MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1575. An act to rename the Washington National Airport located in the District of Columbia and Virginia as the ''Ronald Reagan Washington National Airport''.

□ 1600

CONCERNING ATTORNEYS' FEES, COSTS, AND SANCTIONS PAYABLE BY THE WHITE HOUSE HEALTH CARE TASK FORCE

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 345, and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 345

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the joint resolution (H.J. Res. 107) expressing the sense of the Congress that the award of attorneys' fees, costs, and sanctions of $285,864.78 ordered by United States District Judge Royce C. Lamberth on December 18, 1997, should not be paid with taxpayer funds. The first reading of the joint resolution shall be dispensed with. General debate shall be confined to the joint resolution and shall not exceed one hour equally divided and controlled by Representative Hayworth of Arizona or his designee and Representative Stark of California or his designee. After general debate the joint resolution shall be considered for amendment under the five-minute rule. The joint resolution shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be fifteen minutes. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished gentleman from Massachusetts (Mr. MOAKLEY), ranking member of the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of germane debate only.

(Mr. GOSS asked and was given permission to revise and extend his remarks, and to include extraneous material.)

Mr. GOSS. Mr. Speaker, this is as straightforward as it gets when it comes to rules. This is a wide open rule that was voted out of the Committee on Rules last night without dissent or, in fact, really without debate.

The rule provides for 1 hour of general debate, as we have heard, equally divided between the gentleman from Arizona (Mr. HAYWORTH) or his designee and the gentleman from California (Mr. STARK) or his designee.

The rule provides that the Joint Resolution be considered as read and provides for one motion to recommit, with or without instructions, which is of course the guarantee we always provide for the Minority.

It is truly a bipartisan product that should elicit universal support, in my view. I cannot understand that this could in any way be a controversial rule. The only point that could have been of controversy was overcome last night by a brilliant suggestion by the gentleman from Massachusetts (Mr. MOAKLEY), which was accepted unanimously by the full committee to make this as fair and as bipartisan and as open as has ever been done in the recorded history of the Committee on Rules.

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

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Florida (Mr. GOSS), my colleague, my dear friend, for yielding me the customary half-hour; and I yield myself such time as I may consume.

Mr. Speaker, Congress has just returned from a 3-month recess; and, after all that time, the American people expect something substantive from their representatives. Today, they are not going to get it.

There are a lot of issues that need addressing in this country. As President Clinton said in his State of the Union: This is an opportunity for action. We need to protect Social Security, reduce the size of classrooms, expand Medicare, increase the minimum wage, Mr. Speaker, and a lot more. The list of issues that are important to the American people is very long, it is very diverse, but it does not include the attorneys' fees for the White House Health Care Task Force.

I bet if we walked down the street today, we would not find a single person that would say that the utmost concern on their mind was the fees of the White House task force on health. They would probably say they were more concerned with making a decent living, sending their children to college or affording decent health care.

But this Congress will waste time debating the issue of these fees. It is nearly the first issue we have taken up on this the second day back in session; and I, for one, Mr. Speaker, think there are a lot more important things that we should be doing.

This is a politically driven, partisan resolution which, even if it passes, will do absolutely nothing.

Mr. Speaker, the issue we are debating today is a sense of the Congress resolution. It cannot even become law. In other words, if the House passes it, we will have said, in effect, here is what we think, for what it is worth, and that is it.

Other than expressing an opinion, this bill does nothing. It does not make anyone do anything. It is a politically motivated, partisan attack; and, frankly, as I said, it is a total waste of time.

Instead of this resolution, we should save Social Security. We should help working families afford child care. We should protect people's pensions. We should reform managed care.

So I urge my colleagues to let us get to work on something just a little bit more important than this.

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

Mr. GOSS. Mr. Speaker, I was hoping the distinguished gentleman from Massachusetts (Mr. MOAKLEY) would say that this was a great rule also.

Mr. MOAKLEY. Mr. Speaker, this is a great rule also.

Mr. GOSS. Mr. Speaker, I am pleased to say that we got the rule out with the gentleman's help.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona (Mr. HAYWORTH), author of the resolution.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. STARK. Mr. Speaker, will the gentleman yield?

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

Mr. STARK. Mr. Speaker, I thank the gentleman for yielding to me for a colloquy. Prior to this rule resolution, the gentleman and I had discussed the following scenario for the advice of Members.

It is this gentleman's hope on this side of the aisle that there would be no amendments for which a recorded vote would be requested. And that if there are no amendments that come to a vote, final passage, not necessarily the rule, which may or may not call for a vote, but after the rule, it would not be our intention to ask for a recorded vote.

I think the gentleman from Arizona (Mr. HAYWORTH) would concur in that, with the understanding that we obviously cannot control our colleagues' actions. But I ask the gentleman if that is his understanding.

Mr. HAYWORTH. Mr. Speaker, reclaiming my time, I thank the gentleman from California for his comments. No doubt there will be some contentious debate here in the well, but in an effort to maintain the civility and comity of the House and indeed

to echo to a certain degree the outlook of the distinguished gentleman from Massachusetts (Mr. MOAKLEY), Ranking Member on the Committee on Rules, I do believe it is important to move forward in this debate in a fairly brief manner to make the points necessary and then move on to others of business and the business of this House.

So, accordingly, recognizing the fact that neither the gentleman from California nor I can control the rights of any other Member of the institution, it would be my intention not to call for a recorded vote, providing that there are no amendments that are insisted upon and that the straightforward nature of this resolution can, indeed, be reflected by a straightforward voice vote of this institution. That would be my view.

Mr. STARK. Mr. Speaker, if the gentleman would continue to yield, I thank the gentleman; and I hope we can conclude. We will have a strenuous debate, and I have a hunch that the gentleman will win on a voice vote. So, anticipating that, I hope Members can make their plans accordingly.

Mr. HAYWORTH. Mr. Speaker, again reclaiming my time, just to clarify for a second to my colleagues in this hall and in this Chamber and to the American people, I would agree with the gentleman from Massachusetts to this degree: We do have many pressing issues.

But where I would part, and indeed I think an important case to make in this rule is the fact that $285,000, while in the Washington scheme of things, certainly as it relates to a proposed $1.7 trillion budget, might not mean much in Washington numbers, but, Mr. Speaker, to the American people and to the taxpayers of this country, it is very important that this House go on record as saying we are here to protect the taxpayers, even for this sum.

Because the very same working families that my colleague from Massachusetts mentions have a right to be protected on this issue. Especially when, in the wake of a district court ruling, it was found that this Health Care Task Force met in secret, devising plans that in the words of the court were reprehensible and fundamentally dishonest, and we should protect the public purse.

That is why I think this is a fair rule and why I welcome the debate on the floor and am happy to reach an accommodation with the Minority to have this House go on record that it is the sense of this Congress that no taxpayer funds should be used.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK), my great colleague.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MOAKLEY) for yielding, and I hope I do not violate the rules and appear to be addressing others when I welcome everyone to the session of the Model U.N. My colleagues remember the Model U.N. That is when all the students with nothing else to do come together and pass resolutions that have no visible effect, or invisible effect, on anybody, anything, anytime, anywhere, anyplace.

Here is what we have got. This is a resolution which is intended to have absolutely no effects whatsoever on anyone. That is because, if it were to have any effect, it would be illegal and unconstitutional.

So what we have here is a Majority with apparently nothing that they feel they want to do and get caught doing. There are things they would like to do, but they understand that the public would not like many of those things. So having been reluctantly forced to end what was the longest recess in a very long time, we have come back to do nothing. The difference between the recess we were on and the sessions that we are now having is not visible to the naked eye.

Thus, we get this resolution, and it is the Model U.N. It is a resolution, we should stress, which has absolutely nothing to do with anything.

The gentleman from Arizona said $285,000 is real money. Well, it is real money, but this is play money. This is Monopoly money. Because whether we pass this resolution, defeat this resolution, burn this resolution, make it into 11 paper airplanes and fly it around the room, it has nothing to do with the $285,000. It is not intended to. They did not try to. They know how to draft a binding resolution when they want to, and they did not.

Mr. HAYWORTH. Mr. Speaker, will the gentleman yield?

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

Mr. HAYWORTH. Mr. Speaker, I just simply want to ask my colleague from Massachusetts, and always am very interested in his observations, has he ever in the past voted for a sense of Congress resolution?

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, have I? I do not remember. I do not remember whether or not I have voted for a sense of Congress resolution.

Mr. HAYWORTH. That is an interesting response.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman asked a question, and I am telling him that I do not remember, because they are often of such little significance that they do not register.

I will say this, though. I will say to the gentleman that I now recollect I have in the past voted for senses of Congress' resolutions, but I have never claimed that any of them saved anybody any money. I have never said that, having expressed my opinion, I saved anybody $285,000.

And, by the way, if we wanted to save money, and I agree $285,000 is a lot of money for lawyers, I do not know how many hundreds of thousands of dollars we paid the lawyers for the House Oversight Committee to tell us today that the gentlewoman from California (Ms. SANCHEZ) won the election that we knew she won in November 1996. I daresay that the amount of legal fees that will have been paid to lawyers over the past year-plus that people have been harassing the gentlewoman from California——

Mr. HAYWORTH. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. Mr. Speaker, not yet. I think the gentleman from Arizona needs time to assimilate the first answer. It does not seem to me that he has gotten it yet. But I will get back to him when he has more time.

Mr. Speaker, I want to point out that $285,000 is a very small amount of money compared to the much larger sum that the Majority has spent; and they are now going to come forward with a resolution telling us that the gentlewoman from California (Ms. SANCHEZ) can be a Member of Congress. Some of us knew that hundreds of thousands of dollars ago.

Mr. Speaker, now I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague for yielding.

Actually, I believe I understood what he said a little bit earlier. I just want to make sure.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I would ask the gentleman if I could have a couple more minutes, because they are not doing anything with it.

Mr. MOAKLEY. Mr. Speaker, I yield the gentleman 4 more days.

Mr. FRANK of Massachusetts. Excuse me, I would say that is not a yield, that is a sentence.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank the gracious gentleman for yielding to me.

Basically, essentially what the gentleman is telling us is that, when it comes to this, in the words of another prominent member of the gentleman's party, there is no controlling legal authority? Is what the gentleman is trying to get across?

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, what I am trying to say is that not being able to think of anything to say himself, borrowing a wholly irrelevant comment from the Vice President does not seem to me to advance the gentleman's argument.

Because the argument is one, the gentleman from Arizona is simply wrong when he claims that this has anything to do with saving $285,000. It does not. It does not save a nickel.

A judge ordered that the money be paid. Now, the Majority wants to make some political hay. They know better

than to actually defy the judge's order. They have not offered a resolution to defy the judge's order. So what they tell us is a resolution which it is the sense of Congress that the judge's order ought to be defied, knowing full well that no one is going to defy it.

□ 1615

They claim in this that they are going to be saving some money. In fact the only impact this debate will have on the Treasury is the extra few thousand dollars it will cost us to print this silly debate.

I thank the gentleman from Massachusetts for yielding me the time.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

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

Mr. GOSS. Mr. Speaker, is the gentleman for or against the rule?

Mr. FRANK of Massachusetts. I am against the rule because if we defeated the rule, we would save time, not vote on the useless resolution, and be a few thousand bucks ahead.

Mr. GOSS. If the gentleman would perhaps like to get rid of the Committee on Rules, if saving time is the final goal.

Mr. FRANK of Massachusetts. Mr. Speaker, would it be in order to get unanimous consent to abolish the Committee on Rules?

Mr. GOSS. Mr. Speaker, I think we have established the gentleman's views.

Mr. FRANK of Massachusetts. Let me say to Members who may think that this is not at a high level, that is where we started. This is about nothing. This is a political game. This is the Model U.N., about nothing. It is wasting time and money.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, do I understand, is this kind of like the vote that we had after we voted for the pay raise that went into effect and we had another vote disallowing the pay raise? Is that something on the same order that we did then?

Mr. FRANK of Massachusetts. Mr. Speaker, is there any coincidence to the fact that the gentleman is not running again that he brings up the pay raise?

Mr. HEFNER. Mr. Speaker, if the gentleman will continue to yield, I do not know the procedures too well. I have only been here 20 some years. I am a slow learner. In the case this did pass, would it to go conference with the Senate, and would the President sign this, or is this just about making us feel good?

Mr. FRANK of Massachusetts. Mr. Speaker, I would say to my friend, the beauty of this resolution from this standpoint is none of this makes any sense. This is pure for show.

The reference to $285,000 baffles me. If it was intended to suggest that this is going to save the $285,000, it is not written to. It is simply written to try and take some political shots and let the gentleman from Arizona mention a comment from the Vice President, although he could have done that in 1-minutes. I guess he used up his 1-minute today and wanted to have a second 1-minute. So we may have more of this political activity, but it is all a total waste of time.

I thank the gentleman from Massachusetts for yielding me the time.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arizona (Mr. KOLBE).

Mr. KOLBE. Mr. Speaker, I rise in support of this resolution. The debate, as indicated by the gentleman from Massachusetts earlier, has been very lively and very engaging here. One only has to read the decision of the Federal judge in this, the scathing comments that the judge made, not just about the White House and Mr. Magaziner, but also about the Justice Department and the way this was handled, to know that there was a complete failure on the part of all parties in this to handle this appropriately. And so it is quite appropriate, I think, that we have a resolution expressing the sense of Congress that taxpayers should not be footing the bill for the legal fees here and that the individuals involved should be doing so.

But I rise for another reason; that is that I, in my responsibility as the chairman of the subcommittee of appropriations that funds the Executive Office of the President, I can assure my colleagues that we intend to take a very close look at this issue; that indeed if there is an intention of the White House to pay for this out of the Justice Department funds that is reserved for this, there should be, I think, an appropriate reduction in the amount of funding that goes to the White House, to the Executive Office. And we will look for the appropriate account to make sure it is as closely related to the specific thing, to this issue that is involved, to see that we should say that no, if indeed you are going to pay for it that way and not pay for it as it should be, out of your funds, that indeed there would be a concomitant reduction in spending for the White House for this kind of thing.

I think it is very clear that what we heard in the judge's comments, and again I would urge all my colleagues to read the judge's decision in this case, it is absolutely unremittingly scathing in the comments that it makes about the conduct, the conduct of the White House, the conduct of the Justice Department in the handling of this. There is no excuse for the way this was done. There is no excuse essentially for the dissembling that was done on the part of the White House, that was told to people, to the judge. The judge points out that there is no excuse for this. There could be no other explanation for it except that there was dissembling going on. There was an attempt by the Justice Department not to look into that and to allow this to happen.

I think it is quite appropriate that at the appropriations level that we should take action that would assure that in the future this kind of conduct does not occur. And so I can only say to my colleagues that indeed this may be about nothing, that indeed this resolution cannot assure that it will be paid from private sources as it should be, but I can tell my colleagues that this will help send a signal to the Committee on Appropriations and to the subcommittee that we should look for ways in which to make sure that there is a reduction in the spending elsewhere by the White House to offset this, if indeed they pay it out of what has been the normal standard, through the Justice Department fund that is set aside for this.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I ask the gentleman from Arizona, who is on the Committee on Appropriations, while this may not come before his subcommittee, is he aware of other times when we have appropriated money to pay legal fees for officers or employees of the executive branch of the government in cases like this?

Mr. KOLBE. Mr. Speaker, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, in this case there is a specific fund that is set aside when there are legal fees for this. But never have I experienced a judge that has written such a scathing remark.

