Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
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Wu
Wynn
Young (AK)
Young (FL)

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Burgess
Collins
Everett
Flake
Goode
Hefley
Jones (NC)
Kingston
Paul
Royce
Tancredo

ANSWERED ''PRESENT''—1

Souder

NOT VOTING—33

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Barton (TX)
Bell
Carter
Clay
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Crane
Cummings
Davis (IL)
Doggett
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Hinchey
Hinojosa
Jackson-Lee (TX)
Johnson, Sam
Kennedy (RI)
Kucinich
LaTourette
Lofgren
Miller (FL)
Moran (VA)
Ortiz
Owens
Reyes
Rodriguez
Schiff
Tauzin
Toomey
Udall (CO)
Wicker

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1059

Mr. HEFLEY and Mr. ROYCE changed their vote from ''yea'' to ''nay.''

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, due to official business, I was unable to vote during the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall Vote No. 42 ''yea''; rollcall Vote No. 43 ''yea''; rollcall Vote No. 44 ''yea''; rollcall Vote No. 45 ''yea''; rollcall Vote No. 46 ''yea''; and rollcall Vote No. 47 ''yea.''

PERSONAL EXPLANATION

Mr. CARTER. Mr. Speaker, during rollcall Vote Nos. 42, 43, 44, 45, 46 and 47 I was unavoidably detained. If I had been present, I would have voted ''yea.''

PROVIDING FOR CONSIDERATION OF H.R. 339, PERSONAL RESPONSIBILITY IN FOOD CONSUMPTION ACT

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 339) to prevent frivolous lawsuits against the manufacturers, distributors, or sellers of food or non-alcoholic beverage products that comply with applicable statutory and regulatory requirements. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume.

□ 1100

During consideration of this resolution, all time is yielded for the purposes of debate only.

Mr. Speaker, the resolution before us is a fair and open rule that allowed every single Member of this body to offer any amendment that they wished to debate after simply having it preprinted in the CONGRESSIONAL RECORD. On March 4, the Committee on Rules publicly notified Members of the possibility that it may report a rule to give every Member of Congress an opportunity to have their amendment heard on the House Floor, giving Members ample time to draft and submit their amendments for consideration.

The rule also provides one hour of general debate, equally divided and controlled by the chairman and ranking member of the Committee on the Judiciary, and allows the amendment in the nature of a substitute to be considered an original bill for the purpose of amendment, and that it shall be considered as read.

The rule waives all points of order against the committee amendment in the nature of a substitute and provides that only the authoring Member or a designee may offer a preprinted amendment. Finally, the rule provides the minority with one motion to recommit either with or without instructions.

Mr. Speaker, I rise today to introduce the rule for H.R. 339, the Personal Responsibility and Food Consumption Act. This bill is common sense legislation that requires courts to dismiss frivolous lawsuits seeking damages for injuries resulting from obesity and its attendant health problems that are filed against the manufacturers, distributors, sellers, marketers, and advertisers of any food product by a claimant or their spouse, parent, or child. That is, simply put, what this bill does, and I would like to congratulate our chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the bill's sponsor, the gentleman from Florida (Mr. KELLER) for their hard work in bringing this legislation to the floor for its consideration today.

Despite its opponents' claims to the contrary, what this bill does not do is to relieve manufacturers of their existing Federal and State responsibilities for manufacturing, marketing, distributing, advertising, labeling, or selling their products, nor does it affect existing State laws against deceptive trade practices or lawsuits filed for the relief of claimants who become sick from tainted food products. This bill is a carefully crafted bill to address a specific problem: to put an end to frivolous lawsuits that have been filed against the lawful and productive food services industry, an industry that provides 12 million Americans with jobs and is the Nation's largest private sector employer. And, it accomplishes this while protecting all of the other rights currently given to consumers.

This bill simply codifies the current tort law of every State in America that already has preventive injury claims based on obesity and makes permanent what a recent Gallup poll has shown that 89 percent of Americans already knew: that lawsuits against the food industry are an attempt by the trial bar to make an end-run around our Nation's established democratic process through litigation. H.R. 339 creates a narrow, national solution to the problem of these costly and wasteful lawsuits, and establishes in Federal law

the simple concept that consumers, not the plaintiffs' bar or a government agency, shall have the right to choose what they eat.

