Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Jones
Kanjorski
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—191

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fazio
Filner
Flake
Ford
Frost
Gejdenson
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Nadler
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—15

Bonilla
Boswell
Fattah
Foglietta
Furse
Gephardt
Gonzalez
Goss
Johnson, Sam
Largent
Meek
Oberstar
Schiff
Stupak
Weldon (PA)

☐ 1236

Mr. MCNULTY and Mr. DINGELL changed their vote from ''yea'' to ''nay.''

Mr. BONO changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 168 and that I may include tabular and extraneous material.

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

There was no objection.

IMPLEMENTING THE RECOMMENDATIONS OF BIPARTISAN HOUSE ETHICS REFORM TASK FORCE

The SPEAKER pro tempore. Pursuant to House Resolution 230 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the resolution, House Resolution 168.

☐ 1240

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 168) to implement the recommendations of the bipartisan House Ethics Reform Task Force, with Mr. COMBEST in the chair.

The Clerk read the title of the resolution.

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

Under the rule, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN] will each control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

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

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

Mr. LIVINGSTON. Mr. Chairman, I am pleased to rise to recommend to the House the work product of a very hard-working task force on ethics rules reform.

Mr. Chairman, in the aftermath of Watergate, the House felt compelled to engage and apply certain rules of conduct to enforce the provisions of the Constitution that say that the Members of the House will police its own Members. They were known as the ethics rules, administered by the Committee on the Standards of Official Conduct. Those rules evolved with time, and were revised as recently as 1989, roughly 8 years ago, and have, by and large, worked pretty well over the years.

In the last Congress, it was felt by many Members on both sides of the aisle that there had been a partisan breakdown; that regardless of individual cases, the fact was that Members of the House were engaging in the war of politics by utilizing the rules of the Committee on Standards of Official Conduct to their own purposes.

If that charge is warranted or not, the fact is that the leadership of both Houses were called upon to decide whether or not that type of activity should be encouraged and continued or whether or not we should make a good-faith effort to stop that sort of conduct and encourage Members to understand that the rules of the House are sacred, they reflect on the integrity of the House, and that we, as the Members of the House of Representatives, should respect the roles which we hold and administer and that we should, indeed, police ourselves in a bipartisan fashion.

☐ 1245

Pursuant to the directives of the leadership, the bipartisan leadership of the House, a task force was confected, comprised of myself and the gentleman from Maryland, Mr. BEN CARDIN, as cochair, coequals, in charge of the task force comprised of the gentleman from New York, JERRY SOLOMON, the gentleman from California, Mr. BILL THOMAS, the gentleman from Florida, Mr. PORTER GOSS, the gentleman from Delaware, Mr. MIKE CASTLE, and the gentleman from Utah, Mr. JIM HANSEN, on the Republican side; and the gentleman from Ohio, Mr. LOU STOKES, the gentleman from Massachusetts, Mr. JOE MOAKLEY, the gentleman from Texas, Mr. MARTIN FROST, the gentlewoman from California, Ms. NANCY PELOSI, and the gentleman from California, Mr. HOWARD BERMAN, on the Democrat side.

We began our deliberations in early February. We held hearings; gained a lot of testimony from a lot of witnesses, both in public and private forums; called Members to give us their

experiences, without concentrating on individual cases, but asking for their recommendations in generic form for rules of the House which could be administered without partisanship, without undo rancor, and fairly.

The task force conducted its activities throughout February, March, April, May, and into June on the substance of the bill which we have now brought to the House and on the report. Every line, every word, sometimes often syllables, were debated strenuously. It was a hard fought package, but we finally came up with a product that I think every Member has to understand is a significant improvement over previous rules.

One might say that, in part, certain segments are no greater improvement. In fact, in many instances we left intact provisions of the previous rules of the committee or of the House. But we tried to at least marginally improve those sections which we thought were in need of a change and, in many instances, such as the section on due process, we, I think, substantially, improved the product of the 1989 task force, which was also a bipartisan task force.

We could not have succeeded in reaching our conclusions without the benefit of the hard work of all of the Members, and I commend again the gentleman from Maryland, [Mr. CARDIN] and all the members of the task force for the diligent attention to our very difficult responsibilities. There were tremendous pressures on every Member, but I think we came up with a good product.

But in addition to the Members, we could not have accomplished what we did without the significant help of the staff, headed up by Richard Leon, Special Counsel to the committee; David Laufman, who is on loan to us from the staff of the Committee on Standards of Official Conduct and served as assistant to the special counsel; and individual staff, my own staff member Stan Skocki; the staff member of the gentleman from Maryland, Michelle Ash; and all of the other individual staff who contributed so mightily, both from the personal staffs of the various Members and from the Committee on Standards of Official Conduct, the Committee on Rules, and the various other committees which participated in this effort.

I am pleased, very pleased with the work product. We will talk about amendments, which have just been made in order, to the work product later on at the appropriate time. I think it is proper that Members who were not on the task force have some input, and as I have already stated in the debate on the rule, that if they come to us in bipartisan fashion, their concerns should be dealt with and they will be.

But let me say that the work product that we have before the Members, before the amendments are undertaken or considered, the work product that we have before the House has been considered, debated and written about and even testified about by people on the outside. Mr. Gary Ruskin of the Congressional Accountability Project and a colleague of Ralph Nader's does not think it goes far enough, and he has attacked the work product because he thinks it makes it too tough for outside people to testify. Miss Ann McBride of Common Cause likewise has not liked our work product because she thinks it is too hard for outside people to bring complaints against individual Members.

On the other hand, David Mason of the Heritage Foundation, Norm Ornstein of American Enterprise Institute, and Thomas Mann of Brookings have written articles and testified on behalf of the package because they think in its comprehensive form that this is a significant improvement under past rules.

I would say that I am proud about the package for a number of reasons. For one thing it does, in my opinion, offer tougher standards with which to file complaints; at the same time abolishing the three blind mice rule, which I call a canard, unworkable. That is a rule which we brought into fashion or we adopted in the 1989 revision, and I have to say that I was on that task force as well, and that I thought it was a good idea at the time, whereby an outside person, not a Member of the Congress, would go to three Members of the House of Representatives and ask them if they wanted to file this complaint, he would say no; then the second one would be asked if they wanted to file, they said no; and then they would go to the third one and get the same answer, and then they could file anything they wanted before the House as a complaint against a Member of Congress.

We thought that that was absolutely inappropriate; that it was being misused and that it should actually be abandoned. In its place what we did was adopt a personal knowledge standard that said, A, that no person outside the Congress can file anything on the basis of newspaper or press clippings or press reports; but, second, that they had to have personal knowledge of the complaint or of the subject matter of the complaint in order to file information with the committee for the purposes of a complaint.

Also, they either had to be reviewing personal or business or government records and have reached conclusions on the basis of their personal review of those records, or they had to be a participant or had seen the incident in question, or they had been told by one person who had seen or participated in the event for which they were complaining.

We thought that was a pretty good standard. There are those Members who do not believe that is strong enough and would like very much to go back to the pre-1989 rule that says a Member of Congress has to put his stamp of approval, his name, on any incoming complaint. We will debate that later on. I think those Members have some very good arguments to back their amendment up, but we will discuss that later on, but I do think that the committee did a pretty good job in establishing a threshold before complaints can be filed by people not Members of the Congress.

So nonmembers can file directly under our provision. Complaints filed directly by nonmembers cannot be exclusively based on newspaper articles. Members may sponsor nonmember complaints only if they certify that the complainant is acting in good faith; that is, they can put their stamp of approval, but at this point they have to say that the person in their opinion is acting in good faith and that the matter described in the complaint warrants review of the committee; and bipartisan support necessary for a filing to officially constitute a complaint is necessary; and there is a prohibition on frivolous filings and complaints expressly provided for in the House rules.

Let me stress on that one so that it is clearly understood. Never before have we entertained a prohibition about unfrivolous filings. And it is strongly felt by Members on both sides of the aisle that there have been frivolous attempts to misuse the rules with frivolous complaints. We have a prohibition against that that says it is within the latitude of the committee, by majority vote, to sanction Members or even disregard complaints from outside nonmembers if those complaints are frivolous.

Most importantly in this package is the fact that there is due process for Members. There is a right to review evidence prior to voting of a statement of alleged violations. There is a right to review and comment on the subcommittee and full committee reports prior to transmittal to the full committee in the House. Settlement negotiations are now confidential and not admissible as evidence, even though they had been in the past. There is a right to notice of any expansion of the investigation and/or the statement of alleged violations. There are deadlines established for determining whether information filed constitutes a complaint, and whether the complaint should be forwarded to an investigative subcommittee; and there is a right to notice of any unsuccessful vote to forward complaints to the investigative subcommittee.

The standards for charging a person used to be that the committee only had a reason to believe that a Member had committed a violation. That standard has been raised. Now the committee has to establish a substantial reason to believe, and we think that is a significant improvement.

Most importantly, the whole process is made less partisan and, in fact, nonpartisan in many respects by the changing of the rules. The committee's staff is required, with all members on

the Committee on Standards of Official Conduct, to file nondisclosure oaths. The intent of that is to discourage leaks outside the committee. Nonpartisan professional staff are required by the committee rules.

There is increased latitude to the chairman and the ranking member to speak to the press if the committee is being unjustifiably attacked, in their eyes, and they are entitled to go out, after consultation with their counterpart, to go out to the press and make a claim.

And there is increased confidentiality of the committee proceedings in the votes, in that in the past all meetings have been deemed open unless closed by the majority; now they are closed unless opened by the majority in the early stages of the investigation. But that is not the adjudicatory stage. In that case, if there is an adjudication or a trial of a Member on the charges, then that is always open and will continue as such.

The task force hopes that these recommendations will not be viewed in microscopic isolation but rather that the whole package, the whole fabric of the package, will be considered as part of a system to accomplish multiple objectives.

First, that they be less partisan; second, that they be more confidential; third, that they provide greater due process for the Members; and fourth, that they provide greater involvement by more Members, because we are creating a jury pool to alleviate the very difficult responsibilities entrusted upon the Members of the standards of official conduct.

We have shrunk the committee from 12 Members to 10 Members, but we have encouraged more reliance on the subcommittees to diffuse so that individual subcommittees of four or six Members can do the work on individual cases and the full committee will not be required to do all of the work on all of the cases and be chained down in the basement of the Capitol to spend all of their waking hours on matters dealing with standards of official conduct.

Mr. Chairman, our ultimate goal is that this bill and the administration of the rules of the House with respect to Members and charges of violations of conduct against them be nonpartisan. Our objective is that this be a true peer review system; that we judge our colleagues with the trust and the confidence of both the Members of the House in bipartisan fashion and the American people. I think that we have done an excellent job toward achieving those goals, and I urge the adoption of this package.

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

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

Mr. Chairman, I want to join the gentleman from Louisiana [Mr. LIVINGSTON] in the compliments he has paid to the Members of this body that have served on this joint committee on ethics reform and to the staff that helped us in order to reach this time.

I am very proud of the result of the task force. We have an opportunity today to approve that product, and I hope that this body will take that opportunity and approve the work of our task force.

The gentleman from Louisiana provided tremendous leadership in this body to bring together different people of different views. We worked very hard to compromise issues without compromising principles, and we think the end result is in the best interests of this House. The challenge that we have is to restore confidence with the public that we can carry out our constitutional responsibility to monitor the conduct of our Members. It is a difficult responsibility.

□ 1300

This body owes a debt of gratitude to those Members who are willing to serve on the committee that sits in judgment. Several are on the floor here, and I applaud their efforts, the gentleman from Ohio [Mr. SAWYER], the gentleman from Utah [Mr. HANSEN], and others who have stepped forward to carry out that awesome responsibility. Because, regardless of what rules we have, ultimately it depends upon the willingness of Members of this House to step forward, to serve this body, to judge its Members, and for us collectively to carry out that awesome responsibility.

I believe that the recommendations of our bipartisan task force will make it easier for us to carry out that awesome responsibility. It makes improvements that are important to allow us to judge the conduct of our Members. Let me just, I guess, emphasize some of the points that the gentleman from Louisiana [Mr. LIVINGSTON] has already commented on.

The recommendations, if approved, will make it easier for us to have a nonpartisan operation of the ethics process. The resolution specifically provides that the staff will be nonpartisan and cannot engage in partisan political activities. The recommendations give the chairman and ranking member equal opportunity to set the agenda of the committee.

The recommendations improve the confidentiality of the work of the committee, which is so important to maintain the integrity of the process. The meetings of the investigative committees will be closed. All members of the committee and staff will be required to file confidentiality oaths. And for the first time, we will allow the committee to directly refer to a Federal agency, without having to come to the House floor and disclose matters, matters that should be referred to other Federal agencies that affect a Member, requiring an extraordinary vote of the committee itself.

We have improved the system for filing of complaints. I know there is going to be an amendment offered later, and I would hope that each Member would understand the current rules and how we have improved them. I agree with the gentleman from Louisiana [Mr. LIVINGSTON] that the three-Member refusal does not make sense. But the answer is not to exclude outsiders the opportunity to submit information or complaints to our Committee on Standards of Official Conduct. The answer is to make it more rational to the need that is out there, and that is what we did in a compromise.

In an appropriate compromise, we require that an outside individual, whether it be a staff person or whether it be an outside person, to bring a complaint must have personal knowledge, a higher standard. It is similar to the standard in the other body. We think that makes sense. By the way, we also raised the standard for a Member transmitting a complaint from a non-Member by requiring the Member to certify in good faith that this complaint should be reviewed by the committee.

So we were mindful of the concerns that a complaint is a very serious matter against a Member, and we have improved the manner in which legitimate matters can come before the Committee on Standards of Official Conduct by non-Members. We have improved the efficiency, the administration of the committee itself, the initial factfinding, which has been very difficult for the committee. It is now delegated to the Chair or ranking member, so they can get better control over getting information earlier to the committee and act earlier with the committee.

The subpoenas and the expansion of scope of an investigation will be handled by the subcommittee where it should be handled. We have an amendment later that tries to reverse that. But let me remind my colleagues that the bifurcated system whereby one group of Members investigate another group, by requiring those that are doing the investigation to go back to those who ultimately have to make judgment and disclose information in order to justify an expansion of scope, compromises the objectivity of the process and the fairness of the adjudicative process.

It also, by the way, compromises we think confidentiality and makes it more time consuming in order to reach conclusions, which is a major concern to the Members of this House. We improve the due process that the gentleman from Louisiana [Mr. LIVINGSTON] spoke to, many new procedures that we put in so that people get adequate due process.

A Member will have advanced notice on any statement of alleged violation that the subcommittee intends to propose. We give notice to Members at every phase of the ethics investigation or action. We have greater involvement by the Members of this House in the ethics process by having a pool of Members who can assist in investigations and by having a limit of 4-year

service on the Ethics Committee. I know that the gentleman from Ohio [Mr. SAWYER] and I would have hoped that that would be retroactive. But no, it cannot be retroactive, but at least a Member's term on the committee cannot exceed 4 years, and we have rotation to assure experienced Members will always be on the committee.

And importantly, we have made the process move quicker, in a more timely way, by establishing a 14-day time limit on the initial action on a matter that is filed as a complaint by the chairman and ranking member, giving the chairman and ranking member much more discretion in managing the workload of the committee and in recommending early action on complaints that are filed and filing time limits on getting into initial factfinding.

If we take a look at the full package, I believe we will find that it addresses the concerns that have been raised by the Members of this House. I agree with the gentleman from Louisiana [Mr. LIVINGSTON], we hope that our colleagues will not use a microscope to try to look at each individual section and say ''Why does this make sense?'' Look at the total package. The package makes sense. It should be approved by this body.

I would hope that my colleagues would have confidence in the committee, the work that we did. Reject the three amendments that will be offered later on this debate. Those three amendments, and we will have a chance to talk about them a little bit later in general debate, each will compromise the manner in which this package was put together, and we will have a chance to talk about that a little later.

It is a good product. I am proud to be associated with it. I hope it will be approved by the House, but I hope it will not be modified by the three amendments that will be offered.

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

Mr. LIVINGSTON. Mr. Chairman, I yield 5 minutes to the very distinguished gentleman from Utah [Mr. HANSEN], that is going to be entrusted with the responsibility of administering this new package when and if it is adopted, the forthcoming chairman of the Committee on Standards of Official Conduct, and a very valued member of this task force, as well.

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

Mr. HANSEN. Mr. Chairman, I am very grateful to the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN] for the great work they did on the task force. They worked very diligently, very hard work. It is amazing we got this far, candidly; and I am glad we are here.

I rise today as the chairman of the House Committee on Standards of Official Conduct. I previously served on this committee from 1981 to 1993. In those 12 years that I served, we handled some of the most significant and contentious cases of the Congress. My colleagues may recall, I started when Abscam was still going, and the last case I was part of was the check cashing case. Tough cases. Twenty-nine cases, all of them tough ones.

Yet, in those 12 years on the committee, we did not have one partisan vote. In those 12 years, the chairman and ranking member worked closely together to set the agenda for the committee. I cannot recall one time that the chairman and the ranking member did not bring a joint recommendation before the full committee. In those 12 years, we rarely had a leak of committee information; and when we did, we investigated and found out the source and took appropriate action.

As chairman of the committee, I intend to operate by the standards I knew then as a member of the committee when I was its ranking member and my good friend, the gentleman from Ohio [Mr. STOKES], was a chairman of the committee.

I did not know the gentleman from California [Mr. BERMAN], the current ranking member. He considers himself a liberal, which I say in the finest sense of the word. I am considered a conservative. But I found that he is a good man to deal with. We have built a trust, and I think it is essential that we do that if the committee is to act in a bipartisan manner.

I have often stated that it does not matter what rules are adopted to govern the ethics process; without the right people assigned to the committee, it just does not work anyway. I asked my leadership not to appoint people who want to use the ethics process to get even with other Members, not to appoint those who cannot keep confidences, and not to appoint Members who do not have respect for this institution. They have listened to my requests and have selected four outstanding Members.

The Committee on Standards of Official Conduct will investigate aggressively those who have violated our rules. We will seek to honor the trust that has been placed on us by our leadership and our colleagues. And that is a two-way street.

I have to say I would be terribly disappointed if Members from either side of the political aisle file complaints against other Members strictly for political purposes. I would be very disappointed if people who want to bring charges before the committee do so in a press conference rather than in a confidential manner.

We are not here for political sport or trying people in the mass media. We are here to protect the integrity of the institution and maintain the respect of the American people in our ability to rule on the conduct of our peers. We are a peer review process. If Members want to see a colleague, one of their friends, behind bars, write to the Department of Justice. If they want to nab someone for an election violation, write to the Federal Election Commission. If someone has violated the rules of the House, then write the Committee on Standards of Official Conduct.

I support the task force proposal, and I support the amendments that have been made in order. The amendments guarantee a peer review process rather than complaints by political opponents or ideological enemies. They guarantee that an issue will not linger in the committee because of a partisan deadlock, and they preserve the power of a full committee in the conduct of an investigation. I urge their adoption.

I thank those who have worked so diligently on this task force. I hope we can get this thing behind us. I hope we can get the committee together. I hope we can look at these things and do it truly in the way it was intended to be done instead of a circus that we have seen in some instances.

