United States to eliminate a redundant provision governing venue, section 1392(a) of title 28 of the United States Code, which duplicates provisions of the Judicial Improvements Act of 1990. This is a housekeeping provision to eliminate any confusion regarding venue in title 28.

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

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 677, a bill to repeal a redundant venue provision.

This bill implements a Judicial Conference proposal to eliminate a provision governing venue, 28 U.S.C. §1392(a), which duplicates provisions of the Judicial Improvements Act of 1990. This is a housekeeping measure to eliminate any confusion regarding venue caused by the redundant provision.

I urge my colleagues to support this technical correction.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MOORHEAD] that the House suspend the rules and pass the Senate bill, S. 677.

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

A motion to reconsider was laid on the table.

ECONOMIC ESPIONAGE ACT OF 1996

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3723) to amend title 18, United States Code, to protect proprietary economic information, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3723

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Economic Espionage Act of 1996''.

SEC. 2. PROTECTION OF TRADE SECRETS.

(a) IN GENERAL.—Chapter 31 of title 18, United States Code, is amended by adding at the end the following:

''§ 670. Protection of trade secrets

''(a) OFFENSE.—Whoever—

''(1) with the intent to, or with reason to believe that the offense will, benefit any foreign government, foreign instrumentality, or foreign agent; or

''(2) with the intent to divert a trade secret, that is related to or is included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and with the intent to, or with reason to believe that the offense will, disadvantage any owner of that trade secret; wrongfully copies or otherwise controls a trade secret, or attempts or conspires to do so shall be punished as provided in subsection (b).

''(b) PUNISHMENT.—

''(1) GENERALLY.—The punishment for an offense under this section is—

''(A) in the case of an offense under subsection (a)(1), a fine under this title or imprisonment for not more than 25 years, or both; and

''(B) in the case of an offense under subsection (a)(2), a fine under this title or imprisonment for not more than 15 years.

''(2) INCREASED MAXIMUM FINE FOR ORGANIZATIONS.—If an organization commits an offense—

''(A) under subsection (a)(1), the maximum fine, if not otherwise larger, that may be imposed is $10,000,000; and

''(B) under subsection (a)(2), the maximum fine, if not otherwise larger, that may be imposed is $5,000,000.

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

''(1) the term 'foreign instrumentality' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

''(2) the term 'foreign agent' means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

''(3) the term 'trade secret' means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

''(A) the owner thereof has taken reasonable measures to keep such information secret; and

''(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and

''(4) the term 'owner', with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.

''(d) CRIMINAL FORFEITURE.—

''(1) Notwithstanding any other provision of State law, any person convicted of a violation under this section shall forfeit to the United States—

''(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

''(B) any of the person's property used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

''(2) The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this section, that the person forfeit to the United States all property described in this section.

''(3) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except for subsections (d) and (j) of such section, which shall not apply to forfeitures under this section.

''(e) ORDERS TO PRESERVE CONFIDENTIALITY.—In any prosecution or other proceeding under this section, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

''(f) CIVIL PROCEEDINGS TO ENJOIN VIOLATIONS.—

''(1) GENERALLY.—The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this section.

''(2) EXCLUSIVE JURISDICTION.—The district courts of the United States shall have exclusive original jurisdiction of civil actions under this subsection.

''(g) TERRITORIAL APPLICATION.—

''(1) This section applies to conduct occurring within the United States.

''(2) This section also applies to conduct occurring outside the United States if—

''(A) the offender is—

''(i) a United States citizen or permanent resident alien; or

''(ii) an organization substantially owned or controlled by United States citizens or permanent resident aliens, or incorporated in the United States; or

''(B) an act in furtherance of the offense was committed in the United States.

''(h) NONPREEMPTION OF OTHER REMEDIES.—This section shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret.

''(i) EXCEPTIONS TO PROHIBITION.—

''(1) This section does not prohibit and shall not impair any otherwise lawful activity conducted by an agency or instrumentality of the United States, a State, or a political subdivision of a State.

''(2) This section does not prohibit the reporting of any suspected criminal activity to any law enforcement agency or instrumentality of the United States, a State, or a political subdivision of a State, to any intelligence agency of the United States, or to Congress.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 31, United States Code, is amended by adding at the end the following new item:

''670. Protection of trade secrets.''.