Mr. STARK. But has the Committee on Appropriations ever appropriated any money?

There is a case where the Committee on Appropriations appropriated $430,000 to pay for the White House travel office. How does that differ in a sense technically from the money the gentleman is talking about spending?

Mr. KOLBE. Mr. Speaker, if the gentleman will continue to yield, I would say that it differs like night and day. In the first case, that of Travelgate, you are talking about individuals who were victimized by the White House, who were fired and victimized and had to try to recover their good names. And I think it was appropriate that the government pay for their being victimized. We are talking here about an individual who victimized the American public and the judge said so.

Mr. STARK. Mr. Speaker, what about the two Secret Service agents? There were two Secret Service agents who were investigated for the accuracy of their testimony over White House FBI files. They were not victimized, I do not think. And the Committee on Appropriations voted to pay their legal defense fees. How does that differ?

Mr. KOLBE. Mr. Speaker, I would say that each of these cases so far that the gentleman has raised substantiate

what I am suggesting. Yes, the two Secret Service agents, and I am very aware of that because the subcommittee funds both the White House and the Secret Service, were indeed victimized in this case. They were unfairly called to task by the inspector general of the Treasury Department who is no longer there, and of course they were completely cleared by this.

Again, the good employees of the Federal Government should not be held responsible for when they are made victims of the bureaucracy or victims of political appointees. But we are not talking about that in the case of Mr. Magaziner.

Mr. STARK. Mr. Speaker, one of the people who was sued was investigated by the U.S. Attorney and had to spend some money to defend himself against the U.S. Attorney's investigation, and the U.S. Attorney subsequently decided that the case was not prosecutable or was not worth prosecuting. This was Mr. Magaziner. So the U.S. Attorney investigated him and said they were not going to prosecute him. Would that not be the same?

As the gentleman well knows, Mr. Magaziner and I have had vast differences over the years, and I would hate to have this turned around that I am here defending him, but I wonder if perhaps there is someone that feels more strongly about Mr. Magaziner than they might have about Mr. Dale of the travel office and whether we are kind of picking and choosing. That is my concern.

Mr. KOLBE. Mr. Speaker, I think the thread that runs through all of these is consistent and the same in that I think in this case we are saying that the people who committed what I think is the wrong in this case of the dissembling that was going on should indeed pay the legal costs for those who tried to bring this case to light, I think appropriately so.

Mr. STARK. Mr. Speaker, I thank the gentleman.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I really believe that this again is wrong-headed and wrong-directed, and frankly this is a silly rule.

Let me applaud the White House health task force and applaud it for several reasons. One, that task force raised to a national debate the question of the right kind of health care for Americans. If there is anything that we hear our constituents talk about, it is lack of access to health care and good health care.

Just coming in from the Rayburn Room discussing with constituents who work with home health care agencies, the type of agencies that I have been familiar with or had familiarity with through the illness of my father, to come to find out that these agencies are being required to get $50,000 bonds, which they do not disagree with but they cannot get the bonds, and so people who are home-bound are not getting health care; that individuals who require home visits once a month to take blood tests are now cutting those services.

These are the kinds of issues that we should be discussing: greater accessibility to patient care with respect to choice of physicians, making sure that individuals can be enrolled under these managed care programs, separating out the dollar from the care, making sure that the dollar is not the only thing that is considered when we have to take care of people in their times of illness.

This is a silly, silly rule and we should really be applauding the fact that the White House health care task force under the leadership of Hillary Clinton allowed us to think about what kind of health services we want, what kind of health system, whether we wanted to have a system that was similar to the one in Canada, whether we wanted to have universal access, whether we wanted to have a combined. No, we did not resolve it, but we did discuss it, and we realize that there are problems with the system we have now. Those individuals who worked on this worked in good faith.

Frankly, I think that we do well to spend more time dealing with the patient bill of rights than wasting the people's time dealing with such silliness about who is paying what and not allowing us to focus on these very important issues. I would hope that my colleagues would listen.

Mr. MOAKLEY. Mr. Speaker, may I inquire of the Chair how much time remains?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Massachusetts (Mr. MOAKLEY) has 16 minutes remaining, and the gentleman from Florida (Mr. GOSS) has 22 minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. Gekas).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me the time.

I was surprised to hear the gentleman from Massachusetts say that this is not important. Social Security is important. Violation of the law is not important enough to take up the time of the House, not even in a sense of the Congress resolution. Social Security is important, but public officials violating the law, that is not important. Do not waste time, allow people to trivialize it. Allow people to mock it. Allow people to get great amusement out of the fact that we are discussing a very serious problem of people in high official places in the government violating the law. The courts found that Mr. Magaziner and the people with whom he was associated in this gigantic health plan fiasco that was occurring in 1993 violated the law.

Clean air is important, and Social Security is important, and child care is important, and health care is important and violation of the law is important. The gentleman from Massachusetts is falling into the pattern of taking what might appear to be a violation of the law and then trying to mask all of that by saying there are more important things to do. Well, now is the time here in this place to discuss whether or not it was proper for these people in this public officialdom that they were in to violate the law. I say that is important to discuss.

The Federal Advisory Committee Act is one in which it says, when advisory committees, like the one that Magaziner formed with the First Lady, had to comply with the law, full sunshine, they did not.

□ 1630

And they were then chastised by the court and these sanctions, these penalties were inflicted by the court.

That is not as important as Social Security, says the gentleman from Massachusetts. We should not waste a moment on the violation of the law that occurred here. And he may be right, but there is a time and a place to discuss why public officials flaunt the law.

There is a larger question here that comes to play, and that is the role of our administrative agencies and how sometimes they try to find ways and means to get around the law. I remember one in my own Subcommittee on Commercial and Administrative Law, where the agency involved could not find that enough dollars were involved to be able to be in a position to notify a small business that it was being affected by an adverse regulation. But we found that there were enough dollars involved.

And so it goes on. Acts like this within the agencies are the ones that ruin the confidence of the people in their high officials in Washington. That is why it is important. I am for Social Security as much as the gentleman from Massachusetts, and he should be as much in concert with me in condemning violations of the law that seem to mask government actions.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to say that I do not know what script it was the gentleman was reading from, but this is not about violating law. This is a sense of the House resolution that has no power. If the gentleman really felt as strong as he says, why does he not get the proper piece of legislation before the House.

This is the payment of legal fees and who is responsible. It is not about violating the law.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I will treat the gentleman just as he treated me.

Mr. GEKAS. The gentleman is going to treat me with a smile?

Mr. MOAKLEY. I will treat the gentleman with a smile.

Mr. GEKAS. I treated the gentleman with a smile.

Mr. GOSS. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I must say that I was shocked that the gentlewoman from Texas would refer to this rule as being silly. What we are talking about here is ethics in government, really. And if there were a way that we could do more than simply pass a resolution of the sense of the Congress, I think we should do so.

We have an obligation and a responsibility to inform the American people about what is taking place in the executive branch of the government, and I would like to take just a few moments to run over a little bit of this.

President Clinton created the Task Force on National Health Care Reform on January 25th, 1993, five days after he took office for his first term. The panel conducted its work in secret. The very next month the American Council for Health Care Reform, the National Legal and Policy Center, a foundation that promotes ethics in government, and the Association of American Physicians and Surgeons filed suit against First Lady Hillary Clinton, Ira Magaziner and others to gain access to the documents and records of the secret meetings of the President's health care task force.

Ira Magaziner went to court and testified in Federal Court, in March, that all members of the task force and its staff working groups were Federal employees and, as a result, they did not have to hold open meetings or divulge their working papers. Then, after an analysis of the evidence by Federal Judge Lamberth, he ruled that the working group formed by the First Lady and Mr. Magaziner violated Federal law and ordered that a penalty of $285,000 be paid to the plaintiffs as reimbursements for legal fees that they used to expose the fact that the White House task force violated Federal law.

Throughout the State of the Union address, President Clinton stressed the importance of personal responsibility. We talk to our children all the time about personal responsibility, and we know that personal responsibility is the anchor of a free society. So why should the taxpayers of America pay a $285,000 fine for something for which they were not responsible? Ira Magaziner and the First Lady were responsible for the violation of Federal law. Why do they not pay the fine? They are responsible.

Now, I just want to take a few minutes more to talk about what Judge Lamberth has said in his decision and in the newspapers about this issue. He was quoted as saying, ''I am convinced that Ira Magaziner, Clinton's health care adviser, deliberately misled the court with his sworn statement.'' He went on to say that he ''. . . believes Magaziner and the government's lawyers made intentionally misleading statements.'' And then Judge Lamberth went on to say, and he bluntly denounced the White House and the Justice Department for what he called ''. . . dishonest and reprehensible failures to provide accurate information.''

This is another example of a pattern of misconduct by this administration. So why should taxpayers pay a fine that they had nothing to do with? Judge Lamberth said that the White House, the task force, violated the Federal law; that they misled the court; that they would be paying the $285,000 fine that now the taxpayers are going to pay.

Mr. STARK. Mr. Speaker, will the gentleman yield?

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

Mr. STARK. Mr. Speaker, I would like to concur in what the gentleman is saying. I have some other language. The court found that ''The declaration Mr. Magaziner made was false.'' It was, ''The most outrageous conduct by the government in this case is what happened when it never corrected or updated the Magaziner declaration.'' I mean it was wrong. He did say, however, that the government did take action that amounted to what the court referred to as a total capitulation.

So I do not think that is an issue with which we would debate with the gentleman. Magaziner either lied, misrepresented, or did not know what he was talking about. I would further go on to say I have not much faith in the gentleman's ability to get anything straight. So whether he made it up or whether he was just wrong, it is the same old Ira Magaziner. No quarrel from me.

I do not feel that way, I might add for the record, about Mrs. Clinton, with whom I worked closely, as well as Mr. Magaziner, during all of that.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I was not allowed into those sessions and felt badly about that. What I am suggesting is that the issue was that subsequent to all of this the people who brought the original lawsuit, mostly asking for an injunction to stop it, that is what they started out asking for. And then, many years later, they came back to ask to get their legal fees back. So they were awarded legal fees; not a fine. Nobody was convicted.

As a matter of fact, Ira was investigated by the U.S. Attorney, who found that he did nothing that would have warranted his being indicted. Now, that is where we are, and I believe those are the facts. And I do not know as we have to go on. He was wrong. The government admitted it. I do not know whether he ever admitted it. The people who brought the case were awarded legal fees that the government is obligated to pay because, under the law, nobody else can pay it. Now, that is where we are tonight.

I would be perfectly willing to figure out how to prevent that. This resolution does not do it. So what I am suggesting is we may have more accord here than the gentleman thinks.

Mr. GOSS. May I inquire of the Speaker how the time divides at this point?

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Florida (Mr. Goss) has 14 minutes remaining, and the gentleman from Massachusetts (Mr. MOAKLEY) has 14½ minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CAMPBELL).

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

Mr. CAMPBELL. Mr. Speaker, there is nothing wrong with this rule, but I am against this resolution and I am particularly grateful to my good friend, the gentleman from Florida, for yielding to me knowing that I must disagree with my dear friend from Arizona (Mr. HAYWORTH). Occasionally I can be wrong, frequently I can be wrong, but I think I am right on this occasion.

The reason why the resolution is wrong is the Equal Access to Justice Act says that one can get attorneys' fees from the government, and it only says that one can get attorneys' fees from the government. So if the effect of this resolution were law, and it is not, but if it were law, it would cut off the plaintiffs from getting any attorneys' fees.

And I think the whole purpose of the argument on the side of the gentleman from Arizona is that these plaintiffs should get their attorneys' fees. So there is a problem with this resolution if it were binding.

Secondly, and perhaps even more important, suppose we were to amend the law and say that one can go after individuals for attorneys' fees. That is not the purpose or effect of this resolution. But if it were then I would have a separate problem, which would stem from the fact that the judge in this case held that the culpable behavior that caused the attorneys' fees to be owed was by the government attorneys after the filing of the inaccurate affidavit by Mr. Magaziner. It was not because of Mr. Magaziner's activities. Although I completely agree that the judge characterized Mr. Magaziner's activities pejoratively in the extreme, it was because of the action of the attorneys afterwards that he awarded attorney's fees to the plaintiffs.

And here is what the judge said, page nine of his opinion. ''But the most outrageous conduct by the government in this case is what happened when it never corrected or up-dated [sic] the Magaziner declaration. That was a determination not made individually by Mr. Magaziner, but by the government through its counsel.''

The difficulty, thus, if we were to apply the law, changed as the movers

of this resolution would wish, so that plaintiff's could obtain their attorney's fees somewhere, it would have to be from the attorneys who acted after Mr. Magaziner did. And I have a serious problem with asking government employees, Federal Government employees working on a general schedule salary, to bear the risk of paying attorneys' fees. I just do not think that is right. If, however, they deserve to be sanctioned by the court, that is fine. That would be under the court's jurisdiction. But under the Equal Access to Justice Act, it is the government that is responsible, not the individual government employees.

While I do not like the idea of taxpayers paying money any more than my colleagues supporting this resolution do, there comes a time when wrongdoing happens. And sometimes it is done by the executive branch and we in the legislative branch have nothing to do with it.

My classic example is where there is a taking of property by the Federal Government and there is no compensation paid. That is terrible. It violates the Constitution. And at the end of the fiscal year we have to pay for it. We, the taxpayers, have to pay for it, even though I did not do it, nobody in the legislative branch did it, nobody in the Congress did it. It is still the burden of the taxpayer because the government did it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for yielding me this time.

The last two points I wanted to say were, if we read the judge's opinion with care, time after time he emphasizes the wrongdoing of ''the government.'' That is why the government is obliged to pay the fees. At page five, ''While the evidence need not include proof beyond a reasonable doubt, the court finds clear and convincing evidence that sanctions should be imposed because of the government's misconduct in this case.'' Not Ira Magaziner and Mrs. Hillary Rodham Clinton.

At page 18:

> ''This whole dishonest explanation was provided to this court in the Magaziner declaration on March 3, 1993, and this court holds that such dishonesty is sanctionable and was not good faith dealing with the court or plaintiffs' counsel. It was not timely corrected or supplemented, and this type of conduct is reprehensible, and the government must be held accountable for it.

And lastly, at page 3, ''The defendants thereafter, produced a great deal of information, but they still took no steps to correct Mr. Magaziner's sworn declaration that all working group members were federal employees.'' The defendants who failed to take the steps to correct the Magaziner declaration were at fault.

Lastly, what about Mr. Magaziner? The answer is very clear. Other sanctions were possible for Mr. Magaziner. Indeed, the court said, and I'm quoting from Judge Lamberth, ''The court, however, indicated the question of whether Mr. Magaziner should be held in criminal contempt of court for possible perjury and/or making a false statement when he signed the sworn declaration to this court on March 3, 1993, should be investigated by the United States Attorney for the District of Columbia.''

The reason why I took to the floor to make this point is much broader than just this issue. We have to be very careful about assessing attorneys' fees against employees of the Federal Government for work they are assigned to do, up until the point when the Federal trial judge intends to sanction them.

□ 1645

Under the Equal Access to Justice Act, it is a terrible mistake to stick Federal employees with that obligation. But if we were to go after Mrs. Clinton, as a private party, we then have the question, who would ever serve on a Federal advisory committee? Who would put themselves forward knowing that that liability would be potentially there?

So, with a very heavy heart but with much admiration for the integrity and the fervor that my colleague, the gentleman from Arizona (Mr. HAYWORTH), brings to this issue, I must urge my colleagues to vote no on the resolution in chief. But I repeat, as I began, I have no objection to the rule.