Mr. CARDIN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES] who has been a valuable member of the task force and added great expertise to the work of the product that is before us.

Mr. STOKES. Mr. Chairman, I thank the gentleman from Maryland [Mr. CARDIN], my distinguished colleague and cochairman of the task force, for yielding to me.

At the outset I want to take just a moment to commend both the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN], who were cochairs of our task force, for the excellent manner in which they conducted the business of this ethics task force reform group.

When we started out with the tasks assigned to us, I think it was important for me to be able to see the kind of bipartisan leadership that the two of them gave this committee, because I came to this task force with the experience of having chaired the Ethics Committee of the House on two specific occasions in the past, as well as having served on a previous task force and from time to time having been called to the Ethics Committee for the purpose of serving there on special assignment.

The one thing that I know about the Committee on Standards of Official Conduct is that it is the toughest job any Member of the House can be asked to perform. I think any Member who serves there does so with the realization that they have a very special responsibility both to the public and to the Members of this institution.

I think it is better for the Members of this institution to police themselves through the Committee on Standards of Official Conduct of the House. But I also think it is important that we approach that responsibility on a bipartisan basis. Partisanship cannot be a part of that process. To the credit of both the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN], they approached their task and gave the leadership to us in that manner.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. STOKES] has expired.

(By unanimous consent, Mr. STOKES was allowed to proceed for 2 additional minutes.)

Mr. STOKES. Mr. Chairman, this task force worked diligently and I think they produced an excellent product. They listened to many groups, both in closed hearings and in open hearings. I think that the committee tried to improve upon the current situation.

First, I think we should all realize that the committee is no better than the rules under which it operates. But as long as we have good rules, and I think we have provided a good package here, both in terms of improving the due process aspects of the ethics procedure as well as the provision for non-Members to be able to file complaints with the committee.

I would urge the Members of the House to accept this package that was produced by this task force report and urge them to pass it without the additional amendments.

□ 1315

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

Mr. Chairman, I mentioned that we are deeply indebted to all the staff of the various committees that contributed their hard and great efforts to this task force and all of the personal staff as well.

I neglected to point out also that we had a valiant and tremendous amount of help from Bob Weinhagen, senior counsel of the Office of Legislative Counsel, as well as from the Parliamentarian, Charlie Johnson and John Sullivan were of great, great help to all of us.

I just want to go on record as expressing my deep appreciation to them for being with us over long periods of time and being on demand at the strangest of times but always giving us conscientious, thorough, and professional advice. I appreciate their input.

I would like also to take just a moment to stress something that needs some enlargement. The gentleman from Maryland [Mr. CARDIN] and I have both touched on it in previous arguments. The fact is, one of the most significant accomplishments of this package is to provide Members of Congress with the knowledge of the charges that might be lodged against them to provide them with the opportunity to respond to those charges.

In past practices, there have been concerns that, in the rush of political fervor surrounding a particular case, that the rights of the respondent have been in times pushed aside. That is not going to be the case if and when these rules are adopted. The respondent is entitled to a copy of a draft statement of the statement of alleged violation against him. And all evidence that the committee intends to introduce against him or her prior to a vote on the statement of alleged violation must be produced, unless the committee votes by majority to withhold evidence to protect the identity of a witness for some confidential reasons.

The settlement agreement, if, in fact, there is an arrangement between a Member who wishes to dispose of the charges against him and enters into an agreement and utters comments pursuant to that settlement agreement, cannot be used against him. It is required to be in writing, unless the respondent requests otherwise. That way, he is not encouraged into discussions and all of a sudden lured into a situation that works against him in the long run.

The respondent is entitled to immediately review any new evidence which arises after a statement of alleged violation. Settlement discussions are confidential and are not admissible as evidence or includable in the subcommittee or committee reports unless the respondent agrees otherwise.

A report is required where the statement of alleged violation is voted and an adjudicatory hearing is waived. And the respondent is entitled to review and propose changes to the subcommittee report prior to its transmittal to the full committee and to have his proposals attached to the subcommittee report.

Finally, the respondent is entitled to provide additional views, to be attached to the final report along with any comments previously made regarding the subcommittee report.

These are provisions which may sound technical to the average layman, but in a court of law these would be taken for granted. These are rights afforded criminals in any criminal proceeding. It would seem proper that these sorts of protections be granted Members of Congress if they are in the dock and threatened with charges that might, ultimately, not only ruin their careers but ruin their lives.

These are basic statements of fairness which are incorporated in these rules so that no one will be run roughshod over. No one will be subject to a runaway prosecutor who seeks to deny him the basic essentials for due process.

Finally, of course, there is an incorporation of a rule in this package which specifically condemns the filing of frivolous complaints or frivolous information with the committee. If a person, either outside of the Congress or a Member of Congress, uses the rules simply for harassment purposes, without substantial evidence to ground the charges that he or she might be making against another Member of Congress, now it is codified that under these rules the committee can take note of those frivolous charges and take action against the people filing them. We think that that is a significant improvement from the former rules.

There are lots of other individual items, some arcane, some not, which improve the overall package, but I think that in the general debate it is sufficient to say that this is a good package in and of and by itself. It does not need amendment.

That is not to say that the amendments that have been offered cannot improve upon it, but I think that every Member, regardless of their party affiliation or their philosophical judgment, should examine each of these amendments carefully and determine for him or herself whether or not he or she would want those amendments to apply to him or her if, in fact, charges were lodged against that Member.

With that, Mr. Chairman, I will simply say that this package was concluded without the final unanimous vote of the task force members. We did close it to amendment by a vote of 12 to zero, and that was significant. But when the report was written and the chips were down, 11 members either formally or informally decided to put their stamp of approval on the final package and submit it.

One member, the gentleman from California [Mr. THOMAS], did not, and he, I am sure, will be free to explain his reasons. Actually, they were explained in his minority views in the report, and they were incorporated as part of the report. I urge every Member to take a look at his views, because the gentleman from California was a very significant, hardworking, contributing member to the task force and we do appreciate his effort.

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

Mr. CARDIN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

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

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

I would like to first compliment the work of the task force, in particular the efforts of the gentleman from Maryland and also the gentleman from Louisiana for their leadership in this regard. I think that today we have in front of us a work of a bipartisan task force made up of Members who have done an excellent job in trying to set a set of rules forward in which this House could have and conduct an appropriate peer review process, and so I rise in support of it.

I think that it is of note, even though it has been mentioned, I will mention it again, the due process additions and changes that have been made that further provide to Members of the House, I think, appropriate due process. The bifurcation of the investigative and judgmental phases of the work, I think, is also an important addition.

As we grapple with the amendments that are to follow, I do not want us to lose the point that the task force's work is work that should and could and, hopefully, will be able to stand on its own merit and that this Committee

on Standards of Official Conduct will have an opportunity anew in this Congress to try to set an appropriate and, hopefully, reasoned and measured approach to looking at what are fairly difficult issues from time to time.

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

Mr. Chairman, I just wanted to again agree with the points that the gentleman from Louisiana [Mr. LIVINGSTON] has made concerning what is in the resolution before us. It contains many, many changes that we think will improve the legislative process.

I would like to spend a few minutes, if I might, on the three amendments that will be offered later, because I think if Members look at the changes that we have made, they will agree that these amendments should be rejected. The reason I say that is that we have in our task force considered each of these three issues and we rejected it.

It is also important, as has been pointed out by Members on both sides of this aisle, that changes in the ethics process be made in a bipartisan way. There is clearly, clearly, a lack of bipartisan agreement on each of the three amendments that will be offered. For that reason alone, they should be rejected.

The first, that would deny outside persons the opportunity to file an ethics complaint, would change the practice of this House since we instituted an ethics committee back in 1968. We have always allowed non-Members to file complaints. This would be the first time we would deny it.

We are charged with the constitutional responsibility to judge the conduct of our Members. Are we so afraid to allow outsiders to bring charges that we deny them access to bring those charges before our committee? I would hope not.

The resolution before Members provides a new standard for that issue. It requires that a non-Member have personal knowledge. The person must either know the information himself or herself or have received it directly from another. It is not adequate, as the gentleman from Louisiana [Mr. LIVINGSTON] has pointed out, to use a newspaper as a basis for a complaint by a non-Member. You just cannot use speculation or what might be in a newspaper article.

We have raised the bar on non-Members. It would be wrong for us to deny them complete access. We also add additional protection for unjust charges brought against a Member. The chairman and ranking member are given additional powers to be able to stop a matter from being considered a complaint that clearly does not comply with our rules.

So we have protected the institution, we have protected the Member, but we have allowed information to come forward as I hope all my colleagues would agree we should. If you adopt the amendment that is offered, you would not only be eliminating these new tests, you would not only be eliminating the current rule that allows for non-Member filing, you would also be raising the bar on a Member transmitting a complaint from a non-Member by adding an additional requirement.

Mr. Chairman, that is a bit much, and I hope the Members would agree with me that is an overkill of a situation that would really be perceived, and rightly so, as us trying to close off this process to any outside people. I could give my colleagues several examples that could come to light that would show exactly why that amendment would be ill advised.

Let us use as an example, and this is strictly an example, that suppose a staff member has been inappropriately approached by a Member asking sexual favors in exchange for promotion. What does that staff person do? Under the resolution before us, that staff person can bring that matter directly to the ethics committee. Do we want that staff member to have to shop for a Member of this House to certify that that is an appropriate complaint?

And suppose it is a Democrat or a Republican. Is this a partisan issue? Where is the dignity of the process? Do we really want to close ourselves to that type of matter being brought to our ethics committee? I would hope not.

I could give my colleagues many more examples as to why it would be wrong for us to close out legitimate problems coming to our ethics committee from non-Members. That amendment, as well intended as it may be, would do that. Reform should open up the process, not move backward. That amendment would take us backward.

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

The CHAIRMAN. The Chair would inform the Members that the gentleman from Louisiana [Mr. LIVINGSTON] has 4½ minutes remaining and the gentleman from Maryland [Mr. CARDIN] has 12½ minutes remaining.

Mr. CARDIN. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from Michigan [Mr. LEVIN].

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

□ 1330

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

Mr. Chairman, I would sincerely like to congratulate the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN] for their work on this, and all the Members who have worked with them. I think what the gentlemen are doing is meeting the demand of the public, but also what should be our own demands.

This House needs a strong ethics structure. The public demands it, but so does our own sense of public service, of self-esteem.

We want to serve in this body, proud of our service, and part of that pride requires a system so that when ethics are violated, there is a responsible response.

This bipartisan agreement would create a strong ethics structure. The gentleman from Maryland [Mr. CARDIN] has addressed, as the gentleman from Louisiana [Mr. LIVINGSTON] has, amendments, and there will be further discussion. In my judgment, as has been explained, two of these amendments would erode a strong ethics structure. Indeed, I think it would blow holes right through the fabric.

I think it is especially regrettable they would be offered here, because there was agreement to pursue this issue in a bipartisan manner. If any area deserves a bipartisan approach, it is ethics standards of this House.

So I urge a ''no'' vote on those two key amendments. I also suggest if they would carry, I would vote against the bill, because I would feel that it had become instead of an adequate response, a very inadequate one.

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

Mr. Chairman, I will take the time now to talk about the two other amendments that were made in order under the rule. One, I think Mr. BERMAN covered very adequately, about the automatic dismissal if a matter pending a vote on an investigation is not carried. If the matter is still pending for another 180 days, there would be an automatic dismissal. Under one of the amendments that was made in order.

We should be aware that the current rules of the committee provide for no such action. Mr. BERMAN pointed out, and I concur, that when you put a deadline in a split vote causing a dismissal, you are encouraging that action.

It is not difficult for a committee equally divided, Democrats and Republicans, to do nothing for 6 months, particularly if there is tremendous pressure from one of the political parties.

If you have a person who is perceived to be the target of a political complaint, regardless of how meritorious that complaint might be, there will be tremendous pressure on the committee to break according to party line.

Mr. Chairman, we had some difficult times over the past couple years; some very difficult matters appeared before our committee. But we were able to resolve all those issues, because we knew we had to get a bipartisan vote, that we could not just split along partisan lines.

We resolved the issue. Should they have been done sooner? You bet they should have been done sooner, and our rule changes provide for much faster action. The chairman and ranking member must act within 14 days on a complaint. There is a limit as to when one must start in an investigation. So we provide for a more timely investigation. We deal with the problem. But if we just say it is going to be a dismissal, we have not dealt with the problem. In fact, we have done a disservice

to the Member because it is likely there is going to be another complaint filed, another complaint filed, everybody is going to be yelling it is partisan. Does this institution look good in that circumstance? Does the Member look good? No.

We need to resolve our issues. We have heard from the ranking member. We have heard from the chairman of the Committee on Standards of Official Conduct. They are going to work together. Let us have a little confidence that we can do our constitutional responsibility. I would urge Members to reject that amendment.

There is a third amendment, which would take away from the subcommittee the ability to expand the scope of an investigation or to issue subpoenas. That would be a mistake.

We have gone to great lengths to protect the bifurcation of the system. The people who do the investigation should be separated from those who sit in judgment. If we had to go back to those who sit in judgment in order to explain why we want to expand the scope, we are compromising the objectivity of those that ultimately will sit in judgment.

Before we reached this point under the rules that we have, we will have passed at least three bipartisan hurdles, three bipartisan hurled else will already have been passed. First, there will be action of the chairman and ranking member that we have a legitimate complaint. Second, the chairman and ranking member will have gone through the initial factfinding and got even into an investigation through the approval of either the chairman or ranking member of the committee. And third, by a bipartisan vote of the investigative committee, we will have gone into an investigative stage.

So this is not a situation of a partisan problem. This is a situation of protecting the integrity of the process. For the reasons stated, I would urge the Members to reject all three amendments on substance. They were rejected by the task force, and, just as importantly, they open up partisan wounds. That would be a mistake on this day when we can move forward on the ethics process in a bipartisan manner.

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

Mr. LIVINGSTON. Mr. Chairman, I am pleased to yield 2 minutes to the very distinguished gentleman from Delaware [Mr. CASTLE], a member of the task force who was extremely valuable to the deliberations of our work product.

Mr. CASTLE. Mr. Chairman, I thank the distinguished gentleman from Louisiana for yielding me this time. I cannot say enough about the work that he and the gentleman from Maryland [Mr. CARDIN], did on this task force. They are tenacious, they are highly understanding of this process, and I think without their leadership, frankly, this would not have been done.

I am a supporter of the product which came from this committee. I was the only one on it who has never served on the Committee on Standards of Official Conduct, and, frankly, I hope never to serve on it, based on what I have seen. But, having said that, hopefully we have made it easier for those who will serve in the future.

While there are some areas that are contentious, such as should outsiders be allowed to do this, I realized 15 minutes into the proceedings we are not going to please everybody, it is impossible to do that, so some hard decisions had to be made.

In fact, every decision made was hard. There are many, many decisions, literally in the hundreds, that had to be made by the committee, and virtually in every case I think we improved the product, which is the rules and procedures for the Committee on Standards of Official Conduct.

We reduced the potential for partisanship, which has not been talked about too much, but the committee staff shall be nonpartisan, professional, and available to all as a resource. That is an important change.

We have standards now for timely resolution of matters before the Committee on Standards of Official Conduct by setting time limits for determining whether a complaint is properly filed or should go to subcommittee. That did not exist before and that is a very significant change.

We have dealt with providing safeguards as to providing adequate and timely information to Members who might be accused of standards violations so they have the ability to defend themselves against complaints filed against them. That is important. That has not been done in the past, and that is a significant change.

I believe this package contains many more items like that, most done on a bipartisan basis.

As far as the amendments are concerned, I hope Members, staff and the public in general looking at the amendments would consider them very, very substantially and cautiously before casting any votes, particularly in favor of them. They are in a position to be very disruptive to the process of what this committee has done, and I think that needs to be kept in mind. But the bill should be adopted.

Mr. CARDIN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, once again I encourage Members to please review the work of our task force. I agree with the gentleman from Delaware [Mr. CASTLE], please look at these amendments carefully.

We have a bipartisan product. Ethics reform must be done in a bipartisan manner. The amendments that will be offered will not be supported in a bipartisan way. I can give you the policy reasons why the task force rejected them. I have already done that. But I think it is important for this institution, for the credibility of this institution, for us to move the ethics process as far as we can in a bipartisan manner.

As the gentleman from Louisiana [Mr. LIVINGSTON] knows, there are many provisions in this package that I would have liked to have seen differently. I did not offer amendments to change the package to meet my individual agenda. I did that because of the respect for our product and the process that was used, a fair process. It is now important for this House to ratify that process.

Today we can make major progress in improving the ethics procedures in this body by supporting the work of the task force and by resisting the amendments that will be offered.

I urge my colleagues to reject the three amendments, to support the final report, and to let us move forward to move the ethics process and improve the credibility of this institution in the eyes of the public.

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

Mr. LIVINGSTON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Louisiana is recognized for 2½ minutes.

Mr. LIVINGSTON. Mr. Chairman, once again I want to commend the gentleman from Maryland [Mr. CARDIN], all the members of the task force, and all the staff who have contributed so mightily to this work product. It is a fine work product, something we can be proud of.

I take issue to my friend from Maryland only to the extent that I attribute only good faith to those Members who in bipartisan fashion are proposing amendments to this task force product.

I would say that there is concern on behalf of some Members with regard to the second amendment we will consider dealing with, whether or not outside nonmembers can file complaints with the Committee on Standards of Official Conduct. I would say in response to the gentleman's concern that, a sexually harassed member of a staff could not have any avenue for response, they can still come to the Committee on Standards of Official Conduct. Even if that amendment were to pass, the Committee on Standards of Official Conduct can still entertain that complaint of sexual harassment.

Even if they did not want to do that, since Congress applied all of the laws of the Nation to ourselves, she can even go to the EEOC, or any other avenue that any other American citizen can go to, to complain of sexual harassment. I just do not buy that argument.

So Members in bipartisan fashion have to consider, do we want outsiders to come in and complain against us, or do we want to leave that responsibility to ourselves? I think that is a legitimate question and one that should be answered by the majority of the Members in bipartisan fashion.

Apart from that, I think we have a great package. I am proud of the work

product and the association I have had with all of the people that contributed to it, and I urge the adoption of the package.

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise today in support of House Resolution 168, a resolution that would implement the recommendations of the bipartisan House Ethics Reform Task Force. I would also like to commend the bipartisan task force for its dedication and commitment to developing new standards for the Committee on Standards of Official Conduct to follow. They have had an extremely difficult assignment to do, and I believe they have done an admirable job. Their legislation represents an important initial step toward restoring public confidence in the House of Representatives.

Unfortunately, I am committed to speaking before over 1,000 people at the African Association of Physiological Sciences [AAPS] and the African Regional Training Center/Network for the Basic Medical Sciences [AFRET] in Durban, South Africa. If I had been present, I would have voted in favor of this measure which I am confident will help repair a ethics process that has been properly criticized by both Members of Congress and the American people.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the resolution is considered read for amendment under the 5-minute rule.

