to fight crime. I know that is why all former United States Attorneys now serving in Congress are cosponsors of this amendment and are leading this effort.

Now we all agree on one thing, and that is that our Federal prosecutors should live up to the highest ethical standards. The proponents of title VIII say that they just want government attorneys to be subject to States ethics laws. The fact is they already are. Every government attorney is required to abide by the rules and ethical guidelines in the State they are licensed to practice law. This means the ethical conduct of Federal prosecutors are reviewed by the State in which they are licensed, at the federal level by the Office of Professional Responsibility within the Department of Justice, the Inspector General of the Department of Justice and the federal courts.

In addition, we just passed a law that said that if any prosecution is brought in a frivolous fashion, then the acquitted defendant could recover attorney fees from the government. But the proposed legislation goes way too far. It would subject all attorneys, Federal attorneys and the State and local attorneys with whom they work, to conflicting State conduct rules.

For example, if a federal prosecutor licensed in Virginia had to interview a cooperating witness in a drug case in Florida and then oversee the use of a confidential informant in California, then he would have to worry about the rules of each State because he is engaging in his duties in those States. And multiply this by the number of investigations during the course of the year, we can have the attorneys for the government spending all their time.

Mr. Chairman, I want to be able to complete my statement, and I will be happy to yield at the conclusion.

The second problem is that the proposed legislation would allow criminal defense attorneys to bring frivolous ethics complaints against Federal, State and local prosecutors, creates a new federal bureaucracy called the Misconduct Review Board to try ethics complaints under vague standards like, quote, bringing discredit to the department, end quote. This board, the Misconduct Review Board, will have access, they will have subpoena power, and they will have access to pending criminal investigations. All their hearings will be public and open to review. They can subpoena the names of witnesses and informants, the identities of under cover law enforcement officials who have infiltrated the operations of the criminal subjects.

If Congress passes this legislation, then the public will suffer. The winners would be the drug cartels, fraudulent telemarketing operations that prey on the sick and elderly and Internet pornographers who prey on children. Why do I say that? Because all of these crimes involve multi-State investigations that would be hampered by the newly created ethics bureaucracy.

For example, in the days following the Oklahoma City bombing Federal prosecutors' agents conducted simultaneous investigations in several States. Under the proposal the laws and rules of each State would have governed the conduct of department prosecutors no matter how inconsistent those rules might have been. What was permitted in one State might not have been permitted in another State, and because of the far-reaching and crushing impact of this proposal in law enforcement, it is understandable that so many in the law enforcement community have opposed this bill, from the National Sheriffs Association to the National District Attorneys Associations, State prosecutors, FBI, the National Association of Attorney Generals, the National Black Prosecutors Association, the New York State District Attorneys Association, the FBI, the DEA, the Fraternal Order of Police.

But what was significant, that six former attorney generals of the United States from Benjamin Civiletti to Edmond Meese, from Democrats to Republicans, all six have urged this House to reject this proposal and to support this amendment.

I urge my colleagues to support the amendment and not give way to the drug dealers and the defense attorneys, another weapon to use against law enforcement in our vital efforts on the War on Drugs.

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

Mr. HUTCHINSON. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I think it is important that, because the gentleman refers to the National Sheriffs Association, the FBI and the DEA, I think it is important for the Members to understand that the code of ethics that the gentleman is referring to does not apply to investigatory agents.

Mr. HUTCHINSON. Reclaiming the time, the gentleman is correct that these ethical standards apply to government attorneys, but if we have a State prosecutor who is cross designated to be a special Assistant United States Attorney, then that State prosecutor would be subject to these rules and the Misconduct Review Board bureaucracy that is established under this rule.

So I urge my colleagues to support this amendment.

Mr. MURTHA. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. Chairman, I just want the Members of this House to know that I sat beside the gentleman from Pennsylvania (Mr. JOE MCDADE), a Member of Congress for 8 years, while he was investigated for 6 years; the most insidious tactics that could possibly have been against him.

The appeals process, which is supposed to make sure that the Federal prosecutors do not get out of control, the Federal appeal process ruled two to one. He went 2 years under indictment. The Federal jury, which came from an area that said 70 percent of the politicians are crooks, ruled in 3 hours. He was acquitted.

□ 1545

In the indictment they said campaign contributions are bribes. The rules of the House are clear about the legality of campaign contributions, that honorariums are legal gratuities. That is what they charged him with. They were trying to intimidate a Member of the House of Representatives.

In addition to that, in addition to trying to intimidate the House of Representatives and ignore the rules of the House, which the public saw immediately, he was reelected three times during this period, when they leaked everything that could possibly be leaked, using those unethical tactics we are talking about during this period of time. Then, after this is all over, they tried to promote the prosecutor to judge.

Now, this is a Member of Congress who was able to raise $1 million to defend himself. The ordinary citizen, the ordinary person, cannot raise $1 million. The ordinary citizen cannot even raise money to defend himself. The public at one time used to think that a person was innocent until guilty. Now they get the impression, because of the leaks, the unethical leaks that come from the prosecutor, that the individual is guilty.

I cannot tell you the physical and mental distress that the gentleman from Pennsylvania (Mr. MCDADE) went through. Now, I see what you are talking about, and maybe we have to look in conference at some exemptions in drug cartels and things like that, but I think this is a ploy by the prosecutors to continue their unethical conduct without any kind of regard to the ordinary citizen.

We call this the Citizens Protection Act because we feel so strongly that the gentleman from Pennsylvania (Mr. MCDADE) is just an example. What he did for the House of Representatives is absolutely essential to our independence. But what we are trying to do for the ordinary citizen is absolutely important to their individual protection. We believe we need an independent body to watch over them, to give them some sort of controls so that they do not go off without control and then be promoted, as somebody was after Waco, and the terrible, terrible injustice they did to the individual in Atlanta with the leaks that came out of the Justice Department.

So I feel very strongly that we have to get some kind of control. The legislation that we drew we hoped would come through the authorizing committee. We could not work it out at this late date.

I just hope that the Members, and we have almost 200 cosponsors of this legislation, we have said to the Justice Department, if you have individual situations that you would like us to look at, we would be glad to look at that. They have not come back with anything. They just want to take this out. They want no kind of controls from the outside.

So we believe that it is important to put some kind of controls over the unethical conduct of the Justice Department. As a matter of fact, we have 50 chief justices of the United States that have said that they believe that the Justice Department of the United States should fall under the ethical rules of each of the States.

I feel very strongly about this, and I would urge Members to vote against this amendment. If there is something that has to be adjusted, we are glad to work with them in trying to adjust this when we get to conference.

PERFECTING AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. CONYERS:

Page 116, line 5, after ''Justice'' insert ''(including any independent counsel appointed under title 28 of the United States Code and any employees of such independent counsel acting under the authority of the Attorney General),''.

Page 116, line 6, strike the period and insert ''(including any independent counsel appointed under title 28 of the United States Code and any employees of such independent counsel acting under the authority of the Attorney General).''.

Mr. HUTCHINSON. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Arkansas reserves a point of order.

The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

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

Mr. CONYERS. Mr. Chairman, I offer this amendment because it goes to the heart of what the McDade provision is designed to do. I want all my friends on the other side of the aisle to understand that this just is an important part of fleshing out the concept that has been brought forward here. In fact, for those who support the McDade amendment, there should not be any trouble supporting this provision that really perfects it.

Now, as we have seen, the present independent counsel, perhaps more than anyone else, should be subject to each and every stringent provision that is included in this measure. As a matter of fact, I presume that it is an accident that the measure was drafted so that this was left out. If anybody has any information to the contrary, I would sure like to know about it.

Not only has the present independent counsel demonstrated a number of conflicts of interest in carrying out his duties, the person that he is investigating has been under investigation for almost 5 years, with hundreds of lawyers and investigators, with 17 congressional committees.

Now, there have also been questions about the independent counsel having violated the First Amendment protections, the principles of fairness, and engaged in the use of coercive investigative techniques. Familiar, Mr. MCDADE? Sound familiar with your case? And trampled over important privileges between attorneys and their client. As a matter of fact, going into court saying the attorney-client does not even involve or affect the President of the United States, as well as between the Secret Service.

A great idea. Let us have the President decide whether he wants to have his life protected, or talk about the issues in his job.

For example, the independent counsel to whom I refer has chosen to continue representing clients, the tobacco interests; at one time, if not presently, the National Republican Party. How about knocking out the class action representation in the tobacco suits? He went into the Federal Circuit Court in person to knock out their certification of a class action suit, and guess what? He succeeded. I wonder why?

So he has issued subpoenas to book stores, ''What is she reading?'' He subpoenaed a former staffer of mine who now works in the Drug Policy Office, who suggested that maybe Linda Tripp was violating the wiretap laws. He subpoenaed him. Remember that, Bob Wiener?

Well, it goes on and on. The whole problem is that this provision, whether it is struck or kept, should not be examined without us including the independent counsel.

Does anybody have any reasonable objection to that? We want to include all these prosecutors, all these Department of Justice types, but not the independent counsel, the one who is maybe doing more of this than anybody else that we know. He is under four investigations; the court, the Department of Justice, the D.C. Bar, and even he promised to have his own independent counsel office investigate the leaks.

So, in all appropriateness, we ask that this perfecting amendment to my friend from Arkansas's amendment be included in their consideration.

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

Mr. CONYERS. I yield to the gentleman from Tennessee.

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

Mr. Chairman, I rise in strong opposition to the Hutchinson-Barr-Bryant amendment and rise in strong support of including the Conyers amendment, the Conyers perfecting amendment.

I would say that I bring a bit of personal experience to this as well. I am saddened to have heard what happened to my new friend and my father's friend over the years, the gentleman from Pennsylvania (Mr. MCDADE).

The CHAIRMAN. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 1 additional minute.)

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from Tennessee (Mr. FORD).

Mr. FORD. As a matter of fact, my father was indicted some several years back by one of the prosecutors working with counsel Starr, Hickman Ewing. After 5 years of investigating, several years, one trial, a second trial, abuse by the Justice Department, simply trampling the rights of an individual, another Member of Congress, I cannot tell you the pain that it exacted on my family and my father personally.

Fortunately and blessedly, we were able to survive. But plentiful and often times it seemed exhaustless resources of the Federal Government, for prosecutors not to be reined in, not to have to comply with some sense of ethical conduct, Mr. Chairman, I submit to you it is un-American. I submit to my friends on the other side, no matter how noble their wanting to strike this provision might be, we have American rights, we have American liberties. And whether or not they choose to agree with the person's politics, whether it is on President Clinton's part with Ken Starr, whether it is a Republican that disagrees with a Republican or a Democrat with a Republican, it is unfair to trample people's lives.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I hope the sponsors of this amendment will not object to this provision.

POINT OF ORDER

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) is recognized on his point of order.

Mr. HUTCHINSON. Mr. Chairman, my point of order goes to the fact that the gentleman's perfecting amendment that he is offering is not a proper perfecting amendment because it expands the scope of the provision in question to add legislative language not covered in title VIII of the bill before us. It is not a perfecting amendment, a proper perfecting amendment, because it opens up new legislative language amending 28 U.S.C. Section 591, which is the independent counsel law, and that is not covered under title VIII of the existing bill. Therefore, it is not a proper perfecting amendment.

The CHAIRMAN. Do other Members wish to speak on the point of order?

Mr. CONYERS. Mr. Chairman, this should not be too difficult. The amendment should be made in order because it reiterates that the independent counsel is included in the group of individuals covered under the McDade amendment, specifying that the definition of employee or other attorney acting under the authority of the Attorney General shall include the independent counsel.

House rule XXI(2)(c) provides that, ''No amendment to a general appropriation shall be in order changing the existing law.'' This amendment does not change existing law; it is a perfecting amendment.

My amendment does not create additional legislation nor does it extend the range of the term ''employee'' in the amendment. It simply reiterates the fact that under the current law, the independent counsel under Section 28 of the U.S. Code is appropriate.

There are several supporting sources in current law supporting the clarification, 28 U.S.C. 594(a), 28 U.S.C. 596(a), and the Supreme Court decision in Morrison v. Olsen. We have all kinds of cases that I presume that the distinguished chairman and his able Parliamentarian have found.

I urge that this perfecting amendment be considered in order.

□ 1600

The CHAIRMAN. Do the other Members wish to speak on the point of order?

Mr. BARR of Georgia. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Georgia (Mr. BARR) is recognized.

Mr. BARR of Georgia. Mr. Chairman, this is almost as bizarre as the words we heard earlier in opposition to the Hutchinson-Barr-Bryant amendment.

What we are witnessing here, under the guise of the usual flowery language emanating forth from proponents of this latest foray, is really precisely what they purport to be against; and that is, a back door effort to do something that they do not often have the——

Mr. McDADE. Mr. Chairman, the gentleman is not addressing a point of order, Mr. Chairman. I demand regular order.

The CHAIRMAN. In the opinion of the Chair, the gentleman is addressing the point of order.

Mr. BARR of Georgia. Mr. Chairman, what this amendment purports to do is to amend the independent counsel statute to make a political point about the independent counsel statute not allowable under the rules of the House as an amendment to an appropriations bill. It purports, therefore, to legislate substantively, and the words of the gentleman from Illinois make this very clear. He is launching a political attack on the statutory authority of the independent counsel, something which is not the subject matter of this appropriations bill, and certainly is not the subject matter of this amendment, the Hutchinson-Barr-Bryant amendment.

Therefore, I would urge the Chair to sustain the point of order, as this is an effort by the gentleman from Michigan (Mr. CONYERS) to legislate, and not only to legislate on an appropriations bill, but in a way that goes far beyond the language and subject matter of the underlying amendment itself.

The CHAIRMAN. The gentleman from Tennessee will suspend.

Do other Members wish to be heard on the point of order?

PARLIAMENTARY INQUIRY

Mr. ROHRABACHER. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. ROHRABACHER. Mr. Chairman, I have a point of information.

Under the 5-minute rule, Mr. Chairman, do we have 5 minutes that we can talk on this situation, as well as on the underlying bill or underlying amendment that is before us?

We have an amendment to an amendment, now. The 5-minute rule, does that mean that we can ask for 5 minutes on the Conyers proposal to Hutchinson, and then go on as well to speak 5 minutes on Hutchinson?

The CHAIRMAN. The Chair would remind the gentleman that we are discussing the pending point of order by the gentleman from Arkansas (Mr. HUTCHINSON). As soon as that is disposed of, we will be under the 5-minute rule, in which any Member can stand and debate the underlying issue.

The Chair will inquire further, is there any Member who wishes to speak on the point of order?

Mr. WATT of North Carolina. Mr. Chairman, I wish to be heard on the point of order.

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

Mr. WATT of North Carolina. Mr. Chairman, I think that the underlying legislation legislating on an appropriations bill is inappropriate. I am opposed to the underlying legislation. But if the underlying legislation on an appropriations bill is appropriate, then so would the amendment be appropriate. We cannot say we are going to waive the rule and allow legislation on an appropriations bill, and then say or make a point of order that an amendment to that legislation is nongermane. That is the perspective I bring.

Mr. Chairman, I would join other Members who would say that the underlying legislation itself should not be on this bill. But if the underlying legislation should be on the bill, then this amendment ought to be allowed to be on the bill, and ought to be found to be germane.

The CHAIRMAN. Are there other Members who wish to be heard on the point of order?

Mr. MEEHAN. Mr. Chairman, I wish to be heard.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MEEHAN) is recognized to speak on the point of order.

Mr. MEEHAN. Mr. Chairman, this bill applies to all Department of Justice employees, or those who are acting under the Department of Justice authority. In this instance, the independent counsel is both.

We all know when the independent counsel seeks to expand his jurisdiction, who does he go to see? He goes in to see the Attorney General and he expands his jurisdiction. When he needs to get his budget squared away, when he needs additional resources, who did he go to see? He goes in to see the Department of Justice and talks to the employees. That is why this amendment is in order.

Let me just, for the purposes of people on the other side of the aisle, provide some supporting sources in current law to support this clarification.

Mr. Chairman, 28 U.S.C. 594(a) provides that an independent counsel appointed under this chapter shall have full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, or any other officer or employee of the Department of Justice.

Or let us take 28 U.S. 596, Section A. It provides that an independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, by who? By only the personal action of the Attorney General of the United States.

Or let us look at Section 3, the Supreme Court, in Morrison versus Olson, at 487 U.S.C. 654. It held that an independent counsel is subject to removal by the Attorney General.

Or let us look at the appeals court in the D.C. Circuit, a case holding that the independent counsel is generally covered by rule XVI(e) of the Federal Rules of Criminal Procedure.

So under the independent counsel statute there is little doubt, Mr. Chairman, that this is covered under the statute, and is wholly appropriate to be offered at this time and at this place.

The CHAIRMAN. Are there further Members who wish to be heard on the point of order?

Ms. WATERS. I wish to speak on the point of order, Mr. Chairman.

The CHAIRMAN. The gentlewoman from California (Ms. WATERS) is recognized.

Ms. WATERS. Mr. Chairman, I rise to the point of order. I would like to reiterate the point that was made by the gentleman from North Carolina (Mr. WATT). We cannot in fact have an underlying piece of legislation that is in order that is legislating on an appropriation, and then even discuss the possibility that an amendment to that is out of order because it is legislating on an appropriation and it does not fit, for any reason.

I think it is important that this debate not be stymied by any attempt to manipulate the rules. This may be one of the most important debates we will have in this House. It is not just about the basic questions that are being raised in the underlying legislation. The amendment that is being offered by the gentleman from Michigan (Mr. CONYERS) fits so well in this discussion.

We are watching unfold before our very eyes a violation of the Constitution of the United States of America. If there is one thing I cherish, it is my privacy. We cannot have a special prosecutor who will go to a bookstore and demand to know what books someone purchased in America. That is unacceptable.

But there are other questions that are being raised as it relates to the special prosecutor that deal with the violation of the Constitution of the United States, not only the violation of privacy that I just alluded to. We have questions of wiretap and wiretapping. We are looking at a whole new debate about attorney-client privileges. This is too important to be sidelined by someone who does not want to hear it because they have got another agenda.

Mr. Chairman, there should be no question that this is in order. I hope we do not have to get to the point that the chairman will even have to rule on this. I do not want this body divided on a partisan basis on this issue.

This is not about partisan politics at this moment. This is about the Constitution of the United States of America, and whether or not citizens are going to have basic protections that we thought were guaranteed to us by the Constitution.

So whether we are talking about the special prosecutor or whether we are talking about the underlying legislation, what we are talking about is individuals who have run wild, who are tramping on our rights, who have gone absolutely too far. It does not matter whether they are from the right or they are from the left, or where they live in this country, what color they are.

The fact of the matter is that we have violations of the Constitution being perpetrated on us by those who work in the Justice Department, and it is off the scale when we look at this special prosecutor. He has gone too far. This should be ruled in order.

The CHAIRMAN. Are there further Members who wish to be heard on this?

Mr. ROHRABACHER. Mr. Chairman, I wish to speak on the point of order.

The CHAIRMAN. The gentleman from California (Mr. ROHRABACHER) is recognized.

Mr. ROHRABACHER. Mr. Chairman, let me just say, and I understand the passion, I have a little passion myself when I get up and have these discussions, but I think the underlying arguments that the gentlewoman just made are correct. If this is in the appropriations bill, there should be an amendment that is permitted. If we are concerned about the abuse of power of prosecutors, we have to be concerned about the abuse of power of special prosecutors.

The CHAIRMAN. The Chair is prepared to rule.

The gentleman from Arkansas (Mr. HUTCHINSON) makes a point of order that the amendment offered by the gentleman from Michigan (Mr. CONYERS) is legislation in violation of clause 2 of rule XXI.

The gentleman from Michigan seeks to amend certain legislative language permitted to remain in the bill. The relevant provision defines the term ''employee'' as used in title 8 of the bill. The provision would denote the term ''employee'' to include an attorney, investigator, or other employee of the Department of Justice, and an attorney, investigator, or accountant acting under the authority of the Department of Justice.

The amendment offered by the gentleman from Michigan seeks to particularize that the term ''employee'' also includes any independent counsel appointed under title 28 of the United States Code and any employees of such independent counsel who is under the authority of the Department of Justice.

The amendment does not propose a change in title 28. Rather, it identifies one particular category of official as included in the classes of officials covered by the legislative language already in the bill.

