making that correction. I want to acknowledge that the gentleman does stand as the superior executioner of this particular dragon.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for recognizing my skills in that area.

I also want to correct one comment that was made, I think erroneously, by the gentleman from New York (Mr. NADLER) when he was speaking not about this amendment in particular but about the amendment which is going to be offered by the gentleman from Colorado (Mr. HEFLEY) and which includes this provision on Federalism. The gentleman from New York made reference to the fact that defeat of this amendment could be a step towards expanding rights for individuals who are homosexual.

This act, this executive order has nothing, nothing to do with that. It has only to do with the hiring practices of Federal employment managers. It does not give anybody a right to sue. It does not give anybody a right to go to the EEOC or the Civil Rights Commission. It does not grant any right which is not in law now. It does not create any protected class. It in no way expands any rights whatsoever. This only codifies what are currently the employment practices now in the Federal agencies and codifies them in a single place. It does nothing to change the law as it exists today.

Let me come back to the Federalism issue here. I mentioned earlier that the chief of staff of the White House said it was a mistake. ''We screwed up,'' that was his quote there. And good reason that he said that, because indeed, when President Reagan issued his executive order on affirmative action in 1987, he took several specific steps, steps that placed the onus on Federal agencies to consult the Constitution to make certain that ''an action does not encroach upon the authority reserved for the States.''

He made sure that it said that they must adhere to the notion that Federal actions are not superior to State actions and that exemptions to Federal regulations should be granted on that basis.

That same Reagan Executive Order also said that ''Federal regulations should not preempt State law unless the statute contains an express preemption provision or there is some other firm and palpable evidence that the Congress intended preemption of State law.''

Let me just conclude by saying this executive order from President Clinton is quite different than that previously issued. It fundamentally alters the Federal relationship that has been developed through the years. These changes were made without consultation with governors, mayors, or county commissioners. We should make it clear that this revision should not be the law of the land.

I urge an ''aye'' vote on the amendment.

The CHAIRMAN pro tempore (Mr. PEASE). The question is on the amendment offered by gentleman from Arizona (Mr. KOLBE).

The amendment was agreed to.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GILCHREST) having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.

LIMITING AMENDMENTS AND DEBATE TIME DURING FURTHER CONSIDERATION OF H.R. 4276, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, AND JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999, IN THE COMMITTEE OF THE WHOLE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that during the further consideration of H.R. 4276 in the Committee of the Whole, pursuant to H. Res. 508: no amendment shall be in order thereto except for the following amendments, which shall be considered as read, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and shall be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed thereto:

Mr. HEFLEY of Colorado, the amendment made in order under the rule, for 20 minutes;

Mr. SAXTON of New Jersey, a limitation regarding foreign assets litigation, for 10 minutes;

Mr. HOLDEN of Pennsylvania, amendment numbered 23, for 5 minutes;

Mr. STEARNS of Florida, numbered 35, for 5 minutes;

Mr. MCINTOSH of Indiana, either No. 50 or an amendment regarding the Standing Consultative Committee, for 20 minutes;

And Mr. KUCINICH of Ohio, numbered 49, under the 5-minute rule;

And that the managers of the bill may make pro forma amendments to strike the last word for the purpose of engaging in colloquies.

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

Mr. MOLLOHAN. Mr. Speaker, reserving the right to object, I ask the gentleman to give us a clarification of the McIntosh amendment. I do not believe that we have seen that.

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, it is either numbered 50, or we understand there could be a different version of that that would be offered.

Mr. MOLLOHAN. Mr. Speaker, could we see a copy of the modified amendment?

Mr. ROGERS. It is being delivered to the gentleman as I speak.

Mr. MOLLOHAN. Mr. Speaker, continuing my reservation of objection, we have just had an opportunity to look at this. It is considerably different than previous versions. We would like an opportunity to reserve judgment on this amendment and this UC, pending a review.

If the gentleman wants to move forward quickly on the UC, maybe we can pull this out, look at it and deal with this in a few minutes. We can come back to it as soon as we have a chance to review it, which we have not had a chance to do.

Mr. ROGERS. Mr. Speaker, the only difficulty is, this must be done in the full House, which we will not be in shortly.

Mr. MOLLOHAN. Mr. Speaker, as we move forward on this or at the time we get to it, perhaps we can make an agreement.

Mr. ROGERS. I would point out to the gentleman, we are under an open rule.

Mr. MOLLOHAN. Mr. Speaker, I fully appreciate that, but I am having expressions of concern by Members who are interested in this amendment. I think we can resolve it and agree to it when we get down to it. I just cannot include that in the UC right now.

Mr. ROGERS. Mr. Speaker, if the gentleman will continue to yield, what I am asking is, could the gentleman agree that whatever the amendment is, that the time limit would be 20 minutes as the UC states?

Mr. MOLLOHAN. No, Mr. Speaker, I cannot. I understand the proposal, and I simply suggest to the gentleman that until Members who have an interest in this have an opportunity to review it, I cannot agree to the time limit as set forth in the UC. We could break that out and when we get down to it, I am sure we could work something out for Members who are interested in the amendment.

Mr. ROGERS. Mr. Speaker, I would withdraw the unanimous consent request until a further time, but while we are in the full House, could I propose that the debate on the Hefley amendment be limited to 20 minutes?