Every Member of this Chamber understands that obesity and the greater health problems that it causes, such as heart disease and diabetes, is a dangerous and growing problem to America. Over the last 20 years, obesity rates have increased by more than 60 percent among adults, and the rate of increase in obesity among young people has risen even more rapidly. To address this problem, President Bush has demonstrated his leadership by providing funds in his budget for general health promotion activities, including efforts to educate the public on preventing diabetes and obesity. President Bush has also outlined a fitness challenge to all Americans by asking adults all across America to get at least 30 minutes of physical activity each day, for children and teenagers to get at least 60 minutes of physical activity each day, and for parents to commit to family activities that revolve around physical activity.

But the American people understand that fitness, health, and well-being is not something that can be legislated, nor something that lawyers can sue for. A commitment to a healthy lifestyle is something that everyone must make for themselves, and it is a matter of personal responsibility. People all across this country understand that since 2002, trial lawyers have been sizing up the deep pockets of the food industry and are ready to pounce upon them when they see a golden opportunity to reap billions of dollars for themselves by filing these lawsuits against the productive food industry.

John Bahnzaf, one of the lead litigators of these frivolous suits, has publicly announced that his goal is to ''open the floodgates'' of the litigation against the food industry because, he says, ''Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict, as we did with tobacco, it will open up the floodgates.'' All it will take to do irreparable harm to consumers, the economy, and millions of jobs is just one judge making a nonsense opinion by falling victim to what the trial lawyers wish to do. I believe it is Congress's obligation to allow commerce to proceed by preventing these suits from wasting the time of our courts and the resources of a lawful industry.

By passing this legislation today, the House will tell consumers, investors, and countless employees of local Mom and Pop burger joints all across America that we care about them and their jobs, and that we will make sure that we will protect them. We will be telling Americans we think that they are smart enough to decide what they choose to put in their own mouth, and we will be helping those everyday working Americans who rely on fast, affordable nutrition in their hectic lives, not by allowing the courts to increase the price of food that they freely choose to eat.

If the House fails to pass this legislation, where will the madness end? Will sit-down restaurants, which some studies have shown often, serve food with a nutritional and caloric content similar to fast food? Will they be next on the trial lawyers' hit list? Will trial lawyers target chicken producers who supply countless moms across America with the raw materials for homemade fried chicken, or the beef producers who conspire to provide them with raw ingredients for fattening homemade meatloaf? Or will they simply wait for the next fad diet trend to come along and go after whoever is producing the unfashionable food of the moment?

Mr. Speaker, there is a cure to the obesity problem in America. By taking the road to reducing the medical costs associated with obesity is the right way to do it, not in the courtroom. It begins when Americans decide to leave a little bit on their dinner plate and to run that extra mile. It begins when a parent decides to take an active role in their child's life and coaches their son or their daughter's Little League team. It begins the next time you or I step up to the counter and order the salad, not the extra cheese pizza. But that should be our choice as Americans, because we know best that we make better decisions than the government or than trial lawyers can make for us. These are decisions that Americans can and should make for themselves. Unlike the opponents of this bill, I trust the American people and believe that Americans are smart enough to make these decisions for themselves.

Mr. Speaker, I support this rule, and I support the well-crafted underlying bill of the gentleman from Florida (Mr. KELLER).

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself 8 minutes.

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

Mr. MCGOVERN. Mr. Speaker, despite the rhetoric coming from the other side, this is not an open rule. This rule requires that any Member who wants to improve this bill must have already preprinted their amendment in yesterday's CONGRESSIONAL RECORD. Now, it is interesting to note that when they were in the minority, the Republicans condemned preprinting requirements, but now that they are in power, they find this and other procedures to close the process completely acceptable. In fact, even the very distinguished chairman of the Committee on Rules, the gentleman from California (Mr. DREIER) agrees that preprinting requirements are wrong, or at least he used to.