As recorded on page 663 of the House Rules and Manual, where legislative language is permitted to remain in a general appropriation bill, a germane amendment merely perfecting that language and not adding further legislation is in order, but an amendment effecting further legislation is not in order.

In the opinion of the Chair, the amendment offered by the gentleman

from Michigan (Mr. CONYERS) merely perfects the legislative language permitted to remain in the bill, and refrains from adding further legislation.

Accordingly, the point of order is overruled.

Mr. KANJORSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to compliment my two colleagues, the gentlemen from Pennsylvania, Mr. MCDADE and Mr. MURTHA, for coming before the Congress in a timely fashion and raising a question that is very important. I want to say to my colleagues on both sides of the aisle, this is not a political issue. This is an issue of fundamental fairness.

I occupy the District immediately south of the gentleman from Pennsylvania (Mr. JOE MCDADE). Members cannot imagine what this government and those prosecutors did to that Member of Congress. I do not know of any other Member of Congress who could have withstood the leaks and the poisonous spirit in which the public persecution, not prosecution, occurred. Yes, it was lucky that JOE MCDADE had $1 million, or could raise $1 million, but how many more Americans could raise that amount? That is the substantive question, here.

On the amendment offered by the gentleman from Michigan (Mr. CONYERS), does anyone in their right mind not understand that at some point, and certainly next year, this Congress is going to have to decide what conduct we are going to allow prosecutors or special counsels to engage in? How far afield can they go from their assignment? What can they do?

I am sort of embarrassed to bring up another issue, but we had a prosecution in Pennsylvania, and the gentlemen from Pennsylvania, Mr. JOE MCDADE and Mr. JACK MURTHA, will remember this. There was a treasurer of the commonwealth of Pennsylvania, where a prosecutor was prosecuting the improper award of a contract and brought a criminal action. The witnesses in that case testified against the contractor and the contractor was convicted of bribery.

Within one month, the prosecutors in that case had those very same witnesses change their story 180 degrees to now testify against the treasurer of the Commonwealth of Pennsylvania, and threatened those witnesses with prosecution of their wives and their children. It is a famous story across this country. It was witnessed on television.

The only way that treasurer could protect the future of his family and maintain his pension was to commit suicide before sentencing, and he did.

Mr. Chairman, if that is not extreme, extraordinary prosecutorial activity, I do not know what is. I have witnessed it in the case of the gentleman from Pennsylvania (Mr. JOE MCDADE). I am witnessing it with this special counsel.

There are statistics now available that, in the White House alone, the individuals working there have had to spend more than $12 million in hiring lawyers to appear in depositions and before grand juries who are not in any way substantively involved. We are going on and on.

What this ends up doing, and the American people know this, is destroying respect for the American judicial system, all with the idea that every now and then some prosecutor who wears a pearl handled 45 revolver can find somebody who has a grudge against an elected official, Republican or Democrat, who can make a point to bring a charge, and substantiate that charge by just marginal testimony, sufficient to get an indictment, but not sufficient to convict.

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But you can take that public official down the road to ruination, that family down the road to ruination, our system down the road to ruination. Why? Why do we sit here? Why are we so innocent? Why have we not recognized that this has been happening over and over and over again? Why are we asking for the McDade-Murtha language?

It was an understanding in the bar and in the prosecutorial field and in the defense field that there were certain standards of ethics and honor, certain things you did not do, an unwritten code. Well, the prosecutors in the United States today, whether they be special counsels or regular prosecutors, have shown us that they are going to push it to the end of the envelope and beyond. They are going to write their own definition of what standards are.

So it is incumbent upon this House, the people's House, to determine that if you are going to push it to the edge of the envelope and you are going to destroy lives and you are going to prosecute people unreasonably at high expense and at a detriment to both, the family and this democracy, then this public House should take action.

We are saying we want to codify the code of standards. We want to say what they have to do and what they do not have to do, and we want to make them subject to a review board. Why should not public officials and all Americans know that when they get taken by their government for hundreds of billions of dollars, hundreds of prosecutors, thousands of FBI agents, that they have a right not to be ruined. That is what the McDade-Murtha language and the perfecting amendment of the gentleman from Michigan is going to accomplish.

I urge my colleagues to vote for justice.

Mr. MCCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

I have the greatest respect for the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Pennsylvania (Mr. MURTHA) and the cause that they are out here about today.

I happen to have counseled the gentleman from Pennsylvania (Mr. MCDADE) back when he had the problems that I know he did, which I think were wrong. I believe he was taken through hell, and I think it was a very improper methodology being used by that prosecutor from all I knew about it at the time, and I knew a great deal.

But, unfortunately, I cannot agree with the proposal that is in the bill today and that is being amended or attempting to be amended by the gentleman from Michigan (Mr. CONYERS). I cannot agree with that. I have to support the Hutchinson amendment to strike all of this and urge that all of it be taken out of this bill, because I do not think we can simply go to conference and perfect something that is as bad, unfortunately, as the way this is crafted.

I would hope that we could come back at some point as a body, through the Committee on the Judiciary or otherwise, and craft something that would address the problems that I think are genuine, that the Members from Pennsylvania, in particular, of both parties have brought to our attention today and so forcefully and rightfully.

But what the underlying provision that we are talking about striking would do would be in essence to permit anybody who has some prosecutor who goes after them to complain to the Attorney General, and the Attorney General is going to have to respond with as vague a standard as bringing discredit on the department within 30 days. That could cause untold delays in hundreds and thousands of prosecutions across the country.

It is an enormous cost in bureaucracy that we would be setting up in the process of doing this. Then if you did not agree, of course, with the result of what the Attorney General decided in 30 days, you would have a 7-member board that has been created, that sits in essence outside of the body politic of the Justice Department, to review the questions that may be raised by somebody who might be the subject of indictment or prosecution.

It is not that you may be should not have some review in very limited circumstances, but they are not defined well in the proposal, unfortunately, not very narrow at all. The most dangerous provision, from my perspective as the chairman of the Subcommittee on Crime in the House, is the fact that information could be obtained by this board from anywhere in the government, including criminal investigation files, information about informants and potential witnesses, classified documents, or information covered by the Privacy Act. And things that are required, all of these things that would be required could be revealed in public, since apparently the board operates in public. There is nothing in this provision that would prohibit the information that I just described from becoming public.

Indeed the difficulties that exist with this provision are myriad. I hope that today this debate on the amendment of

the gentleman from Michigan (Mr. CONYERS) does not deteriorate into a debate over a question about a special prosecutor. We can debate that until the cows come home. That is a highly political debate.

Obviously, if you are going to cover prosecutors, you should be covering probably all prosecutors, but we should not be debating the merits or the pros and cons of the independent counsel out here today. We should be debating the merits and the pros and cons of the underlying premise that everything would be covered by this, all prosecutors, in essence, in a fashion that is unworkable and unmanageable and impossible to cope with as a practical matter.

So I strongly urge the Members, however passionate you may be, and I am passionate about my good friend, the gentleman from Pennsylvania (Mr. MCDADE) and about the improprieties that do go on from time to time with overzealous prosecutors who are out of control in our system, I do not believe that the underlying matter here today, the part that is in the bill today that we are trying to strike, is the solution. It is not the solution. Unfortunately, it makes things more difficult than it cures.

In the strongest of terms, I urge Members' deliberate consideration of this, and I would urge Members ultimately, after dispensing with the Conyers amendment, to vote to strike, to support the efforts of the gentleman from Arkansas (Mr. HUTCHINSON) to do that.

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

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for his presentation. Right now we are debating this small provision, not the whole thrust of the measure. Do you not agree with me that there have been more than sufficient leaks under the independent counsel to include him in this measure?

Mr. MCCOLLUM. I do not believe the debate should be on the question of what is going on with the special prosecutor or with what is going on with the Clinton investigation or any of that. The focus of this debate today, you are distracting by your amendment and debate on it to try to get at Ken Starr. I think that is wrong.

The issue underlying this today is not that question, however volatile that is. That will be dealt with in due course by the Committee on the Judiciary, if Ken Starr sends anything up here or when we debate independent counsel. But what we are debating today, and should be, is that the underlying premise you are trying to amend is fatally flawed.

The board structure that the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Pennsylvania (Mr. MURTHA) have worked into this bill unfortunately will not work, even though we want to have oversight. It will not operate correctly. It cannot operate, and I urge in the end that it be stricken.

Mr. KING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong opposition to the Hutchinson amendment and in strong support of the Citizens Protection Act of my good friend, the gentleman from Pennsylvania (Mr. MCDADE).

I think it is time to put a human face on the abuses that are carried out by prosecutors in this country, prosecutors who consistently violate the rights of innocent human beings, innocent citizens and their families, friends and relatives.

By putting a human face on it, I would like to refer to a predecessor that I had here in the Congress, Angelo Roncallo, a man who a number of years ago sat in the very seat that I occupy today. And what went on in his case has happened in so many other cases over the years.

He was a man who was brought in by the United States Attorney and told he had to deliver a political leader. When he refused to do that, he was called before the grand jury. His family was harassed. He was indicted. His friends were indicted. Everything was leaked to the newspapers. This man's career was destroyed. He was defeated here in the United States Congress.

Finally his case went to trial. The jury was out 30 minutes and he was acquitted. It came out during that case that all throughout, from day one, the prosecutors had evidence that would have completely exonerated this defendant. They knew it from day one. Throughout the trial, they had U.S. Marshals stand around the U.S. Attorney's office because they had convinced the judge that this Congressman, Angelo Roncallo, was somehow going to have them killed during the trial. The jury had to witness this, marshals in the courtroom day in and day out.

When the trial was over the judge said it was a disgrace. He referred it to the Justice Department to have it investigated. What was done? Nothing. That is what always happens. Nothing.

The gentleman from Georgia said it is bizarre. He said that opposition to the Hutchinson amendment is bizarre. He said the comments of the gentleman from Pennsylvania (Mr. MURTHA) were bizarre. I would say to the gentleman from Georgia, if he were targeted by a prosecutor, if they tried to destroy his reputation, he would find that bizarre.

I think it is important for all of us in this Chamber, those of us who are self-righteous, those of us who say it could never happen to us, let you be the target of an unscrupulous prosecutor, and you will see how fast you will change your tune when you see your wife harassed and your children. And I can go on and on with case after case. I remember I was once negotiating with the United States Attorney in a case and he ended the discussion, ended the negotiation by telling me that he was the United States of America, it was time that I realized it.

The fact is, no prosecutor in this country is the United States of America. The United States of America is the people. We represent the people. It is time for us to stand up and say no to these prosecutors, no matter where they are coming from.

Prosecutors are out of control. They are ruining the civil liberties of people in this country. I am a Republican. I cannot understand how Members in my party who say they support individual rights could ever allow a prosecutor to trample upon the rights of innocent people, the abuses that they are guilty of.

And I just want to concur in what the gentleman from Pennsylvania (Mr. MURTHA) said. I do not know how the gentleman from Pennsylvania (Mr. MCDADE) went through what he went through over the years and stood tall and survived it. He is a man of courage. He is a man who had the guts to stand up. But you think of the average citizen in your home town, if they went after him, would he have that same guts? Would he have that stamina? Would his family be able to resist it?

I again urge and implore all of my colleagues to defeat the Hutchinson amendment, stand with the gentleman from Pennsylvania (Mr. MCDADE), stand with the Constitution and say no to this untrammeled abuse of power by the prosecutors and our Justice Department today.

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. STUPAK. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I just want to respond to my dear friend, the chairman of the Subcommittee on Crime, the gentleman from Florida (Mr. MCCOLLUM).

My amendment is not about Kenneth Starr and his investigations. It is about whether or not the office of special prosecutor, who is employed by the Department of Justice, is considered to be an employee. The answer is perfectly obvious. I can only gather that it may have been a mistake that it was not included in here.

Starr is going to be investigated. There is plenty of time for him. But this is to include this in the provision of the McDade measure.

I thank the gentleman for yielding to me.

Mr. STUPAK. Mr. Chairman, I rise in support of this amendment, the Conyers amendment. Whether we agree or not with the underlying provision of the bill, the Murtha amendment, I do believe and I do not see any reason why we should exclude any branch of the Justice Department or any employee. What the Murtha-McDade language establishes is an ethical standard for Federal prosecutors.

If we take a look at the independent prosecutor right now, we have given the individual unfettered subpoena power and about $40 million.

What does the Murtha-McDade language say? It says prosecutors and employees of the Justice Department shall not seek indictment of any person without probable cause. It says that they shall not fail to promptly release information that would exonerate a person under indictment, intentionally mislead a court regarding the guilt of a person, intentionally or knowingly misstate or alter evidence, I know that has never happened in the current investigation, attempt to influence a witness' testimony, frustrate or impede the defendant's right to discover evidence, offer or provide sexual activities to any government witness, leak or improperly disseminate information during an investigation, or engage in conduct that discredits the Justice Department. If that does not sound like what has been happening with this special investigation, this special prosecutor, and what has happened on the McDade case and some of these other cases, that is why we need this provision.

This is not a political debate. This is what happens in prosecutions. That is why the McDade and Murtha language has come before us. So what the Conyers amendment says is that the independent counsels exercise their authority on behalf of the Attorney General and the Department of Justice, and that we must ensure that all prosecutors are held to the same standard no matter who they are investigating, whether it is the President or the person on the street.

We cannot create a special class of Federal prosecutors. That is what we do if we defeat this amendment. This perfecting amendment needs to be passed. We cannot create a special class of Federal prosecutors that is not subject to Justice Department ethical standards.

I urge all Members to support the Conyers amendment and rein in the prosecutors across the United States and especially the independent, so-called special prosecutors.

Mr. BARR of Georgia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let us just kind of sit back for just a moment here, now that we have at least gotten some of the other Members that think that if you talk loud enough and bang on the lectern and talk fast enough you will get applause and that really means something. Let us alternatively focus on exactly what is going on here.

All of the points that the gentleman just made, and he has extensive background in law enforcement and I respect that, all of those things are already encompassed in both the internal rules and procedures of the Department of Justice. They are already encompassed indirectly and directly in those rules that pertain to every lawyer in the U.S. Attorney's office who has to be a member of the bar of the jurisdiction in which that office is located.

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If there are, in fact, problems from time to time with prosecutors, as there will be with any profession, then there are already very clear, very well time-tested mechanisms, including prosecution of a prosecutor for violation of civil rights or other violations of Federal law, ethical proceedings, disbarment proceedings that can be brought against that assistant U.S. attorney or that government attorney or that United States attorney, if need be.

The problem with this language, the underlying language, and I am not even going to bother talking about the amendment to the amendment so much. We know what that is. That is an anti-Ken Starr amendment. The problem is the mechanism that the underlying language in title VIII, which we seek to remove, purports to do. It will, make no mistake about it, wreak havoc on very important prosecutions.

I am somewhat amused. We sit in the Committee on the Judiciary frequently and, if we come up with an example of how a law has been abused or why a law is necessary, many of those same folks, including the distinguished gentleman who offers the amendment to the amendment, immediately say, oh, we are trying to legislate by example; oh, what we are talking about are just examples of something; show us the law. Well, of course, now what they are doing is they are raising one example and they are saying we have to throw the baby out with the bath water.

There are mechanisms already in place to address prosecutorial abuse and prosecutorial misconduct. Those mechanisms are used day in and day out whenever there is substantial evidence of abuse. Defense attorneys file motions constantly. There are ethical proceedings brought. The problem with the mechanism set up under this, is this review panel would have access to the whole range of the prosecution's case, including names of witnesses, theories of prosecution, undercover material. It would be, in effect, Mr. Chairman, a defense attorney's dream, which is why the defense attorneys like it.

We have an oath of office that is taken by prosecutors, Federal prosecutors. They do represent the people of this country. I know my friend from New York sort of denigrated that, but prosecutors do speak for and they protect the rights of the people of this country. And if we allowed the language, as amended, or even without the amendment by the gentleman from Michigan, of title VIII to remain, then we will be severely hampering the ability of Federal prosecutors to represent properly and to protect the people of this country.

The gentleman from New York (Mr. KING) apparently paid close attention to my words, because earlier, on my point of order, I used the word bizarre. It brings to mind something else. It brings to mind the Bizarro World. There used to be a comic book called the Bizarro World. And I suppose in the Bizarro World we can have people taking the well of the House, while they are seeking to dismantle the prosecutorial mechanisms of this country seeking to uphold the laws of this country, and say that an effort made to sustain and protect those mechanisms is somehow un-American.

The most appropriate legal theory here is let us not throw the baby out with the bath water. There are mechanisms to protect against abuse. Let us use them and let us do away with this sham amendment to the amendment, which is an attack on the independent counsel and has nothing to do with the underlying amendment.

Mrs. FOWLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Hutchinson amendment. I see this as an issue of accountability. Department of Justice attorneys should be required to abide by the same ethics rules as all other attorneys. These attorneys should be held accountable to the same standards set by the State Supreme Court that granted each lawyer his or her license to practice law in that State.

As most of my colleagues know, I have always been a supporter of congressional accountability. And in 1995, when the Republicans took control of Congress, one of our first orders of business was to make this institution abide by the same laws we make for everybody else. Well, my colleagues, we are facing the same issue of accountability here.

Our Founding Fathers wisely rejected the notion of kings and dictators and, instead, they formed this experimental government called a democracy. Well, in our system of government no one is above the law. No civil servant, no law enforcement official, no Congressman, not even the President of the United States is above the law in our country. But over the past decade, the Department of Justice has made every attempt to exempt its own attorneys from the ethical rules of the States granting them their licenses. Should the Department of Justice be above the State laws of ethics? I do not see any reason why they should.

Time and time again it has come to my attention that Department of Justice lawyers have conducted themselves in a questionable manner while representing the Federal Government without any penalty or oversight. What happened to our good friend and colleague, the gentleman from Pennsylvania (Mr. JOE MCDADE), could happen to any citizen in this country, and they would not have possibly the courage or the resources that the gentleman from Pennsylvania did to fight it and win.

U.S. District Court Judge George Dunn, Jr., summed it up best when he said,

> Congress intended Federal lawyers to be subject to regulation by the State boards of which they are members and to comply with the appropriate ethical standards.

I urge my fellow Members to oppose this amendment and to oppose the Justice Department's attempt to create one set of standards for their attorneys and another set for the other attorneys in this country.

Mr. DELAHUNT. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. DELAHUNT. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding to me.

My colleagues, we want to keep this in order and proportional. This is not a referendum on Kenneth Starr or the investigation he is conducting or the leaks, real or alleged, that are being investigated. This is an amendment that makes it clear to all to whom it had not previously been clear that all independent counsel, whatever their names, are employees of the Department of Justice. No more, no less. Does not implicate Kenneth Starr as a malefactor. It does not praise him. It does not say anything about where we come down on the investigation. We can be for or against the President or anything in between.

All we are making clear to everybody that has brought this measure, and it would be nice for some of the sponsors of this amendment, well, some of them already have agreed with this amendment, but we cannot have an amendment that covers the Department of Justice U.S. attorneys and leave out the independent counsel, who is a U.S. attorney. All the laws that govern the U.S. prosecutors apply to the independent counsel. It should be obvious without the amendment that he is included. But since a few do not have this clear, I introduced the perfecting amendment. That is all this is about.

Mr. Chairman, I thank my distinguished colleague from Massachusetts, who serves with me on the Committee on the Judiciary, for allowing me this time.

Mr. DELAHUNT. Reclaiming my time, Mr. Chairman, I was not present, nor did I serve in this body when the gentleman from Pennsylvania (Mr. JOE MCDADE) went through the troubles that have been related to during the course of this particular debate.

Just let me say this, as a former prosecutor and as an elected representative of the people of the 10th District of Massachusetts, I have got to know the gentleman from Pennsylvania (Mr. MCDADE), I know him well, and I know of no one who has such unimpeachable integrity as the gentleman from Pennsylvania, and I just simply want to make that statement for the RECORD.

I listened to the debate, and I think we have got to step back and reflect. This is really rather simple. It is about ethics. That is what it is about. It is about ethics, and the existing code of ethics that every single state prosecutor subscribes to ought to be applied to Department of Justice attorneys.

I do not think that is asking too much. We have heard a lot about law enforcement concerns, but that should not justify the creation of a lesser standard of ethics for Federal prosecutors. It just does not work.

We should pause and think about the power of the prosecutor, and I know that power. I was an elected prosecutor for more than 20 years. I understand that power. I know what it can do to individuals. I know what it can do to families, and it should be exercised judiciously. I submit that most prosecutors, Federal and State, do that.