The text of House Resolution 168 is as follows:

H. RES. 168

Resolved,

SECTION 1. USE OF NON-COMMITTEE MEMBERS.

(a) RULES AMENDMENT.—Clause 6(a) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

''(3)(A) At the beginning of each Congress—

''(i) the Speaker (or his designee) shall designate a list of 10 Members from the majority party; and

''(ii) the minority leader (or his designee) shall designate a list of 10 Members from the minority party;

who are not members of the Committee on Standards of Official Conduct and who may be assigned to serve as a member of an investigative subcommittee of that committee during that Congress. Members so chosen shall be announced to the House.

''(B) Whenever the chairman and ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members designated under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, they shall each select the same number of Members of his respective party from the list to serve on that subcommittee.''.

(b) CONFORMING RULES AMENDMENT.—Clause 6(b)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting after the first sentence the following new sentence: ''Service on an investigative subcommittee of the Committee on Standards of Official Conduct pursuant to paragraph (a)(3) shall not be counted against the limitation on subcommittee service.''.

SEC. 2. DURATION OF SERVICE ON THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

The second sentence of clause 6(a)(2) of rule X of the Rules of the House of Representatives is amended to read as follows: ''No Member shall serve as a member of the Committee on Standards of Official Conduct for more than two Congresses in any period of three successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that a Member having served on the committee for two Congresses shall be eligible for election to the committee as chairman or ranking minority member for one additional Congress. Not less than two Members from each party shall rotate off the committee at the end of each Congress.''.

SEC. 3. COMMITTEE AGENDAS.

The Committee on Standards of Official Conduct shall adopt rules providing that the chairman shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

SEC. 4. COMMITTEE STAFF.

(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that:

(1)(A) The staff is to be assembled and retained as a professional, nonpartisan staff.

(B) Each member of the staff shall be professional and demonstrably qualified for the position for which he is hired.

(C) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(D) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(E) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the committee without specific prior approval from the chairman and ranking minority member.

(F) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of Committee on House Oversight, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(3) Outside counsel may be dismissed prior to the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) Only subparagraphs (C), (E), and (F) of paragraph (1) shall apply to shared staff.

(b) ADDITIONAL COMMITTEE STAFF.—In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee on Standards of Official Conduct, the chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman or ranking minority member on any subcommittee on which he serves.

SEC. 5. MEETINGS AND HEARINGS.

(a) HOUSE RULES.—(1) Clause 4(e)(3) of rule X of the Rules of the House of Representatives is amended to read as follows:

''(3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or any subcommittee thereof shall occur in executive session, unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting to the public.

''(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or committee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.''.

(2)(A) The first sentence of clause 2(g)(1) of rule XI of the Rules of the House of Representatives is amended by inserting ''(except the Committee on Standards of Official Conduct)'' after ''thereof''.

(B) The first sentence of clause 2(g)(2) of rule XI of the Rules of the House of Representatives is amended by inserting ''(except the Committee on Standards of Official Conduct)'' after ''thereof''.

(b) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that—

(1) all meetings of the committee or any subcommittee thereof shall occur in executive session unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public; and

(2) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

SEC. 6. CONFIDENTIALITY OATHS.

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

''(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

'I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules.'

Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.''.

SEC. 7. PUBLIC DISCLOSURE

The Committee on Standards of Official Conduct shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chairman or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

SEC. 8. CONFIDENTIALITY OF COMMITTEE VOTES.

(a) RECORDS.—The last sentence in clause 2(e)(1) of rule XI of the Rules of the House of Representatives is amended by adding before

the period at the end the following: '', except that in the case of rollcall votes in the Committee on Standards of Official Conduct taken in executive session, the result of any such vote shall not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee''.

(b) REPORTS.—Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to votes taken in executive session by the Committee on Standards of Official Conduct.''.

SEC. 9. FILINGS BY NON-MEMBERS OF INFORMATION OFFERED AS A COMPLAINT.

(a) FILINGS SPONSORED BY MEMBERS.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by striking ''or submitted to'', by inserting ''(I)'' after ''(i)'', by striking ''a complaint'' and inserting ''information offered as a complaint'', and by adding after subdivision (I) the following new subdivision:

''(II) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee, or''.

(b) DIRECT FILING.—Clause 4(e)(2)(B)(ii) of rule X of the Rules of the House of Representatives is amended to read as follows:

''(ii) upon receipt of information offered as a complaint, in writing and under oath, directly from an individual not a Member of the House.''.

SEC. 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT.

(a) PROCEDURAL REQUIREMENTS.—The Committee on Standards of Official Conduct shall amend its rules regarding procedural requirements governing information submitted as a complaint pursuant to clause 4(e)(2)(B)(ii) of rule X of the Rules of the House of Representatives to provide that—

(1) an individual who submits information to the committee offered as a complaint must either have personal knowledge of conduct which is the basis of the violation alleged in the information, or base the information offered as a complaint upon—

(A) information received from another individual who the complainant has a good faith reason to believe has personal knowledge of such conduct; or

(B) his personal review of—

(i) documents kept in the ordinary course of business, government, or personal affairs; or

(ii) photographs, films, videotapes, or recordings;

that contain information regarding conduct which is the basis of a violation alleged in the information offered as a complaint;

(2) a complainant or an individual from whom the complainant obtains information will be found to have personal knowledge of conduct which is the basis of the violation alleged in the information offered as a complaint if the complainant or that individual witnessed or was a participant in such conduct; and

(3) an individual who submits information offered as a complaint consisting solely of information contained in a news or opinion source or publication that he believes to be true does not have the requisite personal knowledge.

(b) TIME FOR DETERMINATION.—The Committee on Standards of Official Conduct shall amend its rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chairman and ranking minority member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the committee's rules for what constitutes a complaint.

SEC. 11. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING PROPERLY FILED COMPLAINTS.

(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the chairman and ranking minority member determine that information filed meets the requirements of the committee's rules for what constitutes a complaint, unless the committee by an affirmative vote of a majority of its members votes otherwise, to—

(1) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the committee extend the applicable 45-calendar day or 5-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1).

(b) HOUSE RULES.—Clause 4(e)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting ''(i)'' after ''(A)'', by striking ''and no'' and inserting ''and, except as provided by subdivision (ii), no'', and by adding at the end the following:

''(ii)(I) Upon the receipt of information offered as a complaint that is in compliance with this rule and the committee rules, the chairman and ranking minority member may jointly appoint members to serve as an investigative subcommittee.

''(II) The chairman and ranking minority member of the committee may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the chairman or ranking minority member has placed on the committee agenda the issue of whether to establish an investigative subcommittee.''.

(c) DISPOSITION OF PROPERLY FILED COMPLAINTS BY CHAIRMAN AND RANKING MINORITY MEMBER IF NO ACTION TAKEN BY THEM WITHIN PRESCRIBED TIME LIMIT.—The Committee on Standards of Official Conduct shall adopt rules providing that if the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee rules for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subsection (a), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(d) HOUSE RULES.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new sentences:

''If a complaint is not disposed of within the applicable time periods set forth in the rules of the Committee on Standards of Official Conduct, then the chairman and ranking minority member shall jointly establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee,then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.''.

SEC. 12. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING INFORMATION NOT CONSTITUTING A COMPLAINT.

The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee does not meet the requirements for what constitutes a complaint set forth in the committee rules, they may—

(1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the committee's rules; or

(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

SEC. 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMITTEES.

The Committee on Standards of Official Conduct shall adopt rules providing that—

(1)(A) investigative subcommittees shall be comprised of 4 Members (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee; and

(B) adjudicatory subcommittees shall be comprised of the members of the committee who did not serve on the investigative subcommittee (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee;

(2) at the time of appointment, the chairman shall designate one member of the subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee or adjudicatory subcommittee; and

(3) the chairman and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

SEC. 14. STANDARD OF PROOF FOR ADOPTION OF STATEMENT OF ALLEGED VIOLATION.

The Committee on Standards of Official Conduct shall amend its rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the committee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred.

SEC. 15. SUBCOMMITTEE POWERS.

(a) SUBPOENA POWER.—

(1) HOUSE RULES.—Clause 2(m)(2)(A) of rule XI of the Rules of the House of Representatives is amended—

(A) in the second sentence by striking ''The'' and inserting ''Except as provided by the next sentence, the''; and

(B) by inserting after the second sentence the following new sentence: ''In the case of the Committee on Standards of Official Conduct or any subcommittee thereof, a subpoena may be authorized and issued by the committee only when authorized by a majority of the members voting (a majority being present) or by a subcommittee only when authorized by an affirmative vote of a majority of its members.''.

(2) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(b) EXPANSION OF SCOPE OF INVESTIGATIONS.—The Committee on Standards of Official Conduct shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation without the approval of the committee.

(c) AMENDMENTS OF STATEMENTS OF ALLEGED VIOLATION.—The Committee on Standards of Official Conduct shall adopt rules to provide that—

(1) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee; and

(2) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

SEC. 16. DUE PROCESS RIGHTS OF RESPONDENTS.

The Committee on Standards of Official Conduct shall amend its rules to provide that—

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the committee's rules;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and his or her counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing;

but the failure of respondent and his counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever—

(A) the chairman and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chairman and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or his counsel during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing him of such vote.

SEC. 17. COMMITTEE REPORTING REQUIREMENTS.

The Committee on Standards of Official Conduct shall amend its rules to provide that—

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives; and

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives his or her right to an adjudicatory hearing, and the respondent's waiver is approved by the committee—

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(C) the subcommittee shall transmit a report to the committee regarding the statement of alleged violation together with any views submitted by the respondent pursuant to subparagraph (B), and the committee shall make the report together with the respondent's views available to the public before the commencement of any sanction hearing; and

(D) the committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (B) and any additional views respondent may submit for attachment to the final report; and

(3) members of the committee shall have not less than 72 hours to review any report transmitted to the committee by an investigative subcommittee before both the commencement of a sanction hearing and the committee vote on whether to adopt the report.

SEC. 18. REFERRALS TO FEDERAL OR STATE AUTHORITIES.

Clause 4(e)(1)(C) of rule X of the Rules of the House of Representatives is amended by striking ''with the approval of the House'' and inserting ''either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee''.

SEC. 19. FRIVOLOUS FILINGS.

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

''(5)(A) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, deems appropriate in the circumstances.

''(B) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.''.

SEC. 20. TECHNICAL AMENDMENTS.

The Committee on Standards of Official Conduct shall—

(1) clarify its rules to provide that whenever the committee votes to authorize an investigation on its own initiative, the chairman and ranking minority member shall establish an investigative subcommittee to undertake such investigation;

(2) revise its rules to refer to hearings held by an adjudicatory subcommittee as adjudicatory hearings; and

(3) make such other amendments to its rules as necessary to conform such rules to this resolution.

The CHAIRMAN. No amendment to the resolution is in order except those printed in House Report 105–250. Those amendments may be offered only in the order printed in the report and by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 105–250.

AMENDMENT NO. 1 OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Chairman, I offer amendment No. 1, made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. LIVINGSTON:

At the end, add the following new section:

SEC. 21. EFFECTIVE DATE.

This resolution and the amendments made by it apply with respect to any complaint or information offered as a complaint that is or has been filed during this Congress.

The CHAIRMAN. Pursuant to House Resolution 230, the gentleman from Louisiana [Mr. LIVINGSTON] and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I ask unanimous consent that the gentleman from Maryland [Mr. CARDIN] be allowed to control 5 minutes, whether or not he is opposed.

The CHAIRMAN. Without objection, the gentleman from Maryland [Mr. CARDIN] will be recognized for 5 minutes.

There was no objection.

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

Mr. Chairman, actually this amendment is offered by the gentleman from Maryland [Mr. CARDIN] and myself in bipartisan fashion. Basically it serves to overcome an anomaly that might have been created were it not adopted, in that the moratorium, the ninth moratorium on the filing of complaints to the Committee on Standards of Official Conduct, expired last week, and unless we adopt this amendment, frankly, what it means is that the filings which came in to the committee between the ending of the moratorium and the time which these rules were amended might be considered under the old rules, or they might be considered under the new rules, but, frankly, nobody would really know, and especially the counsel for respondents would be in a disastrous position if they were required to respond to allegations against their clients under both sets of rules.

□ 1345

So this is an attempt to clear that up and would simply make sure that everyone knows that any complaints coming up to the point of the adoption of this new package will be considered under this new package.

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

Mr. LIVINGSTON. I yield to the gentleman from Maryland.

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

Mr. Chairman, I would inquire of my colleague, does this amendment resolve the issue of whether or not the new rules will apply, in whole or in part, to those complaints filed in prior Congresses that may be carried over to this Congress?

Mr. LIVINGSTON. Mr. Chairman, reclaiming my time, the amendment does not specifically relate to that. However, it is our expectation, and the understanding of all of the task force members, that in accordance with precedent the Committee will determine by majority vote which, if any, complaints filed in the previous Congress will be considered in the current term. Once accepted, it is the intent of the task force that such complaints shall be treated in all respects as if they had been accepted under the new rules, which shall then govern accordingly.

Mr. CARDIN. Mr. Chairman, if the gentleman would yield further, I agree with my cochairman's interpretation. Complaints that carry over by an affirmative vote of the committee would be considered as being in the same status as they were in the previous Congress when it adjourned. They would then proceed under the new rules in this Congress, which I believe is our understanding.

Mr. LIVINGSTON. In order to simplify that, Mr. Chairman, let me simply say that I appreciate my friend's comments, and if he has no further requests for time, I would simply say, this is a clarifying, technical amendment to make all concerned know that any further disposition of complaints will be utilized and enforced by the new rules and no preceding rules that govern Congress.

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

The CHAIRMAN. The gentleman from Maryland [Mr. CARDIN] is recognized for 5 minutes.

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

Mr. Chairman, staff just pointed out, and let me just clarify again so it is clear, under the amendment that we have before us, although it does not directly deal with it, it is our understanding that if the committee votes to carry over a complaint, that that complaint would be considered properly filed. It would then proceed under the new rules in this Congress in the status it was at the adjournment of the last Congress.

Mr. LIVINGSTON. Mr. Chairman, if the gentleman will yield, that is correct, assuming that the committee votes by majority to accept the complaint previously filed.

Mr. CARDIN. Mr. Chairman, I concur with the cochairman's interpretation.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. LIVINGSTON].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 0, answered ''present'' 1, not voting 12, as follows:

[Roll No. 408]

AYES—420

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas

Parker	Sanchez	Sununu
Pascrell	Sanders	Talent
Pastor	Sandlin	Tanner
Paul	Sanford	Tauscher
Paxon	Sawyer	Tauzin
Payne	Saxton	Taylor (MS)
Pease	Scarborough	Taylor (NC)
Pelosi	Schaefer, Dan	Thomas
Peterson (MN)	Schaffer, Bob	Thompson
Peterson (PA)	Schumer	Thornberry
Petri	Scott	Thune
Pickett	Sensenbrenner	Thurman
Pitts	Serrano	Tiahrt
Pombo	Sessions	Tierney
Pomeroy	Shadegg	Torres
Porter	Shaw	Towns
Portman	Shays	Traficant
Poshard	Sherman	Turner
Price (NC)	Shimkus	Upton
Pryce (OH)	Shuster	Velazquez
Quinn	Sisisky	Vento
Radanovich	Skaggs	Visclosky
Rahall	Skeen	Walsh
Ramstad	Skelton	Wamp
Rangel	Slaughter	Waters
Redmond	Smith (MI)	Watkins
Regula	Smith (NJ)	Watt (NC)
Reyes	Smith (OR)	Watts (OK)
Riggs	Smith (TX)	Waxman
Riley	Smith, Adam	Weldon (FL)
Rivers	Smith, Linda	Weldon (PA)
Rodriguez	Snowbarger	Weller
Roemer	Snyder	Wexler
Rogan	Solomon	Weygand
Rogers	Souder	White
Rohrabacher	Spence	Whitfield
Ros-Lehtinen	Spratt	Wicker
Rothman	Stabenow	Wise
Roukema	Stark	Wolf
Roybal-Allard	Stearns	Woolsey
Royce	Stenholm	Wynn
Rush	Stokes	Yates
Ryun	Strickland	Young (AK)
Sabo	Stump	Young (FL)
Salmon	Stupak	

ANSWERED ''PRESENT''—1

Kim

NOT VOTING—12

Bonilla	Gonzalez	Neumann
Conyers	Goss	Oberstar
Furse	Granger	Pickering
Gephardt	Meek	Schiff

□ 1405

Ms. CARSON and Mr. SUNUNU changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 105–250.

AMENDMENT NO. 2 OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MURTHA:

Page 9, strike line 16 and all that follows thereafter through page 10, line 10, and insert the following new section:

SEC. 9. FILINGS BY NON-MEMBERS OF INFORMATION OFFERED AS A COMPLAINT.

(a) FILINGS SPONSORED BY MEMBERS.—Clause 4(e)(2)(B) of Rule X of the rules of the House of Representatives is amended by striking ''or submitted to'', by striking ''a complaint'' and inserting ''information offered as a complaint'', and by amending clause (ii) to read as follows:

''(ii) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee.

Page 10, strike line 12 and all that follows thereafter through page 11, line 23, and on line 24, strike ''(b) TIME FOR DETERMINATION.—.''

The CHAIRMAN. Pursuant to House Resolution 230, the gentleman from Pennsylvania [Mr. MURTHA] and a Member opposed each will control 15 minutes.

Does the gentleman from Maryland [Mr. CARDIN] rise in opposition?

Mr. CARDIN. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Maryland [Mr. CARDIN] will control 15 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

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

Mr. Chairman, let me explain what I am trying to do, so Members will understand the thrust of the amendment that I am offering.

What I am concerned about, having been before the Ethics Committee and having been cleared by the Ethics Committee in a unanimous vote, a lot of people said they were on the Ethics Committee. I was before the Ethics Committee, and the process, I thought, worked very well. I was cleared with a bipartisan vote, overwhelming vote, that cleared my charges. I went through a long process. Naturally, anybody that is accused goes through a difficult process.

But I was also on the Ethics Committee for a period of time, and we had a number of cases. As some people have said in the past, most of those cases were handled in a bipartisan manner. It took a lot of argument, it took a lot of back and forth, but they were all handled fairly expeditiously.

What I worry about is frivolous complaints offered by outside groups. I am not talking about responsible outside groups. We have a lot of groups that call themselves watchdogs and so forth, and they have a legitimate status. I do not think those particular organizations would offer a frivolous complaint. But there are partisan organizations on both sides of the aisle that would offer an amendment right during an election cycle that could be very harmful to the Member.

We do not notice the publicity in Washington in most cases. There is one story about a complaint being filed, and we do not see much more about it. But that person that is accused goes through a tremendous process of news, as if the person has been indicted and convicted.

As soon as there is a newspaper report that a charge has been made, the hometown newspapers focus on that individual, and they do not say the individual is guilty, but they intimidate people and they make people believe he is guilty, and it costs tremendous amounts of money to defend yourself, because you are portrayed as the guilty person.