Mr. GOSS. Mr. Speaker, I thank the gentleman from California (Mr. CAMPBELL) for reminding us that this is a debate about this good rule, and I am relieved to hear that he has no objection to it. I was hoping, actually, for an endorsement for the rule. But since I did not get that, I yield 4 minutes to the distinguished gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. I thank the gentleman for yielding.

Mr. Speaker, I have been working on this particular matter for 5 years as a member of the subcommittee that handles the White House appropriations; and we are here because there is a question about does Congress care when an official at the highest levels of the White House lies under oath in a civil proceeding and it costs the taxpayers a ton of money.

Mr. Magaziner, a senior adviser to the President of the United States, according to the orders issued by the Federal judge, clearly, unquestionably lied, trying to keep information secret about this White House task force that was trying to remake one-sixth of the American economy in private confidential meetings, not letting us know even who the members were.

Ultimately, when they were able to look beyond Mr. Magaziner's affidavit, they found that, instead of everybody being a Federal employee and, therefore, no Federal money going to private individuals in this endeavor, they found there were hundreds, hundreds, of people working directly with Mr. Magaziner who were not Federal employees at all. Mr. Magaziner should have been fired.

The President of the United States should care if people at the White House are truthful to our courts. He does not seem to care. Therefore, Congress is saying, do we think the burden ought to fall upon the people who cause the problem or upon the taxpayers generally?

Now why have an initial resolution such as this? Well, it is the first step. Maybe in the appropriations process we should say Mr. Magaziner and everyone else who was involved in the deceit of the court should not be paid anything more than, say, the minimum wage if the President is going to keep them on the payroll.

One of the other presidential assistants, Patsy Thomasson, lied to our subcommittee about the makeup of this organization when we directly questioned her, lied under oath to the court, lied to Congress, lied to the newspapers, all of these people involved with deceit.

Now the President of the United States, we read in today's papers, is looking at raising millions of dollars of private money for his personal legal defense funds, unlimited amounts from different individuals. If the President cares about proving the truth to the American people, let the President come forward and say, we will make sure that while we are raising these millions of dollars for legal fees we will raise another $285,000 to pay the plaintiffs who brought this action. Would that not be a nice refreshing approach for the President to take?

Because it was the White House that was involved in lying under oath, and it was the Justice Department that permitted it. And then the Justice Department investigated itself as to whether or not perjury charges would be brought.

Read the court decision. Officials in the Justice Department, officials in the White House were intimately involved in this.

The court said there might be a problem prosecuting it because one of the White House lawyers involved, Vince Foster, is now dead and one of the Justice Department lawyers involved, Webb Hubbell, has been convicted of felony since then.

Well, it does not matter that the taxpayers still have this bill and these people still are on the public payroll who the court found do not care to tell the truth under oath.

This is the first step in a process of this Congress, Mr. Speaker, where we will find out which Members think that it is important to honor the principle of truth in testimony to our courts and, yes, to say that principle applies to the White House and everyone there, as well as to the rest of us.

I urge adoption of the rule and of the underlying resolution.

Mr. GOSS. Mr. Speaker, I am happy to advise my colleague and friend from

the Commonwealth of Massachusetts that all that remains on this side, as far as I know at this time, are some illuminating closing remarks.

Mr. MOAKLEY. Mr. Speaker, at this time, I would like to congratulate my dear friend from Florida for bringing forth an open rule which I am very happy with; and I will tell him I will vote for the rule.

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

Mr. GOSS. Mr. Speaker, I yield myself the balance of my time. Mr. Speaker, I will try and be brief. I have got about 2 minutes' worth of summation here.

I realize that when we talk about the rule in this hour set aside for the rule sometime some of the technical aspects seem to get lost in some of the other material that comes forward. I would like to refocus that this is actually the right rule and I believe it deserves all of my colleagues' support, no matter what their feeling is on the subject matter.

To describe this as a silly rule, especially by the gentlewoman from Texas, who is a regular attendee at the Committee on Rules meetings and knows how hard we work up there, is indeed disappointing. I do not think this is silly at all. And, frankly, I think the substance is silly. I think it is troubling.

We have got an underlying resolution here that actually brings forward an important question to the American taxpayer, and it is simply this: Should the taxpayer be held liable for what in this case a judge has determined to be dishonest conduct of high-ranking Government officials and lawyers? And I am not going to specify any. Should hard-working Americans be made to pay penalties of those at the White House who have been caught up in what the judge determined was a cover-up? That is what is being posed here in the resolution. Granted, it is the sense of Congress.

I believe most Americans would say no to those questions. They would simply say, pay your own penalties. Stop the shenanigans, and do not expect us to pay for these things. The resolution to that question is what we are discussing today. But, obviously, a sense of Congress is not going to resolve the matter.

I think there is an important point here. The President himself said it in this very Chamber not too long ago in the State of the Union address. We should all be accountable. Accountability is really what this is all about. Straightforwardness and accountability are really two of the basic precepts that we have in our Democratic governance.

Occasionally, these things seem to be the first ones thrown overboard when there is a squall in the area; and sometimes we rue the fact that the truth, the whole truth, and nothing but the truth are on the casualty list inside the Beltway. The information seems to surface in bits and pieces, and people are left with less than a clear and timely disclosure of facts that they are entitled to know about.

So the specific misdeed that we are addressing here today took root early in the Clinton administration, as I understand it; and in an effort to avoid, what I think was a wrong effort to avoid, candid public debate on the merits of a health care proposal which involved universalizing or nationalizing our health care system, the White House did, in fact, hold secretive closed-door sessions, which is, in my view, completely contrary to the spirit and the intent of the Federal Advisory Committee Act, which calls for sunshine.

They had something to hide, as it turns out. It turned out to be an ill-conceived health care scheme that they were trying to sell to the United States of America.

The idea I think of that scheme was that Washington, not your own doctor, knows what is best in terms of our own health care; and when the sunshine finally shone on that proposal, the American people saw it for what it was, and it fell of its own weight, and it was soundly rejected.

But to compound to this circumstance, and here is what I think why it is a real problem and why this is serious business and we are taking it up today, is that White House officials and White House lawyers, at someone's direction, stonewalled efforts by the judiciary branch to determine the makeup and content of these health care advisory meetings. There was something wrong there.

In fact, the administration produced a statement to the court that was, to use the court's words, the judge's words, ''simply dishonest.'' We cannot ignore that the judge called it a cover-up at the highest levels of government and ordered over $285,000, $285,000, in sanctions and penalties costs.

These are not words and actions of some alleged radical right wing group. This is the court. These are the conclusions of the sister, co-equal group of government, the judiciary, doing its job. The White House was, quote, simply dishonest, acting in bad faith. So said the judge. We cannot ignore that.

Now that the facts are in and the sanctions have been levied, the White House's guile on this I think is matched by arrogance, which I frankly do not like. They got caught. The judge said they acted dishonestly. And now they are saying to the American taxpayers the equivalent of, tough luck, you have got to pay the penalty.

Now we have heard some of the legal reasons from our distinguished colleague and jurist from California, and I suggest the American people are more interested in justice than they are in the legalese of lawyers.

I would like to submit for the RECORD the letter of December 29, 1997, from the Deputy Chief of Staff of the White House to the Honorable BILL ARCHER, Chairman of the Committee on Ways and Means, saying that the White House will rely on the taxpayers paying this fine, paying these sanctions.

Because I think that is wrong. I think this is running and hiding behind a piece of legislation that is not appropriate at this point and that is not acceptable, either, to the Americans. American taxpayers, in my view, should not have to pay for White House misdeeds.

THE WHITE HOUSE,
Washington, December 29, 1997.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: I am writing in response to your December 27, 1997 letter to the President concerning Judge Royce Lamberth's ruling regarding the American Association of Physicians and Surgeons' claim for legal fees related to the Health Care Task Force litigation.

The Department of Justice is still reviewing whether to appeal Judge Lamberth's ruling. Nevertheless, the President is confident that Mr. Magaziner acted appropriately in this matter. The facts as well as the findings by the U.S. Attorney's Office in its 1995 investigation of Mr. Magaziner's conduct in this matter support this conclusion. In particular, the U.S. Attorney's Office determined that ''there is no basis to conclude that Mr. Magaziner committed a criminal offense in this matter. There is no significant evidence that his declaration was false, much less that it was willfully and intentionally so.'' Moreover, Mr. Magaziner acted upon the advice and guidance of government lawyers.

As the President has stated, Mr. Magaziner is and will remain a valued member of this Administration. He is a hardworking and dedicated public servant.

Judge Lamberth awarded fees pursuant to the Equal Access to Justice Act. Should his ruling stand, the fees will be paid in the normal course, using appropriate government funds.

Sincerely,

JOHN PODESTA,
Deputy Chief of Staff.

Mr. Speaker, the underlying resolution is not binding. We said that. We are not forcing the administration to do anything today. We are not trying to point fingers at individuals, at least I am not. But we are sending a clear message to constituents across the country that Government officials and lawyers must be held accountable for their actions. We are asking for accountability.

There is no reason why hard-working Americans should pay through taxes almost $300,000 in sanctions levied against the Clinton White House. Somehow I think those taxpayers have got better use for that money.

When there are ethical breaches of the White House, especially this White House that pledged to be the most ethical of all White Houses, the fault lies there. I think they should accept the responsibility and pay these sanctions, and I do not think the American people should be asked to do this.

I applaud my friend, the gentleman from Arizona (Mr. HAYWORTH), for bringing this issue forward. I urge my colleagues to consider the American

taxpayers when they vote and to consider the underlying need for accountability and what that means for the credibility of governance in this democracy, which is, after all, the foremost democracy in the world.

Mr. Speaker, I yield back the balance of my time; and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to House Resolution 345 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 joint resolution, H.J. Res. 107.

□ 1658

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 joint resolution (H.J. Res. 107) expressing the sense of the Congress that the award of attorneys' fees, costs, and sanctions of $285,864.78 ordered by United States District Judge Royce C. Lamberth on December 18, 1997, should not be paid with taxpayer funds, with Mr. LATOURETTE in the chair.

The Clerk read the title of the joint resolution.

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

Under the rule, the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from California (Mr. STARK) each will control 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. HAYWORTH).

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

Mr. Chairman, what this committee is preparing to deal with is a very serious matter that goes to the heart of our constitutional republic; and it is this: that, Mr. Chairman, fundamentally there has been a breach of trust emanating from the executive branch of this administration with the citizens of this constitutional Republic.

□ 1700

It has been reflected in what a U.S. District Court judge calls a dishonest way by those who have led the so-called Health Care Task Force in the executive branch of government.

It is clear what has transpired: In a debate on national health care, rather than involving the American people, rather than involving many Members of this institution, as has been pointed out by my colleague from California, those at the White House, specifically Mr. Ira Magaziner, strove to shut off public scrutiny, strove to make secret the deliberations of this so-called Health Care Task Force, to come up with a Rube Goldbergesque plan to socialize our Nation's health care that eventually collapsed of its own weight, because it fundamentally denied the American people what is so vital within our Republic, and that is the concept of choice.

But above and beyond that, legal action was taken when a group of doctors went to court to say this is fundamentally wrong. It violates Federal law. And, as has been pointed out in the rules debate, Mr. Magaziner and other officials of the Health Care Task Force testified in front of Congress that this was only made up of Federal employees, that no one else was involved, and, therefore, no names need be submitted for the record as commensurate with public law.

That was wrong. Accordingly, the courts ruled that was dishonest. And here we come to the fundamental breach of trust, and it is this: That in handing down his decision, Judge Lamberth said that there would be attorneys' fees that would be owed.

Now, I appreciated in the rules debate the legal nuances offered by my colleague from California (Mr. CAMPBELL). But let me simply restate what I perceived to be the mission of this House and the mission of those of us who serve in the legislative branch.

We, Mr. Chairman, are here to be guardians of the public Treasury and the public trust. There is no reason on earth why hard working American taxpayers should be called upon to ante up in excess of $285,000 to satisfy the legal fees in this civil case, because the American taxpayers are not culpable. Those within the executive branch of our government, those within the administration, are in fact culpable for this, and this House should go on record with this sense of the Congress resolution.

Now, I noted with great interest the comments of my colleague from Massachusetts (Mr. FRANK), who in seeking to demean the whole notion of the sense of Congress resolution said it carried no effect.

Mr. Chairman, that is incorrect, because the sense of the Congress resolution, first of all, sends a message to the executive branch, and serves as an entreaty to our chief executive, to the President of the United States, to say to him, Mr. Chairman, that perhaps the President ought to rethink this, and he has the chance to change his mind. Because even more disturbing is the letter that was entered into the record a little earlier by my distinguished colleague, the gentleman from Florida, where the White House, in writing back to the chairman of the Committee on Ways and Means, said that appropriate government funds would be used to pay this penalty.

I believe that to be wrong. So, first of all, the sense of the Congress resolution serves as an entreaty to the executive branch to say, think again. Use another mechanism, but not the tax money of hard-working American people, to satisfy this fine in excess of $285,000.

But, moreover, as pointed out by my colleague from Arizona, a member of the Committee on Appropriations, other action may be taken within the appropriations process. As my colleague stated and as he implied, there may be the entire action of rescissions of a like amount from the executive branch's budget to deal with this.

So let me suggest to those who would try to say that somehow this is not important, that it is some sort of political posturing or stunt, nothing could be further from the truth.

Mr. Chairman, I must also point out, because we heard a bit of it in the rules debate, that I have no doubt that others will come here not to debate the focus of this resolution, which is to protect the money of the taxpayers, but, again, to come up with a type of soup-to-nut government-run health care plan that they will try to offer with some nuances here on this floor to change the subject.

Let me again suggest to all of my colleagues, Mr. Chairman, that the subject of health care debate is important, and it should be held in this forum, but on another occasion, because this sense of the Congress resolution deals with something fundamental and vitally important, protection of the taxpayers' funds and healing this breach of trust. That is what we must do, and that is why I believe this resolution should be passed unanimously, if possible.

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

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

Mr. Chairman, I would just like to say to the gentleman from Arizona, we can settle this right now. As we have heard earlier, the sense of the Congress resolution would have no legal effect. What the American Law Division told me is if its language was introduced as a bill, its effect would work, if it is not ruled unconstitutional.

So I would ask the gentleman if he would object if I asked unanimous consent that on page 3, that we strike all of section 2, basically which is the section that talks about a joint resolution, and merely reword the language to say, ''No payment of award by taxpayers. The award of $285,684.78 in attorneys' fees, costs, and sanctions that Judge Royce C. Lamberth ordered the defendants to pay in Association of American Physicians and Surgeons, Inc., et al., v. Hillary Rodham Clinton, et al., shall not be paid with taxpayer funds.''

I would offer that as a unanimous consent. We could agree, and go home.

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

Mr. STARK. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, I would have to reserve the right to object, and I would object, because, in keeping with the comity of this House, in keeping with the nature of civil debate and full discourse, this is precisely

intended, as I said just moments ago, as a first step.

We offer this as an entreaty to the President of the United States to ask him to change his mind, to take the first step to mend this breach of faith and breach of trust, and I offer that in that spirit, and also again would make note of the record that exists earlier and the comments of my colleague from Arizona, who said he is perfectly willing to take solid action within the appropriations process.

So I would have to object to the unanimous consent request, Mr. Chairman.

Mr. STARK. Mr. Chairman, reclaiming my time, it shows me the majority is not serious about doing this. This is, indeed, as this certifies, they are just playing games here and posturing, because if they wanted to not spend the money, we could have done it right then. I offered it, we could have passed it, gone home. Absolutely the money would not get paid. Now we are just posturing.

Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. CARDIN).

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

Mr. Chairman, this resolution deals with the President's Task Force on National Health Care Reform. That task force was concerned about quality health care for the people of this country. It dealt with many subjects, including how to expand health care insurance for many Americans who had no health care insurance, and it was also deeply concerned about quality standards and consumer protection for people who are in managed care programs.

Each of us have heard from our constituents their concern that the practice of medicine, the medical decisions are being made by bureaucrats rather than by medical professionals.

The United States District Court ruling that is the subject matter of this resolution awarded attorneys' fees for some physicians who challenged the work of that task force. This sense of Congress resolution says that those attorney fees should not be paid for by taxpayer funds.

As the gentleman from California (Mr. CAMPBELL) pointed out, the law says that attorneys' fees can only be paid for by the government, and, therefore, if this sense of Congress resolution was carried out, if we made it law, as my friend the gentleman from California (Mr. STARK) pointed out, the plaintiffs in that lawsuit would not be able to recover any attorneys' fees, which is certainly contrary to the intent of the sponsors of this resolution.

That is why this sense of Congress resolution makes no sense. The impact, though, could have an impact. As the subcommittee chairman Mr. KOLBE pointed out, it is his intention to deny these funds from the White House budget. Therefore, this resolution could have an effect if we pass it, a psychological effect and a chilling effect, on people who want to serve their government on task forces that look at problems.

The work of the President's Task Force on National Health Care Reform goes forward. We have had a President's Commission on Quality Standards for Managed Care. The work of the task force moves forward, important work. We have legislation pending that deals with those recommendations.

One deals with external appeal for managed care programs. I received a phone call this morning from a constituent, a constituent whose child needed institutional care, who was being threatened to be taken out of the hospital just arbitrarily by the managed care operator. That is wrong. That plan had no external appeal, independent appeal, so that person could take that grievance to an independent body.

We need to correct that. We need people who are willing to serve on task forces to correct that. This resolution will have a chilling effect on people serving on those types of task forces.

We have legislation here that would provide access to emergency care. Today I can tell you of examples in my community where people who are in a managed care program go to an emergency room. They have chest pains, they are sweating, they think they are having a cardiac problem. They go to the emergency room. The good news is that they didn't have a heart attack, but then when they get the bill from the hospital and the managed care plan refuses to pay because the diagnosis was not an emergency, they almost have a heart attack.

We need to enact legislation, the work of that task force, in order to correct those problems. We have circumstances every day that people need referral to specialists, and the managed care plan prevents that referral. We need people willing to serve on task forces in order to correct those problems.

So, Mr. Chairman, it is important that we do not send the message out today that we do not want to see people work and provide their expertise and independence, so the Congress can get the benefit of their work.

The sense of Congress resolution should call upon us to enact quickly the consumer protection provisions for managed care plans. Then the sense of Congress resolution would make more sense. Better yet, we should use the time tonight that we are debating this resolution to debate the bills themselves, to provide the protection that each of our constituents want and deserve. Why not bring those bills before us this evening, and then we really could provide the protection that people need that are in managed care programs.

If we did that, then the call I received today from my constituent, we would not be receiving them tomorrow, and we will be receiving those calls tomorrow, each one of us know that.

I hope that we can turn this resolution into action, so that this Congress acts on what is really important to my constituents, providing national standards for quality care in this country. Then we will be doing a service to the taxpayer.

Mr. HAYWORTH. Mr. Chairman, as I am proud to note, I am a cosponsor of the access to emergency care bill.

Mr. Chairman, in keeping with the tradition of maintaining debate on the subject at hand, I am pleased to yield 4 minutes to the gentleman from the Commonwealth of Pennsylvania (Mr. ENGLISH), my colleague on the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, if the opponents of this resolution are successful, it will indeed have a chilling effect. It will have a chilling effect on efforts to open up and provide sunshine into every area of government, because the issue before us is basically a sunshine issue. Every supporter of open government and public accountability should be prepared to support this resolution. This is about the illegal efforts by some in the current administration to draft a sweeping and radical health care bill in secret.

□ 1715

Operative word: In secret. Whether one likes the legislation or not, it is problematic that the task force that is referenced in this resolution had meetings closed to the public. They proceeded cloaked in a shroud of secrecy. If one is doing good work and in the public interest, one should have nothing to hide.

This issue is also about telling the truth. When that does not happen, the guilty should be punished, not the innocent. Judge Lamberth I think was compelling on this point when he found improper behavior, and let me specifically reference some things from his decision. He said, ''Government's responses were preposterous, incomplete and inadequate.''

Elsewhere he said, ''The court finds clear and convincing evidence that sanctions should be imposed because of the government's misconduct in this case.''

Elsewhere he says, ''It is clear that the decisions here were made at the highest levels of government and that the government itself is, and should be, accountable when its officials run amok. The executive branch of the government working in tandem was dishonest with this court and the government must now face the consequences of its misconduct.''

Finally, Mr. Chairman, Judge Lamberth wrote, ''It seems that some government officials never learn that the cover-up can be worse than the underlying conduct. Most shocking to this court and deeply disappointing is that the Department of Justice would participate in such conduct. This type

of conduct is reprehensible and the government must be held accountable for it.''

Accordingly, Mr. Chairman, Judge Lamberth imposed the sanctions on Mr. Magaziner, and this $285,000 punishment, in my view, should be covered by the guilty party, not borne by the taxpayers.

This is a very simple issue. If one believes that this outrage should be swept under the carpet, if one thinks that Mr. Magaziner's penalty should be paid by the taxpayers, then by all means vote no on this resolution. If one wants the House to go strongly on record opposing this cover-up and insisting that the taxpayers not foot the bill for Mr. Magaziner's penalty, then I think the Members of this House have an obligation to vote aye.

To the opponents of this resolution, whom I very much respect, I would suggest to them, do not change the subject. The ends do not justify the means. If this were a Republican administration engaged in this kind of conduct, I think their outrage would be palpable here.

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

I really cannot resist, gentlemen. I think my colleagues are on pretty thin ice when they start talking about who is lying and who is hurting the American people. I remember when Secretary Schlesinger and Secretary Kissinger lied to this Congress and thousands of Americans died unnecessarily in Vietnam. Put that in your book against 238,000 bucks and see how you come out. I can remember when Nixon lied and we put him away. I can remember when Harding lied over an oil deal, by golly, and we put him away.

So there is nothing partisan or unique about politicians stretching the truth. Our own Speaker may have very well been dealt with and have to pay some money or have other people pay it. Let us not get into whether all politicians never lie, ever lie, maybe lie, should not lie.

I am willing to stipulate to my distinguished friends that Ira Magaziner did the wrong thing in spades. I would go further and say, I think he is kind of a nut. But my colleagues should be happy that he is still working for President Clinton. He will do more to help us inside the White House than if we put him in jail. So I say, why do we not stay ahead of the game? Let the guy in there.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from Pennsylvania.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, just quickly, that is not the sort of partisan advantage I would seek, and I thank the gentleman for yielding.

Mr. STARK. Mr. Chairman, reclaiming my time, seriously, nobody is debating that there was serious error, but I do not think anybody in this Chamber can debate the other side and say, nobody else has ever made an error as egregious or as costly, either in dollars or in human life. That is not the issue.

I think I established with my good friend from Arizona that they would rather have this as a debate to in effect tweak the White House, see if they can humiliate the President a little bit. Although it seems to be with events that have led up to this, they have tried and have not succeeded. His popularity is high because he has done a good job with the budget; he has done a good job of addressing all of the things that the Republicans were unable to do that the Democrats did. So I do not know as this is going to make a major difference.

But the resolution deals with government officials using private citizens. Is it any worse to meet with lobbyists in private to try and destroy health insurance to fight for improvements in health care in America? We have a memo from the Health Insurance Association of America, the for-profit health insurance lobby, and it talks about the Speaker's aides calling lobbyists up to Capitol Hill to trash a bill to provide consumer protections in HMOs. That was done in secret.

Is that any worse than a goof-up like Magaziner making the wrong statement and not letting us find out about a health care plan that never came through? I do not think so, because I think every American wants to see managed care protections. So when the Republicans, to be trying to defeat the bill of the gentleman from Georgia (Mr. NORWOOD) in secret, to me is more harmful than bashing this and not really stepping up to the bar. I would like to save the $285,000 just like my colleagues would, but they turned down my unanimous consent request to do that.

There is a fly-in today, not a fly in the ointment, I mean a fly into Washington. The National Association of Manufacturers, that outgrowth of the John Birch Society, is staging a fly-in to get sponsors off of the bill of the gentleman from Georgia (Mr. NORWOOD), which would protect consumers in this country from egregious treatment by managed care plans.

Now, this was perpetuated by the Republican leadership, certainly not in open court, in an attempt to kill a bill that has enough cosponsors to pass. Is it egregious? No. Mean-spirited? Yes, I would say so. I think that trying to help get 41 million people insured who are uninsured was a good effort in 1993. The Republicans defeated that, and I think that there was indeed a screw-up by Mr. Magaziner and the administration, but I am just suggesting to my colleagues that this tends to point us away from the important issues of the day, and the issues of the day are not whether they are going to pay $285,000 out of the Treasury, because this resolution will not have any effect on that one way or the other. I offered to do that, my colleagues turned it down.

It cannot be just about lying, because that does not seem to be the special province of any party or any body to government or any particular social institution in general. It certainly cannot be that my colleagues just want to humiliate the President, because there is a long line outside the White House of people who are trying to do that now, and it does not seem to have much effect, because at least, regardless of what went on in 1993, the President is doing this: He is addressing the issue of helping children. He is addressing the issue of getting insurance to people where the private sector will not give it to them now, and the only objection I am getting from the other side of the aisle is that government is doing it. Well, that is an objection, I guess, if my colleagues believe that. He is addressing the issue of a cleaner environment. He is addressing the issue of helping small business provide retirement funds.

Now, we can embarrass him, but I will tell my colleagues, the American people know that he is trying to deal with the issues that are important to them.

So I would hope we could say again and again, Ira Magaziner was a bum. Ira Magaziner ought not to have been there and he did not help promote the health care of this Nation at all. He is an embarrassment, he ought to go back and continue to ruin General Motors or Electric or whatever he did before he came here. I stipulate to that. I do not care. If there is a way my colleagues could find, and I offered it to them to get the $285,000 out of his hide. I lead the parade. My colleagues turned down that offer.

So why do we not just agree, I say to the gentleman from Arizona (Mr. HAYWORTH), my good friend, that he was a bum, the government made a mistake, we do not want him to pay $285,000, my colleagues do not want him to pay $285,000, but this bill is not going to stop it, and we have had an interesting debate.

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

Mr. HAYWORTH. Mr. Chairman, I yield myself such time as I may consume before I yield to the gentleman from Texas (Mr. JOHNSON), because the charges of my good friend from California and his very interesting, somewhat jaundiced revisionism of history certainly need a response.

First of all, it is worth noting that this new majority in the Congress has worked to enact quality health care reforms. In 1997, in bipartisan fashion, our Balanced Budget Act saved the Medicare program from bankruptcy for at least a decade and helped extend health care coverage for up to 5 million uninsured children. This new majority in 1996 enacted the Health Insurance Portability and Accountability Act to help workers keep health insurance when they changed jobs or lose their job, and, Mr. Chairman, I would point to a more recent piece of history that I am sure my colleague from California remembers. The gentleman from California (Mr. STARK) was one of only two

Members of the House of Representatives, from all of the Republicans and Democrats here, to vote against the bipartisan Health Insurance Portability and Accountability Act, which the General Accounting Office found would help 25 million Americans.

I would concur with my colleague from California that some folks are absolutely beyond humiliation. I might also state that that may be one of the major problems we face in this Nation today. But again, the purpose of this sense of Congress resolution is to say this: It is to say, Mr. Chairman, to the executive branch and specifically to the President of the United States, that here is a chance to change our minds and go on record and mend this breach of trust and pay the fees.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Chairman, I would like to say to the gentleman from California (Mr. STARK) that I like his comment: Ira Magaziner is a bum. I will just call him that. But there was a difference in this case because there was a judge involved, and I think we have to protect the American taxpayer from paying that $286,000 for a crime they did not commit.

In 1993, the President did form a secret task force to try and socialize the best health care system in the world, to put the lives of all Americans in the control of our government. A U.S. district judge recently ruled the President's task force engaged in ''dishonest and reprehensible conduct'' and levied that fine of $286,000, and the President believes the American people ought to pay that fine. That is unbelievable. Here we have a secret task force that did not consult with the American people, trying to destroy the best health care system in the world, and that same administration has the audacity to turn around and tell the American people, they break the law and pay a fine. I am outraged. Pay this fine? No, no, I do not think so. The American people ought not to have to give up their hard-earned dollars to a government that already takes over 38 percent of the taxpayers' income anyway.

Mr. Chairman, where is the accountability? It is time for people who break the law to stand up and take responsibility. I think Mr. HAYWORTH is right. The President made these same remarks in his State of the Union speech. The task force should take responsibility for their conduct. The task force should pay the fine themselves.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

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

Mr. KENNEDY of Rhode Island. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, I wanted to ask the gentleman from Arizona a question. My colleague wanted to talk about what bills had passed. Can the gentleman from Arizona tell us whether the Republican leadership intends to bring forward a bill on consumer protection and managed care and when we can expect to that have bill on the floor?

Mr. HAYWORTH. Mr. Chairman, if the gentleman will yield, I thank my colleague for asking me the question. As I am not part of the leadership, I am not sure when those bills will be brought up.

Mr. CARDIN. Mr. Chairman, that is the answer I thought I would receive.

The gentleman from Arizona (Mr. HAYWORTH) was talking about what he was able to bring forward. I thought you could at least give us some assurances that we will be able to take up bills that are important to our constituents.

□ 1730

Mr. KENNEDY of Rhode Island. Mr. Chairman, reclaiming my time, I hope that the American people watching this will be able to sort out all of this gobbledygook back and forth and to really understand that this is a resolution, every side is trying to make some points on it, and some partisan banter.

But I think the point that the gentleman from Maryland (Mr. CARDIN) mentioned is the point that we should be addressing and, unfortunately, it is not in this debate that we are having. It does merit some consideration.

What is being proposed in this resolution is a condemnation of a fellow, who by the way in my State of Rhode Island is held in high esteem, Ira Magaziner, someone who has committed his life to public service. Maybe he did some things that were wrong; i.e., he held meetings in secret. But let us understand what he was trying to do. He was trying to come up with a plan to make sure that all Americans in this country would be able to gain access to quality and affordable health insurance.

Now, is that so wrong? Okay, it may have been a secret plan. But that is because he wanted to keep it a secret from the insurance industry that, once this plan got out, was sure to attack it. The American people who are out there know what I am talking about. They remember the ''Harry and Louise'' ads on TV condemning the President's plan to make sure that every American got insurance.

Mr. Chairman, the American people have seen the insurance industry repeatedly go against the kind of health care reforms that the Democratic Party and the President have been trying to usher through.

Mr. Chairman, I call the attention of my colleagues to a memo by the Health Insurance Association of America. It was regarding the Republican leadership to kill health insurance reform. They killed it when the President proposed it. They are trying to kill health reform once again in this Congress.

Mr. Chairman, listen to what they say in this memo. They said, ''Republicans need a lot of help from their friends on the outside.'' I wonder who that could be. Maybe the insurance industry. ''Get off your butts and get off your wallets.'' Come on insurance industry. Give us your money, because we have got to make sure we can still make money off of people.