The single admonition that I would instruct each and every assistant district attorney was to never abuse the power of that office, never abuse the power of that office, because it is an enormous power.

There is no power greater in a democracy where you have the capacity to take the individual liberties away from an individual. That is the ultimate power, and if that power is abused, it begins the process of the erosion of a healthy democracy.

I dare say the prosecutor should be held to the highest possible standards, the highest code of ethics, because the American people have given them an extraordinary power, whether they are independent counsels, whether they are State prosecutors, whether they are United States Attorneys.

Mr. FORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, all of the legal arguments have been stated quite coherently and cogently by members of the Committee on the Judiciary and even have been challenged by Members on the other side of the aisle.

I would side with those who support the McDade-Murtha provision and certainly even side with the ranking member on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), in his efforts to perfect the provision.

I would say in addition to all that has been said, and not to be redundant, not to repeat what has been said by those who spoke so eloquently, including my dear friends the gentleman from New York (Mr. KING) and the gentleman from Pennsylvania (Mr. KANJORSKI), that we are also faced with a public relations challenge as well.

One of the reasons that so many around this Nation distrust and mistrust politicians, the gentleman from Pennsylvania (Mr. MURTHA) spoke about the district in which the jurors were pooled from in the trial of the gentleman from Pennsylvania (Mr. MCDADE), where 70 percent of those in that area thought that we were all crooks or thought that politicians were crooks, when you look at a Justice Department that is allowed to really run amuck, to trample the rights of individuals, to trample the civil liberties of individuals all in the quest for a conviction, all in the quest for fulfilling an agenda that they may have personally set and that they personally believe that this person or group of persons might be guilty of a crime, which sometimes might be the case, all we are asking for, Mr. Chairman, and I say to my friends who are sponsoring this amendment and those who I have a personal relationship with who are sponsoring the striking of this provision, is that our prosecutors have to behave and have to follow a certain set of ethical standards.

There is nothing unusual, nothing bizarre, nothing un-American, about what is being asked, for all that we are asking for prosecutors, Federal and State, around this Nation to do is follow a set of standards, the highest set of standards.

My dear friend, the gentleman from Massachusetts (Mr. DELAHUNT), a former prosecutor and a dear freshman colleague, I think stated it perhaps best. There is no greater power in this democracy than the power that our prosecutors in this great America have; for they deserve it but they should also be checked and it also should be tempered.

☐ 1645

For the individual cases and examples, we have heard the gentleman from Pennsylvania (Mr. MCDADE) and my father and others here in this body. But let us protect every American, not just those in this House of Representatives. And certainly this provision allows us to do that.

Mr. COX of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know my colleague from California (Ms. WATERS) will be recognized immediately because we are going back and forth, and in fact, having spoken with her about this, I know that we agree on our conclusion on the merits of this legislation.

Reform of our justice system, civil and criminal, is a top priority of this Congress. The low reputation of the legal profession is of greatest concern to ethical lawyers. I rise in support of America's prosecutors, the overwhelming percentage of whom already follow the rules written out in this legislation. In fact, I dare say virtually all of them do every day.

Citizens need to understand that they have a legal right to have these rules followed, and that is the purpose of this today.

Reputable lawyers know better than anyone else that all too often the courts today are too slow; that all too often justice is delayed or, because of delay, denied; all too often the justice system does not ultimately deliver what all of us intend it to deliver.

Because I have so much faith in America's prosecutors, because I want

to support our criminal justice system, I want the American people to support that justice system as well. I want everybody to understand that when they go to court and they are accused of a crime or their family member is accused of a crime or when they are a victim and the perpetrator of that crime is accused that justice will be done and that it will be fair and on the level.

There are 10 commandments in this bill. The 10 commandments are already observed by good prosecutors everywhere and certainly by good prosecutors in our Department of Justice and those who work in the Offices of Independent Counsels appointed pursuant to statute.

Let me just read these 10 commandments, because it is so self-evident we must stand in support of them.

Commandment number one, just reading from the 10 provisions of the McDade-Murtha bill, says: Thou shalt not indict without probable cause. Who here today says it should be otherwise? Of course, this is a rule that must bind prosecutors throughout the Government.

Number two: Prosecutors cannot hide information that would exonerate a person who has been indicted. They cannot hide information that would exonerate someone who might not be guilty of the crime with which they have been charged. That is a rule that good prosecutors already live by.

A prosecutor must not intentionally mislead a court as to the guilt of the accused. Of course he or she must not do that.

A prosecutor must not intentionally or knowingly alter evidence or intentionally or knowingly misstate evidence.

Number six: A prosecutor must not try to color a witness' testimony.

Number seven: A prosecutor must not prevent a defendant from obtaining evidence that he or she is entitled to.

Number eight: A prosecutor must not offer or provide sex as an inducement to any government witness or potential witness.

Number nine: The prosecutor should not leak information improperly during the course of an investigation.

We all know about the importance of grand jury secrecy to the ultimate successful prosecution, because if witnesses are tipped off in advance they cannot convict the guilty.

And number 10: Prosecutors should not engage in conduct that discredits the Department of Justice.

These 10 commandments in this legislation are not controversial. They are not controversial if applied to any prosecutor within the Department of Justice or within the office of any independent counsel. Every lawyer, certainly every Government lawyer should follow these rules.

I urge my colleagues to vote yes on McDade-Murtha and yes on the perfecting amendment offered by the former chairman the gentleman from Michigan (Mr. CONYERS).

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this debate is long overdue. It is about time we dealt with what is wrong with the Justice Department and with unethical prosecutors in this Nation.

Legislators at the state level, at the federal level have been absolutely supportive of the criminal justice system. They have done everything to give law enforcement the ability to apprehend criminals. They have done everything to be supportive of the Justice Department.

When we look at the generosity of public policy makers on wire tapping, no-knock, search and seizure, all of that, when we look at mandatory minimums, three-strikes-and-you-are-out conspiracy laws, we have been very generous, sending a message to the people of this Nation, we want criminals locked up.

We never knew that they would take the generosity of good public policy makers and turn it on its head. We never knew that they would take out after innocent people in so many different ways.

I cannot even get into telling my colleagues how they use conspiracy laws. No evidence, no documentation. These conspiracy laws are filling up the prisons.

I do not know all of the details of the case of the gentleman from Pennsylvania (Mr. MCDADE). I have heard about it. But I want to tell my colleagues, I know thousands of Mr. McDades who do not have any money, who do not have any attorneys, whose grandmothers and mothers come crying to my office for me to help them and I cannot do anything because my powerful government, prosecutors, have run amuck.

Let me tell my colleagues, my hat is off, my hat is off to the ranking member of the Committee on the Judiciary, my friend from Detroit, Michigan, for this amendment.

But I want to tell my colleagues, I want to make it very clear, he is talking about a generic prosecutor. I am talking about generic prosecutors, but I am talking about Ken Starr also. I want to tell my colleagues, he is under investigation. He is the poster boy for unethical prosecutors. I want to tell my colleagues he is under investigation because he has leaks about Hillary Clinton getting indicted, leaks about Bruce Lindsey getting indicted, leaks about Monica Lewinsky meeting with Ken Starr in New York City, leaks about Betty Currie's testimony, leaks about FBI wire conversations at the Ritz Carlton hotel. Even the Republicans have said he should be investigated.

So let me make it clear. We would not be in this debate today, we would not have this amendment today if this poster boy for unethical prosecutors had not violated all of us in the way he has done.

I am so glad this debate is taking place. I wish we had this in our committee. It should have been in subcommittee. It should be in full committee. We should bring people in here to tell their stories about what has happened to them.

I should be able to tell my colleagues about a young woman named Kimber Smith, who is 19 years old who is sitting in a federal penitentiary today.

And so I do not know all of the details about the gentleman from Pennsylvania (Mr. MCDADE). I have heard some. But I want to tell my colleagues, indeed, I know many because I have heard the stories and I have seen the devastation of unethical prosecutors.

It is time for America to believe that even though we want criminals prosecuted, indicted and locked up, we do not intend for them to be violated and run over and disrespected by anybody's prosecutor.

I want to tell my colleagues something. No matter what they think about the gentlewoman from California (Ms. WATERS) on the left or somebody on the right, there is one thing that I hold dear that was drummed in my head as a student, and that was the Constitution of the United States of America.

I was made to believe that I would be protected. Even when things were going wrong, there would be some hope because we had a system of justice that would make sure that the average person, in the final analysis, would have an opportunity for redress. And I believed in this Constitution. They taught it to me too well. And that is why I can stand here and fight for it and feel very comfortable with it.

I do not care about some other prosecutor who is a prosecutor in a state somewhere in Georgia who gets up and defends all prosecutors. I know the reputation of some prosecutors. I know the lives that have been ruined by some state prosecutors. They are no better than these federal ones that we are talking about.

I want criminals to be apprehended, to be investigated, to be locked up. But I want people to have a chance to have their voices heard and to have a chance to be innocent until proven guilty, and that is why we have got to go after this special prosecutor.

Mr. BUYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Conyers perfecting amendment, and I also rise in opposition to the motion to strike the McDade language that is in this bill.

Quite simply, the issue before us is whether the Government attorneys at the Department of Justice should abide by ethical rules that all other attorneys have to abide by, or can they make up their own standards of conduct.

Title VIII of the bill before us requires that federal prosecutors comply with the same state laws and the rules of ethics as other attorneys. In 1980,

Congress passed legislation that has required that each Department of Justice lawyer to be ''duly licensed and authorized to practice as an attorney under the laws of a state, territory, or the District of Columbia.''

The courts have held that the statute requires the Federal Government lawyers to comply with the ethics rules of their respective states of admission. I believe this is very reasonable. This is not a burdensome nor onerous requirement. The attorneys for the Federal Government should comply with the ethics standards in the states in which they are duly licensed.

The gentleman from Arkansas (Mr. HUTCHINSON) in his arguments presented an example whereby an assistant United States attorney might find himself litigating in one state and through the discovery process find himself in two other states. And it says that if in fact that assistant U.S. Attorney is faced then with inconsistent rules on ethics, what should he do? We seek the higher standard. That is an easy one. We should always be for the higher standard.

So when ethics conflict, do not go to the floor and figure out how we can maneuver through it. Seek the higher standard. So I do not see the inconsistency. If in fact you set your life to live by the higher standard, it is an easy question.

I also want to comment, the Department of Justice, I think unfortunately, has repeatedly attempted to thwart I think this bill and those who believe that Government attorneys should be held accountable and be held to the highest standard.

Government prosecutors, they hold tremendous power over life and liberty of our citizens. I have been one, so I understand the power out of the U.S. Attorney's Office.

Title VIII of the bill will hold these Government attorneys, paid for by the tax dollars, to the same standards of those attorneys and create a system whereby they will be held accountable to the regulations and in fact to the highest standard.

Under title VIII, the Department of Justice employees, they are held to such actions. And I sat down here as I was listening to the debate and thought I would make a list of all types of things: Whether their statements and actions by these prosecutors in due process; whether it is through the process of filing criminal information, grand jury, the discovery process, the jury alone, the judge alone; whether their actions are misleading in evidence or by the witness or by the law; whether their statements are inaccurate or they use inflammatory actions or use disparaging statements; or whether their actions are meant to harass or use threats or verbal abuse of a witness or of a defense counsel; if their actions are inflammatory or they use false accusations, they use threatening language or they ridicule a defendant or witness or the defense counsel; or if in fact that their actions are arbitrary or capricious, held without any forms of standards; if in fact they are faced with a conflict of interest; whether their actions are based on a vindication; whether they operate in bad faith; whether they have abusive or overzealous misconduct; whether in fact they are leaking information or unauthorized disclosure of grand jury testimony or materials; or in fact they are abusing the legal process to harass or threaten another; or if they begin to withhold exculpatory evidence, whether it is in favor of a defendant or to impeach a particular witness; in fact, where there are issues of conflict of interest, whether they are personal, pecuniary, or in fact political.

So the list goes on and on, and I think that, in fact, these attorneys should be held to the same standards whatever jurisdiction for which they are in.

When we look at the symbol of lady justice, lady justice is blind. Lady justice is blind. And what it means to the prosecutors are that they are not to litigate a case based on an unjustified standard, whether it is picking on an individual because of their age, race, gender, national origin, or the station of life. The process is meant to be fair.

But lady justice is neither blind, nor does she give a wink to unethical or abusive behavior or conduct.

☐ 1700

What I would ask Members to do is to oppose the motion to strike and to support the gentleman from Pennsylvania's legislation. With regard to the first vote that will come up, the Conyers amendment, this one is really simple. When you have about eight or so or now maybe approaching nine independent counsels investigating the President, whether this move to go to the higher standard is good, what is obvious about this amendment as I listen to some of my colleagues speak, this is more about politics than substance. You should stop and ask yourself here, does good politics make good law? No, it does not.

So you are having fun. What fun are you having is attacking Ken Starr. What makes me most disappointed is to hear members on the Committee on the Judiciary who must sit in judgment and receive this report already prejudging their decisions to attack the independent counsel. I am extraordinarily disappointed in my colleagues.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Mr. CONYERS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Michigan.

Mr. CONYERS. I say to my dear colleague on the Committee on the Judiciary from Indiana, we just want to make clear that the U.S. attorneys have one standard and the Conyers amendment wants that standard to include the independent counsel, whatever they may be named, right?

Mr. BUYER. I understand your amendment, yes.

Mr. CONYERS. Right, okay. But you do not support it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me respond to many of the issues that have been expressed on this floor. I would say to the gentleman from Pennsylvania (Mr. MCDADE) that it is my view that no one deserves to be put on the trash heap of life. That sounds like a very harsh statement, harsh in that that is not your destiny. But I do believe that we have an opportunity today to maybe speak for many across this country who unfortunately were caught in the web of someone's misdirections and someone's abuse of power. I think it is appropriate for those of us who are members of the Committee on the Judiciary to say first of all that prosecutors across this Nation have done good by the people of the United States of America. They have prosecuted those well deserving of being prosecuted. They are by and large officers of the court who have upheld the highest standards.

But why are we arguing against prosecutors being subject to the same State laws and rules and local court rules and State bar rules of ethics of any other series of lawyers? Why are we suggesting to our constituents that there is something wrong with requiring prosecutors, Federal prosecutors, to not seek an indictment against you with no probable cause, to fail to promptly release information that may exonerate you, to attempt to alter or misstate evidence, to attempt to influence or color a witness's testimony, to act to frustrate or impede a defendant's right to discovery. Yes, the scale of justice is balanced and blind, and that is what we are speaking of, to be able to equalize you in a court of law against a Federal prosecutor representing the United States of America.

Let me thank the prosecutors for going into the deep South in the 1960s and raising up issues of civil rights that other local attorneys could not raise up. Let me thank them, The Department of Justice did an amazing job in dealing with those issues. So we realize the uniqueness of the Federal prosecutor system. But does that mean that we throw people to the trash heap of life? Do you lose all of your rights because you go into a Federal courtroom and a prosecutor says, ''I have all of the rights''? I believe that we are doing nothing here that is against the boundaries of respect for our Federal system.

Let me say as a member again of the Committee on the Judiciary, yes, I think our job might have been better if we had had hearings. In fact, I do not think we are finished. I think we must proceed and investigate even more whether there are abuses across the country. But today we are where we are. We have an opportunity not to attack but to make better.

This underlying amendment and, of course, the amendment by the gentleman from Michigan that includes the independent counsel, which is very clear, an employee of the Department of Justice is the independent counsel, will protect you the citizen against the kinds of abuses which we face every day.

There is something that is scripturally based. When the woman touched the hem of the garment of Jesus in Christian doctrine, it was said she was healed. It is difficult, of course, to perceive prosecutors along those lines. But they say touch their garment and get no justice. That is the tragedy of what we face.

There is no disgrace for those of us who are members of the Committee on the Judiciary to be able to say that Ken Starr has abused the process, for I am glad the President is going to the grand jury. I am glad Monica Lewinsky. We have no quarrel with the process of justice. But we do have a quarrel with an independent counsel who leaks and leaks and leaks. These amendments will make it better for all Americans. For that reason I think that we should support the perfecting amendment and support the Martha-McDade amendment.

PARLIAMENTARY INQUIRY

Mr. MCDADE. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MCDADE. Mr. Chairman, we have been on the amendment for quite some time. I was going to see at 5:05 if we could get some kind of agreement on a time limit. Members have social engagements, most of them, beginning about 6 o'clock. I do not think we would take much time on the next amendment. I wanted to see if it was possible to get an agreement on time on the Conyers amendment and any amendment thereto.

Mr. MOLLOHAN. Mr. Chairman, we are not in a position to make any agreements on time at this time.

Mr. BRYANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and in further support of the underlying amendment that I cosponsored in opposition to the provision in the base bill which would unduly, in my opinion, hamper our prosecutors.

I stand today to support our prosecutors. I guess I am somewhat surprised as I sit and listen to all the bashing that is going on about our prosecutors, our Federal prosecutors, the people who are presidentially appointed and confirmed by the Senate who serve in our 93 positions as U.S. attorneys as well as our assistant U.S. attorneys, the people who prosecute day in and day out throughout this country the people that need to be prosecuted, not in a perfect way and as we hear anecdotal stories of perhaps cases that should not have been prosecuted, and I have great respect for the gentleman from Pennsylvania, I know very little about his case, and mistakes have been made, I am sure, throughout the history of prosecution.

But, as has been said, by and large these are good prosecutors trying to do the right thing in many cases and in very dangerous, very tough situations. What I want to guard against here today is an overreaction to these anecdotal cases. What I want to prevent is the handcuffing of our prosecutors by requiring them as the underlying bill does to submit to the rules and regulations and disciplinary proceedings of the various States in which they prosecute. These 50 States have enacted individually their own rules and regulations for disciplinary procedures for their attorneys and rightfully so, because they practice in their State courts.

The U.S. attorney, and let me be clear on this, the U.S. attorney and the assistants practice at the Federal courts. They already are obligated to stand behind Federal guidelines in terms of their disciplinary behavior, their ethical conduct as established by the Attorney General of the United States. But what you do in this bill, and I believe in overreaction fashion, is make those U.S. attorneys, those Federal prosecutors, submit to various State regulations on their conduct.

Let us take, for example, the Oklahoma situation. Because so many times, the Federal prosecutor, not the State prosecutor like my colleague from Massachusetts was, but the Federal prosecutors that we talk about in this bill work in multistate litigation, pornography, interstate theft of automobiles, drug cases, where you are working with folks all over the country. In Oklahoma City, you had a tragic bombing, an instance where in that investigation they gathered evidence in Michigan and in New York and other States and brought that together in Oklahoma City for coordination. They would have had to track every piece of evidence in that case, where it came from, to ensure that it did not violate that particular State ethics and disciplinary law. That is an impossible burden for prosecutors who prosecute multistate litigation to have to do.

Let us take another State, I believe, I could be corrected, but I think Massachusetts. In that State, if you arrest a low level drug dealer and you want to, as so often happens in drug cases, you start at the bottom and work your way up to the kingpin. If you arrest a low level drug dealer in that State, the kingpin can hire a lawyer for that low level drug dealer and as a prosecutor, you cannot talk to that low level drug dealer without that lawyer being present who is actually hired by the kingpin. You know what plays out in that situation. If that person talks to you, he may well be dead the next day.

Those are examples of how in reality this bill will play out. It will hamstring Federal prosecutors in a very inappropriate way and it will affect the administration of justice in our Federal courts and the victims of these crimes over and over.

Again, I have great respect for the people who are on the other side of this issue and who have been involved in the system. But yet I cannot help but believe we are literally throwing out the baby with the bath water here. This is totally, totally unnecessary. For instance, it creates a misconduct board which is constituted by appointments from the President and from the House. That in and of itself violates the very sacred separation of powers doctrine.

I would encourage people to stand back from the emotion and look at the overall interest of justice here, not just a few very bad cases, and stand behind our prosecutors who already subscribe to these ethical laws and oppose this amendment.

Mr. MCDADE. Mr. Chairman, I am advised that there may be some accommodation with respect to the limitation on time if it is limited to the amendment offered by the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

The CHAIRMAN. The Chair would eagerly await that.

Mr. MCDADE. Am I accurate in that? I understand that is acceptable.

Mr. MOLLOHAN. Could the gentleman outline his proposal?