On July 20, 1993, the very distinguished chairman of the Committee on Rules said this about a Democratic rule requiring that all amendments be preprinted: ''This rule also requires amendments to be printed in the CONGRESSIONAL RECORD. Now, that might not sound like much, but it is another bad policy that belittles the traditions of House debate. If amendments must be preprinted, then it is impossible to listen to the debate on the floor, come up with a new idea to improve the bill, and then offer an amendment to incorporate that idea. Why do we need this burdensome preprinting process? Shouldn't the committees that report these bills have a grasp of the issues affecting the legislation under their jurisdiction? Again, Mr. Speaker, I think we can do better.''

Well, I agree completely with my friend from California. We can do better. Unfortunately, in this Congress, we are actually doing worse. This year, of the nine rules this body considered, only one has been a truly open rule. That is a batting average of 111, which will get you kicked off of my son's T-ball team. According to the Republicans' own definition, eight out of nine rules have been restrictive, and that one open rule brought a bill to the floor that was approved by a voice vote.

Now, Mr. Speaker, as for the underlying bill, this is an unnecessary distraction from the real problems facing the American people. In August 2002, two children brought suit against McDonald's, claiming the corporation bore legal responsibility for their obesity and health problems. The case got a great deal of media attention which is, I am sure, part of why we are doing this thing today. The judge working on the case quickly recognized that this lawsuit was clearly frivolous and dismissed the case.

In other words, Mr. Speaker, the system worked. But that is not good enough for the Republicans. Now they want to radically change the rules, not just so Americans cannot bring forth so-called frivolous lawsuits, but so that almost any case of negligence against these types of companies is banned. This bill is retroactive: any case currently pending before a judge would be subject to the new law. Mr. Speaker, you do not change the rules during the middle of the game, but that is just what this bill does.

This bill has many, many, many problems, and my colleagues on the Committee on the Judiciary will talk more about the merits or lack of merits of the bill during general debate. But there are bigger issues here.

Mr. Speaker, obesity is a problem, and this week we learned that obesity will soon pass smoking as the leading cause of preventable deaths. Americans, especially children, are gaining weight at alarming rates. In fact, according to the National Alliance for Nutrition and Activity, obesity is the Nation's fastest rising public health problem. According to the Department of Health and Human Services,

unhealthy eating and inactivity cause about 1,200 deaths every day. That is five times more than the number of people killed by guns, HIV, and drug use combined.

Now, adding to this is the fact that it just does not affect the obese person; it puts a burden on the entire system, from hospitals to the workplace to the home. And, according to the U.S. Department of Agriculture, healthier diets could prevent at least $71 billion per year in medical costs, lost productivity, and lost lives. The Centers for Disease Control estimates that if all physically inactive Americans became active, we would save $77 billion in annual medical costs. And this does not even begin to discuss the issue of hunger in America.

Unfortunately, there are many people in this country who suffer from hunger and yet, paradoxically, are obese because the little food they do get is not nutritious. Low-income families face a real need to stretch their food dollars to maximize the number of calories they consume. We are finding that low-income families may eat foods that may cost less, but that have relatively higher levels of calories per dollar to stave off hunger when they lack the money or other resources like food stamps to purchase a healthier balance of more nutritious foods. Simply put, it becomes a trade-off between food quantity and food quality.

Now, it is obvious to everyone, everyone but the House Republican leadership, apparently, that obesity and hunger are serious public health issues that need to be dealt with in serious ways.

□ 1115

But instead of bringing legislation before this body that will help feed the hungry, provide families with information on how to prepare and eat nutritious meals, encourage the food and restaurant industry to be more responsible and help raise the standard of living, we are here today considering a fake bill that pretends to fix a fake problem.

Now, I would like to tell the American public that we are actually having a real substantive debate about obesity in ways to address this national problem but we are not. And although today's bill would undoubtedly restrict lawsuits against restaurants, food manufacturers, and food distributors, what it really does is highlight the priorities, actually the lack of priorities, of this Republican-controlled Congress.

For example, over 760,000 Americans sit at home, jobless and without any income because the Republicans in Congress will not extend them unemployment benefits. But the majority party all of a sudden can find the time to take up this legislation.

While the European Union adds tariffs to American goods because of a trade dispute, the Republican majority continues to let a bipartisan compromise sit and gather dust; but the leadership can find the time to try to ram another partisan corporate tax cut through the House that will not address any real problem.