What I would like to see is, a Member would have to make the complaint. Now, we established the Ethics Committee for one reason. That is to police ourselves. We should police ourselves. But a Member should be convinced to offer the complaint. It is an information until the two, the chairman and vice chairman, cochairman, whatever we call the ethics top leaders now, decide on them.

I believe that one more process, due process, is important. I believe somebody on the outside should be forced to go to a Member and convince that Member. I thought it was a sham before, when you go to three Members and they do not sign a complaint. They say, I will not sign a complaint.

I believe that we have a responsibility to bring a complaint forward if we have knowledge of something that is wrong. I think Members of the House will take that responsibility. There is no question in my mind that the Members can police themselves under every circumstance.

The rules of the House are very complicated. I think a Member should take the responsibility if there is any problem, if there is information found. Too many times, a person takes a newspaper report, they take information they know nothing about, and they send it in as a frivolous report, and it means all kinds of problems for that elected official.

We have to run every 2 years. Nobody asks us to run, but our reputation is on the line. I absolutely believe it is important that, to give an individual due process, we should have to convince a Member of Congress to offer the information or the complaint.

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

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

Mr. Chairman, I have the deepest respect for the author of this amendment. He is a person who has fought long and hard to improve the credibility of this institution. I disagree with this amendment. I think it moves in the wrong direction.

The gentleman from Pennsylvania [Mr. MURTHA] mentioned a couple of points that I would like to directly respond to. First, he says it takes too long for us to consider complaints. I agree with him. That is why, in our resolution, we have provided to the chairman and ranking member to have but 14 days to determine whether a matter is a complaint or not, while we have 45 days of initial factfinding, and then they must do something with the complaint, so it cannot sit there indefinitely.

□ 1415

I agree with the sponsor of the amendment in that regard. The problem is that his amendment does not fit into the work of our committee. There are some additional powers that we gave the chairman and ranking member that quite frankly would not have been there but for the fact that we have direct filing of outside complaints. Those provisions are unaffected by the Murtha amendment. The

amendment does not fit. It is going to cause problems for the process.

The sponsor mentioned newspaper accounts. We have a specific resume which adopts, by the way, the practice of the other body that says a newspaper account cannot be the basis of personal knowledge. So an outsider cannot use a newspaper article as the basis of filing a complaint. We specifically provide for that.

Since we have had a Committee on Standards of Official Conduct, since we have adopted the ethics rules in this House, we have permitted nonmembers to file complaints. If this amendment is adopted, it will be the first time in the history of this Chamber since we have adopted ethics procedures that we will close the doors to outsiders. I think that is wrong.

During general debate I mentioned an example of a person, staff person, and this is just a hypothetical, who has been solicited by her boss to do sexual favors for promotion. Does any of us want that person to have to shop a Member of the House in order to bring that complaint? Should that matter not be directly able to come to the Committee on Standards of Official Conduct as a complaint? Where is the dignity of a person who has a problem with a Member of being able to present it to the Committee on Standards of Official Conduct?

I know that they can present and they have other legal recourse here. That is legal recourse. We are talking about the ethical standards for Members of the House and we want our Committee on Standards of Official Conduct to be able to judge the conduct of Members of the House. As well intended as this amendment is, it denies that ability for us to be able to adequately judge our Members.

The Murtha amendment not only takes away direct filing, but it changes the current rules of the House where outside groups can have one of two ways of getting a complaint filed. One is eliminated, the other is changed by the Murtha amendment. The three-Member refusal is gone. This amendment stops it. And even the transmittal by a Member of a non-Member's complaint is changed if the Murtha amendment is adopted, because under the current rule a Member can transmit a complaint by a non-Member. Under these rules, under this amendment it would require the certification of a Member.

Once again, is it right to demand that a person who has a legitimate problem have to search out and find a Member of the House?

Let me give my colleagues one more example. A constituent receives a mailing from a Member on official stationery soliciting money for a campaign. Clearly against our rules. Now, if that constituent goes, if that happens to be a Democratic Member of Congress and it goes to another Democrat to try to transmit the amendment, we put a Democrat in a very difficult position. Goes to a Republican, it is partisan.

Why should they have to get the stamp of approval before they transmit to us and then we make the judgment? What are we afraid of? We have given the power to the chairman and ranking member, why should we close the doors after all these years?

I urge my colleagues, in the sense of fairness, we have raised the bar for non-Members filing complaints, and properly so. We have reached a fair compromise. Let us not slam the door totally and pretend that we only can present information against a Member. That is wrong. We will lose the confidence of the outside world, and rightly so. I urge my colleagues to reject the Murtha amendment.

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

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I thank the gentleman for yielding me this time, and I will take only a brief period of time to point out to the gentleman from Maryland in his argument that, in fact, the hypothetical that he presented does cause some concern. That is, for example, a staff member having some concern about the activities of the Member, up to and including, we hope not, some type of sexual harassment. But the dilemma that the gentleman placed us in is simply not there.

Perhaps the gentleman does not realize that when Republicans took majority control the very first act, the Congressional Accountability Act, 104th Congress—Public Law 104–1—set up the Office of Compliance so that the staff and the Member would not have to deal with this at the ethics level. The act deals with the professional employment relationships and Republicans will not tolerate a Member treating an employee in that fashion, nor should they have to go to the Committee on Standards of Official Conduct to get a solution. It is the Office of Compliance that would deal with employee complaints.

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

Mr. THOMAS. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, I appreciate the gentleman yielding to me, and I support the effort as it relates to the legal aspects, but that committee has no authority to discipline the Member as far as that Member's activity on the floor of this House. Only the body can do that.

Mr. THOMAS. Reclaiming my time, Mr. Chairman, I understand that, but the gentleman's argument is one that poses a dilemma which is not there. I happen to believe that the standards of official conduct, it is not called ethics, is for peer group review. And I have in the past examined materials brought to me, and when I thought it reached a particular level I sent it on to the committee. That is part and parcel of our responsibility.

Any reasonable proposal will not stop prior to reaching the Committee on Standards of Official Conduct.

My only response was to the gentleman in his hypothetical dilemma, I thought he needed to know that at the beginning of last Congress, when Republicans took control, we solved his problem.

Mr. CARDIN. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Ms. PELOSI], a member of the bipartisan task force.

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding me this time and for his leadership on this issue. It is with the highest regard for the gentleman from Pennsylvania [Mr. MURTHA], and he knows I mean that when I say this, that I regretfully rise in opposition to his amendment and for the following reasons:

The task force strove to strike a balance in terms of protecting this institution and the reputation of the Members of this institution, but having a process that was fair and open. I want my colleagues to know where we are now, what this task force does and why I think it is preferable to what the gentleman from Pennsylvania is proposing.

Right now an outside person or group can file a complaint against a Member on the strength of a newspaper article. The gentleman from Pennsylvania rightfully said in his comments that outsiders should not be able to wreak havoc on the reputations of Members of Congress on the basis of a newspaper article.

The task force agrees. That is why the task force says that in order for an outsider to file a complaint against a Member that person must have personal knowledge of the offense that he or she is complaining about. Nonmembers who file a complaint on the basis of a newspaper article do not qualify. We say it positively and we say it negatively in here.

And then an outside person can file a complaint, if they give it to a Member, if the outsider does not have personal knowledge. Members who sponsor a nonmember's filing of information offered as a complaint shall certify that the complaint is acting in good faith and that the matter described in the filing warrants the attention of the committee.

So the task force also agreed with the gentleman from Pennsylvania that the Member should have to certify to the validity of the complaint. The language the gentleman from Pennsylvania is offering, if passed by this body, would be tantamount to preventing outsiders from offering amendments unless the Member of Congress went even further.

I believe we have struck a balance. We are taking heat from both sides. The outside community thinks that the task force went too far in raising the bar for outside complaints; some

Members think that that bar should be raised higher. We think the task force struck the appropriate balance, which is fair to Members, respects the reputation of the House of Representatives. With that I urge a ''no'' vote on the Murtha amendment.

Mr. MURTHA. Mr. Chairman, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], the chairman of the Committee on Standards of Official Conduct.

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

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Pennsylvania giving me the opportunity to speak to this amendment. I rise in strong support of this amendment. This, in my opinion, is the most important amendment we will consider. It maintains the ethics process as peer review, as our Founding Fathers envisioned it to be.

Without this amendment, each Member will be subject to complaints filed for political purposes and by election opponents and by ideological foes for the sole purpose of a headline or perhaps, more sinister, to destroy someone's reputation.

In Washington we have seen that if a legislator's agenda, based on merit or majority vote, cannot be stopped by someone, they can succeed by attacking their ethics, their reputation. The media is often a willing partner in pursuing the scandal for ideological purposes or as a way to sell their product.

Let me give my colleagues an example. In 1982, we had the big sex scandal here, where a reporter for one of the large organizations got our poor little pages back there, programmed them, got them to thinking there was all this stuff going on, and every night every one of us was subject to the idea of who are these rotten people here? Who are the bad guys?

Then what happened? After we spent $2 million of the taxpayers' dollars, these kids bowed their head and said we made it all up. The question was asked, where did you get the names to make it all up? We got them from a reporter from CBS. Did we see CBS stand up and say, gee, we're sorry we spent all that money; it was all a lie; it was all a mistake? Anyone remember seeing that? I cannot remember seeing that. To this day people do not even know that.

So it kind of bothers me, this strong, strong fourth estate who has no accountability to us at all, who will come and see us with sweet and light and nice things to say about us, then write bitter and vicious things about us. Where is their accountability? Let me say we have to make those people somewhat accountable, if we possibly can. And if we cannot, this amendment is the only salvation we have. In my opinion, this is the most important amendment I have seen brought up to this.

Article I, section 5 of the Constitution clearly provides for the Congress to punish its Members. Only Members of Congress may present a privileged resolution to this floor concerning a fellow Member. It is appropriate in an internal peer review process that House Members and only House Members are allowed to properly file complaints before the committee.

This does not mean that citizens and others are denied access to the committee. The door is not shut, contrary to what my friend from Maryland said. They are not. Anyone in the country can send information to the committee, bringing to our attention information regarding a Member or a staffer of the House.

And the committee can, keep this in mind, the committee can self-initiate a complaint against a Member when they are so inclined to do it. Two of the three investigations voted by the committee for the last Congress were initiated by information brought to the committee attention rather than by properly filed complaints to the committee.

As chairman of the committee, I do not want this agenda set by outsiders who have established a fund raiser base in Washington by writing and filing complaints against Members of Congress.

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

I appreciate the comments of the chair of the committee, but I think it is a bit naive to expect that if we close the door to direct filing of complaints that we are going to all of a sudden not get newspaper articles or not get matters that are brought to the public's attention through press conferences or the like about the conduct of Members of this body. That is just plain naive.

I also think we do a disservice to the Member if we do not have a reasonable process to be able to resolve the issue within our ethics process. By closing the door we tell the public we do not want to hear from them. We are a restricted group and we will take care of our own problems. That is just going to make it worse for the Members of this institution and worse for the institution.

My friend from California, Mr. THOMAS talked about the process that we have for the violation over employee rules. That is fine, but a person who has gone through this matter should have a choice of forum. If they want to bring the matter as an ethics issue, that employee should have the opportunity to do it, and for us to say no is just plain wrong.

□ 1430

Or to say that that employee has got to shop to find a Member of the House to certify is putting an unreasonable requirement. Please look at the underlying resolution. We changed the current rules significantly in this regard. We made a lot of progress.

I just urge my colleagues who think that this will provide better protection against unwarranted complaints, I think just the opposite will occur, that they will be closing the process, removing the public confidence, and making it more likely than less that scandals will go unabated.

We have an obligation to listen to all parties. We made a reasonable requirement for additional standards for non-Members to file complaints. It is reasonable. Please accept the bipartisan results. Let us try it. It is in the best interest of the House.

Mr. MURTHA. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. MURTHA] for yielding me the time.

I just heard an amazing statement that the gentleman from Utah [Mr. HANSEN], the chairman of the Ethics Committee, that he might be naive, because he said the Committee on Standards can initiate its own inquiry given enough information and the disposition to do so.

The fear that I have with the initiative of the gentleman from Maryland [Mr. CARDIN] and the gentleman from Louisiana [Mr. LIVINGSTON] is that they will politicize the ethics process in an election year. Every campaign check a Member gets is going to raise a flag.

Now, they think they are immunizing the process from frivolous complaints by saying ''You must have personal knowledge, not a newspaper account.'' We have the telephone. We read something in the paper. We pick up the phone. We call somebody who is quoted. We have personal knowledge, we have the Freedom of Information Act to provide the requisite knowledge.

The fact is, if outside people can file these ethics complaints in an election year, we will have a blizzard of them filed. I do not know how the committee is going to deal with them all as they pile up. Perceptions are everything in politics. ''He is under investigation by the Ethics Committee.'' That is all they have to say, and we have got to spend weeks defending ourselves. It is wrong.

When do we start to take into consideration the real world? Information is available from any source on the globe. The committee, which is bipartisan, Democrat and Republican, can initiate a complaint if nobody wants to do it or will do it. But we are opening the door to a flood of partisan ethics complaints in an election year. The struggle for power, the negative campaigning, all of this comes into the mix. I think we are doing a disservice to Members, because the accusations are going to be there and the truth will have a difficult time catching up with them.

Someone said that ''charges and allegations fly on falcons' wings, but truth shuffles along in wooden shoes.'' I am just suggesting this is a serious mistake. We are injecting a political layer into what ought to be depoliticized. I think we will live to regret the consequences.

So please vote for the Murtha amendment. Take politics out of this process by supporting the Murtha amendment.

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

I hate to correct the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary. This amendment does not take us back to status quo. It does not. Currently there are procedures for non-Members to file complaints. That is eliminated. The three-Member refusal is gone. The transmittal by a Member automatically is gone.

These changes move us backward. They do not maintain the status quo. If this amendment maintained status quo, I would not have anywhere near the objection that I have. But it takes us backward, before the beginning of any rules in this House, as to the access that non-Members have in filing complaints with Congress. It is for that reason that I am so much opposed to the amendment.

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

Mr. MURTHA. Mr. Chairman, I yield 2½ minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

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

Mr. ABERCROMBIE. Mr. Chairman, I hope all the Members will pay some attention to these remarks because they are personal. Every bit of the discussion to this point has been in the abstract. But I have been through this.

I have had someone attack me for no other reason than personal, political gain. I have had to go through the process of being sued for slander by someone who attacked me, who attacked my integrity, who came after me for no purpose other than to try to destroy me politically, and I had to go through it. I had to have an attorney.

Anybody who stands here and talks about an outside group being able to come into this House and make a complaint, as if we are cutting off access, people who have no desire other than to come and to take them apart, not just politically but destroy them as a person.

I am willing to submit myself at any point to the judgment of my peers in this House. But I am unwilling to open up the floodgates of the crime of slander and libel against a Member that will surely come with this. I have been through it.

I ask any Member to think about what it is like when all of this is put out in the newspapers and people ask them about it and the attack is on them, and they wake up in the middle of the night in frustration and rage, knowing that they are innocent.

I was attacked by somebody who altered a tape on the grounds that he knew what I was really saying, so he had altered the tape to make sure that everybody else would know it. He found an attorney that could come after me. And the day before the trial started, after all the depositions, after all the accusations, the suit was withdrawn. I was left to hang. And do my colleagues know what the attorney said to me? ''If you want to counter sue, you are going to have to pay for that.'' This was done for no other purpose than for political attack.

I respect the work that was done with this. Believe me, where the gentleman from Maryland [Mr. CARDIN] is concerned, where the gentleman from Louisiana [Mr. LIVINGSTON] is concerned, no one respects them more. They have the most thankless job. I sincerely mean that. I respect this.

But the gentleman from Utah [Mr. HANSEN], the chair of the committee, has said that this will provide an agenda set by outsiders; and I guarantee my colleagues, that is what is going to happen.

The gentleman from Illinois [Mr. HYDE], the chair of the Committee on the Judiciary, has said that we have to prevent the injection of politics. And I tell my colleagues, if we do not have this amendment, we will have the injection of politics with a vengeance.

The CHAIRMAN. The Chair would indicate that the gentleman from Pennsylvania [Mr. MURTHA] now has 30 seconds remaining, and the gentleman from Maryland [Mr. CARDIN] has 4½ minutes remaining.

Mr. MURTHA. Mr. Chairman, who has the right to close?

The CHAIRMAN. It is the perception of the Chair that the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN], serving as managers of the bill under the terms of House Resolution 230, will have the right to close in the event that they control time in opposition to an amendment.

Mr. MURTHA. Mr. Chairman, I yield the remaining time to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me the time.

Mr. Chairman, I rise not in defense of any one of my colleagues who might be charged with an ethics complaint, certainly not in defense of myself should I ever suffer that fate.

I rise in defense of this institution. If my colleagues think this institution already belongs to special-interest groups because of the money that flows into politics, then dare they turn this institution to outside groups, who can hold each one of them hostage with a threat of an ethics complaint in order to get their way on this House floor?

If they want to turn this body over to the outside groups, vote against the Murtha amendment. That will do it.

If they want to preserve in this House our own obligation to police ourselves, then vote for the Murtha amendment.

Mr. CARDIN. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, we are not turning over anything to anybody outside of this institution. We are not turning over anything. The resolution before us restricts the rights of non-Members to file complaints. It is more restricted than the current rules. So let us please stick to what the facts are.

We have, we think, imposed reasonable standards on what non-Members should have to comply with in order to file a complaint with our committee. We used as precedent the rules of the other body, and in the other body non-Senators can file complaints based upon personal knowledge. They cannot be based upon newspaper accounts.

We think that is the appropriate way. We believe it is an improvement over the current system.

Mr. Chairman, we have been operating under these procedures since we adopted ethics rules in this House. Every time we have had a bipartisan effort to reform the process, we have tried to improve the process.

If this amendment is adopted, I will make two observations: It will be the first major change in our ethics rules that will be done on a partisan basis because it did not go through the bipartisan operation that we had agreed with. And it will be the first major retreat, the first major retreat and pullback of ethics procedures in this House. That would be, I think, a sad day for the House of Representatives.

I understand the frustration that the gentleman from Hawaii [Mr. ABERCROMBIE] expressed on the floor of this House. It was not an ethics complaint that caused this frustration. But I understand his frustration to be unjustly accused.

All of us have gone through being unjustly accused. All of us who serve in public life have subjected ourselves and our families to unjust accusations because, just because, of our public service. That is wrong.

The Constitution gives us the right to judge our own Members. We should require non-Members to pass a certain knowledge test before they can activate a complaint. But how we conduct the ethics process in this House is very important. And for us to say that we are going to reform it by denying direct filings, to me, is a major mistake.

I would urge each Member, as they come over to vote, to please consider what is in the best interest of this institution. We have worked in a bipartisan manner to try to reform this process. It is important that that bipartisanship continue. A vote for this amendment, I regret, will work against the bipartisan cooperation that we have had on our task force.