Mr. MCDADE. Yes. May I say to my friend from West Virginia that my understanding is that if we limit the limitation on time, if we can get one, to the Conyers amendment, that that is an acceptable proposal to be made. And if that is the case, I would inquire how many speakers there are that remain that would like to be heard on the Conyers amendment.

Mr. MOLLOHAN. We have several. Does the gentleman have a time proposal?

Mr. MCDADE. My understanding on this side is that we have but two, each five minutes. I would suggest 20 minutes, 10 per side, and then vote on the Conyers amendment.

PARLIAMENTARY INQUIRY

Mr. MOLLOHAN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. MOLLOHAN. Can we limit time on the Conyers amendment and not on the underlying amendment?

The CHAIRMAN. Yes, that would be the understanding of the chair.

Mr. MCDADE. May I say to my friend, I find that there are some others on my side who also wish to speak on the Conyers amendment. Four members, five minutes apiece is 20, and you have two. Twenty and 20. Is that acceptable to the gentleman?

☐ 1715

May I inquire of the gentleman, how about 15 and 15 per side? I am advised that Members over here do not intend

to take the full time, that they can get their remarks in the RECORD, and then the amendment would be ripe.

Mr. MOLLOHAN. I think we can agree to that on the Conyers amendment, 15 on each side.

Mr. MCDADE. Mr. Chairman, I ask unanimous consent the debate on the Conyers amendment and the amendments thereto cease in 30 minutes, equally divided.

The CHAIRMAN. And all amendments thereto? Equally divided?

Mr. MCDADE. Yes, Mr. Chairman.

Is there objection to the request of the gentleman from Pennsylvania?

PARLIAMENTARY INQUIRY

Mr. MOLLOHAN. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MOLLOHAN. Are there any amendments to the Conyers amendment in order?

The CHAIRMAN. In theory there would be, but if the request is granted, of course they would be debatable within that time.

Mr. MOLLOHAN. Mr. Chairman, we would not want to make the agreement if it were to include time limit on any potential amendments on the Conyers amendment.

The CHAIRMAN. That is the understanding of the Chair.

Mr. MOLLOHAN. That we would not have any amendments on the Conyers amendment that would become a part of the time agreement?

The CHAIRMAN. The request would only impact the Conyers amendment itself.

Mr. MCDADE. Mr. Chairman, I renew my unanimous-consent request.

The CHAIRMAN. Would the gentleman restate his unanimous-consent request?

Mr. MCDADE. Mr. Chairman, I ask that all debate on the Conyers amendment cease in 30 minutes, equally divided on each side, that I control time here and the gentleman from Michigan control the time on that side.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. HUTCHINSON. Reserving the right to object, Mr. Chairman, it appears to me that the request has two people controlling time that are both in favor of the Conyers amendment. I would like to claim time in opposition.

Mr. Chairman, I trust the gentleman from Pennsylvania to control it. I just would like to make sure that it is controlled.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Without objection, the unanimous-consent request is granted whereby debate will cease in 30 minutes, 15 minutes controlled by the gentleman from Michigan (Mr. CONYERS) and 15 minutes controlled by the gentleman from Pennsylvania (Mr. MCDADE).

Mr. MCDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary.

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

Mr. HYDE. Mr. Chairman, I think the Conyers amendment is inappropriate, but I do not disagree with the underlying thought, which is that independent counsels ought to be accountable.

I go back to the Iran-Contra days when Elliot Abrams was destroyed by an independent counsel, I thought very unjustly, when Caspar Weinberger was indicted three days before an election, and there is just no accountability; so there ought to be. This is not the time to do it. The time to do it is when we reauthorize the bill next year.

In 1994, when we reauthorized the independent counsel, I had some suggestions for accountability. They were shot down by the chairman of the House Committee on the Judiciary then, they were shot down by the chairman of the Senate Judiciary Committee. They were perfectly happy with the language of the bill as it then existed.

Now, of course, experience has changed their mind. So I agree, but never forget the ultimate discipline is with the Attorney General. She can dismiss the independent counsel, and if he is half as bad as people say, I wonder why she has not dismissed him. But that is a question for another day.

But any lesser sanction would erode the independence of the independent counsel, and we must keep the independent counsel independent.

So I think the gentleman's amendment is mis-timed, overshoots the mark and ought to be defeated.

Mr. CONYERS. Mr. Chairman I yield such time as she may consume to the distinguished gentlewoman from California (Ms. PELOSI).

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

Ms. PELOSI. Mr. Chairman, I especially thank the gentleman from Michigan (Mr. CONYERS) for his leadership in bringing this amendment to the floor, which I wholeheartedly support and consider a breath of fresh air. I also rise in support of the underlying McDade-Murtha bill.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I rise in strong support of the Conyers amendment as well as in opposition to the Hutchinson amendment, which would then strike the McDade-Murtha provision of this bill. In essence, McDade-Murtha codifies the long-recognized, but recently-ignored principles that U.S. Attorneys must abide by the same rules of ethics as all other practicing lawyers. The Conyers amendment says that this includes special counsel as well, not just the people who are currently employed by the Department of Justice, and that makes all the sense in the world.

Limited government is the prerequisite for liberty and justice. That is what we are talking about today, limiting government power to what is a reasonable power to maintain order in our society.

Well, however, over the last three decades, because of the fear of crime we have ended up granting enormous power with very few checks and balances to prosecutors. We have just been expanding their power, and yours truly is just as guilty as anybody else out of fear of crime to give prosecutors power without having any checks and balances. Now we are surprised to see that big government with lots of power, people in that government tend to abuse that power.

Our Founding Fathers would not be surprised at that. The fact is every time we expand power we have to put checks in place or there will be abuses of power. For far too many times we have seen out-of-control prosecutors who now have all this more power to attack the bad guys, not seeking truth or not trying to protect the innocent but instead engaging themselves in self-aggrandizing, targeted attacks, often pushing relentlessly for some kind of prosecutorial victory regardless of the cost and, at times, regardless of the cost and, at times, regardless of the actual guilt or innocence of the target.

I and other supporters of the McDade-Murtha provision, and we are advocates of law and order, take this stand today to protect freedom and liberty threatened by prosecutors who are not being held to the same standards as other people in the legal profession. The gentleman from Indiana (Mr. BUYER) answered these charges, that there is going to be confusion, that we have different standards at the local level. The fact is that we expect our prosecutors to be at the highest level because we are protecting the rights of our citizens, the freedom of the people of the United States of America.

Far too often we have seen cases like the gentleman from Pennsylvania (Mr. MCDADE) where prosecutors are out of control and politically motivated. They go out and destroy public officials and public people. But what about the little guys? The little guys who have no money to defend themselves and are faced by these same abusive prosecutors?

No, putting down a code of conduct, if my colleagues will, a standard of ethics for the prosecutors, is something good. It is totally consistent with freedom in our country, with what our Founding Fathers wanted, with the concepts of limited government. Why should prosecutors be exempt from the ethics standards that the rest of us have?

Vote yes on the Conyers amendment to make sure all of the people who are

involved in prosecution in our country have these standards and no on Hutchinson.

Mr. MCDADE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Alabama (Mr. CALLAHAN).

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

Mr. CALLAHAN. Mr. Chairman, I am not a lawyer, and I do not apologize for that, I am just not. But I do have a legal question that I would like for some of the legalese Members who are so educated in the law to inform me.

The Mobile Press Register, my hometown newspaper, recently published a story where it says a former Internal Revenue informant in a Mobile diesel fraud case claims the IRS paid him to skip town during the May trial where his testimony could have helped the defense.

When we questioned, or when the press questioned, the IRS and the Defense Department as to whether or not it took place, they admitted that they gave the man $2,500 to leave town during the trial so he could not testify against the defense or for the defense.

The FBI then said, well, this guy is a liar and that he cannot be trusted. Well, if he is a liar and he cannot be trusted, why did they give him $2,500?

Does the Federal Government have the authority, any of the legalese Members can tell me, to pay a defense witness to leave town if he agrees not to be there during the trial and testify, and, if that is the case, does the underlying amendment offered by the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Pennsylvania (Mr. MURTHA), does it help correct a situation taking place like that in the future?

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

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

Mr. HYDE. The answer is absolutely not. That is obstruction of justice and was a crime.

Mr. CALLAHAN. Then in the gentleman's opinion, as a prosecutor and as a man learned in the law, should the Justice Department in that district indict the IRS individual who gave him this money?

Mr. HYDE. If the version that the gentleman read is accurate, there is a lot of work for the Justice Department to do right down there where that happened.

Mr. CALLAHAN. Mr. Chairman, I assume everything we read in the newspaper is factual, but giving the benefit of the doubt that it might not be factual, I think that the investigator, the defense attorney in Mobile, who incidentally has called me because Janet Reno told him to and asked me to vote against the underlying bill, which I intend to do anyway.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. BERMAN), a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the gentleman from Michigan for yielding this time to me.

I listened with great interest to the comments of the very distinguished gentleman from Illinois (Mr. HYDE), the chairman of our Committee on the Judiciary, and I would say every argument he gave against the Conyers amendment applies just as forcefully in support of the Hutchinson amendment and for striking the underlying provision, and that is going through the regular order either in the context of an independent counsel law or in the context of a Justice Department reauthorization we could look at this proposal, look at the question of improper prosecutorial tactics and fashion an appropriate remedy.

But if there is going to be the McDade-Murtha language in this bill, then I cannot think of a reason in the world why those same restrictions should not apply to staff and to an independent counsel or to the independent counsel himself.

Independent counsel working in a State, if the Justice Department lawyer should be complying with the local bar rules, then the independent counsel lawyer should be complying with the local bar rules. If improper overzealous prosecution tactics, the kinds of stories that the gentleman from Alabama (Mr. CALLAHAN) told us about, are going on, then an independent review board should be reviewing those tactics as well as the tactics of Justice Department lawyers.

I have some concerns about the base proposal, and I will speak to that when the Hutchinson amendment comes up, but we should support the Conyers amendment and then treat everybody in the similar situation the same way.

Mr. Chairman, I urge an aye vote on the Conyers amendment.

Mr. MCDADE. Mr. Chairman, I yield 6 minutes to the gentleman from Arkansas (Mr. HUTCHINSON), a distinguished Member.

□ 1730

Mr. HUTCHINSON. Mr. Chairman, I thank the distinguished gentleman from Pennsylvania (Mr. MCDADE) for the courtesies that he has extended to me. He has been in this body some time longer than I have, and he has taught me a few things. I have the utmost regard and high respect for the gentleman.

There has been some mention today about unfairness in prosecution, and I do not dispute that it happens, that it has happened in this body. The gentleman from Pennsylvania (Mr. MCDADE) has referred to a case; others have.

I have made mention of the fact I am a former Federal prosecutor, and that is true. I was a prosecutor in the mid-80's, but after I left that, I became a defense attorney. So I have sat in that courtroom and I have heard a jury come back with an acquittal, and I realized an acquittal does not remedy everything because an individual defendant who has been through an enormous Federal criminal trial still suffers consequences.

But I believe that we took a big step in this Congress in remedying and curtailing and striking a better balance, and that was when we passed and it was signed into law the provision that said that if there is a frivolous prosecution, then the acquitted defendant can recover attorney's fees from the government.

I think we need to have time for that to work. I think it strikes a better balance. I think that prosecutors were concerned about that, that that is a chilling effect. Well, I hope it is a remedial effect. I hope that it strikes a better balance. So I am very pleased with that.

But I do want to say also that a number of Members have said, why in the world should we have Federal prosecutors who should be exempt from the State ethics law? And that is just not the case that we have presently.

Presently, as a Federal prosecutor, every Federal prosecutor has to be licensed to practice law, are subject to the state licensure laws of their state, whether it is Virginia, whether it is Arkansas. They have to abide by those ethics laws. That is the current law.

What the present proposal is, whether it is the independent counsel under the Conyers amendment or whether it is the underlying bill, it would bring all Federal prosecutors subject not to the ethics laws of their State, but to every State in which they engage in their duties, and that is the point that my good friend the gentleman from Tennessee (Mr. BRYANT) was making.

In the multistate investigations we have, when you are traveling down to Florida to interview a witness, when you are going to Louisiana, when you have multistates involved, you have conflicting laws with different States. My good friend from Massachusetts has some very stringent bar rules that are in conflict with the ethics laws in our State and hamstring what a prosecutor might be trying to do and what could be perceived as unfair.

In addition to the reviews of the State ethics laws, you presently have the Office of Professional Responsibility. You have the inspector general that will have review over these Federal prosecutors, in addition to the Federal courts.

But let me say in reference to the Conyers amendment on the independent counsel, the essence of the Conyers amendment brings the independent counsel under the Misconduct Review Board of title VIII. The Misconduct Review Board is, first of all, a board composed of three members. Those three members are appointed by the President of the United States.

The whole idea of the independent counsel law, and I agree with the gentleman from Illinois (Chairman HYDE) that we need to reevaluate this in the reauthorization next year, but do we

want to bring somebody who is supposed to be independent of the administration under the review of the Misconduct Review Board of three people appointed by the President? It makes no sense.

The Misconduct Review Board, if there is any complaint made by any citizen, can subpoena evidence, can subpoena records, can subpoena witnesses and bring them before them with a public show that would compromise confidential informants, whether it is a drug case or something the independent counsel is doing. So the Misconduct Review Board is a bureaucracy that is duplicative of what we have now. It is not needed; it takes us in the wrong direction.

The gentleman from California (Mr. COX) says we have 10 rules that ought to be obeyed by Federal prosecutors. We already have ethical rules for our Federal prosecutors and State prosecutors. But those 10 rules have to be interpreted by a Misconduct Review Board. So when it says you cannot bring charges without probable cause, that is what a grand jury determines.

Now we are going to have a Misconduct Review Board determine whether there is probable cause or not. That is second guessing, that is an impossible burden put on prosecutors, and it is a chilling effect. I believe we should have a higher standard, but that is a higher standard that is imposed by our State ethics laws, that is applied by the present system.

Let me end with two points: First of all is a letter that was signed by Democrat and Republican former Attorneys General. They said in their letter in opposition to the proposal that the department's policy already requires its attorneys comply with the ethical rules of the States in which they are licensed and practice. So it is already the rule. Across the board they have opposition to this.

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

Mr. HUTCHINSON. I yield to the gentleman from California.

Mr. ROHRABACHER. Does the gentleman believe if a prosecutor, for example, encourages a witness to commit perjury or breaks the law in some other way, that that prosecutor should himself or herself be prosecuted for violating the law for doing something like that?

Mr. HUTCHINSON. Reclaiming my time, absolutely. That is obstruction of justice.

Mr. ROHRABACHER. How many prosecutors have been prosecuted? Almost none, is that right? Instead, like in the case of the gentleman from Pennsylvania (Mr. MCDADE), they get promotions.

Mr. HUTCHINSON. Mr. Chairman, reclaiming my time, under the present situation, that is misconduct that is subject to prosecution as well as ethical investigation. When I talk to people who are in hearings that are involved with the drug cartel, I ask them the question, do those in law enforcement have greater resources, or those in the drug business? And whether it is the DEA or those in the cartels, they say the other side have more weapons.

What we are trying to do by this proposal in this bill is to give more weapons and more tools to those on the other side. We need to strengthen law enforcement, not strengthen the drug cartels.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the gentleman from Arkansas (Mr. HUTCHINSON) is a great member of the Committee on the Judiciary and he is a great lawyer and was a good prosecutor, a good defense man, but what he needs to understand is that we are not revising or dealing with the independent counsel statute. That comes up next year, and, brother, we have plenty to say about that.

All we are doing now is making the very elementary, simple, nonlegal assertion that the independent counsel is an employee of the U.S. Department of Justice and is subject to the same rules, 6(e) and everything else, that U.S. Attorneys are. That. Nothing more.

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I thank the gentleman for making that point. It seems to me that in the context of this debate, which is an extraordinarily important one, that there is one basic point that we need to focus on, and that is a very simple one: The underlying principles of this Republic, the founding and sustaining principle, is that government draws its just authority from the consent of the governed. We all know that. We all learned that in grammar school.

You cannot have the consent of the governed unless you have their confidence. The governed cannot give their consent unless they have confidence in that which they are giving consent to.

Nowhere in the government is that more stringently important than with regard to the activities of the Department of Justice. And the reason for that is obvious, because the Department of Justice has extraordinary power over individual Americans, over life, liberty and property of every single citizen of every State.

Therefore, particularly the Department of Justice must be held under strict constraint. Nowhere else in the government is it as important as in the Department of Justice. That is why the McDade language in the Commerce-Justice bill is so important, and we owe the gentlemen a debt of gratitude, the gentleman from Pennsylvania (Mr. MCDADE) and the gentleman from Pennsylvania (Mr. MURTHA), for bringing this language to us in the context of this bill.

However, it is also clearly just as important that every employee of the Justice Department ought to be covered by this language, without exception. There should be no exception because every employee of the Justice Department has this prosecutorial power, the right, the ability to deprive Americans of life, liberty and property. Therefore, we need this perfecting amendment to make more powerful, more straightforward, more direct the underlying principles of the McDade language.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to thank the gentleman both for his clarification and his passion. I think we would be doing a great disservice to this debate if we did not clarify that this is not a pointed and singular attack on anyone. It is simply to provide the cover of ethics and of certain legal standards that all lawyers across the Nation have to abide by to all lawyers that are under the Constitution and governing laws of the United States of America.

What I hear the gentleman saying is ethics for you, ethics for me, ethics for everyone, and that includes, as the Conyers amendment has so aptly indicated, an independent counsel that is an employee of the Department of Justice, so that no one's rights are violated.

I ask the gentleman, are we simply engaging in a discussion of fairness, that ethics is the creed, if you will, the oath, if you will, the guiding force that should guide all of us as we relate to those Americans who come under the system of justice?

Mr. HINCHEY. Mr. Chairman, reclaiming my time, I would say absolutely right. Every citizen of this Republic has the right to expect ethical behavior from every other citizen, but particularly every citizen of this Republic has the right to expect ethical behavior from everyone who is placed in a position of prosecutorial responsibility. Nowhere else in the system of government is the requirement to adhere to a strict, clear specified code of ethics more important than those who have been entrusted with prosecutorial responsibilities.

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

Mr. HINCHEY. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Chairman, I think it is important, given the statements by my friend from Arkansas, whom I have great respect for, that if somehow you support McDade and Murtha you are somehow assisting or abetting drug cartels in the United States. That simply is not the case.

State prosecutors historically have conducted investigations that are multistate in nature, whether it be organized crime, whether it be drug trafficking, whether it be white collar

crime. They adjust. As the gentleman from Arkansas indicated, Massachusetts has a very stringent standard in terms of prosecutorial ethics, but it has not caused a problem.

It is reminiscent of when the Warren Court issued the landmark cases in Mapp and Miranda. It was going to impede and be the end in terms of law enforcement. I dare say now we have better and more professional law enforcement that is more ethical than ever before.

Mr. MCDADE. Mr. Chairman, I am delighted to yield 1 minute to the able gentleman from California (Mr. HUNTER).

(Mr. HUNTER asked and was given permission to speak out of order and to revise and extend his remarks.)

HONORABLE RANDY ''DUKE'' CUNNINGHAM DOING WELL FOLLOWING SURGERY

Mr. HUNTER. Mr. Chairman, I wish to announce to my colleagues that our good friend, our Top Gun ''DUKE'' CUNNINGHAM, who underwent surgery today, has come through that surgery successfully. He is doing great. He has already made one attempt to sneak past a corpsman and get back to work, but they apprehended him and he is back in bed to rest for a little bit. He just wishes all of you well.

It would be great, if anybody would like, we would love to have you come to the Republican cloakroom, Democrats and Republicans, and sign the get-well card that we put together for DUKE. He is doing well and he is going to be back shortly.

Mr. MCDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

□ 1745

Mr. BRYANT. Mr. Chairman, under the circumstances, I think the gentleman has been extremely gracious.

I certainly I want to, I am sure, speak for my colleagues who oppose this bill, this portion of the bill, that we have obviously nothing personal against the gentleman and his situation. It is just that we have, we believe, legitimate differences in this particular bill.

Mr. Chairman, I would stand up tonight and argue against the issue at hand, and that is, the amendment offered by the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, which would bring into this bill the independent counsel.