And while over 40 million Americans woke up this morning without health insurance, last week the majority took precious time out of their limited legislative schedule to set the rules for commercial space flight, which does not even exist yet.

With all the challenges facing this country, and with the limited schedule set by the Republicans this year, is this the best bill to consider? Is this the best use of the House's time? The answer is no. And, unfortunately, the Republican Party continues to ignore the real issues facing this country.

And it just goes to show you how misguided and out of touch the majority party continues to be.

Mr. Speaker, the United States House of Representatives is supposed to be a serious place. This is where the great issues are supposed to be debated. But under this Republican leadership, this House has become a place where trivial issues are debated passionately and serious ones not at all.

We should have a debate about the problem of obesity. And that debate should include serious discussions about the ways we can effectively deal with that issue. But that is not what we are doing here today. What we are doing here today, quite frankly, is, once again, concocting a way to avoid doing the people's business.

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

Mr. SESSIONS. Mr. Speaker, a good number of Members of Congress spend a lot of time trying to promote health and fitness and worthiness, and one of those Members is with us today. He is the chairman of the Committee on Rules, from San Dimas, California.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER).

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

Mr. DREIER. Mr. Speaker, let me just say in responding to my friend from Massachusetts that this is clearly an open rule in the modern House that we have today. We are criticized over the fact that we have not been able move things; and then, Mr. Speaker, when we proceed with moving legislation forward, we do it under a procedure that does allow every single Member, every single Member who wants to offer a germane amendment the right to do that. That is exactly what this rule does.

Mr. MCGOVERN. Mr. Speaker, would the gentleman yield for a question?

Mr. DREIER. Mr. Speaker, no. The gentlemen spoke for a nice long period of time. When I get done with my statement, I look forward to engaging with the gentleman. I never hesitate to do that.

Let me say that, Mr. Speaker, I have to ask somewhat rhetorically, Was there a power surge last night or was it a full Moon? Someone has awakened the Franken-Food Monster. The amendments that have been filed last night appear to be nothing more than an all-out embrace of Ralph Naderism. Who has been in the sauce too much? Or maybe they need a little Hamburger Helper.

Last night I thought that the minority was very serious when they said to us that they wanted to have an open amendment process for unlimited debate on this bill. I thought we were going to have a serious debate, a debate on how to stop the economically debilitating effect of frivolous lawsuits concerning obesity. But the amendments that were filed last night are making a mockery of what is a serious issue.

Americans, Mr. Speaker, are eating themselves to death and looking for someone to blame. Obesity and weight control are very serious subjects, very, very serious subjects. I am reminded regularly by Arnold Schwarzenegger about that. And, of course, we have the great model of President Bush, who is probably the fittest President we have ever had. They talk about the fact that there are many factors to weight control and food consumption and health. And, obviously, fitness is numero uno, very, very important.

Suing Burger King is not going to improve anyone's health. Personal responsibility and accountability are what are most important. We cannot have a serious debate, Mr. Speaker, on real issues, one about those who can use the court system for political purposes on whether it is right or wrong to force concessions or financial gain through legal harassment. We are clogging the judicial system with frivolous lawsuits, we are hurting business, we are putting American jobs in jeopardy, and at the same time we are clogging our arteries without considering the consequences. These are real issues that affect Americans' everyday lives.

So I have to ask, Why are these frivolous amendments being filed by the minority? The majority is trying to govern and get the people's business done. And I must ask the minority why is there this fraudulent frolic of frivolous fluff. Is it intended to highlight frivolous lawsuits, or is it merely intended to change the subject?

Let us get the people's work done, unburden businesses so they can create more jobs, and stop this bumper-sticker gamesmanship. I believe that we should withdraw the silliness and we should see those amendments, if they are offered, resoundly defeated.

Mr. MCGOVERN. Mr. Speaker, I thought the gentleman from California was going to yield to me.

Mr. DREIER. Mr. Speaker, I would be happy to yield to the gentleman from Massachusetts (Mr. MCGOVERN) if he would like to pose a question to me.

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

Mr. Speaker, let me ask the question to the gentleman from California (Mr.