And how do we make money off of people? We deny them health insurance. If they get sick, we deny them care. It is very elementary common sense. The American people understand how health insurance makes money. They make money by ripping off the American people.

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

Mr. Chairman, I listened with great interest to the gentleman from Rhode Island and want to thank him for offering his letter or memo in enlarged fashion.

Let me also point to another very enlightening piece of correspondence which again reaffirms our reason for this sense of the Congress resolution.

It is because, despite the fact that the gentleman from California (Mr. STARK) has been rather forthcoming in his analysis and how he perceives the disposition of one Mr. Ira Magaziner vis-a-vis his involvement in government and while he may have a bone of contention with the gentleman from Rhode Island (Mr. KENNEDY), this case involving Mr. Magaziner is not an isolated incident.

Mr. Chairman, I point to the work of the gentleman from California (Mr. THOMAS), chairman of the Subcommittee on Health of the Committee on Ways and Means. If it were not for the work of the gentleman from California (Mr. THOMAS), another committee would be meeting today behind closed doors in violation of the Federal Advisory Committee Act.

The gentleman from California suspected that the Health Care Financing Administration's Technology Advisory Committee, the committee that makes national coverage decisions that affect our 37 million seniors, operated behind closed doors in violation of, with its handpicked members of the public. He immediately called for an investigation by the GAO.

Mr. Chairman, here is the letter from the General Accounting Office dated January 13. Five major violations, Mr. Chairman, which include: one, failure to hold meetings that are open to the public; two, failure to provide public notification of the creation of a committee; three, failure to charter with the head of the agency, the administrator of general services and the congressional committees with legislative jurisdiction; four, failure to sunset the committee within 2 years unless renewed by the agency; and, five, failure to keep records that fully disclose the use of funds by the committee.

Now this is the most important thing, and I am glad the gentleman from Maryland (Mr. CARDIN) was listening. Since this discovery, HCFA scrambled to comply. The first move

was to cancel the scheduled meeting February 3 and 4. Mr. Chairman, as we see, they were going to continue the meetings right now behind closed doors. The breach of trust grows ever wider. It makes this sense of Congress resolution all the more important.

Mr. KENNEDY of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I am sure that recitation of all the facts regarding these meetings really did a lot for the American people, the 40 million Americans who are without health insurance today. I am sure the gentleman is really glad that he did point that out.

Mr. HAYWORTH. Mr. Chairman, reclaiming my time, I think it is important; and certainly my colleague would join with me in agreeing that the first step to sound public policy is an open, honest debate as we hold here on the floor. It should not be reserved solely for this Chamber or this Committee of the Whole House. Instead, it should also extend, as it does under law, to other committees.

I am sure my colleague would concur with me that we may have differences on how best to insure uninsured Americans, but one vital step that I believe the gentleman's family and his long tradition of public service would point out is that there should be honesty with this policy, and so I trust he joins me in outrage about this meeting behind closed doors.

Mr. Chairman, I insert the following for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, November 7, 1997.

BILL SCANLON, Ph.D.,
General Accounting Office, Health Financing and Systems, Washington, DC.

DEAR BILL: I am concerned by reports that the Department of Health and Human Services is using an advisory committee without complying with the requirements of the Federal Advisory Committee Act. I request that the General Accounting Office review the matter for the Committee.

According to Department documents, the Technical Advisory Committee (TAC) makes recommendations to the Office of Clinical Standards and Quality in the Health Care Financing Administration concerning, among other things, whether particular medical technologies are appropriate for Medicare national coverage. Membership of the TAC comprises both government employees and selected medical directors of Medicare carriers, which are private sector entities.

The Federal Advisory Committee Act provides generally that meetings of an advisory committee, as defined in the Act, must be open to the public. The TAC, because it has members who are not government employees, appears to fall within the definition of advisory committee in the Act, yet its meetings are closed. In addition, the TAC may be in violation of other provisions of the Act that govern the formation and operation of advisory committees.

Please provide the following: (1) a description of the responsibilities and operations of the TAC; and, (2) a legal opinion concerning whether the TAC is in compliance with the requirements of the Federal Advisory Committee Act and, if it is not, the legal implications of that violation.

Thank you in advance for your assistance. If you have any questions about my request, please contact Allison Giles of the Health Subcommittee staff at 225–3943.

Sincerely,

BILL THOMAS,
Chairman.

U.S. GENERAL ACCOUNTING OFFICE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, January 13, 1998.

Hon. BILL THOMAS,
Chairman, Subcommittee on Health, Committee on Ways and Means, House of Representatives.

DEAR MR. CHAIRMAN: The Health Care Financing Administration created the Technology Advisory Committee to provide it will expert advice concerning whether Medicare should cover specific technologies on a national basis. In your November 7, 1997, letter to this Office, you asked that we provide a description of the responsibilities and operations of the Committee. You also requested that we provide our opinion whether the Committee is in compliance with the requirements of the Federal Advisory Committee Act and, if it is not, that we discuss the legal implications of that violation.

The purpose of the Technology Advisory Committee (the Committee) is to help the Health Care Financing Administration (HCFA) make decisions concerning whether Medicare should reimburse providers on a national basis for new procedures and technologies. Until HCFA makes a decision to provide national coverage, the carriers—the private-sector companies that operate the Medicare program under contract with HCFA—may decide individually whether they will cover a particular technology.

The Committee meets several times a year to consider an agenda established by HCFA. The membership has consisted of both government employees and carrier medical directors. Although it merely provides information in some instances, the Committee has on occasion made recommendations to HCFA.

As it was constituted as of December 31, 1997, the Committee was an advisory committee as defined in the Federal Advisory Committee Act (the Act of FACA), but was not operating in compliance with the Act. The Act requires that meetings of an advisory committee be open, unless a specific exception to that requirement is invoked. Although HCFA promptly publishes a summary of meetings of the Committee after they take place, the meetings are not open to the public, and no exception has been invoked. The Committee has also not been in compliance with other provisions of the Act. These include the requirements that the head of the agency, in consultation with the Administrator of General Services, make a formal determination that creation of an advisory committee would be in the public interest, that a charter for an advisory committee be on file with the agency using it and with the congressional committees having legislative jurisdiction, and that the committee have an expiration date.

The Act is silent concerning the consequences of non-compliance. A person who can establish that he is adversely affected by the violation can seek relief from the courts, which are free to craft what they consider to be an appropriate remedy. For example, when the complaint is based on failure to hold open meetings, the courts have ordered that the meetings be opened.

HCFA, in commenting on a draft of this letter, acknowledged that the Committee was ''likely not in compliance with the requirements of FACA,'' and indicates that it is taking steps to cure the violation. HCFA points out that the Committee ''performs a very important role in augmenting the limited clinical resources available on our staff to review the scientific evidence respecting the appropriateness of extending Medicare coverage to specific health care items and services.'' HCFA and the Department of Health and Human Services are therefore developing a proposal for a new committee, chartered under the Act, and with broad public membership, that would in effect replace the existing Committee. Pending that decision, HCFA will ''reformulate the current committee'' with membership limited to federal employees. (We were told that this would be done before the next scheduled meeting of the Committee in February.) A committee so constituted would not be subject to the Act, which excludes from coverage committees consisting entirely of full-time government officers or employees.

We agree with HCFA's course of action. In the short term, it will cure the violations that now exist. In the longer term, HCFA's consideration of a reconstituted committee with broad public representation that will comply with the Act is worthwhile; although we have not analyzed the operation of the Committee in depth, we found no reason to doubt that it performs a useful function for HCFA. Moreover, it seems reasonable that, as HCFA believes, the presence on the Committee of carrier medical directors brings an added valuable perspective to the Committee's deliberations, and that there may be merit to having additional public representation.

A more detailed discussion and a copy of the comments provided by the Health Care Financing Administration on a draft of this letter are enclosed.

As arranged with your office, unless you announce its contents earlier, we plan no further distribution of this letter until 30 days after this date. At that time, we will send copies to the Administrator of HCFA and interested congressional committees. Copies will be made available to others on request.

If you or your staff have any questions, please call me at (202) 512–8203.

Sincerely,

BARRY R. BEDRICK,
Associate General Counsel.

Enclosures.

The Technology Advisory Committee

The Technology Advisory Committee (the Committee) was established by the Health Care Financing Administration (HCFA) to advise it concerning whether new medical techniques and products should be covered under Medicare on a national basis. HCFA has described the functions of the Committee in part as follows:

''[The Committee] serves in an advisory capacity to HCFA's Office of Clinical Standards and Quality (OCSQ). Its major focus is to assist HCFA in its technology assessment efforts, to recommend whether a technology is appropriate for Medicare national coverage policy, and to refer topics to the Agency for Health Care Policy and Research . . . or other technology assessment expert, for a comprehensive technology assessment when appropriate.''

Although many Medicare coverage decisions are made locally by the carriers that administer the program under contract, HCFA has an ''overall interest in increasing the consistency of coverage policy among carriers and making national policy for coverage issues that are significant.''[1] The Social Security Act specifies certain Medicare

[1] Prepared statement, ''Medicare Coverage Policy,'' by Bruce C. Vladeck, Administrator, Health Care Financing Administration, before the Subcommittee on Health, House Ways and Means Committee, April 17, 1997.

benefits, but in addition gives the Secretary of Health and Human Services discretion to cover additional items as long as they are ''reasonable and necessary for the diagnosis and treatment of illness or injury or to improve the functioning of a malformed body member.'' The Committee is used to help HCFA decide which items fall within that definition:

''. . . The [Committee] provides interchange between local and national policy and considers when an issue becomes of such prominence that it warrants a national policy. HCFA develops the agenda that the [Committee] will follow to evaluate and make its recommendations. The [Committee] could recommend that HCFA: issue a national coverage policy, refer the issue for assessment by the Public Health Service or other qualified assessment organization, postpone the decision until there is more information, or decline to establish a new policy. HCFA can then accept or reject the [Committee's] recommendation.''[2]

Membership on the Committee was originally limited to HCFA employees, but was gradually broadened to bring in employees of other components of the Department of Health and Human Services (HHS) as well as of other federal agencies and, eventually, the medical directors of the carriers. At present,[3] the membership of the Committee comprises representatives of HCFA and other agencies within HHS,[4] representatives of the Department of Veterans Affairs and the Department of Defense, and medical directors of the carriers. An official of HCFA's Office of Clinical Standards and Quality serves as chairman.

The expansion of the Committee's membership coincided with an evolution of its functions. Originally the Committee reviewed whether a technology assessment by the Public Health Service was needed and helped to prepare requests for such assessments. Over time, the committee took on additional responsibility and began to make its own assessments. Current practice is for the Committee to discuss the scientific evidence, and for members to express their views on whether that evidence supports Medicare coverage.

Meetings of the Committee are closed, but HCFA has made information on the meetings, including agendas and minutes, publicly available through HCFA's Home Page on the Internet. According to the former Administrator, ''[t]his is one of the means by which we hope to increase participation by interested parties.''[5]

The published minutes of Committee meetings provide illustrations of its operation. During its August 5–6, 1997 meeting, for example, the Committee considered, among other technologies, a test intended to assist clinicians in selecting chemotherapy agents by predicting tumor resistance to specific drug regimens. In determining the chemotherapy regimen for cancer, practitioners typically use the most powerful therapy available. If the first line of treatment fails, the second attempt at tumor control is rarely as successful as the first one. Therefore, it is important to be precise at the onset of treatment. The Committee considered evidence that the new test lets physicians avoid administering toxic agents that not only offer no benefit, but that lessen the likelihood that the next treatment will be effective.

The Committee agreed that a test of this kind would be beneficial but was concerned with the lack of data demonstrating clinical utility and acceptance of the particular test under consideration. The committee recommended to HCFA that the test not be covered.[6] (HCFA's coverage decisions do not prevent technologies such as this one from being used; the only issue for HCFA, and the Committee, is whether the technology should be reimbursable under Medicare on a national basis.)

The Federal Advisory Committee Act

In explaining the purpose of the Federal Advisory Committee Act (the Act), the Congress acknowledged that the numerous committees, boards, commissions, and other organizations established to advise the executive branch are frequently a useful and beneficial source of expert advice, ideas, and diverse opinions. At the same time, it found that the need for many then-existing advisory committees had not been adequately established, and that some committees continued in existence after they were no longer useful. The Congress concluded that additional controls were needed over advisory committees, so that it and the public would be kept informed with respect to the number, purpose, membership, activities, and cost of these committees. 5 U.S.C. app. 2 §2.

The Act achieves these ends through a set of requirements that apply to the formation and operation of advisory committees.[7] Advisory committees must have written charters on file with the head of the agency that created them, and with the congressional committees with legislative jurisdiction over the agency. 5 U.S.C. app. 2 §9(c). They must announce and hold open meetings unless one of several specific exceptions applies. Id. §10. They must cease operation within two years of their creation, unless expressly renewed. Id. §14. Advisory committees must keep publicly available records of expenditures. Id. §12. Requirements of the Act are implemented in regulations of the General Services Administration. Id §7; 41 C.F.R. Subpart 101–6.10.

The Committee is Subject to the Federal Advisory Committee Act

The Act covers the Committee. As defined in the Act, ''advisory committee'' includes ''any committee . . . which is . . . established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for . . . one or more agencies or officers of the Federal Government. . . .'' 5 U.S.C. app. 2 §3. The Committee is established and used by HCFA in the interest of obtaining advice or recommendations.

There are several exceptions in the law from the general definition in the preceding paragraph, but none applies to the Committee as it is currently organized. Two of the exceptions are for specific organizations; the third is for committees ''composed wholly of full-time officers or employees of the Federal Government.'' 5 U.S.C. app. 2 §3(2)(C). As it was originally constituted, the Committee was composed wholly of full-time government officers or employees and therefore came within the latter exception. However, once the carrier medical directors became Committee members, that exception was no longer available.[8]

The Committee is not in compliance with the Act. Among the most fundamental of the requirements with which the Committee does not comply is that meetings must be open and, subject to reasonable limitations, interested persons must be permitted to attend, appear before, or file statements with any advisory committee. 5 U.S.C. app. 2 §10(a). Meetings of the Committee have been closed in the past. In addition, the Committee was not established based on a formal determination by the head of the Department of Health and Human Services, after consultation with the Administrator of General Services, that its creation would be in the public interest (Id. §9(a)(2)), and does not have a charter on file with the Department and the authorizing congressional committees (Id. §9(c)). The Department of Health and Human Services does not keep records of costs and activities of the Committee. Id. §12. The Committee has continued in operation for more than two years despite not having been renewed by the Department. Id. §14.

Consequences of Violation

The Act does not prescribe remedies or penalties for violations, nor does it specify who may bring suit to challenge alleged violations. This in effect leaves it to the courts to decide who may bring suit and to craft remedies for violations.

Because the Act does not create a right to sue for violations, those seeking to challenge the operation of an advisory committee must first establish that they are directly affected in some fashion by the alleged impropriety concerning the committee. This establishes the requisite ''standing'' to sue.

In those cases where a plaintiff has been found to have standing, legal challenges under the Act have generally focused on two of its requirements. One of these is balance; that is, the plaintiff argues that the constitution of the committee unfairly weights it in favor of one point of view, in violation of the requirement that the membership of an advisory committee ''be fairly balanced in terms of the points of view represented. . . .'' 5 U.S.C. app. 2 §§5(b)(2), (c). The other requirement that commonly forms the basis for a challenge is openness; plaintiffs allege that they have not been permitted to attend meetings, or that they have been denied access to information about the operations of the committee. Id. §§8(b), 10(a)–(d).