I urge my colleagues to vote against the Murtha amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURTHA].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 228, noes 193, answered ''present'' 1, not voting 11, as follows:

[Roll No. 409]

AYES—228

Abercrombie
Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Borski
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Cannon
Chambliss
Chenoweth
Christensen
Clay
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
Delahunt
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Flake
Foglietta
Foley
Forbes
Fowler
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Granger
Gutknecht
Hall (OH)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas
Manzullo
McCrery
McDade
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mink
Mollohan
Moran (VA)
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Torres
Towns
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Young (AK)
Young (FL)

NOES—193

Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Canady
Capps
Cardin
Carson
Castle
Chabot
Clayton
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Fox
Frank (MA)
Franks (NJ)
Frost
Gejdenson
Goode
Gordon
Green
Greenwood
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Moakley
Moran (KS)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (MI)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

ANSWERED ''PRESENT''—1

Kim

NOT VOTING—11

Bonilla
Furse
Gephardt
Gonzalez
Goss
McCollum
Meek
Neumann
Oberstar
Schiff
Weldon (PA)

□ 1501

Mr. FOX of Pennsylvania and Mr. DICKS changed their vote from ''aye'' to ''no.''

Mr. CLEMENT changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 105–250.

AMENDMENT NO. 3 OFFERED BY MR. TAUZIN

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. TAUZIN:

Page 14, line 21, after the period, add the following new sentence: ''If 180 calendar days have passed since a motion to establish an investigative subcommittee did not prevail, the complaint shall be dismissed without prejudice.''.

Page 15, line 12, before the quotation marks, add the following new sentence: ''If 180 calendar days have passed since a motion to establish an investigative subcommittee did not prevail, the complaint shall be dismissed without prejudice.''.

Page 22, line 16, strike ''and'', on line 20, strike the period and insert ''; and'', and after line 20, insert the following new paragraph:

(9) if 180 calendar days have passed since a motion to establish an investigative subcommittee did not prevail, the committee shall send a letter to the complainant and the respondent stating that the complaint has been dismissed without prejudice.

The CHAIRMAN. Pursuant to House Resolution 230, the gentleman from Louisiana [Mr. TAUZIN] and a Member opposed each will control 15 minutes.

Does the gentleman from California [Mr. BERMAN] rise in opposition to the amendment?

Mr. BERMAN. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from California [Mr. BERMAN] will control 15 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

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

Mr. Chairman, let me first congratulate the House on the last vote, and also simultaneously congratulate the committee on the fine work it did in bringing this package to the floor. I believe the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN] have done this House a great service, and all committee members, in the work they have done.

However, the last vote points out that the House Members do see a need to make additional improvements in the package, and the strong vote just occurred to make sure that this process is as depoliticized as possible is an indication that Members in fact have that intent today.

I hope Members have the same intent as you examine the next issue that is embodied in this amendment.

Mr. Chairman, I think it is time we faced an ugly fact, and that ugly fact is that the ethics process over the last several Congresses, perhaps reaching back even beyond the last several, has become heavily politicized. It is one thing for honest ethics complaints to be made and addressed by our Committee on Standards of Official Conduct and eventually by the Members on this floor; it is another thing for ethics complaints to be filed purely for political purposes, meant to discredit and disarm and to take away people's credibility in this Chamber as we try to debate the issues of national import.

The ethics process is supposed to be an internal process whereby we honestly in a bipartisan manner examine the complaints that are honestly raised about Members' conduct in order to serve ethically in this Chamber.

When that process is politicized, as it has been over the last several Congresses, and I say perhaps even beyond that, to the point that ethics complaints amount to tens, and even sometimes multiples of tens complaints

against Members, most of which are found to have no merit, many of which just hang around with the tie vote of Democrats and Republicans on the committee, never having that ethics complaint resolved because in fact it is tied up as a political complaint, that I think you get the picture of how badly the process dissolves into anarchy.

If we want to make this process secure, we have to reach some balances in it. We have to ensure that honest ethical complaints do in fact have time to mature at the committee, that the committee has a chance to investigate them, that information can flow in, to either decide for the committee that it must move forward on that complaint, or that it should reject it as a frivolous or political charge. That time necessary for this to happen is debatable, but this amendment speaks of it in about a 6-month time period.

It says in effect that after over 6 months of hearings or intense examination by the committee, if an ethics complaint is still deadlocked, something ought to be done. If it is clearly a real and substantial complaint, that 6-month time period will not stop its refiling nor stop its consideration by the committee. But if it is a frivolous one, tied up on a tie vote based upon politics, Democrats voting one way, Republicans voting the other way, because it is a political complaint, then it seems to many of us in this Chamber that after 6 months something ought to happen.

Now, what ought to happen? I want to point out, I did not enter this debate because I am a member of the committee. I got involved because many Members have expressed concerns about this package and have asked us to try to work to perfect it even more. I would urge Members to please follow this debate, because it is critical to the integrity of this institution and our ethics process.

Mr. Chairman, what should happen after 6 months? Should a complaint be automatically dismissed with prejudice because it is tied up on a tie vote politically? The answer is no, it should not be automatically dismissed with prejudice, because in fact it may be a good complaint. It may be that we simply cannot get past our partisan nature to deal with it, to move forward on it. So dismissing it with prejudice is, I think, a wrong option, and I have not chosen that option in this amendment.

What we have suggested in this amendment is that after 6 months, if a complaint is tied up on a tie vote, the committee cannot move forward nor backwards on it, something ought to happen. What we suggest is that it ought to be dismissed without prejudice, that a letter ought to go out to the person who is accused saying we cannot go forward or backwards; we are dismissing it without prejudice.

What happens then? If it is a frivolous complaint, it is very likely it will not get refiled the next day. If it is a serious complaint, it is very likely somebody will refile it the next day and insist that the committee take it up, and perhaps provide additional information to make sure the committee can possibly break this political deadlock.

If it is a frivolous complaint and one is the subject of that frivolous complaint, at least he will have a letter saying that after 6 months the committee could not decide to move forward or backwards on it. He has something in his hand to say that this is likely politics. If it is filed again the next day because somebody believes it is serious enough, he is going to have to deal with it again, and rightly so.

It is simply an attempt to set some time limits on these deadlocked ethics complaints that hang over one like the sword of Damocles, constantly reminding people that you perhaps may not be ethical, constantly shadowing and overshadowing your efforts to have a credible debate in this House.

I suggest there is no better way to discredit someone in politics today than to discredit them personally. That is the subject of our campaigns lately. We do not argue ideas any more. We do not argue how good we might serve in public office. Too often our campaigns are how bad the other person is and how rotten they are personally.

The ethics process has now become a part of that. We ought to deplore that trend in our ethics system in this body, because it denigrates from the integrity of this body itself.

What we are saying is if this thing is going to continue to be politicized, if frivolous political complaints are going to continue to be filed, they ought not hang out over people indefinitely. Someone in this Chamber ought to eventually get a letter saying we cannot break the deadlock, it is tied up politically at the committee, and unless someone is willing again to refile and reinstitute it, that you at least have a letter saying so, so you can properly deal with it and move on with your life and public service.

Now, is that a protection for the Member alone? The last amendment and this amendment that Members are suggesting to this package are not just designed to protect a Member against frivolously or politically motivated attacks or charges. This amendment is designed to protect this institution, because as the ethics process itself is supposed to weed out those unethical characters who arrive here, it is also designed and it is supposed to protect this institution from the political processes that have become so ugly in America, that tend to destroy the integrity and the credibility of all of us who try to work in the interests of our constituents and the national good.

I suggest to you this is a very modest amendment. It does not end a complaint that is valid. It simply after 6 months sends a letter out to the person saying at this point we are dismissing it without prejudice so that you and everybody else can know that the committee has deadlocked, it has not moved forwards or backwards. I suggest this is a good, valid improvement on the package, and I urge the adoption of this amendment.

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

□ 1515

Mr. BERMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, it is my hope to yield time both to the chairman and the ranking member of the task force on this issue, and then to close myself in perhaps some more detail.

I just want to start off this discussion by saying that I view this amendment fundamentally differently than the other amendments that are coming before us, in that to me, I understand fully the intentions of the authors of this amendment, but in reality, when we come right down to it, if one is totally cynical and defeatist about the ability of this House to have peer review, if your commitment to the ideological and partisan battles that this House is engaged in and that this Nation is engaged in is so important that they obliterate any notions of guilt or innocence, and should it permeate and invade the entire ethics process, then you vote for this amendment.

But if we still have some hope that people of goodwill can isolate themselves from the partisan pressures and the ideological battles, and can make judgments even about their peers based on the facts in front of them and the established rules of conduct, we never want to say that by a certain period of time, either guilt or innocence automatically comes by operation of law.

This is an amendment that I think kills the ethics process in terms of what we want, because it promotes and incentivizes partisanship and deadlock throughout the whole process. So I really hope my colleagues will look at this amendment a little bit differently than we have looked at some of the other amendments that are coming before us.

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

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

In response to my friend, let me point out, this amendment does not establish guilt or innocence. It does not say after 6 months one is either guilty or innocent. That is why the provisions of dismissal without prejudice are included in this amendment. Without prejudice means the committee makes no decision of guilt or innocence. It says, ''We are deadlocked, we cannot decide.'' Unless one is really serious about this complaint and refiles it, we cannot handle it.

Let me make this simple statement and I hope my colleagues take it to heart. Dishonest, politically motivated complaints brought before our Committee on Standards of Official Conduct do as much damage to the integrity of this House and the political

process in America as do honest complaints that are not properly handled. Dishonest, politically motivated complaints brought before our Committee on Standards of Official Conduct that hang out there, undecided, with no message coming out of the Committee on Standards of Official Conduct about what is going on, do more damage to the integrity of our process than an honest complaint that is mishandled. I believe that is true.

If we have any doubts about how ugly and how awful our politics have gotten, go back and read, I think it was a Time Magazine essay several years ago which talked about the nature of our politics in America today. It said, in effect, that if we have spent all of these years on television and all of these years on 1-minutes denigrating one another personally, talking about each other's motives, talking about how awful we personally are in this process, then we have done a great job because Americans tend not to believe us all.

I used to joke when the gentleman from Louisiana [Mr. LIVINGSTON] and I ran for Governor of Louisiana, that he went around the State for a year telling people how I would make a terrible Governor, and I went around the State for a year telling them what a terrible Governor he would make, and they ended up believing both of us and they elected Buddy Roemer.

The fact of the matter is that as Democrats and Republicans talk so evil about each other, as our campaigns and our ethics complaints become so politically motivated, we destroy not just the person we attack, we destroy the entire process and the integrity of our institutions.

The Time Magazine article went on to say that if Burger King and McDonald's had spent 10 years on television not telling us about how good their hamburgers were, but if they had spent 10 years on television telling us how the other guy's hamburgers were going to kill us, we would not stop eating the other guy's hamburgers, we would not eat hamburgers anymore.

That is what is happening in the American political process. Americans are convinced by Democrats that Republicans are rotten and convinced by Republicans that Democrats are rotten, and we wonder why more people are registering independent, and we wonder why only 49 percent of Americans even chose to vote in the last Presidential election. We wonder why Americans are turned off. It is because our processes promote the kind of ugly political slander that so many of these charges before the Committee on Standards of Official Conduct have now come to represent.

All I am saying is that after 6 months the Committee on Standards of Official Conduct cannot even decide to go forward or backward on a complaint, it ought to issue this letter, not of guilt or innocence, a simple letter saying that, without prejudice, we no longer consider this complaint before us, unless somebody re-brings it because they really think it is serious. That is the least we ought to do to begin cleaning up this process, depoliticizing it, and returning to some kind of comity and respect for one another, not only as human beings but as people who dedicate their lives and their careers to public service.

I happen to enjoy my service here not just because of what I do. I happen to enjoy it because I am able to work with some of the best people I know in this country, people who sacrifice their families, their time, their money, their possibilities of great careers in other adventures in this country to spend time here in Washington debating the great issues of the day. I am proud of the great majority of my colleagues for that. I am proud and, indeed, I am excited about getting to know my colleagues and having shared this experience in public service.

Why do we keep denigrating this House? Why do we allow our ethics process to become a political process instead? Do we not have enough ugly politics in America that we have to bring it into the Committee on Standards of Official Conduct in this House? Can we not end it? Can we not adopt this little amendment that says after 6 months, if we are tied up politically over an ethics complaint, that somebody ought to get a letter saying we are tied up politically and we cannot move forward or backward and we dismiss it, without prejudice, until and unless somebody brings it forward with credible evidence, for somebody on one side or the other to agree to move forward or backward on the complaint. This is just one small effort to bring some sense, some common sense and some dignity back into our process.

Please take this amendment seriously. Please consider voting for it.

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

Mr. BERMAN. Mr. Chairman, I am proud to yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the task force and a man who I think has established during his tenure here his concern for the institution and for the process.

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

Mr. LIVINGSTON. Mr. Chairman, first of all I would like to say to the gentleman from Louisiana [Mr. TAUZIN], my friend, that the people in Louisiana made a terrible mistake back in the Governor's election. They should have chosen one of us. Second, I would say that I take my hat off to the gentleman for not only a wonderful speech but for contributing mightily to this process.

The fact is that as the gentleman from Maryland [Mr. CARDIN], my cochair, and other members of this task force have pointed out, we have sweated blood, sweat, and tears in the confection of this bill to come up with what I believe to be a very conscientious and well intentioned bill to provide protection for the Members. We do have due process rights for the Members, and at the same time provide a fabric of rules by which the standards of official conduct could be adjudicated for the whole world to see, so that it would maintain the integrity or the confidence of the American people in the integrity of the system.

I cannot say we did a perfect job. In fact, the majority of the House has now determined that we could have done a little better if we had not allowed the filing from outside Members of complaints against Members. I think that that is a significant issue to be determined by the full House and that is why I supported the rule. I do not think that was an issue that should have been handled just by even a bipartisan task force of 12 Members such as we did and have that serve as the final word.

So I was delighted, especially after my friend from Louisiana came to me with very significant arguments on the merits of that particular issue and convinced me that that ought to be debated and evaluated by all the Members of the House. I commend the gentleman from Louisiana [Mr. TAUZIN] for his analytical work on not only that issue, but on this one as well. His passion surpasses anything I have heard in recent times about the need to restore faith and integrity in this body; about the need to get away from partisan politics, and it was exactly that sentiment that motivated I think most, no, all of the Members of the task force, all of the staff that contributed to the product that is with us today.

I think that the gentleman from Louisiana [Mr. TAUZIN] has absolutely correctly identified the problem that has been recognized by all of the previous task forces which have devised ethics rules to be administered by the House of Representatives. Ever since the invocation of the first body of rules, I will tell my colleagues that this deadlock rule has been around.

Well, what happens if we have half of the Members on one side and half of the Members on the other side? Every task force up until this date has said we cannot resolve that. It does not happen very often. I dare say if we go back and talk to the members of the Committee on Standards of Official Conduct, we will find that up until this last Congress it really did not happen very frequently at all. It did happen a lot in the last Congress, and that was wrong, and it is a problem. But what do we do about it?

I say that the gentleman's solution is a significant one, but it is not one that I can endorse at this time because if it were imposed, in effect what we would have is yes, if a frivolous charge were brought against a Member of one party and he were a popular Member of that party, and he were able to prevail, Lord help us, on the Members of the Committee on Standards of Official Conduct on his side, then they would go

side with him saying it is frivolous. And the Members of the other party would say that it was meaningful, and if nothing happened after 180 days it would be kicked out.

If, in fact, it were a frivolous charge, that might be a good solution, but what if it was a significant charge? What if it was a meritorious charge? What if it was a concrete, ironclad, deadlock charge, but the guy was so popular that the Members of the Committee on Standards of Official Conduct decided to divide on partisan lines and do nothing?

In that case, in that case, I think an automatic dismissal of that charge, no matter how meritorious but simply because it was deadlocked, would bring disrepute upon the House of Representatives, and for that reason I cannot support it.

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

Mr. LIVINGSTON. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, if that is what this amendment did, I would not support it either. However, the amendment does not provide for automatic dismissal. In fact, it provides that if it is a major, hard rock, absolutely grounded charge, that that Member who filed it can file it the next hour, the next day. He can refile it. It simply is a process to get rid of those frivolous ones that I know my colleagues want to get rid of.

No, the gentleman from Louisiana [Mr. LIVINGSTON] has not found a good solution. Maybe I have.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. LIVINGSTON] has expired.

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

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

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

Mr. BUNNING. Mr. Chairman, there is a solution to a deadlocked Committee on Standards of Official Conduct. It was suggested over the last 2 years many times how to get out of the dilemma of having a 5 to 5 or a 2 to 2 vote, and that was to bring the full force of the House of Representatives to decide whether it was a frivolous or whether it was a serious complaint, to bring it to the floor of the House of Representatives for a disposition of the complaint.

Unfortunately, when we brought that up at the Committee on Standards of Official Conduct, we also deadlocked on bringing it to the floor. So the fact of the matter is, there is a solution, but even then the majority or the minority, depending on who was in the majority or minority, did not want to bring it to the floor for resolution. I say that because that is a continuing problem.

Mr. TAUZIN. Mr. Chairman, my friend points out again the need for us to move to a solution.

Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE], the Chairman of the Committee on the Judiciary.

□ 1530

Mr. HYDE. Mr. Chairman, I will have to talk faster than I usually do.

Mr. Chairman, I say to the gentleman from California, Mr. HOWARD BERMAN, in a jury trial, if the jury is deadlocked and the judge keeps calling them out asking, have you reached a verdict? can you reach a verdict? after some period of time, he dismisses the jury, and the State's attorney can bring the charges again or forget it. That is what this process is doing.

Now, is 6 months too short? Do we want it 8 months? But at some period, when the jury is hung, you can't let the charges hang there forever.

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

Mr. HYDE. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, the gentleman makes my point. The judge does not start off the jury deliberations by saying, guys, I want a verdict in x time, and if it is not, it is automatically dismissed, because if he would, he would guarantee that the initial positions, or particularly the positions on the side of acquittal, would never change, because they know that if they hold out until that time certain, that is the result that would happen. That is why the gentleman makes my point.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. But, Mr. Chairman, the fact is, a hung jury, and the court says, can you reach a verdict? and the foreman says, Your Honor, we are hopelessly deadlocked. The judge does not keep the thing pending, he declares a mistrial, and the State's attorney can either bring the case again or go on to bigger and better things.

But bring this thing to finality, to closure, instead of keeping the jury in the jury room indefinitely.

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

Mr. Chairman, I agree with the gentleman completely. That is why I pledge to the gentleman and to this House that, No. 1, if we are 180 days into this process and we are deadlocked, we have already failed.

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

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

Mr. HYDE. Mr. Chairman, can the gentleman change the rules to accomplish what we wish to accomplish by amendment by rule?

Mr. BERMAN. The one thing I know is that if we say in the rules at the beginning that this is what will happen after 180 days, we are raising the likelihood of the deadlock massively.

And what I have told several people, and I repeat here on the floor, is that if I am in a committee meeting and we are in deadlock and people are acting in good faith, and it is a close question, because if it is a frivolous issue, the gentleman from Utah [Mr. HANSEN], the chairman of the committee, and I have dismissed it before it ever got to that full committee level, because under this task force report we have the ability to do that; but if it is a close question and we are deadlocked and we cannot work it out, long before those 180 days, this particular Member, if he is on the side of going forward with an investigation, changes his vote, because he does not want to see Members hanging out to dry week after week, month after month, understanding what this means to them, their political and personal futures, and their families.