DREIER) that I wanted to ask, which was he says this is an open rule, but if a Member is watching this debate right now, either a Democrat or Republican, and comes up with a great idea for an amendment, will that Member be allowed to offer his or her amendment on the floor right now? It is a simple yes or no answer.

Mr. DREIER. Mr. Speaker, the answer is no, not at this moment. Let me say, if the gentleman would continue to yield, let me say that any Member had the opportunity last night to file an amendment.

Mr. MCGOVERN. Mr. Speaker, I reclaim my time.

I also point out again the gentleman (Mr. DREIER) talks about the openness of the Committee on Rules, but let me use his definitions, the definitions of the Republicans when they were in the minority. Under those definitions, this year of the nine rules we have had, one has been open, one has been closed, one was procedural, and there were six restrictive rules. This is hardly any kind of an example.

Mr. DREIER. Mr. Speaker, would the gentleman yield for a question?

Mr. MCGOVERN. Mr. Speaker, I will not. Mr. Speaker, I control the time.

The SPEAKER pro tempore (Mr. REHBERG). The gentlemen reclaims his time.

Mr. MCGOVERN. Mr. Speaker, I will extend the same courtesy to the gentleman that he extended to me.

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO), who has been a champion on the issue of nutrition issues.

Ms. DELAURO. Mr. Speaker, only with this Republican leadership would an effort to promote personal responsibility begin with allowing companies to be irresponsible without accountability. Unless the public be confused that the Republicans are actually concerned with doing something about the obesity epidemic in this country that we have heard so much about, this legislation has little to do with preventing what the Centers for Disease Control yesterday said will be this Nation's leading cause of preventable deaths by next year.

Rather, by shielding manufacturers, distributors, and food sellers from liability, this bill is the next installment in the majority's series of tort reform bills in disguise, attempting to give yet another industry open-ended protection so irresponsible conduct is not punished or held accountable.

But that should not distract us from discussing the very real problem of obesity in this country. Obesity affects nearly 65 percent of adults. The rates are rising. The problem is even more pressing for teens, teenage obesity rates tripling in the last 20 years. All told, obesity costs the Nation $117 billion a year in health care and related costs, the single largest drain or our Nation's health care system.

Obesity leads to diabetes, high blood pressure, coronary heart disease, stroke and arthritis, conditions the CDC says will kill a half million people every year by 2005.

No one here is under the illusion that there is a one-step solution to reducing obesity. With ads encouraging us to eat too much of the wrong kinds of foods, neighborhoods designed for driving and not walking, restaurants serving ever-increasing portion sizes, McDonalds' announcement this week notwithstanding, slowing the obesity epidemic will take a multifaceted effort.

And Congress has an obligation to engage itself in that effort. There are countless other steps we could take that would support Americans' efforts to eat well, maintain a healthy weight, such as getting junk food out of schools, strengthening the Centers for Disease Control nutrition and physical activity division, fully funding CDC's VERB campaign, which promotes physical activity in young people.

With legislation I have introduced, the Meal Education and Labeling Act, we could strike a real blow at frivolous litigation aimed at restaurants and at the same time we can actually do something about obesity. It addresses one of leading causes of the rise in obesity rates and that is the fact that people are eating out more frequently.

Today, we spend about half of our food dollars at restaurants. In 1970, Americans spent just 26 percent of their food dollars on restaurant meals. Children eat almost twice as many calories when they eat at a restaurant as they do when they eat at home.

The Meal Education Labeling Act would extend nutrition labeling beyond packaged foods that you find at your grocery store to include foods at fast-food and other chain restaurants. It would do it by requiring fast-food and chain restaurants, that is, companies with 20 or more restaurants under the same trade name, not mom and pop restaurants, they would have to list calories, saturated plus trans fats, and sodium on printed menus and calories on menu boards. But most importantly, it would give consumers the necessary nutritional information to make healthy choices for themselves.

You might think that Americans do not want to be bothered with additional information they supposedly already know, but the evidence suggests otherwise. Not only do three-quarters of American adults report using the food labels on a regular basis that they find on packaged foods in the grocery stores, but 48 percent say the nutrition information on those labels has caused them to change their minds about what they buy.

Giving people the information that they need to make informed decisions about what they eat is the kind of approach that this body should be taking today in addressing obesity.