As my colleague, the gentleman from Arkansas (Mr. HUTCHINSON) has so well pointed out, it is almost ludicrous when we envision the aspects of this bill as it might be applicable to the special prosecutor, especially when we consider the Conduct Review Board, which is made up of three members appointed by the White House, and also members appointed in an advisory fashion by the Members of Congress.

It certainly would thwart not only any color of independence, but any independence, or any ability of the independent counsel to exercise independence. It would do that, as well as impede, very clearly, the investigation by being able to come forward at any point and make objections to unfair prosecutions in very vague, very broad terms, that would draw to a halt that independent investigation while this disciplinary action against the independent prosecutor would have to be investigated.

I would point out to my colleagues on both sides that the Attorney General, Janet Reno, opposes this bill in total, and states, in regard to the disruptions that would occur in the U.S. Attorney General's office, as well as, we would speculate, in the independent prosecutor's office, that that would devastate their ability to do the job.

She says, for example, and this is Janet Reno talking, ''For example, a grand jury target could allege the prosecutor was 'bringing discredit on the Department.''' That is an allegation that could stop the prosecution, they are bringing discredit on the department. ''The Attorney General would then be required to complete a preliminary investigation within thirty days.'' They have to stop and do this within 30 days. ''The prosecutor would be forced to devote his or her attention to the misconduct claim rather than . . .'' the underlying criminal investigation.

It is just amazing, if one sits down and thinks about, I believe, the unintended, very sincerely, consequences of this bill in terms of how it will disrupt our very good prosecutors and their effort to stand in that gap between the law-abiding citizens of America and the criminals of America.

I point out that there are mistakes made. In those cases, the system does work. There is a system out there for the gentleman from Pennsylvania (Mr. JOE MCDADE). It must work. I know he would quarrel with that, but it should work.

I urge Members to oppose the Conyers amendment.

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

Mr. Chairman, I want to thank all the Members on both sides of the aisle for a very constructive debate. I think this is very important, and I appreciate the fair discussion under which this amendment has been considered.

I would point out to the last speaker, an able member on the Committee on the Judiciary, the gentleman from Tennessee (Mr. BRYANT), that he is arguing the underlying bill, but the vote that is now coming up is merely whether or not independent counsel are included in the provisions that apply to U.S. attorneys.

If we do not do that we have made an incredibly large error, and I think it was inadvertent when this bill was drafted sometime ago. I am pleased that many of the authors of the bill are supporting this amendment.

I urge its support, Mr. Chairman, and I yield back the balance of my time.

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

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

Mr. MCDADE. Mr. Chairman, let me say to my colleagues, I had not intended to speak on this aspect of the bill, but in view of the comments that were made a few moments ago, I am compelled to.

Under the current system that we heard described by my colleagues, the gentlemen from Tennessee and from Arkansas, there is a remedy for a citizen, once convicted. They can appeal to another court, a higher court. They can make a recommendation or an argument at OPM, the Office of Professional Responsibility in the Department of Justice, after they have been convicted; lives ruined, bankrupt. If they can prove something, they might get a reversal of their case.

Let me be specific. In the case of United States versus Taylor about a year ago, the Department of Justice twisted the testimony of an individual and convicted him on perjurous testimony. If we read the case, we will read that the judge that tried it found the employees of the Department guilty of obstruction of justice. What a charge, corrupting the system that they are are supposed to be defending.

What did the Office of Professional Responsibility do after the judge made that finding? Mr. Chairman, they gave the people who corrupted that system a 5-day suspension from their jobs, a 5-day suspension for corrupting the system of justice in this country. No better example exists as to why we need to empower a citizen to have the right to have his case heard in front of the conviction and away from the OPM by an independent body.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 182, not voting 3, as follows:

[Roll No. 396]

AYES—249

Abercrombie	Borski	Cox
Ackerman	Boswell	Coyne
Allen	Boucher	Cramer
Andrews	Boyd	Cummings
Bachus	Brady (PA)	Danner
Baesler	Brown (CA)	Davis (IL)
Baldacci	Brown (FL)	Deal
Barcia	Brown (OH)	DeFazio
Barrett (WI)	Campbell	DeGette
Becerra	Capps	Delahunt
Bentsen	Cardin	DeLauro
Berman	Carson	Deutsch
Berry	Clayton	Dicks
Bilbray	Clement	Dingell
Bishop	Clyburn	Dixon
Blagojevich	Collins	Doggett
Blumenauer	Condit	Dooley
Boehlert	Conyers	Doyle
Bonior	Costello	Dreier

Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Gillmor
Gilman
Goode
Goodlatte
Gordon
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefley
Hefner
Hill
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Kucinich
LaFalce
LaHood
Lampson
Lantos
Leach
Lee
Levin
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McInnis
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Peterson (PA)
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wicker
Wise
Woolsey
Wynn
Yates

NOES—182

Aderholt
Archer
Armey
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Combest
Cook
Cooksey
Crane
Crapo
Cubin
Davis (FL)
Davis (VA)
DeLay
Diaz-Balart
Dickey
Doolittle
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Frelinghuysen
Ganske
Gekas
Gibbons
Gilchrest
Goodling
Goss
Graham
Granger
Greenwood
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Livingston
Lucas
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Oxley
Packard
Parker
Paxon
Pease
Petri
Pickering
Pitts
Pombo
Portman
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Roukema
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—3

Clay
Cunningham
Gonzalez

□ 1811

Messrs. DAVIS of Florida, BAKER, WAMP, BURTON of Indiana, WELDON of Pennsylvania, and LAZIO of New York changed their vote from ''aye'' to ''no.''

Messrs. RAMSTAD, FRANKS of New Jersey, KASICH, GALLEGLY, FOX of Pennsylvania, PORTER, and UPTON changed their vote from ''no'' to ''aye.''

So the perfecting amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Is there further discussion on the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON)?

Mr. ROGERS. Mr. Chairman, I move to strike the requisite number of words.

For the purpose of trying to inform the Members of the evening's schedule so they may plan their activities accordingly, I am hoping that in a few minutes we can get a unanimous consent request to end the debate on the Hutchinson amendment with 5 minutes per side and then a vote on that amendment, which we would request be rolled until a later time so that Members would be able to attend the evening activities during the dinner hour.

I would hope in due course of time, which we are now working with the gentleman from West Virginia (Mr. MOLLOHAN) and others on, to obtain a time limit on all remaining amendments, in which case votes could be postponed until around 8:00 at the earliest and give Members a chance to be with their families during the dinner hour.

□ 1815

With that in mind, I would propose a unanimous consent request that all debate on the Hutchinson amendment be concluded in 10 minutes, 5 minutes per side, after which the vote would be taken on the Hutchinson amendment, but postponed if a recorded vote is requested, to a later time.

And then I would hope that I would be able to discuss with the gentleman from West Virginia (Mr. MOLLOHAN) and others limitations on the other amendments that are attached to the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman, just to clarify with the chairman that he is proposing that we do a unanimous consent request on the Hutchinson amendment now; roll that vote until after 8 p.m., giving Members a chance to go to this event; and then, in the meantime, do a unanimous consent with regard to as many other amendments as we can, and I know we have some concern about maybe one amendment on our side maybe not being included in that; and roll all those votes likewise until after 8 p.m. and then consider all votes. So Members could actually leave right now and not be concerned about votes until after 8 p.m.

Mr. ROGERS. That is correct.

Mr. MOLLOHAN. Mr. Chairman, I withdraw my reservation of objection.

Mr. ROHRABACHER. Mr. Chairman, reserving the right to object. We have a lot of Members right here, right now. We have already debated this issue, it is in everybody's mind, and I do not see any reason why we should not vote on this and then go forward with the rest of the evening with time with our families. We have just debated this, we are right here, let us vote on it now.

Mr. ROGERS. Mr. Chairman, there are Members who wish the 5-minute discussion time. I would again request unanimous consent for 5 minutes per side, after which we vote, and then roll the vote until after 8 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MOLLOHAN. Reserving the right to object, Mr. Chairman. I have been advised on my side that we would probably agree with that proposal and do not have any requests for time, at least if it were agreed upon by the other side.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. MCDADE. Mr. Chairman, I simply want to state on behalf of my colleague, the gentleman from Pennsylvania (Mr. MURTHA), and myself, who worked this originally, and the 200 of our colleagues who have cosponsored this bill, that we are ready to vote right now. It has been debated and I think we ought to vote.

The CHAIRMAN. Is there any objection to the request of the gentleman from Kentucky?

Hearing no objection, the unanimous consent request is granted. The gentleman from Arkansas (Mr. HUTCHINSON) and the gentleman from Pennsylvania (Mr. MCDADE) will each control 5 minutes.

Mr. HUTCHINSON. Mr. Chairman, I yield myself such time as I may consume to simply say that the amendment that is before this body, the Hutchinson-Barr-Bryant amendment, would delete title VIII of the appropriations bill, which is called the Citizen Protection Act.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. BARR).

PARLIAMENTARY INQUIRY

Mr. ROGERS. Mr. Chairman, Members are asking about whether or not we will postpone this vote. The answer is we will recommend the vote be postponed until at least 8 p.m.

The CHAIRMAN. The Chair has that discretion when the request for a recorded vote is made we will take that under advisement.

Mr. BARR of Georgia. Mr. Chairman, as with most pieces of legislation, it is as important to raise what a proposal does not do as it is what it does do, and I urge all of my colleagues to listen very carefully to these final minutes of debate.

This is a very emotional issue because people who are well-known to us are in favor of it. But this bill should not go forward. This amendment that we have should go forward, and the underlying title VIII stricken, because it will do tremendous injustice to the fabric of how United States attorneys conduct very sophisticated, very complex, very far-reaching multi-state investigations.

There is plenty of mechanisms already in place to address the occasional bad apple, if there is a prosecutor that practices misconduct. Notwithstanding that, if we have a problem with a particular U.S. attorney, then we should take action against that U.S. attorney. We can do that under current law and procedures. If we do not like the standards set by an Attorney General, then we should take action against that Attorney General, but we should not throw out the ability, as title VIII would do, of United States attorneys to conduct multistate investigations, such as RICO, public corruption, drug cases or fraud cases.

If, in fact, the law in one particular State is different from the law in another particular State, both involved in that multi-State investigation, action could be brought against that United States attorney for doing something that is perfectly legal under Federal law and under the law of a State in which they are operating just because it might happen that part of a case falls over into another State where that sort of action, such as consulting with a defendant's attorney, such as conducting electronic eavesdropping, might be against the law in that one State.

Also, title VIII would allow an outside panel, not composed of prosecutors, to have full access to every bit of the prosecutor's case. That would be outrageous and it would, in effect, stop important prosecutions.

Let us not throw the baby out with the bath water. If there have been abuses, then let us address those particular abuses, but not change and take away the ability of Federal prosecutors to conduct multi-State investigations.

I urge the adoption of the amendment.

Mr. MCDADE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. MURTHA), the coauthor of the bill.

Mr. MURTHA. Mr. Chairman, if the Members think I am excited about this, they are right. If they think I am sincere and focused on this issue, I am.

I sat beside the gentleman from Pennsylvania for 8 years, 8 years while he was under persecution by the Justice Department: 6 years investigation, 2 years intimidation, under indictment. I watched the gentleman decline physically, mentally and emotionally from the strain of the Justice Department.

We were able to raise $1 million to defend the gentleman from Pennsylvania. The Justice Department system leaked information that was erroneous, leaked continually, did everything that could be unethical; charged him with campaign contributions being bribes, completely within the rules of the House; charged him with honoraria being illegal gratuities; tried to intimidate the House of Representatives which furnishes the money for the Justice Department.

Now, what chance would an individual have against the Justice Department if they would go after one of the most prominent Members in the House of Representatives? A jury, which came from an area that the public opinion said 70 percent of the public in that area thought that all politicians were crooks, he was acquitted in 3 hours by a jury picked at random from that area.

I feel strongly about this because it would protect the individual citizen from prosecution by not every prosecutor; I have no question that most prosecutors are above board and most prosecutors abide by the ethics rules. What we are saying in this legislation, when we defeat the Hutchinson amendment, is that they must abide by the ethics rules of the State involved.

The chief justices of the entire United States, fifty of them, all agree with us and say they ought to abide by the rules. They do not abide not only by their own ethics, they do not abide by the ethics of the States they are practicing in, and we say a special citizens commission should do just exactly that as they are doing for the IRS.

So I would hope that the House would rise up and show the prosecutors who are out of control, not all of them, just the ones out of control, that they need some sort of oversight and that this House will send a clear signal to the rest of the country that we will not stand by citizens to be persecuted by a prosecution.

The gentleman from Massachusetts (Mr. DELAHUNT) said it probably better than anybody else. They have a tremendous power, the prosecutors in this country, to withhold the liberty of individual citizens. We want to make sure that prosecution is done ethically, and I would ask all of the Members of the House to vote against the Hutchinson amendment.

Mr. HUTCHINSON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Chairman, it is a difficult task to stand up here and follow the fine gentleman from Pennsylvania (Mr. MURTHA) and the gentleman from Pennsylvania (Mr. MCDADE), and I can in no way empathize with what he has gone through because I have not done that.

The three former U.S. attorneys in this body have stood up and told my colleagues, as I tell you today, being one of those, let us not overreact. As the gentleman from Pennsylvania (Mr. MURTHA) said, the United States attorneys have tremendous power.

We, as Members of Congress, have tremendous power beyond that and let us do not abuse this situation. It was a terrible situation with the gentleman from Pennsylvania (Mr. MCDADE). I wish it could be corrected. It is not a perfect situation, but the U.S. attorneys are under the ethics rules of their States.

Fortunately, they do many multistate prosecutions, and as the gentleman from Georgia (Mr. BARR) said, these prosecutions will be literally handcuffed if we pass this bill and make them comply with every local ethics disciplinary board proceeding which they go into, whether it is Florida, Louisiana or wherever.

I know it is tough, but let us do the right thing and vote for this amendment.

Mr. HUTCHINSON. Mr. Chairman, what is the time balance for each side?

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) has 1½ minutes remaining and the gentleman from Pennsylvania (Mr. MCDADE) has 2 minutes remaining and the right to close as a member of the committee.

Mr. HUTCHINSON. Mr. Chairman, I yield myself the balance of the time.

The CHAIRMAN. The gentleman from Arkansas is recognized for 1½ minutes.

Mr. HUTCHINSON. Mr. Chairman, I have a short amount of time but let me just say that I do believe this is a law enforcement issue. You look at the groups that are concerned about this, that support the Hutchinson-Bryant-Barr amendment: The National Sheriffs Association have endorsed this; the Fraternal Order of Police; the FBI Agents Association. None of these are attorneys.

These are not attorneys. These are people who work with prosecutors who know what is needed in the war against drugs. The Federal Criminal Investigators Association, the National District Attorneys Association, who are state

prosecutors, the DEA Administrator Tom Constantine, the Office of Drug Control Policy Director Barry McCaffrey, each one of these have written letters supporting this amendment that we are asking the Members to vote on because it is a law enforcement issue, and even though we have a great deal of sympathy and compassion for bad cases, bad cases can give us a bad precedent here.

We have to be careful not to adopt bad policy because we are sorry for what has happened in the past. We have to adopt good policy, and the amendment that is being offered here my colleagues need to vote for because it will preserve a balance in our system.

Six former attorneys general of the United States, both Democrat and Republican, have come out in opposition to the underlying bill that we are trying to strike. They have done that because this would jeopardize our fight in the war against drugs. When you are talking about a battle of saving our streets, we cannot take weapons away, we cannot give weapons to the defense attorneys that are subject to the abuse in the middle of a prosecution, but we have to help law enforcement.

□ 1830

A misconduct review board appoints 3 people who are going to be reviewing what decisions a prosecutor makes in the heat of a court room whether it is reasonable or not.

I ask my colleagues to support the Hutchinson-Barr-Bryant amendment.

Mr. MCDADE. Mr. Chairman, I yield 30 seconds to the gentleman from Tennessee (Mr. DUNCAN).

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

Mr. DUNCAN. Mr. Chairman, I do not have much time, but I just want to say I spent 7½ years as a criminal court judge in Tennessee prior to coming to Congress, trying primarily felony criminal cases, and I rise in strong opposition to the Hutchinson amendment and in strong support of the gentleman from Pennsylvania (Mr. MCDADE).

Our Government has become far too big and far too powerful, and too many individual citizens are being run roughshod by prosecutors that are totally out of control. We need to defeat this amendment.

Mr. Chairman, I think I am the only Member of this Congress who has ever sentenced anyone to the electric chair.

I believe in being very tough on crime, and I especially have been a strong supporter of local law enforcement—the people on the front lines who are fighting the real crime, the violent crime that everyone is so concerned about.

But I remember in late 1993 reading an article in Forbes magazine, one of the most conservative magazines in the Nation.

This article said that we had quadrupled the Justice Department just since 1980 and that Federal prosecutors were falling all over themselves trying to find cases to prosecute.

We have had far too many cases where overzealous prosecutors have presented high profile defendants just so that prosecutor could make a name for himself. I remember the totally unjustified case against President Reagan's Secretary of Labor, Ray Donovan, in which, after he was acquitted, made the famous statement, ''Where do I go to get my reputation back?''

Our Federal Government has become far too big—it is far too powerful. We all have heard how, particularly the IRS is running roughshod over individual citizens.

Newsweek magazine recently had on its cover—the IRS Lawless, Abusive; Out of Control.

Unfortunately while there are good federal prosecutors, there are far too many who are, like the IRS, lawless, abusive, and out-of-control.

Almost no one, except extremely wealthy people, can take on the Federal Government.

To require Federal prosecutors to have to follow the same ethical rules as other lawyers is a very minimal step in the right direction and toward helping to preserve at least a semblance of freedom in this Nation.

Mr. MCDADE. Mr. Chairman, I yield myself the balance of my time.

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

Mr. MCDADE. Mr. Chairman, I rise of course in unequivocal opposition to the amendment of the gentleman from Arkansas (Mr. HUTCHINSON).

Sometimes in this House we forget the watersheds that come our way and the moments of history that arrive here sometimes not of our own making. That is the kind of a night we face tonight because the question we are about to vote on involves the liberty of every citizen of this country.

The bill is simple. Title I simply says be ethical. Who supports it? All the chief justices of all the 50 states, the American Bar Association, every legal organization besides that who has taken a position of course supports the proposition, abide by the ethics rules.

Title II. My Lord, my colleagues, what clarity. Listen to all it says. It is not hostile to a prosecutor or to the effort to prosecution. It simply says, and listen to this, if my colleagues consider this hostile, tell me, do not lie to the court. Oh, that is hostile to prosecution. Do not intimidate a witness or attempt to color their testimony. Hostile to the court. Hostile to the prosecutors. Do not leak information. Do not withhold exculpatory evidence on the person you are trying that may exonerate him or her. Hostile. Do not bring an indictment against a citizen of this country unless you have probable cause to prove that they have committed a crime.

Those are the guidelines we set down for every citizen in this Nation. I hope we will all vote against the Hutchinson amendment.

Mr. BRADY of Pennsylvania. Mr. Chairman, I rise in support of the McDade/Murtha amendment to the Commerce-State-Justice appropriations bill, a provision also known as the Citizens Protection Act.

Mr. Chairman, very alarming information concerning alleged abuses and misconduct on the part of career prosecutors employed by the U.S. Department of Justice, has been brought to my attention by State Representative Harold James, who is Chairman of the Pennsylvania Legislative Black Caucus, and Representative Leanna Washington, Secretary of the Pennsylvania Legislative Black Caucus.

Both Representative James and Representative Washington requested my support for the Citizens Protection Act, which I have subsequently co-sponsored.

They informed me of the results of independent hearings, endorsed by the National Black Caucus of State Legislators, which raised grave questions about misconduct by prosecutors. The Caucus, the Nation's largest organization of African-American elected officials, in 1995 called for Congressional Hearings To Investigate Misconduct by the U.S. Department of Justice.

Mr. Chairman, the McDade/Murtha amendment addresses every area of concern expressed by my constituents. I urge its adoption.

Mr. DELAHUNT. Mr. Chairman, I rise in opposition to the amendment by the gentleman from Arkansas (Mr. HUTCHINSON).

The amendment seeks to strike title VIII of the bill, which consists of the legislation known as the Citizens Protection Act, authorized by my colleagues form Pennsylvania, Mr. MCDADE and Mr. MURTHA.