Mr. MOLLOHAN. I believe it is limited under the rule, Mr. Speaker.

The SPEAKER pro tempore. The Hefley amendment already is 20 minutes under the rule.

Does the gentleman withdraw his request?

Mr. ROGERS. Mr. Speaker, I withdraw the unanimous consent request.

Mr. MOLLOHAN. Mr. Speaker, I withdraw my reservation of objection.

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

The SPEAKER pro tempore. Pursuant to House Resolution 508 and rule

XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4276.

□ 1955

IN THE COMMITTEE OF THE WHOLE

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

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 19 offered by the gentleman from Arizona (Mr. KOLBE) had been disposed of, and the bill was open for amendment from page 115, line 23 through page 124, line 2.

AMENDMENT OFFERED BY MR. HEFLEY

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

At the end of the bill, insert after the last section (preceding the short title) the following:

TITLE IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901.—None of the funds made available in this or any other Act may be used to implement, administer, or enforce Executive Order 13087 of May 28, 1998 (63 Fed. Reg. 30097) or Executive Order 13083 of May 14, 1998 (63 Fed. Reg. 27651).

The CHAIRMAN. Pursuant to House Resolution 508, the gentleman from Colorado (Mr. HEFLEY), and a Member opposed, each will control 10 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in opposition and claim the 10 minutes in opposition.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Colorado (Mr. HEFLEY).

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

Earlier this year Bill Clinton issued two executive orders that mandate profound policy changes. Neither of these executive orders received public input and as a result, both orders contained policy decisions which, if left unchallenged, will have far-reaching implications. I oppose these orders and am offering an amendment that would prohibit the use of funds to implement, enforce or administer either of these orders.

This President has issued 254 orders since he has been President of the United States. Other Presidents have overdone it, too. I think it is time Congress questioned his use of the executive order process. Tonight we are going after the misuse of two executive orders, but we will be back to go after others.

The first executive order, issued on May 14, virtually ignores the Tenth Amendment to the U.S. Constitution. This executive order, titled Federalism, establishes broad and ambiguous circumstances in which the Federal Government could intervene in matters that have traditionally been left to State and local governments.

This executive order, which reverses a 1987 executive order by President Ronald Reagan, is nothing more than a power grab from the States. Adding insult to injury, the administration never consulted the major organizations that represent State and local government officials and entities. The executive order greatly impacts those constituencies and yet they were never consulted or warned.

The President says that he will suspend that executive order and rewrite it, but ''suspend'' is very different from ''revoke''.

The President issued another executive order in May that would amend the Nation's civil rights laws as they pertain to Federal civilian employees. This executive order would require all Federal agencies to apply affirmative action policies on the basis of sexual orientation.

This action amends President Richard Nixon's 1969 executive order by adding sexual orientation to the race, color, religion, sex, disability, age, and national origin as classes of Federal employees which are entitled to affirmative action programs.

This amendment that I am offering tonight, in spite of all that was said on the previous amendment, is not about homosexuality. This amendment is not about discrimination, as the gentleman from California (Mr. CAMPBELL) said in his comments on the previous amendment. We have Federal law which says you cannot discriminate. No one is encouraging discrimination here.

It is about the misuse of the executive order process. The process is not designed to circumvent the Congress. This President has tried repeatedly to come to Congress and add a special set-aside or carve-out for sexual orientation in the civil rights laws. Congress has repeatedly said no. Now the President just goes around us. That is what this is about.

Supporters of the executive order argue that the President's mandate only prohibits discrimination based on sexual orientation in the Federal civilian work force. I support efforts to ban discrimination, but this executive order does much more than simply address discrimination policies.

President Nixon's executive order set forth the policy of government of the United States to promote the full realization of equal employment opportunity through, and listen, I quote, through a continuing affirmative program in each executive department and agency.

The Nixon order further provides that the head of each executive department and agency shall establish and maintain an affirmative program of equal employment opportunity for all civilian employees.

□ 2000

Now, CRS says that that means affirmative action program. History shows us that this means quotas and set-asides to measure whether they have an affirmative program.

Mr. Chairman, by amending the Nixon order, President Clinton's Executive Order does, in fact, expand our country's civil rights laws as they apply to Federal employees. This is a flagrant misapplication of Presidential power. The creation of Federal law or amending Federal law is the power properly invested in the legislative branch. Congress was ignored, and we have spoken many times about this effort.

Furthermore, the administration's own leading civil rights official was not consulted. In testimony before the House Subcommittee on the Constitution of the Committee on the Judiciary, Acting Assistant Attorney General for Civil Rights Bill Lann Lee admitted that neither he nor his staff had reviewed, approved or been consulted on the decision to add sexual orientation to the Federal affirmative action laws.

Mr. Chairman, we need to stop this President, who is trying to legislate and govern by executive fiat. While my amendment alone will not overrule the President's orders, it will help restore the current Federal policies regarding Federalism and affirmative action and nondiscrimination.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2¼ minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Chairman, I got all the prosecutors mad at me earlier; I might as well get everybody else mad at me.