SEC. 3. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting ''section 670 (relating to economic espionage),'' after ''(bribery in sporting contests),''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. BUYER] and the gentleman from New York [Mr. SCHUMER] each will control 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BUYER].

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, I am pleased to speak in favor of H.R. 3723, the Economic Espionage Act of 1996. This bill was introduced by Representative BILL MCCOLLUM, chairman of the Subcommittee on Crime, and cosponsored by Mr. SCHUMER, the ranking minority member of the subcommittee. The bill is based, in large part, on draft legislation forwarded to the Subcommittee on Crime from the Department of Justice and the Federal Bureau of Investigation.

Mr. Speaker, this bill is designed to help Federal law enforcement better combat the theft of proprietary economic information, more commonly known as trade secrets. According to the American Society for Industrial Security, thefts of this type of property cost American businesses approximately $24 billion a year in losses. Generally speaking, these types of crime fall into two broad categories: First, there are thefts by foreign companies, often with the cooperation of foreign governments. The FBI currently is investigating allegations of economic espionage conducted against the United States by individuals or organizations from 23 different countries. A number of these countries maintain friendly relations with the United States, yet in some cases these nations take advantage of their access to U.S. information and their ability to collect information more easily than our traditional adversaries. The second category of these crimes are committed by Americans or U.S. nationals who leave their employment and steal proprietary information which they deliver to new employers.

The Federal Government has been frustrated in its attempts to combat this type of crime because existing laws are insufficient. There is no Federal criminal statute which directly addresses economic espionage or the protection of proprietary economic information. The statutes which Federal law enforcement does use to combat this crime were drafted decades ago, long before anyone had conceived of the kind of property we now call ''intellectual property.'' Another obstacle to enforcing these crimes under existing law is that there is no statutory procedure in place to protect the victim's stolen information during criminal proceedings. As a result, victims are often reluctant to prosecute for fear that the prosecution itself will further disseminate the economic information stolen from them.

H.R. 3723 will establish criminal penalties that prohibit the wrongful copying or other acts of wrongfully controlling proprietary economic information if done either to benefit a foreign government, instrumentality, or agent, or disadvantage the rightful owner and to benefit another person. The term proprietary economic information is defined in the bill and includes financial, business, scientific, or economic information as to which the owner has taken reasonable measure to keep confidential and which has value, in part, by virtue of the fact that the information is not widely known.

The bill provides for a significant enhanced penalty if the entity committing the crime is an organization. It also provides for criminal forfeiture of the proceeds of the crime and limited forfeiture of the property used to commit the crime. Additionally, it requires courts hearing cases brought under the statute to enter such orders as may be necessary to protect the confidentiality of the information involved in the case.

Mr. Speaker, this bill gives Federal law enforcement agencies the tools they need to combat economic espionage. It is the product of a bipartisan effort and was reported favorably by a unanimous voice vote of the full Judiciary Committee. I urge all of my colleagues to support its passage today.

□ 1545

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

Mr. HYDE. Mr. Speaker, when the cold war ended, Americans rightly hoped that our national security would no longer be threatened. We soon learned, however, that new or previously overlooked threats would replace the Eastern bloc in the struggle for progress and freedom throughout the world. We learned that evil despots in remote regions of the world could shatter the peace and threaten world stability when it suited their selfish interests. We also learned that ruthless terrorists, willing and able to strike anywhere and at anytime, would pose a growing threat to our Nation's security. But largely overlooked as a threat to our national security is the attack being waged against our Nation's economic interests.

In my opinion, our economic interests should be seen as an integral part of its national security interests, because America's standing in the world depends on its economic strength and productivity.

That's why the measure we are considering today is of great importance. Testimony before the Judiciary Committee's Subcommittee on Crime indicated that economic espionage crimes cost American businesses approximately $24 billion a year in losses. But of even greater concern than those financial losses, and they are significant in themselves, is the fact that a large portion of these thefts are committed by agents of foreign governments or companies. FBI Director Freeh testified that the FBI currently is investigating allegations of economic espionage conducted against the United States by individuals or organization from 23 different countries. Most disturbing is the fact that a number of these countries maintain friendly relations with the United States, yet take advantage of their access to U.S. information and their ability to steal the innovations of American businesses.