Let me say at the outset that I have reservations about a number of aspects of this legislation. I am also uncomfortable with the process by which it has come before the House. Matters of this complexity and importance ought to be addressed through the normal process of committee deliberation, so that the legislation can be fully examined and perfected before being brought to the floor.

Among the aspects of this legislation which I find problematic are the provisions establishing an independent ''misconduct review board''—an entity which I believe could unnecessarily complicate and politicize the law enforcement mission.

Nevertheless, I support the ethical standards which comprise the core of this legislation, and I cannot support an amendment to strip it from the bill. Mr. Hutchinson's amendment does not seek to remedy any particular shortcomings of the measure; instead, it seeks to delete it entirely. Given this ''all-or-nothing'' proposition, I would prefer to allow the legislation to go to conference, where those of us who have concerns would have an opportunity to have them addressed.

I oppose the Hutchinson amendment and support the underlying legislation for one simple reason: as a former district attorney, I understand the truly awesome power that has become concentrated in the hands of the prosecutor. When abused, that power can and does destroy innocent lives and reputations. And the system provides few checks and balances to prevent such abuse.

When I was a district attorney, I hired many brilliant, ambitious young lawyers. I gave them a single admonition: ''understand the power of your office, and do not abuse it. Understand that being a prosecutor is not about winning and losing. It is about seeing that justice is done.''

Most of the prosecutors I have known in the course of my career have wielded their authority with integrity and restraint. But those who fail to do so can be as dangerous to the health of our society as the criminals they pursue.

Given this danger, it is necessary and appropriate that prosecutors be held to the standards of professional conduct to which other attorneys are subject. I do not accept the assertion of the Department of Justice that their attorneys should be immune from these ethical rules whenever they find them unduly confining. That is what ethical rules are for. And—whatever its other flaws—the Citizens Protection Act would ensure that prosecutors follow the rules.

For these reasons, Mr. Chairman, I support the legislation and urge defeat of the amendment.

Mr. MEEHAN. Mr. Chairman, I rise in strong support of the gentleman from Arkansas's amendment.

When we get a letter from the Attorney General of the United States, stating that certain legislative language would ''chill law enforcement and impede the ability of the [Justice] Department to enforce the laws that Congress has mandated it enforce,'' you would think that it would give us pause.

When we get a letter from the National District Attorneys Association, calling certain legislative language ''extremely counterproductive,'' you would think that we would at least want to take the time to analyze the implications of that language carefully before proceeding.

And when we get a letter from the National Association of Assistant United States Attorneys, characterizing certain legislative language as ''ill-conceived and unnecessary,'' you would think that we would want the committee with oversight jurisdiction to hold hearings on that language and then debate amendments during mark-up, before we passed on it.

But here we are, set to pass a Commerce-Justice-State Appropriations bill containing far-reaching language scorned by much of the law enforcement community, and the House Judiciary Committee hasn't held a hearing or mark-up on it during this Congress!

That is simply not the way to deal with the complex and controversial subject of prosecutorial ethics.

If we're hearing in letters and phone calls from prosecutors that the language struck by the Hutchinson amendment would result in the disruption of multi-jurisdictional drug and gang cases and the disclosure of confidential information about ongoing investigations, then I think that the Judiciary Committee should be hearing from them in actual hearings during this Congress before we proceed.

We owe at least that courtesy to the people whom we charge with putting away gang lords, drug dealers, and white-collar scam artists.

Perhaps no one here has clean hands with respect to legislating in appropriations bills. But the language in this bill regarding prosecutorial ethics clearly crosses the line between the procedurally acceptable and unacceptable.

I urge my colleagues to support the Hutchinson amendment.

Ms. HARMAN. Mr. Chairman, I rise in strong support of the amendment offered by the distinguished gentleman from Arkansas (Mr. HUTCHINSON) to strike the text of H.R. 3396 from the Commerce-Justice-State Appropriations bill.

I do not doubt the proponents' intent to ensure that federal prosecutors are held to the highest standards of professional conduct. Indeed, as an attorney myself and member of several bars, I fully appreciate the importance of ''bright line'' rules governing ethical behavior, as well as the difficulty in applying them to the complex realities of practicing law.

But the bill presumes that federal prosecutors are not subject to stringent rules of conduct. In fact, they are. They are subject to disciplinary investigations and actions brought by the Office of Professional Responsibility, the Department's Inspector General and the Office of Public Integrity. In addition, it is the Department's policy that its attorneys comply with the ethical requirements of the state in which they are licensed and where they practice, unless those requirements are in conflict with federal duties and responsibilities. But, most importantly, in appropriate cases, the matter is referred to the state bar disciplinary authorities for further action.

If there is a problem with prosecutorial misconduct, it should certainly be addressed. But is it better to address it by requiring federal prosecutors adhere to a single, high standard of conduct, or to 50 different sets of ethics rules? Indeed, some of the state rules may be contrary to the obligations and responsibilities we may require of federal prosecutors. And, as importantly, a federal system requires an even-handed application of justice—an application that, in my mind, is more difficult if appropriate investigative techniques and prosecutorial actions are called into question under one state's set of rules but permitted by another.

More troubling, however, is the fact that the provisions have serious, and perhaps unintended, consequences which could cripple federal enforcement of our laws. In particular, the bill would permit defendants and their lawyers to disrupt ongoing investigations of illegal activity by raising claims of misconduct which, under the bill, would require immediate investigation by the Attorney General. Nora M. Manella, the U.S. Attorney for the Central District of California, which includes my district, wrote me to say that such allegations threatened the disclosure of sensitive and confidential information and could jeopardize the safety of witnesses and the integrity of investigations. The bill's ''misconduct review board'' would be given authority to inject itself into ongoing criminal investigations, demanding confidential and privileged material, and interfering with a cabinet officer's management of the internal affairs of a department.

As a result, Manella writes, ''in all but the simplest of cases, prosecutors will face the risk of triggering at least some of the bill's provisions. Far from protecting the public from misguided Department employees, the proposed bill would inhibit vigorous investigation and prosecution of criminals, thus crippling the ability of federal prosecutors to enforce the very laws Congress has enacted.

''Enacting a bill which virtually invites frivolous complaints designed to obstruct and impede legitimate law enforcement investigations will do nothing to ensure professional conduct of Department employees, but will, instead, discourage lawyers from carrying out their lawful duties.''

The bill's provision may also lead to an exodus of experienced and qualified federal attorneys. According to Manella, senior managers in her office have expressed the view that they would be reluctant to continue their federal service if the provision was enacted. If this were to happen, our federal criminal justice system would be weakened, perhaps permanently, and the vigorous enforcement of our laws both Congress and the people expect will be reduced.

Mr. Chairman, we have to remember that our legal system is dependent on both the law enforcement officers who make arrests, and the federal prosecutors who try the cases. Let's not hamstring our fight against crime by imposing an unnecessary set of rules on prosecutors or unintentionally giving criminals a tool with which to stall investigations.

This provision and its full implications have not been fully examined and, in my view, it behooves this chamber to approve the amendment to strike it until that examination has taken place.

I urge my colleagues to support the Hutchinson amendment, and insert the full text of U.S. Attorney Manella's letter in the RECORD at this point.

U.S. DEPARTMENT OF JUSTICE,
NORA M. MANELLA,
U.S. Attorney, Central District of California.

Hon. JANE L. HARMAN,
U.S. House of Representatives,
Washington, DC, July 24, 1998.

Re: H.R. 3396: Citizens Protection Act of 1998

DEAR CONGRESSWOMAN HARMAN: As United States Attorney for the largest district in the country, encompassing 40,000 square miles with a population of 16 million, I write to urge your opposition to H.R. 3396, the ''Citizens Protection Act of 1998.'' I understand H.R. 3396 has been attached to the Commerce, State, Justice Appropriations bill, with a proviso that it be voted upon separately. As you may know, H.R. 3396 is strongly opposed by the Department of Justice and by the 94 United States Attorneys nationwide whose responsibility it is to enforce federal law. It is also opposed by the National District Attorneys Association, which has written separately to voice its objections. A copy of that letter is enclosed.

There is no dispute that employees of the Department of Justice should be held to the highest standards of professional conduct. Indeed, the Office of Professional Responsibility and the Inspector General's Office already have broad authority to investigate allegations of professional misconduct and to take appropriate action. In addition, the Department's Public Integrity Section can and does investigate potentially criminal conduct. Thus, there is no need for additional legislation.

More troubling, however, are the unintended consequences of H.R. 3396. It would, *inter alia,* subject Department of Justice attorneys to multiple and conflicting rules of 50 different state bar associations. (Had the Oklahoma City bombing team been subject to the provisions of this bill, the results could have been a virtual nightmare.) In addition, the bill would permit defendants and their lawyers to disrupt ongoing investigations of illegal activity by raising claims of misconduct which, under the bill, would require immediate investigation by the Attorney General, threatening the disclosure of sensitive and confidential information that could jeopardize the safety of witnesses and the integrity of investigations.

Finally, the proposed bill would subject Department attorneys and employees to sanctions—including loss of pension—without the procedural safeguards for disciplining other federal employees. A ''Misconduct

Review Board'' would be given authority to inject itself into ongoing criminal investigations, demanding confidential and classified material, and interfering with a cabinet officer's management of the internal affairs of a department. In all but the simplest of cases, prosecutors will face the risk of triggering at least some of the bill's provisions. Far from protecting the public from misguided Department employees, the proposed bill would inhibit vigorous investigation and prosecution of criminals, thus crippling the ability of federal prosecutors to enforce the very laws Congress has enacted.

On a practical level, I can say this proposed bill has created greater concern in my office than any piece of legislation I can recall throughout my more than a dozen years as a federal prosecutor. Senior managers in my office—outstanding and experienced prosecutors and civil litigators—have expressed the view that they would be reluctant to continue their federal service were this bill enacted. Similarly, District Attorneys have indicated they would be leery of cross-designating local prosecutors to assist in federal prosecutions, were they subject to the bill's provisions. Should this bill pass, there is a very real prospect of a significant loss of experienced lawyers from this office, leaving the public with talented but less experienced lawyers, willing to run the risk of operating under this bill (when their pension benefits are few), and determined to leave after fulfilling their minimum commitment. I cannot believe this what the bill's sponsors intended.

As noted above, Department of Justice employees are already subject to multiple disciplinary mechanisms to ensure their adherence to the highest standards of professional conduct. Enacting a bill which virtually invites frivolous complaints designed to obstruct and impede legitimate law enforcement investigations will do nothing to ensure professional conduct of Department employees, but will, instead, discourage lawyers from carrying out their lawful duties. In the end, the unfortunate and unintended result will be a reduction in appropriately vigorous enforcement of Congress' laws, and the weakening of our federal criminal justice system.

Please feel free to call me, should you have any questions concerning the above.

Sincerely,

NORA M. MANELLA,
United States Attorney.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Arkansas (Mr. HUTCHINSON) will be postponed.

PARLIAMENTARY INQUIRY

Mr. MCDADE. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MCDADE. Mr. Chairman, I simply request that we reconsider the rolling of the vote and vote on this amendment right now instead of postponing it. The Members are here.

The CHAIRMAN. Under the rule the Chair has the discretion on this and the Chair has exercised that prerogative, and the vote will be postponed.

Are there further amendments to this section?

PARLIAMENTARY INQUIRY

Mr. KOLBE. Mr. Chairman, parliamentary inquiry.

May I inquire as to where we are in terms of amendments?

The CHAIRMAN. Title VIII has been considered read pursuant to the earlier unanimous consent request.

Mr. KOLBE. Mr. Chairman, are you then asking if there are further amendments to title VIII?

The CHAIRMAN. Are there further amendments to title VIII?

Title VIII has been considered read.

Are there amendments to this part of the bill?

Mr. KOLBE. Mr. Chairman, my inquiry was has the Chair asked for further amendments to title VIII? Is it now appropriate for me to ask for other amendments?

The CHAIRMAN. If the inquiry is, is it appropriate for the gentleman from Arizona (Mr. KOLBE) to offer amendments following title VIII, the answer to that is yes.

AMENDMENT NO. 19 OFFERED BY MR. KOLBE

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 19 offered by Mr. KOLBE:

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE —ADDITIONAL GENERAL PROVISIONS

SEC. . None of the funds made available in this or any other Act may be used to implement, administer, or enforce Executive Order 13083 (titled ''Federalism'' and dated May 14, 1998).

Mr. KOLBE. Mr. Chairman, quoting from the Constitution of the United States: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.''

That is the 10th Amendment to the Constitution of the United States.

My amendment today goes to the very heart of that and would say that the executive order issued 2 months ago by the President, Executive Order No. 13083, could significantly expand the role and power of the Federal Government.

Mr. Chairman, a couple of examples of what this executive order would do: It justifies the creation of a national standards ''when there is a need'' as determined by the Federal Government.

Second, it would eliminate language in President Reagan's federalism executive order regarding preemption of state law by the Federal Government.

Third, it puts the Federal Government in the position of determining when States have not adequately protected individual rights.

Even though the President has talked about suspending this executive order and may have done so today, I have not had it confirmed that the order suspending it was signed. I believe that Congress needs to speak very effectively to this issue, as the mayors and the governors, and county officials have done. We must say that we should kill this executive order to make sure that it does not raise its head again.

Even the President's chief of staff colorfully described the administration as having messed up by not consulting with governors, mayors, and other state and local government leaders before they issued this executive order.

I applaud the efforts of the gentleman from Indiana (Mr. MCINTOSH), who has already begun to hold some hearings on this matter, and I know that the Committee on the Judiciary is going to examine what the effects of this executive order, if it is reinstituted, would be.

Hopefully, the administration will consult with them in addition to the state and local officials that were left out of the process. But by suspending Executive Order 13083, the administration has already demonstrated that it was premature and ill-advised. And I say it is time to put this House on the record as saying we agree and we do not expect you to implement that executive order, Mr. President. We should act now because we do not know when he might act to put it back in place and we would not have an opportunity then to offer that.

That brings me to another reason for offering this amendment at this time. There is an amendment which will follow this offered by the gentleman from Colorado (Mr. HEFLEY) that would prohibit funding both for this executive order and the executive order that codifies administration policy, does not change Federal law or create any affirmative action program, but would codify the current Federal practices with respect to discrimination based on sexual orientation.

Unfortunately, because this amendment is protected by the rule, it cannot be divided. There is no way to get a vote separately on these two totally different issues that are out there. I think most Members in this House want to have a clean vote on these two issues separately.

Now, let me just take a moment of my time, since only 20 minutes is permitted under the rule to debate the Hefley amendment, to say why I think that we should vote aye on this, on federalism, and no on the one dealing with sexual orientation.

By passing the Kolbe amendment, it would make it clear in the next debate when we get to the Hefley debate that there is one subject and one subject only that is under discussion; and that is this simple question: Should discrimination be permitted in the Federal workplace based on sexual orientation. And that should be and will be the only question that is involved.

The debate on that amendment is not going to be about affirmative action. It

is not going to be about quotas. It should not be about giving the right to sue. It is not about giving the access of any individual to the EEOC or the Civil Rights Commission, because the executive order and the law does none of those things. Individuals have no such right, no such access under current law.

So when my colleagues vote on Hefley, they have to ask themselves the very simple question: Do they believe that Federal employment supervisors and managers, those who have the responsibility for hiring and firing and promoting individuals, should be able to hire, to not hire, or to fire, or to fail to promote solely on the basis of sexual orientation?

Members need to ask themselves would they fire someone in their office solely because they learned that that individual was a homosexual, or conversely, that they were heterosexual?

Now, many in this body, in fact well over half of this body, have signed their own pledge of nondiscrimination within their offices. So I would ask this question of all of those who have signed that pledge: Do they believe that if a manager in a Federal executive agency in the branch of the Federal Government should be held to a lesser standard than they are willing to hold themselves to? Think about it.

An aye vote on Hefley after we have disposed of this amendment, the Kolbe amendment, which would say no money shall be spent to implement the Federal executive order on federalism, that after we have voted to dispose of that, a vote on Hefley would be simply putting this body, the House, on record as saying that discrimination on sexual orientation solely because of an individual's sexual orientation is okay.

Do we want that? Do my colleagues want that? I do not think so. I urge Members to vote aye on Kolbe and no on Hefley.

Mr. LEACH. Mr. Chairman, I rise in support of the Kolbe amendment and in opposition to the Hefley amendment to follow.

Mr. Chairman, I would like to speak principally to the reasons behind the amendment being offered today by the gentleman from Arizona (Mr. KOLBE).

□ 1845

The history of America is the story of individual rights. It begins with a country founded on principles which had never been manifest in any society and which were not comprehensively instituted at the founding of the Republic. It has taken two centuries of struggle which have included a Civil War, a suffrage and civil rights movement to ensure the rights of minorities and women. In the context of our history, it is common sense and common decency that no one today be allowed to be prejudiced against simply because of their sexual orientation.

The executive order which will shortly be under review has nothing to do with the creation of special privileges, special preferences, quotas or affirmative action in any form, nor does it endorse any so-called life-style.

What it does is ensure equality and fairness to a group of individuals by bringing uniformity to already existing Federal nondiscrimination policies. Equal protection under the law is not a privilege to be enjoyed by some; it is a basic right to which every American is entitled.

If anyone in this favored land is discriminated against, civil society is weakened and we are all diminished. Bigotry has no place in America and should have no sanction of even the most covert sort.

Here let me be clear. If nondiscrimination precepts cannot be sanctioned for men and women who are gay and lesbian, does this not implicitly legitimize discrimination? And if lawmakers assert that equal protection under the law should not be available to one group of Americans, could this not result in actions that none of us could conceivably endorse, the possibility that some Americans could be shunned and perhaps, metaphorically, stoned?

Executive orders of this nature and civil rights laws in general cannot by presidential signature or majority vote change people's attitudes, but they can help protect individual rights and remove impediments to the exercise of individual aptitudes.

Political leadership involves more than the crafting and execution of laws. An essential role of leadership is to do everything possible to bring people together rather than accentuate differences which have the effect of rupturing society. That is why it is so important for elected officials to appeal to what Abraham Lincoln called ''the better angels of our nature.''

Political debate should thus be measured as to whether it is directed to the best or the least in all of us.

In this context, Mr. Chairman, I am concerned that the party to which I belong which sprang out of an individual rights tradition, preeminently a crusade to end slavery, may be in the process of rejecting part of its own heritage. In the American creed, individual rights are not selective. They do not apply to some people and not others. Equal opportunity and protection under the law cannot be denied any law-abiding American no matter how controversial his or her life-style may be.

Accordingly, I urge intraparty reconsideration of legislative initiatives of the nature of that which will follow this one, a ''yes'' vote on the Kolbe amendment and a ''no'' on the Hefley amendment.

Mr. CAMPBELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the 10th amendment that our colleague from Arizona quoted concluded that the rights not given to the Federal Government or to the States are reserved to the people—the people.

To me, one of the most important of those rights is the right of privacy, the right of individual privacy, that unless the government has a reason, a very strong reason to find out matters of one's personal life, the government has no business inquiring into those matters, and certainly no business denying somebody a position in government because of what an individual might characterize as his or her own private life.

Mr. Chairman, Federal law already prohibits discriminating in Federal employment on any basis other than the conduct of one's actual performance on the job. This is in title V of the United States Code, section 2302, paragraph 10. Federal law prohibits discrimination ''on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others.''

Accordingly, the executive order by President Clinton which added sexual orientation to the list of prohibited considerations for advancing or inhibiting a person's individual employment prospects in Federal Government is a simple application of what is already Federal law, namely, conduct that does not adversely affect the performance of the employee or applicant or the performance of others cannot be used as the basis of discrimination.

Case law under this existing statutory provision also supports this point of view, both from the Fifth Circuit and from the Merit System Protection Board, that conduct outside of the workplace may not be the basis of discrimination as to an employee in the Federal service. And so existing law creates a very solid basis for what President Clinton did in his executive order. But so also does personal freedom and individual liberty, the provisions of the 10th amendment to which my colleague from Arizona's motion speaks.

The executive order is alleged to lead to quotas or some form of affirmative action and the use of numbers. Here I must make a substantial point of disagreement. First of all, the origin of affirmative action under title VII in discrimination law was as follows: People observed a workplace and in observing that workplace said, ''Well, we don't see that many African-Americans, or we don't see that many women. From that we derive an inference perhaps that there might be something wrong with your hiring program, wrong with your employment methods.'' But orientation is not observable. It is really quite a stretch to make the argument that this prohibition on discrimination will lead to affirmative action quotas, set-asides, or numerical goals for the very reason that one cannot look at the workforce and say an employer does not have the right number of a particular group when the issue in question is orientation.