Mr. Chairman, I rise in opposition to my good friend, and he is my good friend, the gentleman from Colorado (Mr. HEFLEY). We probably have a voting record that is so equivalent that we almost never disagree, but I do disagree with him on this amendment.

I do so because, after close examination, I have determined that the Clinton Executive Order, 13087, will not lead to quotas or affirmative action plans for homosexuality; nor will this Executive Order give homosexuals any special rights or a protected status under the Civil Rights Act. Some of the others who spoke earlier, who tried to indicate that, did not know what they were talking about, and they should read what we are referring to here.

It simply states that the Federal Government, this Executive Order, will not consider sexual orientation when making hiring, firing and promotion

decisions. And homosexuals are taxpayers, too, and deserve an even break in terms of fairness in employment in a Federal Government that they pay taxes to. There is no reason for the Federal Government to discriminate for or against individuals of whatever sexual preference in civilian employment. In fact, the Federal Government has no need to inquire into this aspect of a Federal employee's private life.

Mr. Chairman, I am firmly committed to protecting the rights of those with strong moral or religious objections to homosexuality, and I resent some of the statements made here earlier that people who believe or who are against homosexuality for religious reasons are some kind of bigots or whatever. They have every right to those religious and moral beliefs and they should not be forced or pressured to accept something that they believe is immoral.

That is the reason I supported the Riggs amendment to the VA-HUD appropriations bill that is using Federal funds to threaten these people into accepting that a local domestic partner law was wrong, just as adding sexual orientation as a category to civil rights is wrong.

That is not what this amendment is all about, however. In short, the government should neither persecute homosexuals nor promote homosexuality. That is a fair and honest standard, and that is why I oppose the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Chairman, the gentleman from California (Mr. ROHRABACHER) gave his speech, and I have great respect for him, but I ask him later to come back and define what sexual orientation is. I am not sure he can define it, or anyone else in this House, yet the President, in Executive Order 13087, adds behavioral characteristics of sexual orientation to the immutable characteristics of race, color, religion, sex, and national origin, even though the term sexual orientation has never really been defined.

Now, what the gentleman from Colorado (Mr. HEFLEY) is trying to do is he is trying to roll back some of these executives orders from the President. Whenever he feels he has to, he starts to move his agenda through an Executive Order. His proposals make social reforms that he deems necessary despite the will of this body. And the gentleman from Colorado is saying tonight that let us stop funding these executive orders. That is all he is trying to say. This is not a debate about anything other than to try to stop the President from issuing executive orders that go against the will of Congress.

Let me just give my colleagues a thought in closing, and this is from the History of the Decline and Fall of the Roman Empire by Edward Gibbon. ''The principles of a free constitution are irrevocably lost when the legislative power is dominated by the executive branch.'' Now, this is right from history, 2000 years ago, so I suggest we listen to it.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. BLILEY), an eminent historian.

Mr. BLILEY. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time, whom I might add, when I was a freshman and he was a freshman, and I had an amendment on the floor, he supported me against the chairman of the Subcommittee on Health and Environment of the Committee on Commerce, and I appreciate that.

But, look, I oppose affirmative action. I think it divides us rather than joins us. I would oppose any effort to add sexual orientation as a protected class under the Federal affirmative action programs. That being said, I unequivocally oppose discrimination.

When I hire somebody in my office, as I suspect most of my colleagues when they hire somebody in their office, I do not ask their sexual orientation when I hire them. I feel that if a person can do the job and give me an honest day's work for a day's pay, that is all I have to ask, unless, in his off time or her off time, they do something that brings disgrace on this great institution or on my office. Then that is another matter.

I hope we will oppose this ill-guided amendment.

If the Executive Order issued by President Clinton mandated affirmative action based on sexual orientation, I would support the Hefley amendment. This is not the case.

All the Executive order says is the Federal government will not discriminate based upon a person's sexual orientation.

I urge my colleagues to oppose the Hefley Amendment. The sexual orientation of our Federal employees is none of our business.

Qualifications for the job should be our concern—nothing more, nothing less.

Mr. FRANK of Massachusetts. Mr. Chairman, how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 4 minutes remaining, and the gentleman from Massachusetts (Mr. FRANK) has 6½ minutes remaining.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. LEWIS) in the interest of fairness.

Mr. LEWIS of Georgia. Mr. Chairman, during the Civil Rights movement, thousands upon thousands of Americans joined together for a single cause: To fight discrimination and have all Americans treated equally under the law. Discrimination was not right then and it is not right now. Excluding someone from the workplace because of their sexual orientation is discrimination, plain and simple. It is wrong. It is dead wrong.

The President's executive orders strengthens our Nation's commitment to equality. It bans discrimination based on sexual orientation. It is a simple thing to do. It is the right thing to do.

Why? Why must we come to this floor again and again to demand equality for all Americans? What could be more American? It is unbelievable to me that 33 years after Selma and the signing of the Voting Rights Act we must still battle the forces of bigotry, discrimination and intolerance. I have fought too long and too hard against discrimination all of my life to go back now. We cannot go back. We will not go back. We must never go back.

I urge all of my colleagues to stand for fairness, stand for justice, stand up for what is right. Oppose discrimination and vote against this misguided amendment.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I rise in support of the Hefley amendment and urge my colleagues to support it, and because I only have 1 minute, I am going to try to condense my points as quickly as possible.