All I am saying is, 180 days or any time certain works against solving those kinds of problems.

Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. CARDIN], the ranking member or cochair of the task force, who has done a tremendous job on this whole issue.

Mr. CARDIN. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, the underlying resolution makes it much less likely that we are going to have a deadlock vote in the committee. We have given the chairman and ranking member a lot more ability to manage the work load of the committee. So I think the prospect of a hung jury, in all due respect, is much less under the procedures that we have in the underlying resolution.

I might also point out, as a result of the last amendment that was adopted, we are now talking about complaints filed by Members. We showed a mistrust for the public in the last amendment that we adopted. Now we are saying we cannot even really have confidence that our Members will bring proper complaints. Therefore, we have to have some automatic dismissal process.

Enough is enough. We have not had a hung jury in the work of the Ethics Committee since I have been on it in the last 6 years. Did we take too long to resolve issues? We did. The rules package before us deals with those concerns. On frivolous complaints, we handled them quickly. There has not been a problem there.

The ranking member is right. If you have a 6-month deadline, if you have a complaint filed against a highly visible Member of this House, that Member is not going to find it difficult to convince the Members from his or her party to delay matters in order to get a dismissal. We may say it is a dismissal without prejudice, but he has this letter to wave, and the person is going to believe that the matter has been resolved. If it is not resolved, we have not done a favor to the Member.

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

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

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

I have just made a suggestion to the gentleman from California [Mr. BERMAN], and he seemed favorably disposed. The problem is the date certain. It encourages gridlock if you have to wait for a certain date.

Let us remove the date and just say that in the pendency of a complaint, if the chairman and the ranking member together agree that a disposition is unlikely, then they shall dismiss without prejudice the pending claim. That leaves it up to you to decide, and you do not have that incentive to deadlock.

Mr. CARDIN. Mr. Chairman, reclaiming my time, the chairman and ranking member already have that power under the rules to take whatever motion they want to to the full committee.

I assume that the chairman and ranking member supporting it were not going to have a partisan deadlock in the committee, so therefore they will be able to resolve it through whatever motion they want to take to the full committee. If they want to dismiss without prejudice, the chairman and ranking member can take it to the full committee without prejudice.

Mr. HYDE. I would ask the gentleman, May we agree to make this amendment in order?

Mr. CARDIN. They do not need the amendment. They already have the power within the rules package to do it.

Mr. Chairman, for all the reasons that we have said, this well-intended amendment would only add more likelihood rather than less likelihood that we will run into a partisan deadlock.

We have provided in these rules that the chairman and ranking member have the power that the distinguished chairman of the Committee on the Judiciary would like to now reemphasize by an additional amendment. It is not necessary. The power is within the committee to so act. We have provided a lot more tools for them to be able to do it. We do not wish to put an arbitrary deadline. It will only encourage gridlock and a problem.

The last point I want to maintain, and I know the gentleman from Louisiana is well intended in his amendment, frivolous complaints have been handled quickly by this committee. To refer otherwise is just not accurate. Many of the complaints have been well debated. We came back and reached conclusions.

We have not been deadlocked in the committee. In each case it may have taken too long, but we were able to reach conclusions. If we had an automatic dismissal, it would have prevented us from continuing to do our work until we were able to reach a conclusion.

I urge my colleagues to reject the amendment.

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

Mr. Chairman, I would first like to deal with the issue raised by the gentleman from Illinois [Mr. HYDE].

Let us go through an orderly examination of the House rules and the committee rules, and then what I tell the gentleman is that his suggestion, the notion of the chair and ranking member coming forward to dismiss without prejudice, we can put that into our committee rules at our first meeting, if there is a first meeting of a full committee of the Committee on Standards of Official Conduct, and incorporate the gentleman's suggestion into those committee rules, because, to me, the gentleman's suggestion makes sense.

The gentleman from Maryland [Mr. CARDIN] says, and I think he probably is right, but I want to look at it closely, that the current rules allow that result.

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

Mr. BERMAN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Let me first thank the gentleman for his offer to do that, Mr. Chairman. With the gentleman's consent, let me take the time he has yielded to compliment him and the committee personally. This committee is one I think most of us have great confidence in.

I cannot say that about the last committee. The concern I have is, while I think the whole House has great confidence in these gentlemen, the gentleman from Maryland [Mr. CARDIN] and the gentleman from Louisiana [Mr. LIVINGSTON], and others who serve on the committee currently, the problem is that they are not always going to be here. They are not always going to be there to make sure this process does work the way it was intended. The problem is, it can get politicized again, as it was in the last committee.

All I am trying to suggest is that at some point when the gentleman is not there and when we have a committee that is more partisan than, thank God, the gentlemen have been in the way they have handled this business, what do we do after 180 days when, as the gentleman says, they have already failed and there is no disposition?

Mr. BERMAN. Reclaiming my time, I would just say, while I very much appreciate the comments and intention behind them, I am not a great believer in the ''great man'' theory of history. The last committee had the most difficult issue I could ever contemplate to deal with. I do not know that it pays to spend a lot of time looking at it.

All I want to say is that the gentleman is either terribly hurting the process with his amendment or he is doing very little in this automatic dismissal without prejudice.

Mr. Chairman, I urge a ''no'' vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 236, answered ''present'' 1, not voting 15, as follows:

[Roll No 410]

AYES—181

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bono
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Granger
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
LaTourette
Lazio
Lewis (KY)
Linder
Lucas
Manzullo
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Murtha
Myrick
Ney
Northup
Norwood
Nussle
Oxley
Parker
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Schaefer, Dan
Sessions
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker

NOES—236

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Chabot
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Emerson
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gejdenson
Gekas
Goode
Gordon
Green
Greenwood
Gutierrez

Hall (OH)
Hall (TX)
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hulshof
Inglis
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
Latham
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCrery
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Nadler
Neal
Nethercutt
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Shimkus
Skaggs
Slaughter
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Talent
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)

ANSWERED ''PRESENT''—1

Kim

NOT VOTING—15

Bonilla
Clay
Furse
Gephardt
Gonzalez
Goss
Hastings (FL)
Largent
Meek
Neumann
Oberstar
Porter
Schiff
Weldon (PA)
Young (AK)

□ 1557

Messrs. COSTELLO, WALSH, and SHIMKUS changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 105–250.

AMENDMENT NO. 4 OFFERED BY MR. BUNNING

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BUNNING:

Page 17, strike line 22 and all that follows thereafter through page 18, line 9, and insert the following: amended in the first sentence by inserting before the period the following: '', except in the case of a subcommittee of the Committee on Standards of Official Conduct, a subpoena may be authorized and issued only when authorized by an affirmative vote of a majority of its members''.

Page 18, line 21, strike ''without the approval'' and insert ''when approved by an affirmative vote of a majority of the members''.

□ 1600

The CHAIRMAN. Pursuant to House Resolution 230, the gentleman from Kentucky [Mr. BUNNING] and a Member opposed each will control 15 minutes.

Does the gentleman from Louisiana [Mr. LIVINGSTON] rise in opposition to the amendment?

Mr. LIVINGSTON. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Louisiana will control 15 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING].

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

Mr. Chairman, I rise, along with the gentleman from Hawaii [Mr. ABERCROMBIE], my Democratic colleague, to offer an amendment. The amendment is simple. And although it might seem a little technical, it gets right to the core of how an ethics investigation complaint is handled.

For my colleagues who have never had the rare pleasure of serving on the Ethics Committee, let me just quickly review how it deals with complaints.

After the committee reviews an initial complaint, it can just dismiss the complaint or it can decide that it merits deeper examination, and the committee then begins what is known as a PI, or a preliminary inquiry. In doing so, the committee forms an investigative subcommittee and outlines the scope of the subcommittee's investigative authority. But later, after digging into the complaint, if the subcommittee decides it wants to go beyond the original scope of authority granted to it, the rules are not really concise on how to proceed.

This is where our amendment comes in. The task force package would give the subcommittee power to issue subpoenas and the ability to expand its inquiry by a majority vote of the subcommittee members. Our amendment says that the subcommittee, if it decides it wants to expand its inquiry, it has to get the approval of the full committee. We also require the subcommittee to get full committee approval before issuing subpoenas.

Let me tell my colleagues how it works presently. If a subcommittee that is investigating an inquiry comes back and decides they want to issue a subpoena, the chairman and ranking member are consulted; and if the chairman and ranking member sign off, there is no vote of the full committee.

The problem occurs when the ranking member and chairman disagree on the scope and expansion or issuing a subpoena. That has happened in the last 2 years. When that occurred, the chairman brought the expanded request to the full committee. And since the investigative subcommittee had already voted to expand their scope, when we got to the full committee there was enough votes, including the subcommittee, to expand the inquiry by going back to the full committee.

Mr. Chairman, launching an Ethics Committee investigation is very weighty stuff. Expanding the scope or deciding to issue subpoenas are significant and delicate decisions that ought to be made by more than three people. It ought to be made by the full committee. They can just about be the most important decisions made in any case before the Ethics Committee. And these are calls that the entire committee needs to make, not just a handful or three members.

It is up to the full committee to decide whether or not to investigate a complaint in the first place. If the subcommittee decides to branch off into new, unchartered waters, it is hard to see why the full committee should not have to sign off on it, too.

Let me remind my colleagues that the integrity of the subcommittee in the ethics process is not jeopardized by asking the full committee to include and approve of the investigation going forward in expansion, because we are not making any judgments on the complaints that will be brought back by the full subcommittee for adjudication before the full committee.

As a 6-year veteran of the Ethics Committee, I can tell my colleagues we have wrestled with these questions over the years. They are very important. To his credit, the gentleman from Florida [Mr. GOSS], my colleague and head of the investigative subcommittee working on the Speaker's case, came back to the full committee in the last Congress when his subcommittee wanted to expand its scope. There was a difference of opinion between the chairperson and ranking member on what to do, so the chairperson brought to the full committee whether we should expand or whether we should not expand. It was definitely the right thing to do, and it is the way things ought to be handled in the future.

As I said at the outset, this probably seems like a small, even nitpicking amendment to some Members. But it really gets to the heart of how the Ethics Committee works and how it investigates complaints.

Mr. Chairman, I urge very strong adoption of this amendment.

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

Mr. LIVINGSTON. Mr. Chairman, I yield myself such time as I might consume.

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

Mr. LIVINGSTON. Mr. Chairman, I reluctantly rise in opposition to the amendment of my friend, the gentleman from Kentucky [Mr. BUNNING], because I think that, however well-intentioned his amendment is, it does complicate the process and fly in the face of an expeditious administration of committee business as well as the fair administration of committee business.

Basically, this amendment deals with two issues: One, the expansion of the scope assigned to the subcommittee for investigation. This takes place all before the matter ever gets to the full committee for adjudication of whether or not the person did what he is charged with doing. It is the investigation of the significant issues at hand.

Now, by this time, the chairman and the ranking member have either personally agreed that it constitutes a complaint within the jurisdiction of the committee, or by action of the full committee there is agreement that it is a complaint for the purposes of investigation. So they know that there is going to be an investigation here; and the question is whether or not to expand the scope of the investigation once they have gotten so far into it, whether or not to consider more counts.

Now, under the existing rules, which have not yet been replaced by the package before us today, the rules are very vague, the rules say the subcommittee can expand if they want to expand. There really is no limitation. So we thought that was too loose. The task force believed it was proper to tighten that up. Let us make it a majority, not of the members present in the subcommittee, because if two people showed up, that would mean one person decides to expand the scope; we said, no, let us have a majority of all the members on the subcommittee.

Now, presumably, a subcommittee is comprised of either four people, two of each party. Let us make it a majority of all the people on the subcommittee. That means that we would have to have either three out of four members of the four-member subcommittee in order to expand the scope. That is a real majority. That means a bipartisan agreement to expand the scope. Otherwise, there would be no expansion of the scope.

Now, they say on expansion of scope that that is not good enough; they ought to go to the full committee and it ought to be the decision of the full committee. Why is that a bad idea? Because it flies in the face of this whole bifurcated argument.

If there is one complaint that we have heard time and time again from every Member who has ever been assigned to the task of serving on the Ethics Committee, it is ''It is too much work. We cannot do it. We are down there in the basement adjudicating on this and that and everything else.''

The majority of the committee was doing every case; in fact, 20 cases before the Committee on Standards of Official Conduct, every Member weighing every nuance, issuing every subpoena, weighing every little dot and jot of every single case. We said, please free us from this intolerable task.

So in 1989, the task force created subcommittees, the idea being those would be investigative subcommittees. Unfortunately, the rules were not explicit enough, and the subcommittees were kicking back the investigation to the full committee and the full committee was still doing all the cases. To this very day, they are still doing all the cases.

If the gentleman gets his way, if the amendment passes, the expansion of the scope of the issues before the subcommittee will have to go to the full committee; and, therefore, the full committee is going to have to look at the whole case anyway and they are all going to be down there with balls and chains, tied to a desk, never seeing light of day, because the whole committee is going to be doing the work that the subcommittee should be doing.

I think it is a bad idea and it destroys bifurcation. Because the subcommittee cannot investigate and then turn the adjudication of the charge over to the full committee, there is no division because the full committee already knows all the facts.

Second, the issue of subpoenas. Under the old rules, the right to issue subpoenas again was offered; well, it was a subcommittee in conjunction with the chairman and ranking member. And in this case, we are not too different; actually, the gentleman's amendment is not too different.

But we thought we would strengthen it; we would say no, let us keep the chairman or ranking member, if they are not on the subcommittee, and certainly they could serve on the subcommittee if they wanted to, and they appoint the members of the subcommittee in any event, so they know those members are going to be subject to their concerns. But if they are not actively involved in the issues being investigated in the subcommittee, let us keep them apart and let us let the subcommittee by an actual majority vote determine whether or not subpoenas should be issued, majority vote—of not the people present—but of the full subcommittee.

So, again, it has to be three out of four of the subcommittee to vote on whether or not to issue subpoenas.

Today a majority of the people present can decide, ''Well, we want to issue a subpoena. We will call the chairman. If he rubber stamps it, then it is done.'' We actually have strengthened the process beyond what the previous rules required.

If the Bunning amendment passes, we have got to have not only a majority of the members present, but we have got to also have the consent of the chairman and the ranking member. And since they are not serving on the subcommittee in most cases, that again strikes at the heart of bifurcation.

My objections do not go strenuously to that as much as to the expansion, because I think that the expansion argument is probably the more prevalent. If the expansion argument under the Bunning amendment were accepted, in effect, we would have no bifurcation. And every member of the full committee, which has been downsized from 12 to 10, every member of the full committee will be taking an interest in every single issue and every single aspect of every single case, and they will never see the light of day because they will be locked and chained to their desk down there in the Committee on Standards of Official Conduct.

□ 1615

I do not think that is a good idea.

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

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

First of all, the way it works is that the ranking member and chairman OK subpoenas presently if a subpoena is asked for by the subcommittee chairman and ranking member.

Six years we did not have too much work. We spent too much time spinning our wheels. We did not have too much work. The work that we had, we could not resolve issues. Seventy-one of them were resolved on one Member. The subcommittee, the only time I have ever known a six-person subcommittee, was on the bank issue. All subcommittees have been four-person subcommittees over the last 2 years.

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

Mr. BUNNING. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. That is why we created a jury pool, which is part of the new rule to create a four-member subcommittee.

Mr. BUNNING. I understand that. I am not objecting to the six-member jury pool.

The scope of what is investigated is determined prior to the formation of the subcommittee, not after the fact but prior to the fact.

Mr. Chairman, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. I appreciate the gentleman yielding me this time.

Mr. Chairman, I rise in strong support of this amendment and urge its adoption. This amendment requires that any expansion of the scope of an investigation be approved by the full committee. This will protect the integrity of the investigation and ensure that all Members are treated the same.

Without this amendment, I can envision a situation where Members being investigated for the same issue are treated differently in different subcommittees. We protect against that by requiring the full committee to approve any expansion of investigation as well as vesting subpoena power with the full committee chairman and ranking member.

Mr. Chairman, we have heard a lot about the idea that, ''Oh, this is a bifurcated system. It follows the idea of a grand jury.'' Come on; let us get real. It does not follow bifurcation at all. I have served on that committee for 12 years. I have played it both ways. We did it all; we did it otherwise.

It is nice to pontificate on these things, but the reality is this: What

happens is, they pick a subcommittee. The other members of the committee do not stand away in a new jury. They know what is going on. Of course they do.

So we could have some runaway subcommittee go ahead, they are mad at somebody, and so they are subpoenaing, they are adding things, they are expanding their scope. Somewhere there has to be a check. We have in the Constitution a check and balance. The courts check with us, and we check with the executive branch. We are back and forth on this thing. This is not the idea at all. This is to give some control over a subcommittee. Subcommittees are created by the full committee with the charter to investigate. Any time they want to deviate from that charter, they should have the approval of the full committee.

It was former Speaker Jim Wright who criticized the committee for investigating far beyond the parameters of the complaint that was filed against him. After his resignation, the ethics process was changed so that you have one group function as a grand jury and the other function as the jury. But the dangers faced by Jim Wright still exist if this amendment is not adopted.

This amendment stands for the principle that an expansion of the initial charge to an investigative subcommittee must be justified to the full committee and have its approval. Without this amendment, you risk having runaway investigations without full committee approval. Without this amendment, subcommittees examining the same issues but on different Members may, by necessity, treat different Members differently.

This is an extremely important amendment. I applaud the gentleman from Kentucky [Mr. BUNNING], the sponsor of the amendment, for offering it. He speaks from experience as a former member of the subcommittee and as a former chairman of an investigative subcommittee. I strongly urge the adoption of this amendment.

Mr. LIVINGSTON. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI], one who has contributed vitally to the product of the task force.

Ms. PELOSI. Mr. Chairman, I thank the chairman of our subcommittee for yielding me this time and for his leadership in the bipartisan task force.

Today is a happy day for me, Mr. Chairman, because it marks the end of my service on the task force since February but, more importantly, three terms before that, 6 years and 7, 8 months in the service of promoting the ethics of the House of Representatives. From that experience, I rise in opposition to the Bunning amendment.

We have heard the word ''bifurcation'' around here today. For those Members who have not been paying attention before but maybe are now, that means that Congress previously agreed that we would divide the process into investigation and adjudication in terms of the work of the members of the committee. The bifurcation, or the subcommittee to do the investigation, ensured confidentiality, protected against delay, and preserved the integrity of the independent adjudication later should there have been charges brought.

I think it is very, very important for us to preserve the separation of functions within the committee. Confidentiality is served, the integrity of the investigation is served, and fairness to the Member is ensured.

With that, I urge my colleagues to vote ''no''.

Mr. LIVINGSTON. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. CARDIN], my cochair on the task force.

Mr. CARDIN. Mr. Chairman, let me thank the gentleman from Louisiana [Mr. LIVINGSTON] for yielding me this time. I agree with the points that he has made.

The gentleman from Kentucky [Mr. BUNNING] has been a very valuable member of the Ethics Committee. I know that his amendment is sincere. We just disagree as to what would be the most efficient way and the fairest way in which to operate the Ethics Committee.