Secondly, the words of the executive order are that ''an affirmative program of equal employment opportunity for

all civilian employees and applicants for employment'' must be followed. I emphasize just that phrase. The executive order speaks of an affirmative program. It does not use that catch word ''affirmative action.'' The origin of the catch word ''affirmative action'' was a 1961 executive order by President Kennedy. In 1965 it was applied to equal housing. And in 1969 it was applied to Federal employment with regard to gender and with regard to discrimination on the basis of religion.

In the order in 1965, there was a careful distinction, in my judgment, in using the word ''program,'' as separate from the phrase ''affirmative action,'' which was well known at that time. But even if that phrase were not different (and it is and that is an important point), I strongly believe that no one should take a statute which says ''you shall not discriminate'' and use it as the basis of discriminating. It is for that reason that I have always opposed the use of race by government. It is for that reason that I supported Proposition 209 in my State of California. It is wrong, morally wrong, for the government to look at somebody's skin color, to look at somebody's gender and to say, ''That is a basis for you getting a job or you getting into a university.''

And so tonight, Mr. Chairman, I will not surrender the argument to the other side. I will not say that because this executive order bans discrimination, it therefore must lead to quotas. We are right in saying that antidiscrimination is not the same thing as an obligation to use numbers. We are right in the Fifth Circuit, we are right in the Ninth Circuit and in my judgment we will very soon be justified by the Supreme Court. To every fellow conservative on this issue, I urge you, do not give in to the argument that antidiscrimination means affirmative action.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from California.

Mr. CAMPBELL. I will only use 30 seconds, and I most appreciate my colleague for yielding.

We need to therefore observe the distinction in the language that affirmative action is not in this executive order, that it is absurd to consider that this executive order will lead to affirmative action because one would have to observe the characteristic. And nobody, nobody, including the worst critics of this President, are saying that he is ordering the ascertainment of whether one is gay or straight in the Federal employment sector.

Lastly and most importantly, although my good friend from Massachusetts and I may part company on this, I appreciate his kindness in yielding to me to make this point once again to those of us who believe there should never be the use of race or gender to distinguish among American citizens by their government, that if you buy the argument that this executive order leads to the use of orientation by the government and leads to quotas, you are giving up the argument on every other aspect that we are fighting so hard to establish in title VII law.

Mr. FRANK of Massachusetts. I thank the gentleman. I did take my time now because I wanted the gentleman to complete this very important statement. And he is right. Some of us do differ on the role of affirmative action with regard to race and gender. But I know of no advocate of affirmative action with regard to sexual orientation nor, by the way, with religion and age, and I cite that because this particular executive order, which is going to be the subject of a later amendment, deals not just with race and gender but with religion and age and it has never given rise to affirmative action. The notion that because a category is in this executive order it will lead to affirmative action is belied by the fact that over many, many years no one has ever seen an affirmative action, an affirmative outreach, an affirmative anything program with regard to many of the categories covered. The President has specifically disavowed any intention of affirmative action with regard to sexual orientation, and as one of the drafters of the Employment Nondiscrimination Act dealing with sexual orientation, I would alert Members to read that. It again specifically disavows affirmative action. We are not arguing for affirmative action in that context.

I think the gentleman from California, and I would be glad to yield him again, has made a very important point. Those of us who have a disagreement about affirmative action have it with regard to race and with gender, but no one is an advocate of it being used here. And in no case, let me just close with this, in no case have State laws on this subject given rise to affirmative action based on sexual orientation. That is a nonissue.

I yield to the gentleman from California.

Mr. CAMPBELL. I thank the gentleman for yielding one more time. First of all I think his point is very insightful. No one has ever had an affirmative action quota, minimum hire for religion or on the basis of age. But the phrase in this executive order is ''affirmative program'' I quoted, ''an affirmative program of equal employment opportunity for all civilian employees and applicants for employment.''

I note that the phrase ''an affirmative program'' was used in the 1965 executive order to deal with the obligations of government, namely, that the government must adopt a program to root out discrimination. The phrase affirmative action was used as to the contractor, and that, to my judgment erroneously but nevertheless by some, is argued to lead to the hiring or the promoting according to numbers. But the word ''program'' is a key phrase here. It means the government must root out discrimination, and then affirmative action was used to refer, at least by some, to the additional obligations on which people of good will have differed.

Mr. FRANK of Massachusetts. I thank the gentleman. I again want to stress that. Because from any angle you look at it, the affirmative action issue is not part of this. The President is not seeking it. This executive order does not trigger it automatically. Advocates of nondiscrimination in the sexual orientation context oppose affirmative action, and most tellingly, as the gentleman from California has said, it is indeed precisely those who are most critical of affirmative action who insist that you can have a nondiscrimination policy without affirmative action. That is what this is.

Those who argue that articulating a nondiscrimination policy automatically engender affirmative action are undercutting the anti-affirmative action argument because they are then saying, and I never know what the converse or the reverse or the adverse is, but the opposite. They are then saying that if you have one, you have to have the other. Those who want to kill affirmative action are bound to argue that you may have nondiscrimination without affirmative action.

The other thing is, I do want to thank the gentleman from Arizona for bringing up this so we can once again vote on the federalism order. The gentleman from Florida did it first. So we have already had a unanimous House vote to kill the executive order on federalism, then the President suspended it, then he withdrew it, now we are going to vote against it again. We are killing a dead man that committed suicide before he was born. This executive order on federalism if it was a cat it would be dead, because it is going to be killed about nine times.

PARLIAMENTARY INQUIRY

Mr. HEFLEY. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. HEFLEY. Mr. Chairman, as I understand clause 1 of rule XIV of the rules of the House, we are supposed to debate the subject of the amendment that is before us. It seems to me most of these gentlemen are debating the next amendment and not this amendment. I would like to ask the Chair if that is correct and if we should refrain from that.

The CHAIRMAN. Members must confine their remarks to the pending amendment that is before the Committee.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the pending amendment by the gentleman from Arizona (Mr. KOLBE).

Mr. Chairman, so everybody knows and the record is clear, if I refer to executive order, I am referring to the President's federalism executive order, 13083.

Frankly I was outraged when President Clinton issued that executive order revoking President Reagan's historic executive order on federalism issued in 1987. President Reagan's executive order provided many protections for and reflected great deference to State and local governments.

By stark contrast, President Clinton's new executive order, issued without prior consultation with State and local governments, betrays and repudiates an 11-year tradition of trust and mutual consultation between the States and the executive branch. In its place, the order laid out the groundwork for an unprecedented Federal power grab in virtually every area of policy previously reserved to the States under the 10th amendment.

On June 8, I wrote to President Clinton that ''I could not understand how you, as a former governor, could willingly abandon the protections accorded the States since 1987 from unwarranted federal regulatory burdens.''

□ 1900

Then on June 10 my subcommittee called the National Governors' Association to ascertain their view of this new executive order. Shockingly, their Executive Director was totally unaware that this order had been issued. They learned about it first from Members of Congress, not the White House. Apparently the Clinton-Gore White House has neither consulted with any of the principal State and local government interest groups prior to issuing this order, nor notified them about it after it had been issued.

Now on July 17 the leadership of the Big 7 requested that the President revoke this executive order. As the gentleman from Massachusetts (Mr. FRANK) has pointed out, he has done that today. What I think is important is that we make it very clear that the trust that had been built up is no longer there, that this President, quite frankly, does not have that credibility with the State and local officials because of that stealthy action to revoke that provision.

Now I think it is the height of irony, frankly, that the President while out of the country issued an order that reversed that 11-year commitment with no advanced notice, no opportunity to comment, no voice for the States in the decision that will drastically upset the constitutional balance of power between the States and the Executive Branch.

On July 28 I chaired a hearing to examine first the potential impacts of the new executive order, and second, the need for possible legislation to address the concerns of the State and local government. This hearing allowed the States and elected officials to voice their concern and former and current administration officials to express their rationales for the federalism executive orders. Quite frankly, the State and local officials were, let us say, at least as perturbed with Congress as they were with the Executive Branch for our failure to be consistent in respecting federalism.

Now on July 30 I again wrote the President as a result of that hearing and Mr. DeSeve, saying that they wanted to start over from ground zero based on the Reagan executive order, asking him to definitively withdraw that, and I understand through news reports that today he has done so and suspended Executive Order 13083.

But I think the Kolbe amendment is absolutely necessary to make it clear that the agencies cannot spend any funds pursuant to that executive order or any executive order that does not fully defer to the States. So I want to commend the gentleman for offering this amendment.

Mr. Chairman, I yield the remainder of my time to the gentleman from Virginia (Mr. BLILEY), chairman of the Committee on Commerce.

Mr. BLILEY. Mr. Chairman, I wanted to make it clear that I oppose affirmative action. I think it divides us rather than brings us together. I would oppose any effort to add sexual orientation as a protected class under the Federal affirmative action program.

That being said, I unequivocally oppose discrimination. When I hire someone in my office, I do not ask the prospective employee their sexual orientation.

PARLIAMENTARY INQUIRY

Mr. HEFLEY. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HEFLEY. Mr. Chairman, I believe the gentleman is debating the next amendment, not this amendment. My parliamentary inquiry is, Mr. Chairman, that I believe the gentleman is debating the next amendment, not the federalism amendment. We have federalism in the next amendment, but he is debating a part of the amendment that will follow this one.

The CHAIRMAN. The Chair asks Members to confine their remarks to the amendment at hand.

Mr. BLILEY. Mr. Chairman, I am sorry the gentleman rose to that, but it does not alter my feelings whatsoever. I think his amendment is a mistake, and I would hope that all Members would oppose it.

Mr. Chairman, this is ill considered. It is a wrong amendment.

Mr. SCARBOROUGH. Mr. Chairman, I move to strike the requisite number of words.

I would like to thank the gentleman from Arizona (Mr. KOLBE) for bringing up this amendment. I may not agree with all the arguments that have been put forward thus far, but we are talking about in the next amendment, and I am not going to be going to the actual substance of that amendment but rather the procedure under which that amendment is going to be debated; we are going to be talking about two extraordinarily complex issues: federalism, which is the issue that probably more than any other issue got me here back in 1994, and outside my door I have a copy of the 10th Amendment written. We could talk for hours and hours about a billion different issues relating to the Clinton executive order, to the 10th Amendment, to the constitutional ramifications of that executive order, and we can spend as many hours talking about an issue that will continue to follow everybody in this Chamber for as long as we live, and that is the rights of homosexuals in American civilization. Those two debates are as contentious as any debates that we could bring up, and for a rule to be drafted that would require us to speak on the rights of homosexuals in the Federal workplace as well as federalism in 20 minutes is absolutely not shocking, but it is a joke.

The gentleman from Massachusetts (Mr. FRANK) said earlier, was talking about how many times this has been killed, and he talked about Rasputin, said he did not think that Rasputin had been shot and killed as many times as this executive order. I concur, but I would like to kick it one more time just for the heck of it. It was put to death earlier today.

The gentleman from Indiana (Mr. MCINTOSH) had some hearings on the issue, we had some fascinating testimony on it, and most of the people agreed that reversing Ronald Reagan's Executive Order in 1987, and again the President's Executive Order in 1993, was dangerous. The Reagan Executive Order stated that the constitutional relationship among sovereign States, State and national, is formalized and protected by the 10th Amendment to the Constitution. But this is what some of the State and local officials said about the President's Executive Order:

Mike Leavitt, the Executive Committee Chairman of the National Governors' Association, said, ''Executive Order 13083 repudiates the masterful wisdom of our founders and is now inconsistent with the United States Constitution. The Governors seek your assistance to halt that course.''

The North Carolina State Representative, Daniel Blue, the President of the National Conference of State Legislatures, said Executive Order 13083 must be revoked.

Democratic Mayor Edward Rendell from Philadelphia, the Chairman of the U.S. Conference of Mayors, said it is essential that federalism policy reflect a proper balance of authority be developed in cooperation with and supported by the State and local governments.

The President of the National League of Cities concurred and said we join in by requesting the rescinding of the new executive order on federalism, and jointly the Conference wrote a letter to the President, and said:

''We believe it is especially critical for you to consider and act upon now our request to withdraw the order as quickly as possible.''

That came out in our hearing in the McIntosh subcommittee and I thank

the President today from the House floor for rescinding that order. I think it was an important thing to do, and I hope over the next 90 days, as he talks to State and local officials, that he will pay special attention to their concerns and their needs and recognize the need for reinstating the Reagan Executive Order in 1987 and also reinstating his order in 1993.

Mr. Chairman, I thank the gentleman from Arizona (Mr. KOLBE) for bringing this very important amendment to the floor.

Mr. BARR of Georgia. Mr. Chairman, I move to strike the requisite number of words.

We have not seen the stroke of the pen yet that Paul Begala spoke about, Mr. Chairman. Recently Clinton political adviser, Mr. Paul Begala, was quoted as saying, and I quote these immortal words:

Stroke of the pen, law of the land, kind of cool, close quote.

Yes, that is really cool.

Mr. Chairman, we have heard a lot of talk over the last few days, including right here on the floor, that champagne bottles are being cracked open because the President has stroked that pen one more time and made a new law of the land. I am going to reserve judgment, Mr. Chairman. I ''ain't'' breaking my bottle of champagne open yet, not with the track record of this administration.

The only way that an executive order can be rescinded or altered or mended in any way, including its operative date, which in the case of Executive Order 13083 is August 12 of this year, is by another executive order or by legislation. Now until we see that dried ink on the new executive order which rescinds Executive Order 13083, Executive Order 13083 remains operative.

So I think that this amendment offered by the gentleman from Arizona this evening is very much relevant, very much on point, very much apropos and ought to go forward. It sends not only an important message, as several of the speakers have already said, to let the White House know that at least here in the halls of this Congress the 10th Amendment does have some meaning. It also, I believe, Mr. Chairman, is very important because it will stop funding for this executive order if, in fact, that pen that Mr. Begala loves so much hesitated at the last moment. We will see.

I would also like to urge my colleagues to take a close look at Executive Order 13083 and note the nine categories, count them, nine, categories of activities of State, Federal, State and local government that will be swept away by that stroke of the pen that Mr. Begala thinks is just oh so cool.

The list of activities of which this executive order purports to give jurisdiction any Federal agency or department is as vast as any activity of which it purports to give a Federal agency or department jurisdiction, including if there is some ill-defined or perhaps even not defined international obligation. It goes far beyond even the expanse of reading of the Interstate Commerce Clause of the Constitution which has provided the basis for so much Federal intrusion in the lives of our citizens, our schools, our businesses, our local governments and our State governments. It simply says as the A-No. 1 reason why Federal agencies or departments may supersede State or local action, quote, when the matter to be addressed by Federal action occurs interstate as opposed to being contained within one State's boundaries, close quote. Do not even have to have the commerce nexus.

One can go on and see how expansive and indeed how expansive and indeed how frightening this executive order is, and it is because of that scope, that breathtaking scope of this executive order, why it is important this evening to go on record to say that we in the Congress continue to believe in the Constitution, we continue to believe in separation of powers, we continue to believe in the 10th Amendment, and until we see, until we see the actual signature, we will not rest and we should not rest. We must be vigilant. It will be kind of cool if that happens, but let us wait and see.

Mr. Chairman, I urge adoption of the amendment offered by the gentleman from Arizona (Mr. KOLBE).

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Arizona (Mr. KOLBE), and I want to take this opportunity to speak against another version of this amendment that may soon be offered to also overturn the executive order regarding discrimination in the Federal work force.

At the heart of the debate over Executive Order 13087 is one of the most basic rights in any civil society, to be judged in the workplace on the content of one's character, not on one's race, religion, gender or sexual orientation.

Mr. Chairman, this is a question of civil rights, not special rights, and the sad truth is that the radical right cannot tolerate a society in which all Americans are afforded the same basic rights.

PARLIAMENTARY INQUIRIES

Mr. HEFLEY. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HEFLEY. Is it true that we should stick to the subject of the amendment we are dealing with and not debate another amendment?

The CHAIRMAN. The Chair would remind Members that the debate should be on the amendment that is pending in the Committee and confine remarks to that.

Mr. SHAYS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SHAYS. Mr. Chairman, is it not true that a Member can compare one amendment with another when one amendment seeks to deal with one executive order and another amendment seeks to deal with that executive order in another? And is it not true that we have the ability and right as Members of this floor to be able to compare one amendment versus another and why we support one amendment versus another?

The CHAIRMAN. The Chair would remind Members that if the debate lends itself that way, then the debate ought to connect both amendments in that regard. But the Chair would ask Members, and the Chair would remind Members, that their remarks should be confined to the amendment pending before the committee.

□ 1915

Mr. HEFLEY. Mr. Chairman, further parliamentary inquiry.

Mr. Chairman, there is nothing in this amendment that has to do with sexual orientation or carving out special privileges for any group in the workforce, and yet that is what the gentlewoman is debating. It would seem to me that under the rules cited earlier in Section 14, that that is not appropriate, and that the gentlewoman should wait and seek time under the following amendment.

The CHAIRMAN. The Chair would ask Members to confine their remarks to the amendment at hand.

Mrs. LOWEY. Mr. Chairman, I want to thank the gentleman from Connecticut for making that point. I am leading up to that argument.

Frankly, I have been serving in this House for 10 years, and I cannot remember a time when someone was arguing an amendment and someone was so concerned that speakers were going to challenge their arguments that they would silence Members in proceeding and arguing their point. So I am leading up to the point made by the gentleman from Connecticut.

Mr. Chairman, I just want to say, it is really sad that the radical right cannot tolerate a society in which all Americans are afforded the same basic rights, and in this election season, the Republican leadership has decided that it is in their political interests to side with the ignorance and bigotry of the radical right.

The fact is it is still legal in this day and age to fire someone simply because they are gay or lesbian. That is outrageous, and the majority of Americans agree it is an outrage. But an overwhelming majority of Americans believe that gays and lesbians in the workplace deserve the same basic rights.

It is terribly ironic, Mr. Chairman, that the very same people who tout the virtues of running the Federal Government like a corporation are leading the fight against this executive order. The list of companies that prohibit job discrimination based on sexual orientation is a ''Who's Who'' of corporate

America: IBM, Microsoft, Xerox, AT&T, Coca-Cola, Home Depot, and the list goes on and on. Numerous State and local governments also provide these protections for their employees.

Mr. Chairman, the executive order is very modest, it is long overdue, and yet here we are voting whether to deny more than 2 million employees this most basic protection. What a sad commentary on this institution.

I urge my colleagues to vote ''no'' on the Kolbe amendment, and I also urge my colleagues to defeat the Hefley amendment to repeal Executive Order 13087.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. NADLER. Mr. Chairman, I rise strongly to oppose this Kolbe amendment and the Hefley amendment. The amendment is an attempt to gut the recent executive order issued by President Clinton which added sexual orientation to the nondiscrimination policy of the Federal Government. That executive order was not about special privileges, it was about fairness and equality.

Many departments in the Federal Civil Service have already implemented their own policies against discrimination on the basis of sexual orientation. These policies, however, lack uniformity and consistency. This executive order is necessary to remedy these inconsistencies by promoting uniformity in nondiscrimination policies in the Federal Government with respect to sexual orientation.

It is time for Congress to stand up for the basic American value of a worker or anyone else being judged in the workplace on the basis of job performance, not on an irrelevant factor, whether that irrelevant factor be race or color or creed or religion or national origin or sex or gender or sexual orientation.

Poll after poll has shown overwhelming support in the American public for the basic premise that lesbian and gay workers should be treated fairly in the workplace. One poll recently indicated that 80 percent of the American public believes that homosexuals should have equal rights in terms of job opportunities. It is elementary, Mr. Chairman, that people should be treated fairly and equally regardless of factors over which they have no control, such as race or color or creed or national origin or sex or sexual orientation.

Mr. Chairman, we talk a lot here about American ideals and American values, and one of the chief American values was set forth in the Declaration of Independence, where it says we hold these truths to be self-evident, that all men are created equal, that they are endowed with certain inalienable rights, and so forth.

The history of the United States is a history of the expansion of the definition of that phrase, that all men are created equal. In 1776 that did not mean women, did not mean black people, did not mean Native Americans, did not mean anyone other than white males. We have spent 200 years expanding that definition. Before the Civil War we had 100 years of turmoil and politics and riots to expand that to include people of different races. We have now at least professed to include women.