This is not really an issue, in my mind, of sexual orientation or not. There are two basic issues here: One is this President of the United States is legislating by Executive Order. He has instructed the entire bureaucracy to promulgate regulations that have no authority in law, and he is writing executive order after executive order against the Constitution of the United States and the concept of checks and balances.

Under our Constitution, the President cannot legislate by executive order, and he is doing so. The gentleman from Colorado (Mr. HEFLEY) is trying to strike down some executive orders to bring attention to the American people that he is doing so.

It is, therefore, conceivable that the implementation of this particular executive order might require that the Federal Government inquire into the private lives and practices of Federal employees to accurately assess their sexual orientations.

Now, most Americans believe that every human being has basic rights, and the American people stand for fairness, not for special breaks or special interests.

I support the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, first, I must say, with all regret to my friend, the gentleman from Texas (Mr. DELAY), probably no more hugs for awhile.

Secondly, the President has explicitly disavowed any intention of this leading to this kind of inquiry based on sexual orientation. Under the existing executive order, it covers religion, it covers AIDS. There have been no such inquiries.

Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. HEFNER).

Mr. HEFNER. Mr. Chairman, as I look around this room I see only a couple of people that are older than I am, and I want to talk about discrimination. I know discrimination when I see discrimination.

When I was a small boy, growing up in rural Alabama, we used to go to the grocery store. Some of my black friends, they would stand at the back door and the clerk would have to come and ask them what they wanted and they would bring it to them. I could go in the front door. That is discrimination.

I have never been in the marches like the gentleman from Georgia (Mr. LEWIS) has been. I do not know what it is like to be in the minority. I do not know the life-style of gay people, but I can tell you this: Discrimination is wrong. It is totally wrong and we should not be participating in anything that discriminates against anybody going out and making a living for their family.

It is absolutely ludicrous for us to be considering this amendment tonight, because it is about discrimination, pure and simple discrimination.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Alabama (Mr. RILEY).

Mr. RILEY. Mr. Chairman, I rise in strong support of the Hefley amendment. The extension of new civil rights deserves to be debated openly, before the American people, and not implemented by an executive order.

I believe that all Americans should receive fair and equal treatment under the law, but I fundamentally oppose granting special rights or privilege based on sexual orientation. The new executive order undermines the enforcement of legitimate civil rights based on immutable characteristics that have been established as requiring protection.

Furthermore, this executive order would be an administrative nightmare. It could require Federal employees to ask applicants what their sexual orientation is. The thought of that is wrong and it is also unconstitutional.

This executive order does not create equal employment. It creates an unnecessary, unwarranted and unconstitutional preference in the workplace.

Mr. Chairman, I do not believe the American people support the granting of a special privilege and I urge my colleagues to defeat the executive order and vote for the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. MORELLA).

(Mrs. MORELLA asked and was given permission to revise and extend her remarks.)

Mrs. MORELLA. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

Let us be very clear, folks. This Executive Order 13087 simply extends to gay and lesbian employees the very same employment protections long provided to women, to disabled seniors, racial, ethnic, religious minorities by an executive order that was issued by President Nixon in 1969.

The executive order does not provide any special protected status to gay and lesbian employees. It simply protects the fundamental right to be judged on one's own merits.

This is a policy that is embraced by over 300 Members of the House and the Senate who have stated in writing that sexual orientation is not a consideration in the hiring, promoting or terminating of an employee in their congressional offices, and the executive order simply applies the same policy to Federal agencies.

Most Federal agencies, incidentally, already have their own policies preventing employment discrimination based on sexual orientation, and through this revised executive order the President has properly provided a uniform policy for all agencies.

□ 2015

The executive order applies only to Federal civilian employees.

Our country is founded on a basic tenet that all individuals should be treated equally and fairly. Vote against the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, how much time do we have remaining on both sides?

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 2 minutes remaining. The gentleman from Massachusetts (Mr. FRANK) has 2¾ minutes remaining.

Mr. HEFLEY. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Chairman, I rise in support of the Hefley amendment.

The President's position is an extreme special interest position. He has taken the back-door approach, not going through the legislative process. We should maintain the proper balance between the legislative and executive branches of government.

President Clinton is out of step with the majority of Americans who oppose quotas based on one's behavior or lifestyle. This executive order would have an impact on the private sector. Companies seeking to contract with the Federal Government or grant recipients would be required to submit to this new Federal edict.

To protect themselves from costly lawsuits, companies will have the burden of proving that they do not discriminate on the basis of sexual orientation.

What the President has done is extend the hand of the Federal Government to an interest group with a powerful, well-funded lobby, an interest group that believes that non-job-related behavior should be the deciding factor in hiring or promotion policies in our Government.

Let us support the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. SKAGGS).

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding the time.

When one has been in this business for a little while, one learns that if one does not really have much going for them on the merits, they argue process. And so, I understand why my friend the gentleman from Colorado (Mr. HEFLEY) is styling this as a question of an overreaching of executive order powers.

PARLIAMENTARY INQUIRY

Mr. HEFLEY. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. FRANK of Massachusetts. Point of order, Mr. Chairman. The gentleman does not have to yield. It is up to the gentleman with the microphone to yield for a parliamentary inquiry.