One thing I would like to point out is that there are underlying changes that we have made in the rules that will deal with many of the problems that the gentleman from Kentucky [Mr. BUNNING] brought to our attention. Let me try to explain.

Before we have reached the point of expanding the scope of an investigation, there will have been at least three votes in the committee or by the chairman and ranking member, to protect, to make sure that this is a serious matter and certainly one that is proceeding in a nonpartisan or a bipartisan manner.

First, the chairman and ranking member have already determined that the information that was submitted is a complaint. Either one could have stopped it, but they have mutually agreed that we have a legitimate complaint that complies with the rules.

Second, the chairman and ranking member will have completed the initial factfinding and will have determined that it either should go forward for investigation or have taken it to the full committee, and the full committee has voted for it to go to investigation. So we have had a second opportunity to make sure that there is bipartisan support to proceed with an investigation.

Third, the subcommittee will have had to take action to initiate investigative powers. It cannot do it by two, it has to do it by a majority. It has to be a bipartisan issue. At each phase of that process, the respondent will have gotten written notice.

I underscore that because the gentleman from Utah [Mr. HANSEN] pointed out, and rightly so, the procedures that were available when the rules were applicable against the former Speaker Jim Wright. When those rules were in effect, there were no notice requirements to the respondent.

We have put in these rules that the respondent will know at every stage, including when a complaint is determined to be a complaint, when it goes to investigation, when the investigative powers are going to be used by the subcommittee, when the scope is being expanded; at each of those times, the respondent is entitled to written notice. That is part of the due process that has been written into these new rules.

During the Wright investigation, we did not have a bifurcated process. There was nothing to be lost by the full committee being involved in that process.

Members really need to ask themselves, what are they achieving by placing another obstacle into the subcommittee's work? What are they achieving? And what are they risking? If they require full committee action to expand scope, they risk the bifurcation.

The bifurcation means that those who investigate is a different group than those who judge. A Member is entitled to have an independent jury make the final determination whether the rules were violated or not.

The members that do the investigation cannot participate in that determination. But yet if we require the subcommittee to go to the full committee, those who are going to make the decision as to innocence or guilt on the rules violation, the subcommittee, by necessity, is going to have to disclose information that should not be disclosed and we are not going to have an objective pool in order to make judgment.

That is what the gentleman from Louisiana [Mr. LIVINGSTON] has brought out, and it does violate the bifurcation process and the due process to the Member.

The second is that when we involve more people, we run the risk for confidentiality problems.

The third risk is, it is a delay. Particularly, you have to bring the full committee back, you may be in recess, you do not know, but it is a delay. We have been talking on the floor over and over again, we do not want complaints hanging over Members' heads. You want us to move more rapidly in resolving these issues.

I think the Bunning amendment, as well intended as it is, runs the risk of jeopardizing bifurcation, runs the risk of compromising confidentiality, and runs the risk of delay. What do we achieve by it? Very, very little.

Yes, there is some protection to go back to the full committee, I would grant that. But at this point, when we have already had at least three opportunities with the full Ethics Committee to have done some action on this in a bipartisan way, I think the time has come that the risks involved in confidentiality, in expediting the matter,

and in protecting an independent jury pool outweigh the gain that it would be to go back to the full committee.

For all those reasons, I would urge my colleagues to reject the Bunning amendment, and let us go forward with the process that we have put into place. It will allow for a more timely consideration. It does protect the due process of a Member. We have provided much more due process to the Member than we had before these rules were adopted. I urge my colleagues to reject the amendment.

Mr. BUNNING. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

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

Mr. ABERCROMBIE. Mr. Chairman, I rise in support of the amendment.

Dear friends, we are getting to the end of this discussion, and I do not think we have ever actually taken a look at what it is we are discussing. Here it is, 1,299 closely spaced pages of small print.

I am sure the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Maryland [Mr. CARDIN] have seen this volume. They probably see it in their dreams at night, tumbling off shelves and burying them. But the fact of the matter is that this contains the Constitution, Jefferson's Manual, and the rules and practices of the House of Representatives. That is what we are talking about.

That is why I think that this amendment that the gentleman from Kentucky [Mr. BUNNING] and I are bringing forward deserves your favorable consideration. We should have the full committee if you are dealing with the two fundamental issues, whether the scope should proceed forward or whether there should be subpoenas issued, to be dealt with in the manner in which it has been discussed with this amendment.

I have been told, and I see that the Judiciary chairman is here, that if this is an amendment sponsored by the gentleman from Kentucky [Mr. BUNNING] and the gentleman from Hawaii [Mr. ABERCROMBIE], it should either pass unanimously or be defeated unanimously.

I am not quite sure how that will work out, but I think what it indicates is that this is not a partisan consideration. We are putting this forward because we believe it is in the interest of the House as an institution, because we love this body, because we have sworn an oath to uphold and defend the Constitution, and when you defend the House of Representatives, when you defend the basic fundamental integrity of the House, you are defending this Constitution, you are defending these rules. This book is as sacred as we get in a secular context in our House of Representatives in our country.

Therefore, I would like to say at this point, then, that the Members, especially the gentleman from Maryland and the gentleman from Louisiana, deserve our thanks for their hard work, their levelheadedness, and I want to say their largeness of spirit. The manner in which this has been conducted is proof of that, and I am very, very grateful for this opportunity to speak on it.

All we are saying here is that only the subcommittee authority be renewed from its source when it moves into new areas of investigation. By clarifying that point, we strengthen the measure before us, we strengthen the Ethics Committee and its work, we strengthen the integrity of this House, we strengthen democracy. On that basis, dear friends, I ask for your favorable consideration of this amendment.

□ 1630

The CHAIRMAN. The gentleman from Louisiana [Mr. LIVINGSTON] has 2½ minutes remaining, the gentleman from Kentucky [Mr. BUNNING] has 2¼ minutes remaining, and the gentleman from Louisiana [Mr. LIVINGSTON] has the right to close.

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

Mr. Chairman, first of all, there is no delaying the process by taking the request of the subcommittee back to the full committee. It may take 2 hours. In fact, that is exactly how long it took the last time the subcommittee came back and asked for expansion of powers. It took 2 hours to discuss it before the full committee, and we disposed of it and granted the expansion.

Second, there is no possible chance that the bifurcation, or someone investigating and someone adjudicating, would be confused or compromised by this process, because the expansion of the investigation just says to the full committee, here are the facts, we want to go forward on these facts.

The gentleman from Maryland [Mr. CARDIN] brought up the fact that there are three times that the ranking member and the chairperson, whoever it is, has agreed to an investigation; once on the complaint, once on factfinding, and one other time when they send it to the subcommittee. That is true. But that does not mean that when the subcommittee finds additional information that they want to investigate, that the full committee has ever seen it.

I say that as nicely as I can, because in the determination of one case last time, the determination on punishment and compromise and settlement was made by four people. The rest of the Committee on Standards of Official Conduct did not get a chance to even hear what the settlement was and what happened, and, therefore, as a member of the Committee on Standards of Official Conduct, I knew nothing about what happened on the subcommittee level.

The respondent can be notified. I think that is a wonderful thing that they have in the Committee on Standards of Official Conduct report that we have before us.

Let me tell Members, we have to make sure that the Committee on Standards of Official Conduct and its process remains. All I urge is a ''yes'' vote on the Bunning-Abercrombie amendment.

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

Mr. LIVINGSTON. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Louisiana is recognized for 2½ minutes.

Mr. LIVINGSTON. Mr. Chairman, I want to compliment all the Members that have come to the well to debate what I think is an incredibly important subject and which ultimately governs the way this Congress polices its own. It is not a pleasant process, but it is a necessary one, and I think that the product of the votes so far have been fair and well thought out by the membership at large.

I compliment my friend, the gentleman from Kentucky [Mr. BUNNING] for his amendment. However well-intentioned it is, I think under the old rules and under the experiences that the gentleman has had under the old rules it may have been necessary, but I do not think it is necessary in the context of the package that is before the House today.

We have provided respondents subject to ethics complaints more due process than has ever been imagined before. The fact is there is ample notification, warning, opportunities for counsel and instruction, opportunities for finding out the charges against you, opportunities for agreeing to or negotiating with the people in charge of the complaints without the fear that those negotiations would be used against you. All of these various forms of due process have been built into the system so that this amendment becomes unnecessary.

If this amendment were adopted, we will see the bifurcation process disturbed and we will see a complication in the free flow of the process that becomes, I think, in some circumstances, unworkable and encourages a partisan breakdown.

For that reason, Mr. Chairman, I really think this amendment is unnecessary. I do not feel as strongly about it as I have in other instances, but I do believe that it is not necessary simply by view of the fact that we have adopted in this package wonderful due process mechanisms to serve the benefit of individual Members who might be charged.

For that reason I urge the amendment be defeated and that the entire package be adopted. I understand there is going to be a motion to recommit. I would, obviously, if I get a chance to debate that, urge that it not be adopted.

Mr. Chairman, I thank all Members once again for their undivided attention and cooperation in this debate.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. BUNNING].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 194, answered ''present'' 1, not voting 17, as follows:

[Roll No. 411]

AYES—221

Abercrombie
Aderholt
Archer
Armey
Bachus
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Borski
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
Delahunt
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fowler
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (KY)
Linder
Lucas
Manzullo
Markey
Martinez
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Miller (FL)
Mink
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stokes
Stump
Sununu
Tanner
Tauzin
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Young (FL)

NOES—194

Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bateman
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonior
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Chabot
Clayton
Clement
Clyburn
Conyers
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gejdenson
Gekas
Goode
Gordon
Green
Gutierrez
Hamilton
Harman
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Menendez
Mica
Millender-McDonald
Miller (CA)
Minge
Moakley
Moran (VA)
Morella
Nadler
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schaffer, Bob
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Talent
Tauscher
Taylor (MS)
Taylor (NC)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Wolf
Woolsey
Wynn
Yates

ANSWERED ''PRESENT''—1

Kim

NOT VOTING—17

Baker
Bonilla
Clay
Foglietta
Furse
Gephardt
Gonzalez
Goss
Hastings (FL)
Lipinski
Meek
Neumann
Oberstar
Porter
Schiff
Weldon (PA)
Young (AK)

□ 1652

Messrs. STOKES, PACKARD, and BILBRAY changed their vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. CAMP] having assumed the chair, Mr. COMBEST, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 168), to implement the recommendations of the bipartisan House Ethics Reform Task Force, pursuant to House Resolution 230, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

MOTION TO RECOMMIT OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the resolution?

Mr. CARDIN. I reluctantly oppose the resolution.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CARDIN moves to recommit the resolution H. Res. 168 to the Committee on Rules with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert the following:

SECTION 1. USE OF NON-COMMITTEE MEMBERS.

(a) RULES AMENDMENT.—Clause 6(a) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new subparagraph:

''(3)(A) At the beginning of each Congress—

''(i) the Speaker (or his designee) shall designate a list of 11 Members from the majority party; and

''(ii) the minority leader (or his designee) shall designate a list of 11 Members from the minority party;

who are not members of the Committee on Standards of Official Conduct and who may be assigned to serve as a member of an investigative subcommittee of that committee during that Congress. Members so chosen shall be announced tothe House.

''(B) Whenever the chairman and ranking minority member of the Committee on Standards of Official Conduct jointly determine that Members designated under subdivision (A) should be assigned to serve on an investigative subcommittee of that committee, they shall each select the same number of Members of his respective party from the list to serve on that subcommittee.''.

(b) CONFORMING RULES AMENDMENT.—Clause 6(b)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting after the first sentence the following new sentence: ''Service on an investigative subcommittee of the Committee on Standards of Official Conduct pursuant to paragraph (a)(3) shall not be counted against the limitation on subcommittee service.''.

SEC. 2. DURATION OF SERVICE ON THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

The second sentence of clause 6(a)(2) of rule X of the Rules of the House of Representatives is amended to read as follows: ''No Member shall serve as a member of the Committee on Standards of Official Conduct for more than two Congresses in any period of three successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that a Member having served on the committee for two Congresses shall be eligible for election to the committee as chairman or ranking minority member for one additional Congress. Not less than two Members from each party shall rotate off the committee at the end of each Congress.''.

SEC. 3. COMMITTEE AGENDAS.

The Committee on Standards of Official Conduct shall adopt rules providing that the

chairman shall establish the agenda for meetings of the committee, but shall not preclude the ranking minority member from placing any item on the agenda.

SEC. 4. COMMITTEE STAFF.

(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that:

(1)(A) The staff is to be assembled and retained as a professional, nonpartisan staff.

(B) Each member of the staff shall be professional and demonstrably qualified for the position for which he is hired.

(C) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(D) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(E) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the committee without specific prior approval from the chairman and ranking minority member.

(F) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the committee.

(2)(A) All staff members shall be appointed by an affirmative vote of a majority of the members of the committee. Such vote shall occur at the first meeting of the membership of the committee during each Congress and as necessary during the Congress.

(B) Subject to the approval of Committee on House Oversight, the committee may retain counsel not employed by the House of Representatives whenever the committee determines, by an affirmative vote of a majority of the members of the committee, that the retention of outside counsel is necessary and appropriate.

(C) If the committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(3) Outside counsel may be dismissed prior to the end of a contract between the committee and such counsel only by an affirmative vote of a majority of the members of the committee.

(4) Only subparagraphs (C), (E), and (F) of paragraph (1) shall apply to shared staff.

(b) ADDITIONAL COMMITTEE STAFF.—In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee on Standards of Official Conduct, the chairman and ranking minority member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the committee. Such shared staff may assist the chairman or ranking minority member on any subcommittee on which he serves.

SEC. 5. MEETINGS AND HEARINGS.

(a) HOUSE RULES.—(1) Clause 4(e)(3) of rule X of the Rules of the House of Representatives is amended to read as follows:

''(3)(A) Notwithstanding clause 2(g)(1) of rule XI, each meeting of the Committee on Standards of Official Conduct or any subcommittee thereof shall occur in executive session, unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting to the public.

''(B) Notwithstanding clause 2(g)(2) of rule XI, hearings of an adjudicatory subcommittee or sanction hearings held by the Committee on Standards of Official Conduct shall be held in open session unless the subcommittee or committee, in open session by an affirmative vote of a majority of its members, closes all or part of the remainder of the hearing on that day to the public.''.

(2)(A) The first sentence of clause 2(g)(1) of rule XI of the Rules of the House of Representatives is amended by inserting ''(except the Committee on Standards of Official Conduct)'' after ''thereof''.

(B) The first sentence of clause 2(g)(2) of rule XI of the Rules of the House of Representatives is amended by inserting ''(except the Committee on Standards of Official Conduct)'' after ''thereof''.

(b) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that—

(1) all meetings of the committee or any subcommittee thereof shall occur in executive session unless the committee or subcommittee by an affirmative vote of a majority of its members opens the meeting or hearing to the public; and

(2) any hearing held by an adjudicatory subcommittee or any sanction hearing held by the committee shall be open to the public unless the committee or subcommittee by an affirmative vote of a majority of its members closes the hearing to the public.

SEC. 6. CONFIDENTIALITY OATHS.

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

''(4) Before any member, officer, or employee of the Committee on Standards of Official Conduct, including members of any subcommittee of the committee selected pursuant to clause 6(a)(3) and shared staff, may have access to information that is confidential under the rules of the committee, the following oath (or affirmation) shall be executed:

'I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the committee, except as authorized by the committee or in accordance with its rules.'

Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House. This subparagraph establishes a standard of conduct within the meaning of subparagraph (1)(B). Breaches of confidentiality shall be investigated by the Committee on Standards of Official Conduct and appropriate action shall be taken.''.

SEC. 7. PUBLIC DISCLOSURE.

The Committee on Standards of Official Conduct shall adopt rules providing that, unless otherwise determined by a vote of the committee, only the chairman or ranking minority member, after consultation with each other, may make public statements regarding matters before the committee or any subcommittee thereof.

SEC. 8. CONFIDENTIALITY OF COMMITTEE VOTES.

(a) RECORDS.—The last sentence in clause 2(e)(1) of rule XI of the Rules of the House of Representatives is amended by adding before the period at the end the following: '', except that in the case of rollcall votes in the Committee on Standards of Official Conduct taken in executive session, the result of any such vote shall not be made available for inspection by the public without an affirmative vote of a majority of the members of the committee''.

(b) REPORTS.—Clause 2(l)(2)(B) of rule XI of the Rules of the House of Representatives is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to votes taken in executive session by the Committee on Standards of Official Conduct.''.

SEC. 9. FILINGS BY NON-MEMBERS OF INFORMATION OFFERED AS A COMPLAINT.

(a) FILINGS SPONSORED BY MEMBERS.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by striking ''or submitted to'', by inserting ''(I)'' after ''(i)'', by striking ''a complaint'' and inserting ''information offered as a complaint'', and by adding after subdivision (I) the following new subdivision:

''(II) upon receipt of information offered as a complaint, in writing and under oath, from an individual not a Member of the House provided that a Member of the House certifies in writing to the committee that he or she believes the information is submitted in good faith and warrants the review and consideration of the committee, or''.

(b) DIRECT FILING.—Clause 4(e)(2)(B)(ii) of rule X of the Rules of the House of Representatives is amended to read as follows:

''(ii) upon receipt of information offered as a complaint, in writing and under oath, directly from an individual not a Member of the House.''.

SEC. 10. REQUIREMENTS TO CONSTITUTE A COMPLAINT.

(a) PROCEDURAL REQUIREMENTS.—The Committee on Standards of Official Conduct shall amend its rules regarding procedural requirements governing information submitted as a complaint pursuant to clause 4(e)(2)(B)(ii) of rule X of the Rules of the House of Representatives to provide that—

(1) an individual who submits information to the committee offered as a complaint must either have personal knowledge of conduct which is the basis of the violation alleged in the information, or base the information offered as a complaint upon—

(A) information received from another individual who the complainant has a good faith reason to believe has personal knowledge of such conduct; or

(B) his personal review of—

(i) documents kept in the ordinary course of business, government, or personal affairs; or

(ii) photographs, films, videotapes, or recordings;

that contain information regarding conduct which is the basis of a violation alleged in the information offered as a complaint;

(2) a complainant or an individual from whom the complainant obtains information will be found to have personal knowledge of conduct which is the basis of the violation alleged in the information offered as a complaint if the complainant or that individual witnessed or was a participant in such conduct; and

(3) an individual who submits information offered as a complaint consisting solely of information contained in a news or opinion source or publication that he believes to be true does not have the requisite personal knowledge.

(b) TIME FOR DETERMINATION.—The Committee on Standards of Official Conduct shall amend its rules regarding complaints to provide that whenever information offered as a complaint is submitted to the committee, the chairman and ranking minority member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the committee's rules for what constitutes a complaint.

SEC. 11. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING PROPERLY FILED COMPLAINTS.

(a) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the

committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the chairman and ranking minority member determine that information filed meets the requirements of the committee's rules for what constitutes a complaint, unless the committee by an affirmative vote of a majority of its members votes otherwise, to—

(1) recommend to the committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the committee extend the applicable 45-calendar day or 5-legislative day period by one additional 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1).