Mr. Speaker, we simply cannot allow this type of crime to occur. The Justice Department has told us that the existing laws dealing with the theft of property are insufficient to combat these crimes. And no wonder, those statutes were written in the 1930's. With all of the technological innovation of the computer age, criminals are finding new ways to steal the property—even the intangible property—of others.

I support this bill because it will enact a comprehensive statute to combat this crime. It creates criminal penalties for the wrongful copying or control of trade secrets if done to benefit a foreign government or instrumentality. It also penalizes the wrongful diversion of a trade secret to the economic benefit of someone other than its owners.

Americans have long been known as the most innovative people in the world. It is entirely appropriate that the Federal Government be equipped with the legal tools for protecting U.S. innovations. After all, it is our creative spirit that has made America the leader of the business and financial world. Protecting this position requires protecting our creative developments from unscrupulous international competitors.

Mr. Speaker, simply put, it is in our national interest to prevent economic espionage. This bill will help the Federal Government to fulfill this critical mission. Enacting this measure now is of the utmost importance.

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

Mr. Speaker, I rise in support of the Economic Espionage Act.

Mr. Speaker, I introduced this legislation together with the chairman of the Crime Subcommittee, Mr. MCCOLLUM. The Justice Department came to both of us and identified a serious loophole in current Federal law that applies to the protection of intellectual property.

As America moves toward a high-tech economy, some of most valuable economic assets are intangible. They are plans, formula, inventions and databases. Unfortunately, the Stolen Property Act, written back in the 1930's, applies to physical property and not to these trade secrets that many companies value even more highly. No other statute has been a satisfactory substitute either.

The Economic Espionage Act simply adds a new offense to the law prohibiting the theft of trade secrets. The new provision will help Federal investigators and prosecutors stop economic competitors from pilfering this valuable information. It will also send a clear message to foreign governments, including many of our traditional allies, that are currently spying on America's private companies. Their agents will now be held accountable for their criminal activity.

Two different reports have estimated conservatively that our economy loses $2 billion a month from economic espionage. At our subcommittee hearing in May, we heard from several businesses that had been victimized by industrial spying. Raymond Damadian, CEO of the Fonar Corp., estimated that his 300-person workforce would be twice as large if not for economic espionage.

We cannot, Mr. Speaker, afford to let this loophole remain in our law. American inventiveness is the key to our economy. From Benjamin Franklin to Thomas Edison to Bill Gates, our national ingenuity has been one of our greatest assets, and preserving it is our goal.

Finally, Mr. Speaker, I want to mention two concerns that have been

raised as this bill moved through the committee process and explain how each has been addressed in the legislation before us today. This explanation is for the benefit of other Members and also for prosecutors and judges who will interpret this act later on.

First, some Members thought that this legislation might inhibit common and acceptable business practices. For example, employees who leave one company to work for another naturally take their general knowledge and experience with them and no one, no one wishes to see them penalized as a result. Similarly, reverse engineering is an entirely legitimate practice.

Our bill was carefully drafted to avoid this problem. The very high intent requirements and the narrow definition of a trade secret make it clear that we are talking about extraordinary theft, not mere competition.

Second, several Members were concerned that people acting in the public interest as whistleblowers would be subject to the penalties in this bill.

Again, we have carefully fine-tuned the language to avoid this problem. There is a specific exemption for people who report information about suspected criminal activity to government authorities. In addition, the intent requirement for domestic economic espionage specifies that the offender intends to confer an economic benefit to someone other than the owner of a trade secret. If the motivation truly is the well-being of the public, the activity is not covered by this intent requirement. In other words, we are talking about thieves, not whistleblowers, and the legislation makes that clear.

I am pleased we were able to advance this better than legislation on a bipartisan basis. I urge my colleagues to support it.

Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN] who represents parts of Silicon Valley and has been an instrumental leader on this issue.

Ms. LOFGREN. Mr. Speaker, as we look ahead to the next century, I think all of us or many of us realize that our prosperity in America is going to be based on knowledge and information. In my county we have added over 50,000 jobs in 1 year's time. We have unemployment of 3.7 percent, and that is fueled by technology, it is fueled by high-skilled jobs and information. If we do not take steps to protect knowledge and information, as this bill does, we will face adverse economic consequences in Silicon Valley and ultimately throughout the United States.