Mr. HEFLEY. Mr. Chairman, I have a parliamentary inquiry.

Mr. SKAGGS. Regular order, Mr. Chairman.

Mr. FRANK of Massachusetts. Mr. Chairman, the gentleman has not yielded for a parliamentary inquiry.

The CHAIRMAN. Would the gentleman from Colorado (Mr. SKAGGS) yield for a parliamentary inquiry?

Mr. SKAGGS. Mr. Chairman, if it does not count against my time.

The CHAIRMAN. It does count against the gentleman's time.

Mr. SKAGGS. Then I do not yield.

Mr. Chairman, continuing, what this is really about on the merits is whether we want a country in which all Americans have access to fair employment treatment by their Federal Government. It is as simple as that.

It is not about quotas, not about affirmative action. It is about whether or not we get judged on the merits of the kind of job we can do.

I think it is entirely proper for the chief executive officer of the Federal branch of the Government, the President, to make clear that that is the standard for this Federal Government, for the executive branch. He is the CEO. It is clearly within his authority.

And what kind of country do we really want? Do we really want to make it permissible for this to be the basis for the denial of jobs by the Federal Government to our fellow citizens? I hope not.

The CHAIRMAN. The gentleman from Colorado (Mr. HEFLEY) has 1 minute remaining. The gentleman from Massachusetts (Mr. FRANK) has 1¾ minutes remaining. The gentleman from Colorado has the right to close.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield the remaining time to the gentleman from California (Mr. CAMPBELL), a constitutional scholar who opposes discrimination and also opposes affirmative action and will point out the difference as embodied in this executive order.

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

The Executive order's prohibition that I profoundly believe in goes to the question of fairness, that we ought not

discriminate against people on the basis of their race or their gender, and least of all should the Federal Government make such distinctions.

And so, it is deeply hurtful to those of us who believe that government should not make these distinctions to hear the argument made that to ban discrimination necessarily leads to affirmative action. Because if we hold that, we give the strength to the argument on the other side of all of these arguments that I, and our good friend and colleague the gentleman from Florida (Mr. CANADY), have been attempting: namely, to end the use of race, to end the use of gender, to end quotas and timetables and numerical goals on race and gender, by the federal government.

The argument other people make is to say, ''Well, you know, if we ban discrimination, then we have got to require certain numbers or we will never get rid of discrimination.'' I profoundly say to them, that is false, that I can and am against discrimination, but I will not tolerate the Federal Government deciding who gets a job because of the color of their skin.

And so, it is profoundly disturbing and disappointing that my good friend offers this amendment suggesting that by banning discrimination on the basis of orientation, we must necessarily be leading to the use of quotas and affirmative action and numbers.

To all of my friends who are colleagues in this battle against the rule that Government looks at the color of our skin, think about how wrong it is to say that the Government should look and ban us from opportunities on the basis of our orientation as well.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

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

Mr. MILLER of California. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

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

Mr. BLUMENAUER. Mr. Chairman, I rise in strong opposition to the Hefley amendment.

I rise in strong opposition to the Hefley amendment.

Executive Orders 11478 and 13087 are based on the notion that job performance should be the sole measure of a person's fitness to work. Supporters of this amendment want us to believe that this fundamental tenet of our American culture is radical and subversive. Somehow, they want us to believe, making it clear that the Administration will hire and retain the best people for the job is dangerous.

By adding sexual orientation to the list of factors irrelevant to hiring and promotion decisions, President Clinton simply clarifies a longstanding interpretation of an Executive Order issued thirty years ago by President Nixon. This is hardly a change in policy, but if this small clarification improves the comfort and morale of one federal employee, it is worth our fervent support.

I believe this Executive Order will have a more tangible impact, as well. Anyone who has ever run a business knows that good morale improves productivity and attracts the brightest, best people.

I am proud to say that throughout my public service career, at Multnomah County, and in the City of Portland, we have had similar policies of non-discrimination. In 1991, the Portland City Council, believing that what was good for workers was good for work, prohibited discrimination based on sexual orientation. I believe that policy had a significant impact on the effectiveness of employees throughout the City.

The continuing assault on gay and lesbian citizens by some of my colleagues is unfortunate and undeserved. No employee should be discriminated against because of sexual orientation. The government should lead by example. I applaud Executive Order 13087 and urge rejection of the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as she may consume 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. Chairman, I oppose the Hefley amendment.

Mr. Chairman, I appreciate the opportunity to speak on this issue tonight. Representative HEFLEY's amendment attempts to nullify the effect of President Clinton's May 28, 1998 Executive Order which added sexual orientation to the nondiscrimination policy of the Federal Government.

President Clinton's executive order broke no new ground and did not create new law. It simply amended the existing federal executive order governing equal employment opportunity by adding the term sexual orientation and therefore including gays and lesbians within the nondiscrimination policies of Federal agencies and offices.

Mr. Chairman, I am sure that my colleagues would agree that we should base our review of federal employees on their job performance, not their sexual orientation. And like my colleagues, I believe in fairness. All of us are diminished when individuals are prevented from contributing the full measure of their talent and ability to society. Those of us who oppose the Hefley amendment are not alone. 72% of our nation's citizens as polled in the Wall Street Journal support President Clinton's anti-gay bias in federal agencies.