(b) HOUSE RULES.—Clause 4(e)(2)(A) of rule X of the Rules of the House of Representatives is amended by inserting ''(i)'' after ''(A)'', by striking ''and no'' and inserting ''and, except as provided by subdivision (ii), no'', and by adding at the end the following:

''(ii)(I) Upon the receipt of information offered as a complaint that is in compliance with this rule and the committee rules, the chairman and ranking minority member may jointly appoint members to serve as an investigative subcommittee.

''(II) The chairman and ranking minority member of the committee may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the chairman or ranking minority member has placed on the committee agenda the issue of whether to establish an investigative subcommittee.''.

(c) DISPOSITION OF PROPERLY FILED COMPLAINTS BY CHAIRMAN AND RANKING MINORITY MEMBER IF NO ACTION TAKEN BY THEM WITHIN PRESCRIBED TIME LIMIT.—The Committee on Standards of Official Conduct shall adopt rules providing that if the chairman and ranking minority member jointly determine that information submitted to the committee meets the requirements of the committee rules for what constitutes a complaint, and the complaint is not disposed of within the applicable time periods under subsection (a), then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.

(d) HOUSE RULES.—Clause 4(e)(2)(B) of rule X of the Rules of the House of Representatives is amended by adding at the end the following new sentences:

''If a complaint is not disposed of within the applicable time periods set forth in the rules of the Committee on Standards of Official Conduct, then the chairman and ranking minority member shall jointly establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. However, if, at any time during those periods, either the chairman or ranking minority member places on the agenda the issue of whether to establish an investigative subcommittee,then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the committee.''.

SEC. 12. DUTIES OF CHAIRMAN AND RANKING MINORITY MEMBER REGARDING INFORMATION NOT CONSTITUTING A COMPLAINT.

The Committee on Standards of Official Conduct shall adopt rules providing that whenever the chairman and ranking minority member jointly determine that information submitted to the committee does not meet the requirements for what constitutes a complaint set forth in the committee rules, they may—

(1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the committee's rules; or

(2) recommend to the committee that it authorize the establishment of an investigative subcommittee.

SEC. 13. INVESTIGATIVE AND ADJUDICATORY SUBCOMMITTEES.

The Committee on Standards of Official Conduct shall adopt rules providing that—

(1)(A) investigative subcommittees shall be comprised of 4 Members (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee; and

(B) adjudicatory subcommittees shall be comprised of the members of the committee who did not serve on the investigative subcommittee (with equal representation from the majority and minority parties) whenever such subcommittee is established pursuant to the rules of the committee;

(2) at the time of appointment, the chairman shall designate one member of the subcommittee to serve as chairman and the ranking minority member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee or adjudicatory subcommittee; and

(3) the chairman and ranking minority member of the committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex officio members.

SEC. 14. STANDARD OF PROOF FOR ADOPTION OF STATEMENT OF ALLEGED VIOLATION.

The Committee on Standards of Official Conduct shall amend its rules to provide that an investigative subcommittee may adopt a statement of alleged violation only if it determines by an affirmative vote of a majority of the members of the committee that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred.

SEC. 15. SUBCOMMITTEE POWERS.

(a) SUBPOENA POWER.—

(1) HOUSE RULES.—Clause 2(m)(2)(A) of rule XI of the Rules of the House of Representatives is amended—

(A) in the second sentence by striking ''The'' and inserting ''Except as provided by the next sentence, the''; and

(B) by inserting after the second sentence the following new sentence: ''In the case of the Committee on Standards of Official Conduct or any subcommittee thereof, a subpoena may be authorized and issued by the committee only when authorized by a majority of the members voting (a majority being present) or by a subcommittee only when authorized by an affirmative vote of a majority of its members.''.

(2) COMMITTEE RULES.—The Committee on Standards of Official Conduct shall adopt rules providing that an investigative subcommittee or an adjudicatory subcommittee may authorize and issue subpoenas only when authorized by an affirmative vote of a majority of the members of the subcommittee.

(b) EXPANSION OF SCOPE OF INVESTIGATIONS.—The Committee on Standards of Official Conduct shall adopt rules providing that an investigative subcommittee may, upon an affirmative vote of a majority of its members, expand the scope of its investigation without the approval of the committee.

(c) AMENDMENTS OF STATEMENTS OF ALLEGED VIOLATION.—The Committee on Standards of Official Conduct shall adopt rules to provide that—

(1) an investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its statement of alleged violation anytime before the statement of alleged violation is transmitted to the committee; and

(2) if an investigative subcommittee amends its statement of alleged violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended statement of alleged violation.

SEC. 16. DUE PROCESS RIGHTS OF RESPONDENTS.

The Committee on Standards of Official Conduct shall amend its rules to provide that—

(1) not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a statement of alleged violation, the subcommittee shall provide the respondent with a copy of the statement of alleged violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates;

(2) neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (1) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present;

(3) if, at any time after the issuance of a statement of alleged violation, the committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (1) to prove the charges contained in the statement of alleged violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the committee's rules;

(4) evidence provided pursuant to paragraph (1) or (3) shall be made available to the respondent and his or her counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(A) such time as a statement of alleged violation is made public by the committee if the respondent has waived the adjudicatory hearing; or

(B) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing;

but the failure of respondent and his counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a statement of alleged violation at the end of the period referred to in paragraph (1);

(5) a respondent shall receive written notice whenever—

(A) the chairman and ranking minority member determine that information the committee has received constitutes a complaint;

(B) a complaint or allegation is transmitted to an investigative subcommittee;

(C) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(D) an investigative subcommittee votes to expand the scope of its investigation;

(6) whenever an investigative subcommittee adopts a statement of alleged violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which that statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and respondent's counsel, the chairman and ranking minority member of the subcommittee, and the outside counsel, if any;

(7) statements or information derived solely from a respondent or his counsel during any settlement discussions between the committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the committee or otherwise publicly disclosed without the consent of the respondent; and

(8) whenever a motion to establish an investigative subcommittee does not prevail, the committee shall promptly send a letter to the respondent informing him of such vote.

SEC. 17. COMMITTEE REPORTING REQUIREMENTS.

The Committee on Standards of Official Conduct shall amend its rules to provide that—

(1) whenever an investigative subcommittee does not adopt a statement of alleged violation and transmits a report to that effect to the committee, the committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives; and

(2) whenever an investigative subcommittee adopts a statement of alleged violation, the respondent admits to the violations set forth in such statement, the respondent waives his or her right to an adjudicatory hearing, and the respondent's waiver is approved by the committee—

(A) the subcommittee shall prepare a report for transmittal to the committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(B) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(C) the subcommittee shall transmit a report to the committee regarding the statement of alleged violation together with any views submitted by the respondent pursuant to subparagraph (B), and the committee shall make the report together with the respondent's views available to the public before the commencement of any sanction hearing; and

(D) the committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (B) and any additional views respondent may submit for attachment to the final report; and

(3) members of the committee shall have not less than 72 hours to review any report transmitted to the committee by an investigative subcommittee before both the commencement of a sanction hearing and the committee vote on whether to adopt the report.

SEC. 18. REFERRALS TO FEDERAL OR STATE AUTHORITIES.

Clause 4(e)(1)(C) of rule X of the Rules of the House of Representatives is amended by striking ''with the approval of the House'' and inserting ''either with the approval of the House or by an affirmative vote of two-thirds of the members of the committee''.

SEC. 19. FRIVOLOUS FILINGS.

Clause 4(e) of rule X of the Rules of the House of Representatives is amended by adding at the end the following:

''(5)(A) If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee on Standards of Official Conduct, the committee may take such action as it, by an affirmative vote of a majority of its members, deems appropriate in the circumstances.

''(B) Complaints filed before the One Hundred Fifth Congress may not be deemed frivolous by the Committee on Standards of Official Conduct.''.

SEC. 20. TECHNICAL AMENDMENTS.

The Committee on Standards of Official Conduct shall—

(1) clarify its rules to provide that whenever the committee votes to authorize an investigation on its own initiative, the chairman and ranking minority member shall establish an investigative subcommittee to undertake such investigation;

(2) revise its rules to refer to hearings held by an adjudicatory subcommittee as adjudicatory hearings; and

(3) make such other amendments to its rules as necessary to conform such rules to this resolution.

SEC. 21. EFFECTIVE DATE.

This resolution and the amendments made by it apply with respect to any complaint or information offered as a complaint that is or has been filed during this Congress.

Mr. CARDIN (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD; and pending that, I ask unanimous consent that the motion to recommit be debatable for 4 minutes, equally divided and controlled by myself and a Member in opposition thereto.

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

There was no objection.

The SPEAKER pro tempore. Without objection, the motion is considered as having been read and printed in the RECORD.

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland [Mr. CARDIN] is recognized for 2 minutes.

Mr. CARDIN. Mr. Speaker, the motion to recommit will return the rule to the original resolution approved by the bipartisan task force. It would include the manager's amendment, but none of the other amendments. It will give this House a chance to vote on the rules package that was approved in a bipartisan manner.

Mr. Speaker, this will be the last opportunity that this House will have to reform the ethics process in a bipartisan manner. We have had a good debate on the floor. I think the issues have been well debated. I would hope that in the end the Members of this House would understand that it is not in our interests to amend the rules when the amendments are being passed by such a lopsided, partisan majority. That does not further the process. Ethics changes should be worked out in a bipartisan manner.

There is a lot of good in this resolution. The original report is what should be approved by this House. I would urge my colleagues to support the motion to recommit so that we can pass a bipartisan change in our rules package.

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

□ 1700

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

Mr. Speaker, I appreciate the views of my friend, who has served so diligently as cochair of this incredibly tough task force. Had I had it within my power to go back and reverse time, I would never have served on this task force. But I have.

At various times in this debate, I have had Members on the other side of the aisle say they would never vote for the final package if some amendments passed, and have had Members on this side say, I would never vote for this vital package if other amendments passed, or did not pass.

The fact is, this body, in bipartisan fashion, has tackled three tough amendments and has voted. Members on both sides have voted for and against all three amendments. It is impossible to say that what has happened today has been a partisan diatribe.

We now have the first bipartisan revision of the task force rules, of the rules for the Committee on Standards of Official Conduct, that have passed the House of Representatives since 1989. We have a solid revision. We have one that provides for expedited processing and enhanced due process, it raises the standard to charge that a violation has occurred to a substantial standard, and prohibits frivolous filings.

It is an important package. It is a bipartisan package. I believe that it is the best package, now that the Members have had a chance to vote on all three amendments, regardless of the outcome. I urge the defeat of the motion to recommit and the passage of the final package.

The SPEAKER pro tempore (Mr. CAMP). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he may reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—ayes 176, noes 236, answered ''present'' 1, not voting 20, as follows:

[Roll No. 412]

AYES—176

Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Bonior
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Chabot
Clayton
Clyburn
Conyers
Costello
Coyne
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Gejdenson
Goode
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hefner
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Nadler
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Skelton
Slaughter
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Turner
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—236

Abercrombie
Aderholt
Archer
Armey
Bachus
Baesler
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bono
Borski
Boucher
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)

ANSWERED ''PRESENT''—1

Kim

NOT VOTING—20

Baker
Bonilla
Clay
Flake
Foglietta
Furse
Gephardt
Gonzalez
Goss
Hastings (FL)
Hilliard
Lipinski
Meek
Neumann
Oberstar
Porter
Schiff
Smith, Adam
Weldon (PA)
Young (AK)

□ 1717

Messrs. KINGSTON, GILLMOR, ARMEY, and DICKS changed their vote from ''aye'' to ''no.''

Mr. MORAN of Virginia changed his vote from ''no'' to ''aye.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore [Mr. CAMP]. The question is on the resolution.

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 258, noes 154, answered ''present'' 1, not voting 20, as follows:

[Roll No. 413]

AYES—258

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Borski
Boucher
Brady
Brown (CA)
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
Delahunt
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Mascara
McCarthy (MO)
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh

Wamp	Weldon (FL)	Wicker
Watkins	Weller	Wolf
Watts (OK)	White	Young (FL)

NOES—154

Ackerman	Hamilton	Pallone
Allen	Hefner	Payne
Baldacci	Hilliard	Pelosi
Barrett (WI)	Hinchey	Pickett
Becerra	Hinojosa	Pomeroy
Bentsen	Hooley	Poshard
Berman	Hoyer	Price (NC)
Blagojevich	Jackson (IL)	Rangel
Blumenauer	Jackson-Lee (TX)	Rivers
Bonior	Jefferson	Rothman
Boswell	Johnson, E. B.	Roybal-Allard
Boyd	Kaptur	Rush
Brown (FL)	Kennedy (MA)	Sabo
Brown (OH)	Kennedy (RI)	Sanchez
Buyer	Kennelly	Sanders
Capps	Kildee	Sandlin
Cardin	Kilpatrick	Sawyer
Carson	Kind (WI)	Schaffer, Bob
Clayton	Kucinich	Schumer
Clyburn	Lampson	Scott
Conyers	Lantos	Serrano
Costello	Levin	Shays
Coyne	Lewis (GA)	Sherman
Cummings	Lofgren	Skaggs
Davis (FL)	Lowey	Slaughter
Davis (IL)	Luther	Snyder
DeFazio	Maloney (CT)	Spratt
DeGette	Maloney (NY)	Stabenow
DeLauro	Manton	Stark
Dellums	Markey	Stokes
Deutsch	Martinez	Strickland
Dixon	Matsui	Tauscher
Doggett	McCarthy (NY)	Thomas
Dooley	McDermott	Thompson
Edwards	McGovern	Thurman
Engel	McHale	Tierney
Eshoo	McIntyre	Torres
Etheridge	McKinney	Towns
Evans	McNulty	Turner
Farr	Meehan	Velazquez
Fattah	Menendez	Vento
Fazio	Millender-McDonald	Visclosky
Filner	Miller (CA)	Waters
Flake	Moakley	Watt (NC)
Ford	Moran (VA)	Waxman
Frank (MA)	Nadler	Wexler
Franks (NJ)	Neal	Weygand
Gejdenson	Obey	Whitfield
Goode	Olver	Wise
Gordon	Owens	Woolsey
Green	Pallone	Wynn
Gutierrez	Payne	Yates

ANSWERED ''PRESENT''—1

Kim

NOT VOTING—20

Abercrombie	Gonzalez	Oberstar
Baker	Goss	Porter
Bonilla	Hastert	Schiff
Clay	Hastings (FL)	Smith, Adam
Foglietta	Lipinski	Weldon (PA)
Furse	Meek	Young (AK)
Gephardt	Neumann	

□ 1732

So the resolution was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. HASTERT. Mr. Speaker, on rollcall No. 413, I was unavoidably detained at a committee hearing. Had I been present, I would have voted ''aye.''

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2160, AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–255) on the resolution (H. Res. 232) waiving points of order against the conference report to accompany the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2209, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1998

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, September 18, 1997, to file a conference report on the bill (H.R. 2209) making appropriations for the legislative branch for the fiscal year ending September 30, 1998, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRIVILEGES OF THE HOUSE—RESTRICTING FLOOR PRIVILEGES OF FORMER REPRESENTATIVE ROBERT DORNAN PENDING RESOLUTION OF ELECTION CONTEST IN 46TH DISTRICT OF CALIFORNIA

Mr. MENENDEZ. Pursuant to clause 2 of rule IX and by agreement with the majority leader, Mr. ARMEY, I hereby give notice of my intention to offer a privileged resolution.

The form of the resolution is as follows:

HOUSE RESOLUTION 233

Whereas the privilege of admission to the Hall of the House or rooms leading thereto is subject to the requirements of proper decorum;

Whereas concern has arisen that the privilege of admission to the Hall of the House or rooms leading thereto has become the subject of abuse;

Whereas Representative Menendez of New Jersey has given notice pursuant to clause 2 of rule IX of his intention to offer a question of the privileges of the House addressing that concern;

Whereas these circumstances warrant an immediate affirmation by the House of its unequivocal commitment to the principle that every person who exercises the privilege of admission to the Hall of the House or rooms leading thereto assumes a concomitant responsibility to comport himself in a manner that properly dignifies the proceedings of the House; Therefore be it

Resolved, That the Sergeant-at-Arms is instructed to remove former Representative Robert Dornan from the Hall of the House and rooms leading thereto and to prevent him from returning to the Hall of the House and rooms leading thereto until the election contest concerning the forty-sixth district of California is resolved.

The SPEAKER. Pursuant to rule IX, the Chair determines that this is the appropriate time to call up the resolution.

Mr. MENENDEZ. Mr. Speaker, I offer a resolution raising a question of the privileges of the House.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. In the opinion of the Chair, the resolution constitutes a question of the privileges of the House.

PREFERENTIAL MOTION OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Speaker, I have a preferential motion at the desk.

The SPEAKER. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. STEARNS moves to lay the resolution offered by Mr. MENENDEZ on the table.

The SPEAKER. The question is on the motion to table offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 86, noes 291, answered ''present'' 3, not voting 53, as follows:

[Roll No. 414]

AYES—86

Aderholt	Hunter	Rohrabacher
Barr	Hyde	Royce
Bartlett	Johnson, Sam	Ryun
Barton	Kim	Salmon
Bliley	Kingston	Saxton
Bono	Largent	Scarborough
Burton	Lewis (CA)	Schaefer, Dan
Buyer	Lewis (KY)	Schaffer, Bob
Calvert	Linder	Sessions
Campbell	Livingston	Shadegg
Chabot	Lucas	Shuster
Chenoweth	McCollum	Smith (MI)
Cox	McIntosh	Smith (NJ)
Crane	McKeon	Smith (OR)
Crapo	Metcalf	Smith, Linda
Cubin	Mica	Snowbarger
Cunningham	Nethercutt	Solomon
Doolittle	Norwood	Spence
Dreier	Packard	Stearns
Duncan	Paul	Stump
Dunn	Paxon	Tauzin
Everett	Pease	Thomas
Ewing	Pickering	Thornberry
Fawell	Pombo	Tiahrt
Foley	Radanovich	Weldon (FL)
Gekas	Redmond	Whitfield
Hefley	Riley	Wicker
Herger	Rogan	Wolf
Hostettler	Rogers	

NOES—291

Abercrombie	Boehner	Cook
Ackerman	Bonior	Costello
Allen	Borski	Coyne
Andrews	Boswell	Cummings
Armey	Boucher	Danner
Bachus	Boyd	Davis (FL)
Baesler	Brady	Davis (IL)
Baldacci	Brown (CA)	Davis (VA)
Barcia	Brown (FL)	DeFazio
Barrett (NE)	Brown (OH)	DeGette
Barrett (WI)	Camp	Delahunt
Bass	Canady	DeLauro
Bateman	Capps	DeLay
Becerra	Cardin	Dellums
Bentsen	Carson	Deutsch
Bereuter	Castle	Diaz-Balart
Berman	Christensen	Dickey
Bilirakis	Clayton	Dicks
Bishop	Clement	Dingell
Blagojevich	Clyburn	Dixon
Blumenauer	Combest	Doggett
Blunt	Condit	Dooley
Boehlert	Conyers	Doyle