We may avoid litigation if we move in this direction. That is a real step toward helping encourage personal responsibility in food consumption. It can be done in a way that protects industry, does not hurt our mom and pop restaurants. Instead, as we have seen countless times before, this majority has chosen again to use a very important public health issue to pursue a narrow and a completely unrelated political agenda.

Mr. Speaker, we should do something about obesity in this country, but this bill is not the way to go about it.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. NEY), the chairman of the Committee on House Administration.

Mr. NEY. Mr. Speaker, I thank my colleague from Texas (Mr. SESSIONS), who has done such a good job on framing the proper type of debate on this rule today and has done a good job on the rule.

Mr. Speaker, I rise today in strong support of House Resolution 552 and the underlying bill itself, H.R. 339, the Personal Responsibility and Food Consumption Act.

As original cosponsor of H.R. 339, I commend the gentleman from Florida (Mr. KELLER) for introducing, I think, a very important piece of legislation and the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for working towards its passage.

When this situation occurred, I think it was the first time in New York, and as a parent I can relate to this, it clearly pointed to the fact that a parent could not control their child, could not control how many times they went to a restaurant per day or where they went to, no form of responsibility. So they just ended up going with some plaintiffs' lawyers and they filed a lawsuit.

Now, there are serious issues that have been discussed by both sides of the aisle about obesity and what, in fact, should happen, and exercise. And we can get into those issues. But I believe, Mr. Speaker, firmly, and I said it at the time the day those lawyers ran around and started this with the lawsuits, our judicial system that day was hijacked.

□ 1130

It has been hijacked by greedy, blood-sucking, immoral plaintiffs' attorneys. They have made a ridiculous situation, and they have made the ridiculous the reality. What was once thought of as a hilarity on late-night comedy shows has been brought into mainstream media by absurd frivolous lawsuits.

The situation really is not laughable, though it is scary. These actions are clogging our courts, driving our doctors out of practice, and are killing business growth in our great Nation, if we want to talk about jobs today.

What is the purpose, you may ask? Will they promote social justice or make America safer? The answer is no. These suits are to line the pockets of America's trial bar. Contingency fees

of 40 percent plus court costs leave lawyers enriched and their clients baffled. In big-time class actions, lawyers are hauling in fees that range as high as $30,000 per hour. I guarantee you that their clients are not receiving awards at that same rate.

Now, Mr. Speaker, the same class-action lawyers that have sued other industries are turning towards our restaurant industry, pure and simple. They have held strategy sessions and seminars to hatch their schemes estimating they could reap hundreds of billions of dollars in settlements from the so-called obesity lawsuits.

The lawsuits charge that children are overweight because of cheap fast food and aggressive food marketing by restaurants. But when you look at the underlying fact, it is clear that the American tort system is being exploited once again, pure and simple. Statistics from the National Bureau of Economic Research show that 60 percent of Americans' weight gain over the past 2 decade is attributable to increases in sedentary life-styles.

The American Academy of Pediatrics has found that only 20 percent of children participated in daily physical education programs in 1999, compared to 80 percent in 1969. Nutritional data shows that teen obesity rose 10 percent in 1980 and the year 2000. Teens' caloric intake rose only 1 percent during that time, while their levels of physical activity dropped by 13 percent.

Mr. Speaker, the judicial system is being used by industrious law firms and plaintiffs' lawyers who sue without repercussion. Their strategy is simple: sue until the defendants concede; once the restaurant company settles, the flood gates will open.

As you can tell, I am not an attorney myself, I am a teacher by degree, but I have been around long enough to know that opening the flood gates of litigation is bad news. It is bad news for our courts. It is bad news for our doctors. It is bad news for business. It is ultimately bad news for America.

The restaurant industry employs more than 12 million Americans. Restaurant companies lose just by being forced to defend these types of crazy lawsuits. They are forced to shift precious resources away from expanding their business and creating jobs and towards defending lawsuits solely filed to satisfy the insatiable appetites of the plaintiffs' bar.

Mr. Speaker, it is the Congress's obligation to give American businesses the tools necessary to defend themselves from this type of litigation. There are proper times for lawsuits; I know that. There is a way to work at this. We have to look at exercise and education and responsibility within the restaurant industry and within the American population, period. But these insane and crazy lawsuits are absolutely not the way. I think the gentleman from Florida (Mr. KELLER) has a responsible approach to this problem.