That gays and lesbians face a hostile climate at their jobs and elsewhere is undisputed. In 1997, an American Psychological Association report found that many employers openly admit they would discriminate against a homosexual employee. A survey of 91 employers demonstrated that 18% would fire, 27% would refuse to hire, and 26% would refuse to promote a person perceived to be gay.

In my own home State of Texas, two former employees of the Texas governor's office filed a lawsuit in Austin alleging that their former supervisor used hostile language to describe victims assistance language and attitudes towards gays and lesbians by the division's executive director. This type of discrimination should shock all of us, but unfortunately, gays and lesbians are still openly discriminated against in our society.

Not only will President Clinton's Executive Order 13087 help end discrimination against federal workers, it will set an example that will help combat employment discrimination everywhere. No person should be denied a job or fired because he or she is gay. 84% of our citizens support equal rights in employment. Shouldn't we? I urge my colleagues to oppose this bill and to work to end discrimination against gays and lesbians across our country.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH).

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

Mr. KUCINICH. Mr. Chairman, I rise to oppose the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. DEUTSCH).

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

Mr. DEUTSCH. Mr. Chairman, I rise to oppose the Hefley amendment.

Mr. HEFLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Mr. Chairman, I ask unanimous consent that my amendment No. 39, which would have covered the same grounds precisely that we are covering here this evening with regard to the Hefley amendment and which was covered in large part during the previous debate on Executive Order 13083 by the gentleman from Arizona (Mr. KOLBE) be rescinded.

I urge all Members to support the gentleman from Colorado (Mr. HEFLEY), who would have supported my stand-alone amendment.

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

There was no objection.

Mr. HEFLEY. Mr. Chairman, I yield the balance of my time to the gentleman from Arkansas (Mr. HUTCHINSON).

The CHAIRMAN. The gentleman from Arkansas (Mr. HUTCHINSON) is recognized for 1 minute.

Mr. HUTCHINSON. Mr. Chairman, I believe that everyone today is agreed that we do not want to have discrimination in our country and particularly by the Federal Government. I fought that as a prosecutor, as a private attorney, and I think we agree that should not take place.

But there is a legitimate concern that this goes beyond consideration, there is more there. The gentleman from California raised a question. Well, it does not.

But I look at the executive order very simply that this is the Nixon executive order that was amended to include sexual orientation. If we include that, section 1 says that part of this is policy of government to promote the full realization of equal employment opportunities through a continuing and affirmative action program in each executive department and agency.

The good lawyer understands that this can be interpreted to say that we are going to have an affirmative action program for these categories. It might not be the case.

The second point is that when I asked the Acting Attorney General Bill Lann Lee on Civil Rights, ''were you ever asked to review this by the Clinton administration prior to the adoption, this dramatic change?'' and his answer was, ''I was never consulted. I was never asked to review this change in the civil rights policy of our Federal Government.''

I think that this major change deserves some hearings in Congress, deserves some thought, and certainly deserves some debate about this executive order. I support the Hefley amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. MORAN).

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

Mr. MORAN of Virginia. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I rise in strong opposition to the Hefley amendment. Don't let proponents of this amendment deceive you into thinking this is a complicated issue. It is very straightforward. It is simply about equal opportunity. Equal rights. Anti-discrimination. The President's executive order provides no additional ''special privileges'' for any ''special interest group.'' It clearly prohibits the federal government from considering sexual orientation in employment decisions.

This has been the policy for most federal agencies and offices but has not been uniformly stated for all federal employment agencies. As the body charged with determining terms of employment for federal employees, we have a grave responsibility in leading the effort to break down the walls of discrimination in employment. The fact that we are charged with legislating equal opportunity labor practices for all employers throughout the United States and policies that affect international employment practices makes this an even greater responsibility.

Fortunately, this is not a complicated issue as so many that we consider here are. Discrimination is wrong in any form. Discrimination on the basis of sexual orientation is just as wrong as discrimination on the basis of race, religion, or sex. We shouldn't discriminate in federal government employment practices. It is that simple.

The Hefley amendment would deny the use of funds for the implementation, enforcement, or administration of the executive order to include sexual orientation in the federal government's anti-discrimination employment policy. It would allow the Federal Government to discriminate in its employment practices and it would show private employers that the federal government does not enforce its own anti-discrimination policies. This is not the way we should treat our own employees and not the message we should be sending to employers in the United States and internationally. I urge you to support equal opportunity employment and the end of discrimination in the workplace by opposing the Hefley amendment.

Mr. STARK. Mr. Chairman, I rise today to oppose the Hefley Amendment to the FY99 Commerce, Justice, State Appropriations bill, which seeks to block the implementation of an executive order prohibiting discrimination based on sexual orientation in the federal civilian workforce.

Many Federal civil employers have adopted individual policies prohibiting employment discrimination on the basis of sexual orientation. Executive Order 13087 amends the existing federal executive order governing equal employment opportunity by adding the term ''sexual orientation''—thereby uniting the many existing nondiscrimination policies of Federal agencies.