Although there is no statutory penalty for violations of the Act, a plaintiff can ask a court to order appropriate relief. Courts have generally responded to violations of the openness requirement by ordering that the committee's proceedings be opened.[9]

In one instance where an order to open the meetings of the committee would have had no effect because the committee had completed its work before the lawsuit concluded, a federal appellate court upheld an order to the agency not to use the product of the committee's deliberations ''for any purpose whatsoever, directly or indirectly.[10] The court reasoned that ''to allow the government to use the product of a tainted procedure would circumvent the very policy that

[2] *Id.*

[3] As discussed further below, HCFA is in the process of reformulating the membership of the Committee to bring it into compliance with the Federal Advisory Committee Act. This discussion applies to the Committee as it existed as of December 31, 1997.

[4] The other HHS components represented on the Committee are the Food and Drug Administration and the National Institutes of Health.

[5] Vladeck statement, *supra.*

[6] This account is drawn from the summary of the meeting that HCFA posts on its Internet site.

[7] The Act provides different treatment in some respects for advisory committees created by statute, or created or utilized by the President. This discussion applies to advisory committees created by executive agencies.

[8] We understand that it has been suggested that the Committee might fall within the third exception on the theory that the carrier employees should be regarded as federal employees based on the unique and close relationship between the carriers and the federal government. However, this theory is untenable: carriers employees do not meet the legal requirements for status as officers or employees of the United States. Cf *Ass'n of American Physicians and Surgeons v. Clinton,* 813 F. Supp. 82 (D.D.C. 1993); rev'd. 997 F.2d 898 (D.C. Cir.); remand 837 F. Supp. 454.

[9] *Ass'n. of American Physicians and Surgeons v. Clinton,* 813 F. Supp. 82 (D.D.C. 1993); rev'd. 997 F.2d 898 (D.C. Cir.); remand 837 F. Supp. 454.

[10] *Alabama-Tombigbee Rivers Coalition v. Fish & Wildlife Service of U.S. Dept. of Interior,* 1993 WL 646410 (N.D. Ala. Dec. 22, 1993), aff'd. 26 F.3d 1103 (11th Cir. 1994).

serves as the foundation of the Act.'' It is not clear whether courts in the other federal circuits would take the same approach.

HEALTH CARE FINANCING ADMINISTRATION, OFFICE OF CLINICAL STANDARDS AND QUALITY,
Baltimore, MD, December 22, 1997.

BARRY R. BEDRICK,
Associate General Counsel, General Accounting Office, Washington, DC.

DEAR MR. BEDRICK: Thank you very much for giving us the opportunity to comment on a draft of your response to Congressman Bill Thomas, who has asked you for a description of the responsibilities and operations of HCFA's technology advisory committee and a legal opinion concerning that committee's compliance with the Federal Advisory Committee Act (FACA).

We believe the committee has been performing a very important role in augmenting the limited clinical resources available on our staff to review the scientific evidence respecting the appropriateness of extending Medicare coverage to specific health care items and services. The committee has also added valuable perspectives to our discussions about these coverage decisions, based on the experience of other agencies faced with similar issues and the experience of our contractors responsible for processing Medicare claims.

As your draft correctly points out, the composition of the committee has evolved since its inception in 1980. It began solely with a group of clinicians who were on the staff of HCFA. Over time, we added representatives of other Federal agencies, both within and outside the Department, and medical directors from some of the Medicare carriers. The functions of the committee have also evolved. The initial purpose was to review whether a technology assessment should be sought from the Public Health Service regarding coverage for a specific item or service and, if so, to help HCFA staff frame the issue properly and review the response from PHS. As the committee grew and gained experience, it began to undertake more extensive discussion of the scientific evidence available regarding the clinical utility of items and services under review and, eventually, the members began to express their views on whether such evidence supported Medicare coverage.

We acknowledge that the committee is likely not in compliance with the requirements of FACA. Although we have publicized the existence of the committee, and now make the agendas and minutes of its meetings available to the public by means of the Internet, we have not made an effort to charter the committee under FACA. Nor have we opened its discussion of the scientific evidence to the general public.

Since the reorganization and reorientation of HCFA in July of this year, we have been reviewing our coverage decision process and the role of this committee. We believe there may be merit in establishing a FACA-chartered committee, with broad public representation, to review and provide counsel on the policies and procedures for coverage policy. We are developing a proposal for such a committee and will be presenting it for review and approval by the Department. It will likely be several months before there is a final decision on such a committee. During this process, we plan to reformulate the current committee, so that it is comprised solely of Federal employees, in order that we can continue to receive the valuable services it provides.

Thank you again for providing us a draft copy of your response and an opportunity to comment.

Sincerely,

PETER BOUXSEIN,
Acting Director, Office of Clinical Standards and Quality.

Mr. Chairman, I yield 5 minutes to the gentleman from the great State of Oklahoma (Mr. ISTOOK), a member of the Committee on Appropriations.

Mr. ISTOOK. Mr. Chairman, I certainly hope I misunderstood the gentleman from Rhode Island, because I am sure he did not intend to suggest that, because somebody is doing something that he likes, it is okay to lie.

Because the Court did not say Mr. Magaziner erred by holding meetings in secret. No, the Court found that his position was dishonest, deceitful, preposterous, in the words of the judge's findings, because he lied to the court in order to try to justify having those meetings in secret with hundreds and hundreds of people.

In fact, if we look at the list of the people that were meeting in secret, they even included representatives from the insurance industry. This was not something about one industry versus another and supposedly it is okay for one group to lie, because they question the motives of another. No, this is someone coming before a Federal judge saying under oath things that were blatantly untrue.

Since when are we going to say the means justifies the ends? Since when is the White House going to say that it is okay for people in the highest levels of the White House to lie under oath to the courts of this Nation?

What would happen if that is the standard? And that is the question before us. Those who vote against this resolution are saying it is okay to do nothing about it. Mr. Magaziner is still on the payroll.

Mr. Chairman, I checked the most recent figure we have showing that he is making $110,000 a year of taxpayers' money. He filed this affidavit the first week of March in 1993. That means that, since he has filed the affidavit, he has been paid by the taxpayers almost half a million dollars; and he remains on the payroll. Nothing has been done about it.

Mr. Chairman, should we not send a message to the White House that they ought to do something about keeping somebody on the public payroll at an expense to taxpayers of half a million dollars whose lies and deceits have cost us $280,000 in court-awarded sanctions and fines and legal fees?

Mr. Chairman, I submit that nobody would be kept on the payroll of any private business that did such a thing.

However, it is not just Mr. Magaziner. As I mentioned earlier, the White House representative to come before Congress and talk and testify to our subcommittee repeated the same lies about saying, oh, these are all Federal employees, they are not private citizens from other walks of life involved in this task force.

Patsy Thomasson lied to us. She is still on the public payroll. Attorneys that were involved in the preparation of this at the White House and the Justice Department. And the Court properly said that they failed for years afterwards, even though they knew, they failed to correct the deceit and the lie practiced by Mr. Magaziner in the White House. Attorneys at the Justice Department are also culpable in this.

We have all of these people who in the Clinton administration remain on the public payroll that were involved in this deceit. Their collective salaries are not just half a million dollars but probably a few million dollars.

Now, should we not fashion a remedy where these people that the White House chooses to keep on the public payroll, despite their deceit, should be the ones who have to have this money taken out of their pay in some form or fashion? Maybe we ought to, as a second step in this process, say that those persons should not be paid more than minimum wage. Maybe there is some other mechanism.

But for Congress to do nothing is to say that Congress goes on record saying that it is okay for officials at the White House to lie to Federal courts under oath. We cannot have standards such as that. The Nation cannot afford a standard like that.

Under any other President, what is the watchword? What are Washington and Lincoln known for? They are known for being honest with the American people. And part of being honest is also if we make a mistake, if it is an innocent mistake, we correct it.

That was not done. Multiple people have been kept on the payroll who were involved in a pattern of deceit, deliberate deceit to the Federal court. This is the first step in correcting that process.

Congress cannot stand idly by, cannot do nothing, cannot say it is only $285,000.

I heard someone before in this Congress saying that it was only $1 million. Well, next thing we know they will be saying it is only $100 billion or some similar figure. If we find that deceit is being practiced by White House officials, we have the obligation to the American people to root it out, to say we cannot continue to let those persons continue on the public payroll.

Mr. Chairman, I urge adoption of the resolution.

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

Mr. Chairman, one, I would remind the distinguished gentleman from Oklahoma (Mr. ISTOOK) that we offered a unanimous consent request which would absolutely cut out the payment with any taxpayers' money and it was rejected by his side of the aisle.

I would further remind the gentleman that, while they have spent the better part of a year and a half or better part of a year trying to get rid of a duly elected Democrat to the House of

Representatives who committed no crime, other than to get elected, the Republicans are harboring a convicted felon in their delegation and have done nothing except see that his salary is paid and that he is an active Member of the Republican House delegation.

So I would suggest that one ought to be careful about talking about who pays money to crooks on whose time, because it is the Republicans that are supporting a crook in their midst and not doing anything to get rid of him.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I wanted to comment. I want my colleagues to understand why I am on the floor today.

I listened to one of the previous Republican speakers who said would it not be a shame if this resolution would not be brought up. And the gentleman from Arizona (Mr. HAYWORTH) said to the gentleman from Rhode Island (Mr. KENNEDY) that he wanted to have an honest debate on what to do about the uninsured.

My problem here today is the fact that my Republican colleagues bring up this resolution. They are in the majority. The Republican leadership decides what is brought up on the House Floor, and I do not think this resolution is important enough to waste the time of the House of Representatives.

I would like to see an honest debate on how we are going to cover these 40 million Americans that do not have insurance. But the problem here is that they do not bring up those things. The Republican leadership does not allow us to deal with health insurance reform and how to deal with the uninsured.

For the last couple of years, every time we wanted to address the concerns that were originally brought up by this President's task force about how to insure the people that were uninsured, whether it was the portability issue or preconditions in the Kennedy-Kassebaum legislation or it was the kids' health initiative that the President talked about in his last State of the Union address, on both of those occasions the Republican leadership blocked any efforts to bring those issues to the floor. And it was only after we repeatedly said, as Democrats, over and over again, this is important, pass Kennedy-Kassebaum, this is important, we need a kids' health care initiative, then eventually they acceded and said, okay, bring it up.

The problem is that what the President's task force started 5 years ago, to talk about the need to address the uninsured, those problems are still out there. They are getting worse. More people are uninsured today than were uninsured 4 or 5 years ago when Mr. Magaziner started this task force.

So my Republican colleagues should not kid us and say to us this is important and we will deal with that issue later. They will not do it. We have got to constantly pressure and pressure and pressure.

Right now, the President in his State of the Union address talked about the need to reform managed care. He talked about a consumer Bill of Rights to deal with the problems that people face with managed care. Bring it up. Bring up the President's agenda that so many people care about and that we know the public cares about. Bring up the problems of the near elderly, the people in the 55 to 65 year range who increasingly do not have health insurance.

□ 1745

You have the ability to bring it up. You control the agenda. Do not sit here or stand here and tell us that this is more important than that, because it is not.

I want to tell my colleagues why they are not bringing it up. My colleague, the gentleman from Rhode Island (Mr. KENNEDY), pointed it out. That is because the Republican leadership is engaged in this war that they want to stop any health care reform. They want to get the money from the special interests. They do not want the public and the agenda that the President has put forward to come forth and be heard on the floor of the House of Representatives.

What does Senator LOTT say there? He says, the Republicans need a lot of help from their friends on the outside. Get off your butts, get out your wallets.

The message we are getting from the House and Senate leadership is that we are in a war and need to start fighting like we are in a war.

Do Members know why? Because the President's message that we need managed care reform works. The public wants it. The Democrats are saying, bring it up.

They have got to start this war with all the special interest money to make sure it does not happen. That is what is going on here today.

Mr. HAYWORTH. Mr. Chairman, I am astonished to learn that ethics in government should take a back seat to another agenda, but then again I forewarned this committee that folks would try to change the subject.

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. CRANE), esteemed colleague and chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Chairman, I thank my distinguished colleague for yielding time to me.

As parents we try to teach our children one of the most fundamental elements of decency, thou shalt not lie. If you do not tell the truth, there are consequences.

Unfortunately we have before us today an issue that violates that tenet, and the punishment is being undermined by the President's administration. The court case we are talking about brings an almost $286,000 judgment against the Clinton health care task force which was led by Ira Magaziner. The court determined that Mr. Magaziner chose not to tell the truth when he was questioned about the members of the task force. To compensate for his deceit, he and the other task force members must pay the plaintiffs attorneys' fees and costs. He lied, and now he must pay, a justifiable punishment within our justice system.

Instead of making Mr. Magaziner pay for his dishonest action, the administration has said it is appropriate for the American taxpayers to pay the penalty. It is similar to someone robbing a bank, getting caught, not returning the money and using it to pay for his defense. That is wrong, and why this is so difficult for the administration to understand is beyond me.

Tax money should not be used to subsidize dishonesty, and I would urge my colleagues to cast their vote in support of honesty and integrity. Vote for H.J. Res. 107.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. CARDIN).

Mr. CARDIN. Mr. Chairman, let me again thank the gentleman from California (Mr. STARK) for yielding me this time.

Mr. Chairman, let me just point out a couple points. First, it is undisputed that this sense of Congress resolution has no legal effect. In fact if it had legal effect, the plaintiffs in the lawsuit would not be able to recover attorneys' fees, which is just the opposite of what the sponsors of this resolution would have us do.

If we want to debate what should be the personal responsibility of someone who is employed by the government, then we should have on the floor legislation, generic legislation, the way we normally would take up bills, not aimed at one person or a personality, but aimed at whether this is good public policy or not. And then we would debate that issue and come to some resolution. I assume that we would have an opportunity to amend that particular bill, and we would have an open and full debate. But instead we are working on a resolution that has no meaning, that does not do what the sponsors claim it does, that, as the gentleman from California (Mr. CAMPBELL) pointed out, it cannot have any effect. And if it did, we would have to amend the underlying law.

The gentleman from California (Mr. STARK) made a unanimous consent request to deal with the underlying law, but that was objected to by the other side. So if we want to have a debate on responsibility, then bring forward a bill that does it in a generic sense, but do not hide behind one person and one court decision when your resolution does not even affect that resolution.

Mr. HAYWORTH. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. ARCHER), one of the true gentlemen of the House.

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

Mr. Chairman, the resolution the House takes up today is simply about five words. It is not about all of the other things that have been said that reach out on many different subjects. It is about protecting taxpayers and honesty in government.

A Federal judge ruled last December that the Clinton administration engaged in, and I quote, dishonest, unquote, and I quote again, reprehensible, unquote, conduct by trying to deceive the court as to the makeup of its 1993 health care task force. The court found that the administration broke the Nation's sunshine laws and fined the White House $285,000. But President Clinton has announced that he intends to make the taxpayers pay this fine.

Today the House of Representatives can send the President a message: Mr. President, protect the taxpayers. It is wrong to make the taxpayers pay this fine. Reverse yourself, Mr. President. Taxes are already at a peacetime record high, and do not make the taxpayers pay one penny more. It is your responsibility. These people acted in your behalf. It is up to you to find a way to protect the taxpayers.