The only group which someone can still stand up and say, without being ridiculed off the stage, is not included in the definition of equality are people of different sexual orientation, are gays and lesbians and transgender individuals.

Mr. Chairman, it is imperative that we begin the process of expanding the promise of the Declaration of Independence to include the last unincluded group, gays and lesbians and transgender people. I think the American people support fairness and equality. It makes sense, if someone is qualified to do a job, he or she should not be denied a job based on irrelevant factors.

More than half of the Fortune 500 companies and most Members of Congress already have their own policies to prevent discrimination on the basis of sexual orientation. It is about time that the Federal Government as a whole follows suit.

That is the bottom line, and after we deal with discrimination in employment, then we will deal with discrimination in public accommodation, housing and other things. Right now it is elemental that this executive order is the least thing to do.

So I urge that the amendment be defeated. The President should be commended for the executive order. I urge my colleagues to reject the Hefley amendment.

Mr. DELAHUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to compliment the gentleman from Arizona for offering this amendment. While I cannot support it, I appreciate his effort to ensure that Members have the opportunity to vote on the federalism issue alone, so that when the debate comes in the next amendment, the amendment of the gentleman from Colorado (Mr. HEFLEY), it will not color that particular debate, because it is my understanding that the Hefley amendment was rewritten at the last moment to also prohibit implementation of the executive order on federalism but it really was not about Federalism, it was about denying Federal workers protection from discrimination based upon sexual orientation. So I thank the gentleman from Arizona (Mr. KOLBE), who allows Members who want to express their views on that subject to do so without voting for the Hefley amendment.

The executive order is not about special rights, it is about equal rights; and it is not about quotas, it is about fairness. It certainly is not about affirmative action. It is about protection from discrimination, as both the gentleman from California and my friend and colleague from Massachusetts have already gone over.

In fact, the executive order no more requires affirmative action based on sexual orientation than the original executive order that it amends, which, by the way, was promulgated by President Nixon back in 1969, requiring affirmative action based on race, religion, gender, age or disability.

Not once has the gentleman from Massachusetts stated that the executive order that was issued in 1969 by President Nixon has ever been interpreted to require affirmative action or to confer special rights of any kind. These arguments, if they are made, are, at best, disingenuous.

This amendment to the Nixon executive order simply extends protection from discrimination when it comes to hiring, firing and promotion to gay men and women if you work for the Federal Government. Nothing more, nothing else.

Basically it means that Federal agencies must be fair in their employment practices. It is only about fairness, and insisting that the Federal Government, the executive branch, treat everyone the same, that is, on the merits.

Some would suggest that amendment to the Nixon executive order is unnecessary, that gay men and women do not need to be protected in the workplace. I submit that is wrong. Look at this Chamber. Approximately 190 Members of this body declined to sign a pledge that sexual orientation is not and would not be a consideration in the employment practices in their congressional offices. Let us start there.

For many gay Americans, losing a job is the least of it. Some statistics to reflect on, if you believe that gay men and women are not discriminated against: In 1995, 29 men and women were murder victims either because they were gay, or some thug at least thought they were gay. In 1996, the FBI reported over 1,000 hate crimes motivated by sexual orientation.

The evidence is clear, unequivocal and overwhelming: Discrimination against gay men and women exists in our society. Let us remember, when a qualified person is denied an opportunity because of discrimination, we all lose. We lose the benefits that we might have gained from that individual's services. And, even more importantly, when we tolerate discrimination against anyone or any group, we are diminished as a society and as a Nation, and this Chamber ought not to be about division and discrimination.

So I would submit we are simply better than that. Let us prove it tonight. Let us defeat the Kolbe amendment and the Hefley amendment.

Mr. ROGERS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments

thereto close in 15 minutes, and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. KUCINICH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KUCINICH. Mr. Chairman, does this relate solely to Kolbe amendment?

The CHAIRMAN. That is correct.

Mr. KUCINICH. And not the Hefley amendment or any other amendment?

The CHAIRMAN. This relates to just the Kolbe amendment at hand.

The gentleman from Arizona (Mr. KOLBE) will control 7½ minutes and a Member in opposition will control 7½ minutes.

The Chair recognizes the gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

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Mr. SHAYS. Mr. Chairman, I rise in support of the Kolbe amendment, which prohibits funds from being spent to implement the President's Executive Order 13083 on federalism.

I rise to support this amendment because I believe that this President's Executive Order should be repealed. This amendment also gives us the option to oppose the Hefley amendment, which repeals both Executive Order 13083 on federalism and the Executive Order on nondiscrimination based on sexual orientation, 13087.

Therefore, I support the Kolbe amendment and I oppose the Hefley amendment, because the Hefley amendment does more than the Kolbe amendment. It repeals the Executive Order on nondiscrimination based on sexual orientation.

I do not believe we should discriminate. I do not believe we should discriminate based on someone's sexual preference. I think it is irrelevant, I think it is wrong, and I speak strongly in my outrage that some on my side of the aisle, my leaders in particular, have sought to make this a political issue.

The CHAIRMAN. Does the gentleman from West Virginia (Mr. MOLLOHAN) seek time in opposition to this amendment?

Mr. MOLLOHAN. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 7 and a half minutes.

Mr. MOLLOHAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. OLVER).

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

Mr. Chairman, I rise in support of the Kolbe amendment and in opposition to the Hefley amendment which follows, which contains the material of the Kolbe amendment but also goes beyond that material.

In the difference between the two, the Hefley amendment is an attack upon all our friends in the gay and lesbian community. The Hefley amendment is one more example of unabashed homophobia on the part of some Members of this body.

Nondiscrimination in the workplace for gays and lesbians is fundamental. Yet, under current Federal law it is perfectly legal to fire a person from their job in 40 States because of their sexual orientation, and that alone. No person should have their work judged or their opportunity to work denied on the basis of anything but their ability to successfully perform their job.

We should not be misled that nondiscrimination in civilian Federal employment for gays and lesbians is somehow granting special or unique rights. Nondiscrimination in employment is already assured to Americans, regardless of race, color, religion, ethnicity, gender, handicap, age. Those are not special or unique rights, they are fundamental. Job performance and job performance alone should be the measure of success in the civil service.

By adopting the Hefley amendment, which would deny gays and lesbians the nondiscrimination policy afforded to everyone else, this House would deliberately encourage job discrimination against gays and lesbians.

History has been unkind, Mr. Chairman, to those who have tried to stop the march towards equality. All of us have family, friends, or acquaintances who are gay. They are Republicans or Democrats, doctors and lawyers, teachers and corporate CEOs, our brothers and sisters, our daughters and sons.

To those who insist on continuing job discrimination against the gay community, I urge them, do not be on the wrong side of history. Let us defeat the Hefley amendment. Vote no on the Hefley amendment and for the Kolbe amendment.

Mr. KOLBE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman from Arizona for yielding time to me, and I rise in strong support of his amendment to prohibit the implementation of federalism order 13083, which is an extraordinary extension of Federal authority, and an order developed without any collaboration with the States for the purposes of governing Federal-State relations. There is certainly a better way to do it, a better process and a better outcome, and I rise in strong support of the Kolbe amendment.

I also appreciate the fact that the Kolbe amendment is focused on federalism order 13083 and does not include federalism order 13087. As the chief executive of the Federal civilian work force, it is absolutely within the President's responsibility to make clear that the Federal Government does not discriminate on the basis of sexual orientation.

I voted for welfare reform because I believe work is a healthy, responsible, fulfilling, and necessary commitment in life. Why should Republicans, who fought so hard to open up work for welfare recipients, now vote to deny work to a dedicated, capable, high quality person because of that person's personal, private choice regarding friends and partners?

Have Members ever sat and visited with the parents of a gay and lesbian young person? They will tell you, they loved their baby. They cared for their child. They have saved their money and educated their daughter or son, and they are proud that their child is a good, effective worker. All they are asking of government is that we not allow an employer to arbitrarily fire or arbitrarily deny a promotion to someone who is working hard and doing a good job.

We certainly owe at least that much, equal opportunity, to every American.

Mr. MOLLOHAN. Mr. Chairman, I have accepted the responsibility to manage this time technically in opposition to the Kolbe amendment. I am not in opposition to the Kolbe amendment, and if there is somebody now who would like to manage the time who is against the Kolbe amendment, I would certainly yield this time to them.

The CHAIRMAN. Does the gentleman from West Virginia (Mr. MOLLOHAN) ask unanimous consent to control the time in opposition?

Mr. MOLLOHAN. Mr. Chairman, I ask unanimous consent to control the time in opposition to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. MOLLOHAN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, I rise in opposition to the Kolbe and Hefley amendment. The United States is an inclusive country. It is built upon the thoughts, beliefs, practices, of many countries. I am almost embarrassed that any Member of Congress would attempt such a slap in the face against any one segment of the American population.

Do gay people not pay taxes? Do gay people not participate in this Nation's economic growth? Do gay people not make creative, intelligent, thoughtful, and important contributions to America as a whole? Why would we then single them out as a particular group not worthy of common courtesy, decency, and fairness?

Two hundred and forty-five Members of this House and 65 Senators have in place proper nondiscrimination policies. More than half of the Fortune 500 companies have similar policies in place. The Federal Government should not be the exception. In fact, it should be setting the right example.

No one is asking for any special privileges, quotas, or preferences. The President's Executive Order asks only for basic human rights for everyone. It simply clarifies existing nondiscrimination policies of Federal agencies and offices. I urge a no vote against both amendments.

Mr. KOLBE. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I thank my colleague for yielding time to me.

Mr. Chairman, on September 18, 1996, President Clinton sat on the South Side of the Grand Canyon in Arizona, where he commandeered 1.7 million acres in Utah. The citizens and elected officials of Utah were shocked, without any advance notice and without asking for input, that the President took away a whole chunk of land the size of Delaware and Rhode Island.

Frankly, Mr. Chairman, the White House is busy expanding its powers throughout the Nation at the expense of State and local governments. So I think what the gentleman from Arizona (Mr. KOLBE) is trying to do is prohibit, through his amendment, the execution of the Executive Order 13083.

For those who keep talking about the Hefley amendment, this has nothing to do with the Hefley amendment. I appreciate what they are trying to do. Frankly, I support the Hefley amendment, but I also support the Kolbe amendment, and also believe that the President has to realize that all the Governors do not support what he is doing, either through his Executive Orders. We will have to wait to see if he is actually going to rescind these Executive Orders or not.

I stand up in support of the Kolbe amendment and in support of the Hefley amendment.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished chairman for yielding me the time.

I rise to oppose both amendments pending here on the floor of the House. I ask my friend, the gentleman from Colorado (Mr. HEFLEY), does he discriminate, and would he be willing to acknowledge under oath or on the floor of the United States Congress that he willingly and openly discriminates? Would he ask the President of the United States to openly and willingly discriminate against people within the boundaries of this Nation?

This is a ludicrous and outrageous discussion that we are having today. Flying in the face of equality and opportunity, we want to deny those who are gays and lesbians the rights to a simple job. I would like the gentleman from Colorado (Mr. HEFLEY) to travel with me and meet with the organization P-FLAG, Parents of Gays and Lesbians; parents who work every day, who simply want for their children the dreams and aspirations of the Declaration of Independence, that says we are all created equal, with certain inalienable rights of life, liberty, and the pursuit of happiness.

Seventy-two percent of our Nation's citizens that were polled in the Wall Street Journal support President Clinton's anti-gay bias in Federal agencies, which simply means, you cannot be fired.

In 1997 the American Psychological Association report found that many employers openly admit they would discriminate against a homosexual employee. Just a couple of weeks ago I held in my district a hearing on the Hate Crimes Prevention Act. The outpouring of tears and hurt that was evidenced by those who experienced in the gay and lesbian community outright hatred and discrimination, outright violence; the actual pain of a man who was not gay, who was perceived to be gay, who was beaten brutally; the absolute violence against someone in my district who went into a bar to have a simple, friendly drink, and he was beaten to death. So we are not talking, Mr. Chairman, about giving away the store.

I imagine it is equal to the debate we had on the 13th and 14th Amendment in the 1800's. I wonder if I had been a simple fly on the wall, what someone would have said about African-Americans not being freed in this country. This is a disgrace on America, it is a disgrace on this flag, and both of these amendments should be defeated.

Mr. MOLLOHAN. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I rise today to speak in strong opposition to any amendment which would pave the way for continued discrimination against gay and lesbian Federal employees.

When President Clinton passed Executive Order 13087, he did so with the support of the vast majority of Americans who believe, as I do, that an employer should not be allowed to fire gay and lesbian employees simply because of their sexual orientation. Nonetheless, some in America have worked hard to prevent gays and lesbians from receiving the same basic protections that most Americans enjoy and take for granted.

As a black woman who was forbidden from enrolling in public schools because of the color of my skin, I am especially troubled to witness this divisive, unfair, and un-American attack on the civil rights of our fellow citizens and our constituents.

In a very high profile case in 1991 Cracker Barrel Restaurants fired several gay employees simply because they were gay. The employees had no legal recourse, because, according to the laws at that point and now, discrimination against gay and lesbian Americans is totally legal. Right now it is legal to discriminate against gays and lesbians in 40 of our States.

Mr. Chairman, I encourage all of my fair-minded colleagues to stand on the right side of history.

Mr. MOLLOHAN. Mr. Chairman, I am pleased to yield 1 minute to the distinguished gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I want to speak to an issue of individual liberty, an issue at the heart of the amendment offered by my friend, the gentleman from Arizona (Mr. KOLBE). Specifically, I want to talk about the liberty to pursue any field of employment at which one excels.

Some people around here seem to believe that this liberty should not exist with respect to gays, lesbians and bisexuals. This belief is so misguided, so contrary to our Nation's ideals, and so outside the mainstream, that its proponents have felt the need to justify it with untruth after red herring after misrepresentation.

We hear that forbidding discrimination against Federal civilian workers on the basis of their sexual orientation grants special rights to homosexuals. We hear that forbidding such discrimination protects misconduct on the job. I half expect to soon hear that protecting gays and lesbians from discrimination in the workplace is responsible for global warming and ethnic conflict in the Middle East. All of these claims are designed to distract us from the key question at hand.

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Do Members believe it is acceptable for gays and lesbians and bisexuals who perform their jobs well to be fired from their jobs solely on the basis of their sexual orientation? I say absolutely not.

Mr. KOLBE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, a couple of things that I want to clarify. Earlier the gentleman from Massachusetts (Mr. FRANK) referred to the amendment offered by the gentleman from Florida (Mr. SCARBOROUGH). That amendment was offered last week on VA–HUD dealing with the Federalism issue. That was absolutely correct.

The gentleman from Massachusetts went on to say how this is a stake through the heart, that we are going to drive it through again and again and again.

There is a difference between what was offered last week and this one. My amendment makes it clear that no funds in this or any other act; while the amendment last week applied only to the single bill under consideration—VA–HUD—this applies to any funds that are appropriated in any act. So this really does cover the whole issue of Federalism. It puts it to rest once and for all.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for

making that correction. I want to acknowledge that the gentleman does stand as the superior executioner of this particular dragon.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for recognizing my skills in that area.

I also want to correct one comment that was made, I think erroneously, by the gentleman from New York (Mr. NADLER) when he was speaking not about this amendment in particular but about the amendment which is going to be offered by the gentleman from Colorado (Mr. HEFLEY) and which includes this provision on Federalism. The gentleman from New York made reference to the fact that defeat of this amendment could be a step towards expanding rights for individuals who are homosexual.

This act, this executive order has nothing, nothing to do with that. It has only to do with the hiring practices of Federal employment managers. It does not give anybody a right to sue. It does not give anybody a right to go to the EEOC or the Civil Rights Commission. It does not grant any right which is not in law now. It does not create any protected class. It in no way expands any rights whatsoever. This only codifies what are currently the employment practices now in the Federal agencies and codifies them in a single place. It does nothing to change the law as it exists today.

Let me come back to the Federalism issue here. I mentioned earlier that the chief of staff of the White House said it was a mistake. ''We screwed up,'' that was his quote there. And good reason that he said that, because indeed, when President Reagan issued his executive order on affirmative action in 1987, he took several specific steps, steps that placed the onus on Federal agencies to consult the Constitution to make certain that ''an action does not encroach upon the authority reserved for the States.''

He made sure that it said that they must adhere to the notion that Federal actions are not superior to State actions and that exemptions to Federal regulations should be granted on that basis.

That same Reagan Executive Order also said that ''Federal regulations should not preempt State law unless the statute contains an express preemption provision or there is some other firm and palpable evidence that the Congress intended preemption of State law.''

Let me just conclude by saying this executive order from President Clinton is quite different than that previously issued. It fundamentally alters the Federal relationship that has been developed through the years. These changes were made without consultation with governors, mayors, or county commissioners. We should make it clear that this revision should not be the law of the land.

I urge an ''aye'' vote on the amendment.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by gentleman from Arizona (Mr. KOLBE).

The amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS AND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 4276, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999, IN THE COMMITTEE OF THE WHOLE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 4276 in the Committee of the Whole, pursuant to H. Res. 508: no amendment shall be in order thereto except for the following amendments, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed thereto:

Mr. HEFLEY of Colorado, the amendment made in order under the rule, for 20 minutes;

Mr. SAXTON of New Jersey, a limitation regarding foreign assets litigation, for 10 minutes;

Mr. HOLDEN of Pennsylvania, amendment numbered 23, for 5 minutes;

Mr. STEARNS of Florida, numbered 35, for 5 minutes;

Mr. MCINTOSH of Indiana, either No. 50 or an amendment regarding the Standing Consultative Committee, for 20 minutes;

And Mr. KUCINICH of Ohio, numbered 49, under the 5-minute rule;

And that the managers of the bill may make pro forma amendments to strike the last word for the purpose of engaging in colloquies.

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

Mr. MOLLOHAN. Mr. Speaker, reserving the right to object, I ask the gentleman to give us a clarification of the McIntosh amendment. I do not believe that we have seen that.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, it is either numbered 50, or we understand there could be a different version of that that would be offered.

Mr. MOLLOHAN. Mr. Speaker, could we see a copy of the modified amendment?

Mr. ROGERS. It is being delivered to the gentleman as I speak.

Mr. MOLLOHAN. Mr. Speaker, continuing my reservation of objection, we have just had an opportunity to look at this. It is considerably different than previous versions. We would like an opportunity to reserve judgment on this amendment and this UC, pending a review.

If the gentleman wants to move forward quickly on the UC, maybe we can pull this out, look at it and deal with this in a few minutes. We can come back to it as soon as we have a chance to review it, which we have not had a chance to do.

Mr. ROGERS. Mr. Speaker, the only difficulty is, this must be done in the full House, which we will not be in shortly.

Mr. MOLLOHAN. Mr. Speaker, as we move forward on this or at the time we get to it, perhaps we can make an agreement.

Mr. ROGERS. I would point out to the gentleman, we are under an open rule.

Mr. MOLLOHAN. Mr. Speaker, I fully appreciate that, but I am having expressions of concern by Members who are interested in this amendment. I think we can resolve it and agree to it when we get down to it. I just cannot include that in the UC right now.

Mr. ROGERS. Mr. Speaker, if the gentleman will continue to yield, what I am asking is, could the gentleman agree that whatever the amendment is, that the time limit would be 20 minutes as the UC states?

Mr. MOLLOHAN. No, Mr. Speaker, I cannot. I understand the proposal, and I simply suggest to the gentleman that until Members who have an interest in this have an opportunity to review it, I cannot agree to the time limit as set forth in the UC. We could break that out and when we get down to it, I am sure we could work something out for Members who are interested in the amendment.

Mr. ROGERS. Mr. Speaker, I would withdraw the unanimous consent request until a further time, but while we are in the full House, could I propose that the debate on the Hefley amendment be limited to 20 minutes?

Mr. MOLLOHAN. I believe it is limited under the rule, Mr. Speaker.

The SPEAKER pro tempore. The Hefley amendment already is 20 minutes under the rule.

Does the gentleman withdraw his request?

Mr. ROGERS. Mr. Speaker, I withdraw the unanimous consent request.

Mr. MOLLOHAN. Mr. Speaker, I withdraw my reservation of objection.

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

The SPEAKER pro tempore. Pursuant to House Resolution 508 and rule