In short, the order extends to gay and lesbian employees the same equal opportunity long-afforded to women, seniors, persons with disabilities, and racial, ethnic and religious minorities.

Not only do I oppose this harmful amendment, I believe Congress should take the issue of discrimination in the workplace a step further by passing the long-overdue Employment Non-Discrimination Act. ENDA would provide protection against employment discrimination based on sexual orientation at businesses with more than 15 employees by creating new enforcement rights, such as the ability to proceed before the Equal Employment Opportunity Commission. The need for the passage of ENDA presents itself daily as promotions are rescinded, chances for employment are lost, and harassment on the job abounds.

No one should be judged on the irrational prejudice. Congress has no right to prevent these individuals the opportunity to contribute the full measure of their talent and ability to America's workforce.

I ask my colleagues to join with me to defend equal rights—and to send the strong message to the majority that discrimination in the workplace based on sexual orientation is wrong.

Ms. NORTON. Mr. Chairman, representative HEFLEY'S amendment to the Commerce, Justice and State Appropriations for FY 1999 would prohibit any of the funds in this bill or any other act from being used to implement, administer or enforce Executive Order 13087, which prohibits federal agencies from discriminating against individuals in federal hiring or in the receipt of federal grants because of their sexual orientation. This is an unabashed and bald pro-discrimination provision. It has no place in federal law, and all who have worked for equality or even paid lip service to the notion should be offended that this amendment has been offered.

Every employer in the United States has the responsibility to be proactive in removing discrimination. The President has acted responsibly as the CEO of the federal workplace. Unfortunately, there is great confusion among some Americans about homosexuality and, astonishingly, there are some who would deny people ordinary rights because of their sexual orientation. I had hoped that by now Americans could at least agree that private consensual sexual relationships bear no relationship to job performance and that even those who adopt the unscientific view that it is appropriate to manipulate sexual orientation in order to change it (imagine what most of us who are heterosexual would think if someone tried to change our sexual orientation) would agree that discrimination is always wrong and should be off limits. The official expression of bias in our law through the repeal of an anti-discrimination provision should be as unthinkable as to gay men and lesbians as to other Americans.

The last few months have seen an outpouring of homophobic proposals that insult people based on their sexual orientation. Sexual choice goes to the core of a person's being. Issues of sexual orientation are no place for amateurs acting out their sexual biases in public policy. History will look back on this amendment and shake its head, even as black people look back on similar proposals that were fraught with racism. Let us not replay that history with a new set of discredited proposals against a new group of Americans.

Ms. PELOSI. Mr. Chairman, I rise in strong opposition to the Hefley Amendment. It is a sad day for the House when undermining equal rights for one group becomes the primary social cause for leading members. Unfortunately, this Summer we have witnessed a rising tide of verbal and legislative attacks on the lesbian and gay Americans among us. They have become the easy target of this legislative season.

But let us put the rhetoric aside for a moment and say what this amendment really does. If you vote for this amendment, you are sending a message to federal managers and agency chiefs that it is acceptable to disregard talent and determination, intelligence and integrity, and hire or fire someone based on their sexual orientation. It is ironic that my colleagues, who are often so ready to criticize the work of federal agencies, are willing to vote that the right to discriminate is more important than the need for competence.

The President's Executive order provides no special rights, no affirmative action, and no quotas for any group. President Nixon's non discrimination Executive Order did not require affirmative action based on age or religion, and neither does this one. This Executive Order is not about quotas, this is about saying discrimination has no place in our country. It says federal workers who happen to be lesbian or gay must simply be allowed to go to work every day to do their jobs just like the rest of us.

I am proud to represent a city with many lesbians and gays who have courageously stood up for their right to equality. When an amendment like this is offered in the House, I think of the many able federal workers I have had the privilege to know and work with who are gay or lesbian. This bill would allow them to be fired on a whim, based on prejudice.

An amendment which removes equal rights for these and other individuals defies logic and is without merit. And when we disregard merit on issues like this, we do more than affect the rights of federal employees. The words we speak and votes we cast in this chamber have broad impact—and when we send messages

of prejudice and intolerance, we give licence to hatred.

There have been proud days in this House when we have passed legislation establishing equal rights and protections. Today, unfortunately, we debate whether to take a step backward, and side with discrimination and prejudice.

This Summer, some members of Congress have compared homosexuality with a disease. But the real disease is ignorance. The real sin is judging people solely by their group status.

I urge my colleagues to vote against the Hefley Amendment.

Ms. WOOLSEY. Mr. Chairman, this amendment is nothing more than an effort to use the Federal Government to enforce the narrow views shared by a few members of the radical right.

Two months ago the civil rights movement in this country took a major step forward when President Clinton signed an Executive order to prevent the Federal Government from discriminating against employees on the basis of sexual orientation.

Mr. HEFLEY's amendment would negate this expansion of civil rights by blocking the President's Executive order.

There is a lot of misinformation being offered about the President's effort to extend civil rights to all Americans, so let me start by telling you what the Executive Order does not do:

It does not establish ''affirmative action'' for gays and lesbians. Simply put, it does not require Federal agencies to hire gays.

It does not apply to private companies. Only Federal civilian employees are covered by the order.

It does not condone incest or pedophilia. ''Sexual orientation'' is defined as ''heterosexuality, homosexuality, or bisexuality.''