Mr. Chairman, in 1993, the taxpayers narrowly escaped paying the price for the administration's failed attempt to have a government takeover of health care. Having come so close to paying the price back then, I do not see why the taxpayers should have to pay the price now.

My colleagues, the fines at issue arise from no ordinary case. This matter sprang from the administration's extraordinary attempt to keep secret the deliberations of its 1993 health care task force. In a sworn affidavit, Mr. Ira Magaziner, currently a senior advisor to the President, swore the task force consisted only of government employees. As we all know, the task force contained many outside special interest representatives, private citizens, not government employees.

But here is what the judge said, and I quote: The Magaziner declaration was actually false. It is clear that the decisions here were made at the highest levels of government, and the government itself is and should be accountable when its officials run amok. The court agrees with the plaintiffs that these were not reckless and inept errors taken by bewildered counsel. The executive branch of the government, working in tandem, was dishonest with this court, and the government must now face the consequences of its misconduct. It seems that some government officials never learn that the coverup can be worse than the underlying conduct.

That is the end of the judge's statement, which I quoted verbatim.

Mr. Chairman, it is worth noting that the administration has not indicated that it will even appeal this ruling. That is why it is so important that we vote today to protect the taxpayers. Honesty in government is important always, at all times, for all of us everywhere. It is important in the Congress, and it is important in the White House. But when a breach occurs, the mistake should not be compounded by forcing the taxpayers to pay the price. And with this vote, we can help the President to change his mind. I hope that if the President will not protect the taxpayers, Congress will.

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

I would just remind my distinguished chairman, the gentleman from Texas (Mr. ARCHER), that this resolution does not do what he wants done. He knows that. He is a brilliant lawyer. But I offered, Mr. Chairman, him the opportunity to make this a law, and it was turned down by the Republicans. So if we really want to do what the gentleman from Texas (Mr. ARCHER) is asking us to do, we will make this a law instead of a meaningless resolution.

So while you can talk tough, you are not willing to fight. You are talking the talk, but you will not walk the walk. You are afraid to make this work. You are afraid of the consequences of what could happen. You will not do it. We are offering you the opportunity. Where are you, Republicans? If you want to embarrass the President, come on. I will repeat my request for unanimous consent to strike section 2 and make it a bill. Will the gentleman accept my challenge?

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

Mr. STARK. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, I would say to the gentleman that the intent and the effort of this resolution is to give the President the opportunity to resolve this issue without Congress having to come back in a way such as the gentleman suggests. We want to give the President the opportunity to do the right thing. And we hope that he will.

Mr. STARK. Mr. Chairman, the President under the law cannot. You want him to break the law twice. He has been ordered by the judge to pay the fine. It is only us who can prevent it. So I am offering you the chance again. Let us prevent it. You and I right now, before we go home for dinner, we can solve this.

Mr. ARCHER. Mr. Chairman, if the gentleman will continue to yield, the President does have the opportunity to find nongovernment funds that can be used to pay this. He has access to all sorts of opportunities for nongovernment funds. The President today has announced that he is going to raise $10,000 per person to go into his defense litigation fund, and so clearly he has plenty of opportunities. And I think it would be a much simpler thing if he would resolve it in the right way, and then the Congress would not have to take any precise sanctionable action.

Mr. STARK. Mr. Chairman, that is like asking me to raise NEWT GINGRICH'S fine. And it is not going to happen, and the gentleman and I know it.

If in fact you are looking for the President to go out and give some hard-earned campaign funds to this issue, I think that that is what you should suggest. What you are trying to suggest is that the Republicans are doing something noble. You are not. You are coming up to the edge, but you do not have the nerve to make this a law. You do not, just like you are not solving the health care problems. You are talking about it, but you do not have the nerve. It is just like finding health insurance for children. You talk about it, but you do not have the nerve to do it. You are flimflamming the American people, and that is what this resolution is.

You are worried, Magaziner is no charm, but you are worse. You are worse because you have the chance to correct it now, and you are misleading the American people because you will not act, you do not have the guts, you do not have the nerve to do it. We are offering you that chance. And you will not take it. You are sitting there on your hands just wondering, what do we do now?

Come on, guys. If you want to legislate, legislate. But if you are afraid to, do not keep people up all night listening to this because the American public knows it is simple. It is very simple. This resolution has no force and effect. We, the Democrats, have offered you a unanimous consent request to make it law. It would happen just like that. No votes, no nothing. All you have to do is accept it, and you refuse.

So what are we doing but wasting money and time while you want to argue about some guy who we all agree was a useless addition to the health care debate. I submit that the American public will recognize that it is the Republicans who will not protect Americans from HMOs by giving them a bill of rights. It is the Republicans who are frustrating the chance to provide decent health care to early retirees. It is the Republicans who are not getting children the care they need. I think that that is a sad commentary on this Congress and its current leadership.

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

□ 1800

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

I am troubled, as Members may have realized, and we are doing this just to recap, I least of all would have any brief for Mr. Magaziner and whatever attempts he may have made at public service. I have no brief for people lying, whether it is Republican Presidents or Democratic Presidents or Secretary Schlesinger, Secretary Kissinger, I do not care, Ollie North. People should not lie. It does happen.

In this case, the administration apologized and recognized the error of its ways and it has been assessed legal fees to a bunch of right wing wacko doctors down south. And so if they

want their $280,000, then let these Neanderthals collect it. And we can do that by, in fact, accepting my unanimous consent request to make this resolution binding.

I do not think my colleagues want to touch it. I think the Republicans are afraid that what they have done is so silly that it would cause more harm than good. We have offered to give it to them. We are offering it again. They can have it. They can win. Make it a law. Stop the taxpayers from having to pay the money.

But they do not dare. They do not dare. They are backing away. They are cowards. Come on. Here we are, we are willing to prevent it in a law, and they will not do it.

I think the American people, Mr. Chairman, have to recognize that the Republicans brought up this issue, they marched up the Hill and, when faced with no opposition, they raised the white flag of surrender and ran away from saving the very day that they tried to win. I say I think that defines the difference between the Republicans and the Democrats.

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

Mr. HAYWORTH. Mr. Chairman, I yield myself the balance of my time to close the debate.

It is very interesting, Mr. Chairman, that just a short time ago my colleague from California came to me with an entreaty to maintain the civility and the smooth running procedures in this House and yet has attempted, perhaps, sadly, because the facts are not on his side, to goad this side of the aisle into some sort of debate when he starts his ''mano a mano'' type of talk, and then refers to right wing wackos and cowards.

Look, the situation is clear here, and despite all the name calling and the lack of civility, Mr. Chairman, that I hope our friends in the fourth estate noticed in the closing remarks of my colleague from California, despite all the incendiary verbiage, the facts are these: Members of the administration deceived this Congress and moved to deceive the American people. Their deceit has been found out. They have been fined. And American taxpayers should not foot that bill.

That is the sense of this Congress resolution. And all the insults hurled from across the aisle, and all the other entreaties to move to other forms of policy and change the subject are not germane.

In closing, Mr. Chairman, I would like to mention the hard work and efforts of the gentleman from Oklahoma (Mr. ISTOOK) and the gentleman from Georgia (Mr. BARR) on their original investigation of the health care task force. I also want to mention the hard work of the gentleman from New York (Mr. SOLOMON), the chairman of the Committee on Rules, on publishing the names on the list.

Let us mend this breach of trust. Pass the resolution.

Mr. LIVINGSTON. Mr. Chairman, I rise today in strong support of H.J. Res. 107 of which I am an original cosponsor. I also want to thank the gentleman from Arizona (Mr. HAYWORTH), for his leadership on this matter.

Contrary to the belief of many, the administration is actually considering using taxpayer dollars to pay a court ordered fine. A fine that resulted from a misstatement of fact—a lie—by the President's National Health Care Reform Task Force.

The resolution simply expresses the sense of Congress that the court ordered fine not be paid by the taxpayer.

The case centered primarily on the status of the Task Force's employees. Under the terms of the Federal Advisory Committee Act, the Task Force should of been comprised of ''full-time officers or employees'' of the federal government. It was not. The Task Force convened behind closed doors and inappropriately included individuals who were not employees of the Federal Government.

The courts not only found the Task Force's declaration a misstatement, but also found that representatives of the administration engaged in ''dishonest'' and ''reprehensible'' conduct in characterizing the membership of the Task Force. The court awarded the Associations of American Physicians and Surgeons, the plaintiffs in the case, $285,864.78 for attorney's fees, costs and sanctions.

Well, the administration is now considering paying the fine with taxpayer dollars. The taxpayers of the United States, who work hard for their money and already send too much of it to Washington, should not be forced to send more of it to cover the deliberate dishonest actions of others.

I urge the adoption of the resolution.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the joint resolution is considered as having been read for amendment under the 5-minute rule.

The text of House Joint Resolution 107 is as follows:

H. J. RES. 107

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the President's Task Force on National Health Care Reform, convened by President Clinton in 1993, was charged with calling together officials of the Federal Government and others to debate critical health issues of concern to the American Public;

(2) the Task Force convened behind closed doors and inappropriately included individuals who were not employees of the Federal Government;

(3) United States District Judge Royce C. Lamberth ruled in Association of American Physicians and Surgeons, Inc., et al. versus Hillary Rodham Clinton, et al., that representatives of the administration engaged in ''dishonest'' and ''reprehensible'' conduct in characterizing the membership of the Task Force;

(4) Judge Royce C. Lamberth on the basis of such conduct ruled against the defendants and ordered them to pay $285,864.78 in attorneys' fees, costs, and sanctions for the plaintiffs; and

(5) American taxpayers should not be held responsible for the inappropriate conduct of Federal Government officials and lawyers involved with the Task Force.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that the award of $285,864.78 in attorneys' fees, costs, and sanctions that Judge Royce C. Lamberth ordered the defendants to pay in Association of American Physicians and Surgeons, Inc., et al. versus Hillary Rodham Clinton, et al., should not be paid with taxpayer funds.

The CHAIRMAN. The chairman of the Committee of the Whole may postpone a demand for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to the joint resolution?

AMENDMENT OFFERED BY MR. CARDIN

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

The Clerk read as follows:

Amendment offered by Mr. CARDIN:

In section 1(1), insert after ''American Public'' the following: '', including the need for meaningful national quality standards for all group and individual health care plans and the need of individuals enrolled in such plans for access to an independent external appeals process which would ensure that treatment decisions are made by medical professionals whose only interest is to provide medically sound care''.

In section 1, redesignate paragraphs (2) through (5) as paragraphs (3) through (6), respectively, and insert after paragraph (1) the following new paragraph:

(2) legislation has not been enacted to address such issues, including the specific needs identified in paragraph (1);

In section 2, insert after ''It is the sense of Congress that'' the following: ''(1) legislation that provides meaningful national quality standards (such as those included in legislation introduced by Representative Norwood or by Representative Dingell) for all health care plans and assures enrollees in such plans access to an independent external appeals process (similar to that available to medicare beneficiaries) should be enacted in a timely manner, and (2)''.

Mr. CARDIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. HAYWORTH. Mr. Chairman, I reserve point of order against this amendment.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. CARDIN. Mr. Chairman, this amendment is very clear. It deals with the same action that the underlining resolution deals with, and that is the action of the health care task force that the President constituted.

This amendment would make it clear in the sense of Congress that we want to consider on the floor as quickly as possible legislation that would provide national quality standards for health care plans.

I make specific reference to two bills, and I do that intentionally, one by the gentleman from Georgia (Mr. NORWOOD), a Republican, and one by the

gentleman from Michigan (Mr. DINGELL), a Democrat, because I know that there is bipartisan support for quality standards for managed care programs. By the number of cosponsors of these bills, it is clear that the majority of the Members of this House want this body to take up standards to protect our consumers in managed care programs so that medical decisions can be made by medical professionals and not health insurance bureaucrats.

Now, the reason why I think this is so important to put on this sense of Congress resolution, and I will relay a story of someone who visited my office yesterday who was interested in an environmental bill and had a meeting with the Republican leadership and was told that it was unlikely that that bill could be brought up this year because there was not enough time. Mr. Chairman, we are in the second week of this session of Congress and we are already being told that because of the condensed schedule that the Republican leadership has brought forward that there will not be time to consider important legislation.

Well, let us go on record now to say that protecting our consumers who are in managed care programs is a priority that we want to deal with before Congress adjourns this year.

My amendment is simple. It adds to the sense of Congress resolution that we bring up basic consumer protection this year before we adjourn. Matters such as external appeal, so that consumers have a right to challenge a managed care operator as to whether health care is needed or not; matters such as access to emergency care, that I mentioned before, so that prudent layperson standards can be used so people can be reimbursed when they go to emergency rooms; to get rid of the gag rule so that doctors can talk to their patients without fear of conflicting the contract that they have with an HMO; antidiscrimination rules, so we do not discriminate against providers, that HMOs do not discriminate against providers.

And the list goes on and on and on. There is need now for this Congress to act. My amendment makes it clear that this Congress will take up that legislation.

I urge my colleagues to accept this amendment. It is a sense of Congress resolution. It makes it clear to the leadership that we want to take up and debate the issue this year. That is the least we can do as we debate this resolution, and I urge my colleagues to accept the resolution.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Arizona insist on his point of order?

Mr. HAYWORTH. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr HAYWORTH. I make a point of order against this amendment, Mr. Chairman, on the grounds that it is not germane to the joint resolution. Now, it is a good attempt to try to change the subject, and certainly we all agree that health care is a vital issue that we should debate but, Mr. Chairman, the amendment is not germane to this joint resolution.

The fundamental purpose or common thread in the joint resolution is very narrow. It is limited to expressing the sense of Congress on the fine imposed on government officials for conduct on the President's health care task force. It does not concern the subject matter of health care matters generally, therefore, the amendment is outside the scope of the bill and is, therefore, not germane.

I urge the Chair to sustain this point of order.

The CHAIRMAN. Does the gentleman from Maryland wish to be heard on the point of order?

Mr. CARDIN. Mr. Chairman, I do. My amendment has the same fundamental purpose as the resolution before us. The fundamental purpose has a longstanding test of germaneness by this body.

The resolution addresses the actions of the health care task force, so does my amendment. It was one of the major issues before the health care task force that we return to medical professionals the right to make decisions about our health, and that we should be able to express ourselves against insurance company bureaucrats making those judgments rather than health care professionals.

It is the same fundamental purpose as the underlining resolution, and I urge the Chair to rule in favor of germaneness.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

The gentleman from Arizona has made a point of order that the amendment offered by the gentleman from Maryland is not germane to the resolution.

The joint resolution, H. J. Res. 107, proposes to express a sense of Congress that the award of attorneys' fees, costs and sanctions ordered by a Federal judge should not be paid by taxpayers' funds.

The amendment proposes to express the sense of Congress on the duties of a Presidential task force referenced in the resolution. The amendment also proposes that specified health care legislation pending in Congress should be enacted into law in a timely manner.

Clause 7 of rule XVI of the rules of the House require that amendments be germane to the proposition to which it is offered. One of the general principles of the germaneness rule is an amendment must relate to the subject matter under consideration. This principle is recorded on page 611 of the House Rules and Manual. The pending resolution focuses on the source of payment of various charges ordered by a Federal Court judge in a specific court case. By contrast, the amendment addresses the enactment of specific legislative proposals currently pending in Congress. In the opinion of the Chair, the enactment of specific health care legislation by the Congress falls outside the ambit of a resolution focusing on a source of payment for charges resulting from a court case.