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

Mr. Speaker, all these insane, crazy lawsuits that people are referring to are getting dismissed and the system seems to be working.

We have a real problem and this bill does not address that problem in any way, shape, or form. If anything, this bill says to the restaurant industry and the food industry, you do not have any responsibility, you do not have any responsibility to our kids and the type of products that you try to peddle to them. I think that is the wrong message.

Mr. Speaker, I include in the RECORD an article that appeared in today's Washington Post entitled ''Obesity Passing Smoking As Top Avoidable Cause of Death.''

[From the Washington Post, Mar. 10, 2004]

OBESITY PASSING SMOKING AS TOP AVOIDABLE CAUSE OF DEATH

(By Rob Stein)

America's weight problem is rapidly overtaking cigarette smoking as the leading cause of preventable deaths, federal health officials reported yesterday.

Although tobacco is still the top cause of avoidable deaths, the widespread pattern of physical inactivity combined with unhealthful diets is poised to become No. 1 because of the resulting epidemic of obesity, officials said.

''Obesity is catching up to tobacco as the leading cause of death in America. If this trend continues it will soon overtake tobacco,'' said Julie L. Gerberding, director of the federal Centers for Disease Control and Prevention, which conducted the study.

If current trends continue, obesity will become the leading cause by next year, with the toll surpassing 500,000 deaths annually, rivaling the number of annual deaths from cancer, the researchers found.

''This is a tragedy,'' Gerberding said. ''We are looking at this as a wake-up call.''

Being overweight or obese makes people much more likely to develop a variety of deadly health problems, including diabetes, heart disease and cancer.

In response, the Bush administration announced a new public education program yesterday, including a humorous advertising campaign that encourages Americans to take small steps to lose weight. In addition, the National Institutes of Health proposed an anti-obesity research agenda. Tomorrow, a special task force will present the Food and Drug Administration with recommendations on what that agency can do to help reverse the cresting public health crisis.

''Americans need to understand that overweight and obesity are literally killing us,'' said Health and Human Services Secretary Tommy G. Thompson. ''To know that poor eating habits and inactivity are on the verge of surpassing tobacco use as the leading cause of preventable death in America should motivate all Americans to take action to protect their health.''

Critics, however, immediately denounced the moves as inadequate, saying the administration should take more aggressive steps to encourage more healthful diets, and force the food industry to improve its products and stop advertising junk food to children.

''The government should have been much more aggressive about this much earlier,'' said Kelly Brownell, director of Yale University's Center for Eating and Weight Disorders. ''Even now, the administration defaults to explaining the problem away by individual responsibility and lack of physical activity rather than focusing on the toxic food environment.''

The new estimates of the rising toll of obesity come in the first update of a landmark paper that ranked the nation's preventable causes of death in 1990.

Cigarette smoking, which increases the risk of a host of illnesses including lung cancer, emphysema and heart disease, topped that list. But antismoking campaigns have led to a steady decline in the number of Americans who use tobacco, slowing the rise in the resulting toll of illness and death.

In the new analysis, published in today's Journal of the American Medical Association, Gerberding and her colleagues conducted a comprehensive review of the medical literature to calculate the most precise estimate possible of the risk of dying from all the leading causes of preventable death, including being obese or overweight. They then multiplied that risk by the number of Americans known to be overweight or obese, based on long-term, ongoing national surveys used to track the nation's health, which are the most accurate data available. The result, the researchers said, is the most reliable such estimate to date.

Tobacco still ranked No. 1, accounting for about 435,000 deaths, or 18.1 percent of the total. But poor diet and physical inactivity were close behind and rapidly increasing, causing 400,000 deaths, or 16.6 percent. That represented a dramatic change from 10 years earlier, when tobacco killed 400,000 Americans (19 percent) and poor diet and physical inactivity killed 300,000 (14 percent).

''There's been a big narrowing of the gap,'' said Ali H. Mokdad, who heads the CDC's behavioral research branch. It is particularly striking because the toll of every other leading cause of preventable death—including alcohol, infections, accidents, guns and drugs—steadily decreased over the same period, Mokdad said.