Now that we've got that clear, let me go on to tell you what this Executive order does do:

This order prevents sexual orientation from being used to deny Federal employees a job or promotion.

This means that Federal employees must be evaluated on the basis of their performance on the job—not by their sexual orientation.

Whatever reasoning the radical right uses in support of this amendment, I think their real motives are abundantly clear:

They want to promote discrimination against gays and lesbians.

To make matters worse, they are willing to sacrifice the appropriations process in an attempt to further this narrow cultural war.

The fact is, sexual orientation is not a choice any more than skin color, gender or ethnicity.

And despite what some might think, the Federal Government does not have the right to dictate how people should live their lives or who they choose their partners to be.

I urge my colleagues to support civil rights by voting against this amendment.

Mr. FILNER. Mr. Chairman, we start business in this House every day by pledging allegiance to a nation with liberty and justice for all.

Without qualification, without pre-requisite, without restriction, ''all'' means no one is excluded, and everyone is included—and that means gay and lesbian Americans too.

Despite this good intention, however, our reality too often falls short of the ideal, and laws prohibiting discrimination in employment do not offer the same protections to lesbian and gay Americans in forty states.

In Executive Order 13087, the Clinton Administration took an important and justified step to correct this inequity in the federal workforce. The Executive Order ensures liberty and justice for lesbian and gay federal employees by amending a Nixon Administration Executive Order to also prohibit discrimination based on sexual orientation.

By defeating the Hefley Amendment, we will affirm for lesbian and gay employees of the federal government the same liberty and justice enjoyed by their co-workers: the justice of equality; the justice of protection from discrimination; and the liberty to love and live without fear of job-loss or punishment.

A bi-partisan majority of our colleagues in this House already have policies prohibiting discrimination based on sexual orientation—gay or straight. We know this protection is good enough for our offices and staffs, and I hope a majority will determine it's good enough for federal employees as well.

Mr. Chairman, the economy is humming along; America is at peace; and the Communist threat is gone. We don't have an evil enemy lurking in the dark and plotting our nation's downfall—and we don't need to create one.

Let's resist the temptation to demonize segments of our own society again by resurrecting the politics of fear and division. Let's not make our gay and lesbian children the new nemesis.

Mr. Chairman, I am not gay, but people I know, love, trust and respect are gay. Today, I stand here today for them and for all lesbian and gay federal employees, and I will vote against the Hefley Amendment.

This debate is not about quotas, nor affirmative action, nor secret agendas. It's just about liberty and justice for all.

I urge my colleagues to defeat the Hefley Amendment.

Ms. DEGETTE. Mr. Chairman, I am disappointed to rise today in opposition to the Hefley amendment.

At a time when more HMO patients are denied the care they deserve and three thousand more children become addicted to tobacco products every day, I am outraged that this Congress wastes another day of its limited schedule on punitive and hate-based legislation that encourages discrimination against other Americans.

I resent the recent escalation of anti-gay rhetoric we are hearing out of Washington. That to be gay or to support gay-rights is somehow an anti-Christian value is absurd. One's religious beliefs should be based on our peaceful co-existence with, and mutual respect for, our fellow human beings. I am proud to call myself a Christian and I am proud to stand up against this discrimination.

Mr. Chairman, allow me to remind my fellow Members about a little recent Colorado history. In 1992 the State of Colorado passed Amendment 2 which would have eradicated basic protections for gays. If passed into law, it would have had the same effect as my fellow colleague from Colorado's amendment today. When Amendment 2 passed we became known as the Hate State, a moniker that still sticks today even though the Supreme Court overturned this law declaring it unconstitutional. My esteemed colleagues, do not let us become the Hate Congress!

I urge a vote against this amendment.

Mr. GEPHARDT. Mr. Chairman, the Executive Order Mr. HEFLEY seeks to nullify is not about providing special status to gay and lesbian Americans in federal hiring and employment. It's simply about providing them with the same protections against discrimination that are already in place for other Americans who have suffered from discrimination.

Complaints about the quality of public servants are unfortunately all too commonplace. Surely, this amendment will drive away many applicants from pubic service at a time when our challenges as a nation are too great to justify excluding even one qualified American from helping us solve these problems.

Sexual orientation should not be considered in the hiring, promoting, or termination of an employee in the federal government. You would think that this would be something we could all agree on.

But sadly, the supporters of this amendment are making a statement that they tolerate bigotry and they condone arbitrary firings. This is but the latest of several mean-spirited efforts by the Republican leadership against the gay and lesbian community.

But the vast majority of Americans disagree with the Republican leadership. Seventy-five percent believe that gays and lesbians should have the same employment opportunities as all other Americans. That's all the Executive Order does, despite the protestations of its opponents.

Why, when we have so much important work left to address over the next several weeks, are we considering this issue here today? At the very least, this is a case of misplaced priorities. At worst, it's a misguided effort to condone discrimination.

Vote against discrimination and bigotry. Vote against this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Colorado (Mr. HEFLEY).

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

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

The CHAIRMAN. Pursuant to House Resolution 508, further proceedings on the amendment offered by the gentleman from Colorado (Mr. HEFLEY) will be postponed.

Mr. ROGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.