The resolution, H. J. Res. 107, as introduced, was referred solely to the Committee on the Judiciary. The health care policy legislation addressed in the amendment offered by the gentleman from Maryland does not fall within the jurisdiction of that committee. An amendment concerning a subject matter outside the committee of jurisdiction of the pending bill may not be germane.

For the reasons stated, the Chair finds that that amendment is not germane and the point of order is sustained.

Are there further amendments to the joint resolution?

AMENDMENT OFFERED BY MR. CARDIN

Mr. CARDIN. Mr. Chairman, I offer another amendment.

The Clerk read as follows:

Amendment offered by Mr. CARDIN:

On page 3, strike all of section 2 and insert the following:

''Section 2. No Payment of Award by Taxpayers.

The award of $285,864.78 in attorneys' fees, costs, and sanctions that Judge Royce C. Lamberth ordered the defendants to pay in Association of American Physicians and Surgeons, Inc., et. al. versus Hillary Rodham Clinton, et. al., shall not be paid with taxpayer funds.''

Mr. CARDIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

POINT OF ORDER

Mr. HAYWORTH. Mr. Chairman, I make a point of order against the amendment on the grounds it is not germane to the joint resolution.

The CHAIRMAN. The gentleman from Arizona has made a point of order. Does the gentleman from Maryland wish to be heard on the point of order?

Mr. CARDIN. Mr. Chairman, I do. And since we cut off the reading, let me explain what the amendment does and why. It is in compliance to the Chair's most recent pronouncement on my previous amendment.

What this amendment does is what the gentleman from California (Mr. STARK) tried to do by unanimous consent.

Mr. HAYWORTH. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair will entertain brief comments on the point of order from the gentleman from Maryland, and would ask that the gentleman from Maryland confine his remarks to the point of order made by the gentleman from Arizona.

Mr. CARDIN. Mr. Chairman, I was trying to do that. The amendment

deals with the payment of counsel fees. The Chair just ruled on the previous amendment that it was not germane because it did not deal with counsel fees.

My amendment has the same fundamental purpose as the resolution before us. Fundamental purpose has a long-standing test of germaneness. The resolution addresses the action of the health care task force, so does my amendment. The resolution suggests how the payment of attorneys' fees in this case should be resolved, so does my amendment. My amendment changes the sense of Congress resolution to make it effective; to change it into law. It has the same underlining purpose.

The people who have spoken on behalf of the resolution all have said that its underlying purpose is identical to what this amendment would do. Therefore, the test of germaneness has been met.

The CHAIRMAN. The Chair is prepared to rule on the point of order.

The gentleman from Arizona has made a point of order that the amendment offered by the gentleman from Maryland (Mr. CARDIN) is not germane.

H. J. Res. 107, again expresses the sense of the Congress that the award of attorneys' fees, costs and sanctions ordered by a Federal judge in a specific case should not be paid with taxpayers' funds. The amendment would convert the joint resolution from an expression of congressional sentiment to a legislative prohibition on the use of Federal funds for that purpose.

The Chair finds guidance in two relevant precedents. Under the precedent carried at section 6.20 of volume 10 of Deschler-Brown Precedents, to a bill extending the advisory functions of a governmental agency charged with conducting voluntary programs to resist inflation, an amendment directing the issuance of orders and regulations stabilizing economic transfers was held not germane.

□ 1815

Order the precedent carried at section 30.22 of volume 11 of Deschler-Brown Precedents to a section of the bill stating the Congressional intent of proposed legislation, an amendment to insert a further statement of intent was held to be germane.

Central to the Chair's ruling in that case was the view that the amendment was merely an indication of Congressional intent and ''not binding on anybody.''

The Chair is unable to interpret the amendment in this case as similarly not binding but rather is of the opinion that the amendment is intended to prohibit the use of Federal funds as a matter of law.

Therefore, the precedents cited earlier are relevant in supporting a decision finding that the amendment is not germane. The Chair sustains the point of order.

Are there further amendments to the joint resolution?

Mr. CARDIN. Mr. Chairman, I move to strike the last word.

I certainly understand the Chair's rulings on my past two amendments. I am disappointed by the rulings. But I am more disappointed by my friend, the gentleman from Arizona (Mr. HAYWORTH), raising points of order against these amendments. If he had not raised points of order, we could have either changed this resolution from a sense of Congress to a law and we could have tested whether we were sincere in what we are trying to do today.

And on the other amendment, if my colleague had not raised that point of order, we could have at least told the people of this country, the taxpayers of this country, which this resolution is aimed at, that we will take up this year consumer protection and managed care and health care.

The President's task force was aimed at maintaining and improving quality of care for all Americans. That was the central purpose of the task force. My amendment would have made it clear that we wanted to bring up this year quality assurances in managed care programs.

I regret that my friend from Arizona raised a point of order. But I would hope that the Republican leadership in this House will give us some commitment that we will have time to debate this very important issue on the floor of this House and then let the majority rule. Let us have an open debate. Give us an opportunity to take up these issues so that the American people know where we stand on the very important issues as to whether medical personnel should make medical decisions or insurance company bureaucrats.

I urge my colleagues to support efforts to bring these matters to the floor. The Chair's ruling confirms that this resolution does absolutely nothing. If it did something, according to the Chair, my amendment would have been made in order. I regret that. And I hope we will have another day in order to argue these issues.

The CHAIRMAN. Are there further amendments to the joint resolution?

AMENDMENT OFFERED BY MR. STARK

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

The Clerk read as follows:

Amendment offered by Mr. STARK:

On page 3, line 7, strike ''.'' and insert '', and further, it is the sense of the Congress that Speaker Newt Gingrich and his staff should not be paid with taxpayer funds for any time that they spent convened behind closed doors with lobbyists plotting to block legislation improving health insurance and health quality for the American people.''

POINT OF ORDER

Mr. HAYWORTH. Mr. Chairman, again I would make a point of order against the amendment.

The CHAIRMAN. The gentleman from Arizona will state his point of order.

Mr. HAYWORTH. Mr. Chairman, I make a point of order against the amendment on the grounds that it is not germane to the joint resolution.

Again, despite our best efforts to maintain civility, this amendment is just totally improper. It is not germane to the joint resolution.

As we know, the fundamental purpose or common thread in this joint resolution is very narrow. It is limited to expressing the sense of Congress on the fine imposed on Government officials for conduct on the President's Health Care Task Force. Therefore, this amendment, once again, is outside the scope of the bill and is, therefore, not germane.

Again, I would urge the Chair to sustain this point of order.

The CHAIRMAN. Does the gentleman from California (Mr. STARK) wish to be heard on the point of order?

Mr. STARK. Yes, Mr. Chairman, of course.

The amendment is germane. It draws on the language of paragraph 2 in section I and extends the very purpose of the resolution to similar actions by Members of Congress.

I believe that the Parliamentarian will find that Speaker Muhlenberg, during the Whiskey Rebellion of 1793, had a precedent, saying, ''Sauce for the goose is sauce for the gander.'' And I think Speaker Clay, in dealing with the war in 1812, said, ''Take no prisoners and lie about it.''

So that, I believe, this is indeed germane. I hope that the Chairman will find it so.

The CHAIRMAN. The Chair is prepared to rule.

The amendment offered concerns subject matter not addressed in the underlying resolution. Specifically, the amendment addresses persons not touched upon in the underlying resolution. For these reasons, the amendment is not germane; and, accordingly, the point of order is sustained.

Are there further amendments to the joint resolution?

AMENDMENT OFFERED BY MR. STARK

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

The Clerk read as follows:

Amendment offered by Mr. STARK:

On page 3, line 7, strike the ''.'' and insert the following: '', and since the Task Force failed to develop a plan to ensure access of all Americans to affordable health care similar in scope to the type of health insurance available to Members of Congress, the United States Congress should develop, pass, and submit such a plan to the President of the United States prior to August 1, 1998.''

POINT OF ORDER

Mr. HAYWORTH. Mr. Chairman, I make a point of order against the amendment on the grounds that it is not germane to the resolution.

The CHAIRMAN. The gentleman makes a point of order.

Does the gentleman from California wish to be heard on his point of order?

Mr. STARK. Yes, Mr. Chairman, I would like to be heard.

I believe, Mr. Chairman, that this amendment is germane. It refers to the

work of the task force, which is still uncompleted and, instead of concentrating on the mistakes of 4 years ago, calls on Congress to help all Americans obtain health security. Members, we in the Congress, have excellent health insurance; and we should support similar coverage for our constituents.

It is, after all, the nexus of what this whole resolution is about, is the issue of the task force and why it failed; and I think that it should indeed be included so that we show our resolve to show all Americans that they should have at least as good health insurance as they are paying for us Members of Congress.

The CHAIRMAN. The Chair is prepared to rule on the point of order by the gentleman from Arizona.

As mentioned in the Chair's earlier ruling, the pending joint resolution expresses a sense of Congress with respect to the award of attorneys' fees, costs, and sanctions ordered by a particular court. For the reasons stated by the Chair on the first amendment offered by Mr. Cardin of Maryland, the pending amendment urging development of a health care proposal is not germane as addressing matters not addressed in the underlying joint resolution. The point of order is sustained.

Are there further amendments to the joint resolution?

Mr. STARK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think that the amendments that have been offered, with the anticipation that they would be denied the opportunity for debate, should illustrate to the American people what we have tried to suggest here.

There is, in fact, no question that there was a serious breach of behavior on part of the administration, for which they apologized and a Federal judge assessed legal costs; and we have agreed that the American taxpayers should not pay for it. And the Democrats have offered as an amendment, as a unanimous consent request, a concrete, absolute way to see that that is denied.

My colleagues, on the other hand, have ducked that and not wanted to. Perhaps they wanted to see how it will twist in the wind a little longer.

Secondly, the other amendments have called attention to the American people that, while the President has sought to extend health care to the 40-plus million Americans who do not have it, to provide health care coverage or access at no cost to the Federal Government and at no cost to anyone else, to the early retirees, to extend health care to children, to give people who are in managed-care plans the protection from the egregious actions of the for-profit insurance companies by denying them access to emergency room care, by denying young children needed medical procedures which could save their lives, and then having these same corporate plans hide behind the skirts of ERISA as they attempt to avoid liability.

And while the Republican leadership has refused to support Dr. Norwood's bill which would accomplish this and has bipartisan support and has more than enough cosponsors to pass this House, it shows that it is the Republican leadership that is conspiring with the lobbyists in secret to keep the American people from getting the managed care protection they need, from getting the health care they need at a reasonable cost and indeed getting fair treatment by this Congress. Because that fair treatment is being denied by the Republican leadership.

Mr. Chairman, with that unhappy assessment of this rather waste of time of a resolution, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to the joint resolution?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BLILEY) having assumed the chair, Mr. LATOURETTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J.Res. 107) expressing the sense of Congress that the award of attorneys' fees, costs, and sanctions of $285,864.78 ordered by United States District Court Judge Royce C. Lamberth on December 18, 1997, should not be paid with taxpayer funds, pursuant to House Resolution 345, he reported the bill back to the House.

The SPEAKER pro tempore (Mr. BLILEY). Under the rule, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

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

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 126, not voting 31, as follows:

[Roll No. 7]

YEAS—273

Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kildee
Kim
Kind (WI)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
McCarthy (NY)
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
Metcalf
Mica
Miller (FL)
Minge
Mink
Moran (KS)
Morella
Murtha
Myrick
Neumann
Northup
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickett
Pitts
Pombo
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
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
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Stabenow
Stearns
Stenholm
Strickland
Stump
Sununu
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—126

Ackerman
Allen
Andrews
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Clay
Clayton
Clyburn
Condit
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dingell
Dixon
Doggett
Dooley
Engel
Fazio
Filner
Ford
Frost
Furse
Gejdenson
Gephardt
Gordon
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Houghton

Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
King (NY)
Kucinich
LaFalce
Lampson
Lantos
Lewis (GA)
Lofgren
Lowey
Manton
Markey
Martinez
Matsui
McCarthy (MO)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Moakley
Mollohan
Moran (VA)
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne
Pelosi
Pomeroy
Rangel
Reyes
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Stark
Stokes
Stupak
Tauscher
Thompson
Tierney
Torres
Towns
Velazquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Weygand
Woolsey

NOT VOTING—31

Abercrombie
Aderholt
Bartlett
Becerra
Bereuter
Bonior
Borski
Delahunt
Dellums
Dicks
Eshoo
Farr
Fattah
Frank (MA)
Gekas
Gonzalez
Goodling
Hall (OH)
Herger
Hinojosa
McKeon
Nethercutt
Ney
Pickering
Sanchez
Schiff
Souder
Spratt
Talent
Whitfield
Yates

□ 1845

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

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, regrettably I was not present to vote on Roll Call Vote #7 H.J. Res. 107, concerning attorneys fees, costs, and sanctions payable by the White House health care task force. If I had been present I would have voted aye.

PERSONAL EXPLANATION

Ms. SANCHEZ. Mr. Speaker, I was unavoidably detained on February 4, 1998 for the vote on H.J. Res. 107, Fees and Sanctions Relating to Health Care Task Force. Had I been present, I would have voted 'aye.'

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 107.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1415

Mr. BUNNING. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1415.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 1575, RONALD REAGAN WASHINGTON NATIONAL AIRPORT

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 105–414) on the resolution (H. Res. 349) providing for consideration of the Senate bill (S. 1575) to rename the Washington National Airport located in the District of Columbia and Virginia as the ''Ronald Reagan Washington National Airport,'' which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2552

Mr. BACHUS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2552.

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

There was no objection.

REPORT CONCERNING CONTINUING NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-207)

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of July 31, 1997, concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

Executive Order 12722 ordered the immediate blocking of all property and interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution (UNSCR) 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 and matters relating to Executive Orders 12724 and 12817 (the ''Executive Orders''). The report covers events from August 2, 1997, through February 1, 1998.

1. In April 1995, the U.N. Security Council adopted UNSCR 986 authorizing Iraq to export up to $1 billion in petroleum and petroleum products every 90 days for a total of 180 days under U.N. supervision in order to finance the purchase of food, medicine, and other humanitarian supplies. UNSCR 986 includes arrangements to ensure equitable distribution of humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolution also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activities with respect to Iraq. On May 20, 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq agreeing on terms for implementing UNSCR 986. On August 8, 1996, the UNSC committee established pursuant to UNSCR 661 (''the 661 Committee'') adopted procedures to be employed by the 661 Committee in implementation of UNSCR 986. On December 9, 1996, the President of the Security Council received the report prepared by the Secretary General as requested by paragraph 13 of UNSCR 986, making UNSCR 986 effective as of 12:01 a.m. December 10, 1996.

On June 4, 1997, the U.S. Security Council adopted UNSCR 1111, renewing for another 180 days the authorization for Iraqi petroleum sales and purchases of humanitarian aid contained in UNSCR 986 of April 14, 1995. The Resolution became effective on June 8, 1997. On September 12, 1997, the Security Council, noting Iraq's decision not to export petroleum and petroleum products pursuant to UNSCR 1111 during the period June 8 to August 13, 1997, and deeply concerned about the resulting humanitarian consequences for the Iraqi people, adopted UNSCR 1129. This resolution replaced the two 90-day quotas with one 120-day quota and one 60-day quota in order to enable Iraq to export its full $2 billion quota of oil within the original 180 days of UNSCR 1111. On December 4, 1997, the U.N. Security Council adopted UNSCR 1143, renewing for another 180 days, beginning December 5, 1997, the authorization for Iraqi petroleum sales and humanitarian aid purchases contained in UNSCR 986. As of January 2, 1998, however, Iraq still had not exported any