So I commend the ranking member and the chairman for this bill and urge my colleagues to support it.

Mr. SCHUMER. Mr. Speaker, I thank the gentlewoman from California [Ms. LOFGREN] for her remarks and support.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the Economic Espionage Act, which passed the House Judiciary Committee by voice vote. This bill would specifically make it a Federal crime to steal trade secrets from American companies. Currently, the theft of trade secrets has been prosecuted under laws such as wire fraud, mail fraud, and the interstate transportation of stolen property.

Under this bill, if the intent of stealing a trade secret is to benefit a foreign company or foreign government, the individual charged with economic espionage would be subject to a maximum fine of $10 million and 25 years in prison. If foreign espionage is not involved, the penalty would be punishable by up to $5 million and 15 years in prison. Additionally, any property derived from the crime would be subject to forfeiture.

This bill is long overdue. We must do everything that we can to enable American businesses to compete on a level playing field with the rest of the world and this bill will help us to achieve this goal.

Mr. BUYER. Mr. Speaker, I congratulate the gentleman from New York [Mr. SCHUMER] on the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. BUYER] that the House suspend the rules and pass the bill, H.R. 3723, as amended.

The question was taken.

Mr. BUYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PAROLE COMMISSION PHASEOUT ACT OF 1996

Mr. BUYER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1507) to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes, as amended.

The Clerk read as follows:

S. 1507

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Parole Commission Phaseout Act of 1996''.

SEC. 2. EXTENSION OF PAROLE COMMISSION.

(a) IN GENERAL.—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to ''ten years'' or ''ten-year period'' shall be deemed to be a reference to ''fifteen years'' or ''fifteen-year period'', respectively.

(b) POWERS AND DUTIES OF PAROLE COMMISSION.—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

(c) REDUCTION IN SIZE.—

(1) Effective December 31, 1999, the total number of Commissioners of the United States Parole Commission shall not be greater than 2. To the extent necessary to achieve this reduction, the Commissioner or Commissioners least senior in service shall cease to hold office.

(2) Effective December 31, 2001, the United States Parole Commission shall consist only of that Commissioner who is the Chairman of the Commission.

(3) Effective when the Commission consists of only one Commissioner—

(A) that Commissioner (or in the Commissioner's absence, the Attorney General) may delegate to one or more hearing examiners the powers set forth in paragraphs (1) through (4) of section 4203(b) of title 18, United States Code; and

(B) decisions made pursuant to such delegation shall take effect when made, but shall be subject to review and modification by the Commissioner.

SEC. 3. REPORTS BY THE ATTORNEY GENERAL.

(a) IN GENERAL.—Beginning in the year 1998, the Attorney General shall report to the Congress not later than May 1 of each year through the year 2002 on the status of the United States Parole Commission. Unless the Attorney General, in such report, certifies that the continuation of the Commission is the most effective and cost-efficient manner for carrying out the Commission's functions, the Attorney General shall include in such report an alternative plan for a transfer of the Commission's functions to another entity.

(b) TRANSFER WITHIN THE DEPARTMENT OF JUSTICE.—

(1) EFFECT OF PLAN.—If the Attorney General includes such a plan in the report, and that plan provides for the transfer of the Commission's functions and powers to another entity within the Department of Justice, such plan shall take effect according to its terms on November 1 of that year in which the report is made, unless Congress by law provides otherwise. In the event such plan takes effect, all laws pertaining to the authority and jurisdiction of the Commission with respect to individual offenders shall remain in effect notwithstanding the expiration of the period specified in section 2 of this Act.

(2) CONDITIONAL REPEAL.—Effective on the date such plan takes effect, paragraphs (3) and (4) of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) are repealed.

SEC. 4. REPEAL.

Section 235(b)(2) of the Sentencing Reform Act of 1984 (98 Stat. 2032) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. BUYER] and the gentleman from New York [Mr. SCHUMER] each will control 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BUYER].

GENERAL LEAVE

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

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

There was no objection.

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

Mr. Speaker, in the Sentencing Reform Act of 1984, Congress abolished parole in the Federal system, and decided to phase out the Parole Commission. In 1990, Congress extended the time line for this phaseout by an additional 5 years, because there were still