Despite intense public concern, the number of overweight or obese Americans has continued to climb to epidemic proportions. In 1990, about 60 percent of adult Americans were either overweight or obese, including about 20 percent who were obese. By 2000, that number had climbed to 64 percent being obese or overweight, including about 30 percent who were obese.

''Physical inactivity and poor diet is still on the rise. So the mortality will still go up. That's the alarming part—the behavior is still going in the wrong direction,'' Mokdad said.

Experts praised the government for highlighting the worrisome trend and taking countermeasures. But several said the severity of the problem warrants a much more intensive, innovative response.

''If we just count on the American population to change their eating habits and exercise habits, we're going to continue to have obesity,'' said Richard L. Atkinson, president of the American Obesity Association. ''What we're doing is not working.''

The government should consider more innovative strategies than simply encouraging people to eat better and exercise, such as subsidizing the cost of healthful foods such as fresh fruits and vegetables to make it more affordable to eat well.

''Let's start looking at things that make a difference,'' Atkinson said.

The federal government could take much more dramatic action, said Yale's Brownell. The Department of Agriculture ''has the power to get rid of soft drinks and snack foods in the schools, and they're not. The [Federal Trade Commission] could deal with the tidal wave of unhealthy food advertising aimed at children. The government could change agriculture policy to subsidize the industry making healthy foods instead of unhealthy ones,'' he said.

Officials rejected suggestions that the administration take more dramatic steps, such

as requiring food labeling at fast-food restaurants or prohibiting certain sugary, fatty products in schools.

''I don't want to start banning things,'' Thompson said. ''Prohibition has never worked.''

Officials have ''been elated by the response'' of the private sector to promote more healthful lifestyles, Surgeon General Richard H. Carmona said. ''Everything we've seen from the industry has been positive.''

Thompson urged Congress to pass legislation granting tax credits to people who lose weight, and said he has been lobbying health insurers to cut rates for those who lose weight or exercise.

Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO).

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

I have been intimidated to follow the chairman to the well since he does have impeccable credentials in the area of nutrition. He is the gentleman responsible for renaming French fries and French toast, although, of course, that did not do much for the caloric content of those food items.

But we do have a serious problem in this country; and, unfortunately, this bill and this debate will not rise to that issue. The statistics show an alarming increase in obesity among adults and, most alarmingly, an extraordinary increase in our youth. This can and will lead to real health problems. Those were talked about previously.

So we have a real problem. This could become a crisis and the question is, Why are we here today? Is there a crisis in litigation? Yes, there have been a few flaky lawsuits filed that have been dismissed, including one being dismissed with prejudice, something judges do not do routinely.

I think the majority is demeaning the intelligence of our juries, of the Americans who will sit there and cast judgment on their peers and say, no, have a little self-control; they did not make you eat that food. That is what the juries and judges have said so far, and I think they will continue to say.

But beyond that, they have said fitness and health cannot be legislated. Well, they might remember a former Republican who had a little more productive idea about this, Dwight David Eisenhower. He brought about the Presidential Fitness Program in the 1950s, mandatory physical education in all the schools in America because of concerns of so many males failing the physical for the draft in World War II and Korea. That was mandated when I was a kid growing up, and then sports were free.

What do we have today? Most States, many States no longer have mandatory physical education. They say they cannot afford it. In my State, kids have to pay to play sports. So many of them do not do it.

What we could do a lot more productively here today on the floor would be to consider legislation to add a little amendment to the so-called No Child Left Behind bill that would help our States, our local school districts reinstate or mandate that they reinstate physical education; but since it will be a Federal mandate, give them some help with the Federal mandate, something that the majority party has failed to do with No Child Left Behind and other mandates here in the Congress.

But let us send down a rule: we will have physical fitness. It will be mandatory. We will have kids able to play sports without having to pay and the Federal Government seeing that being in the national interest to avoid a crisis in health care caused by preventable illness, caused by obesity, we are going to take those steps. But that is not an amendment that would be allowed to this bill; that is not the subject here today. Instead, we will hear little funny speeches on that side where people will link together alliterations, as did the esteemed chairman of the committee, not dealing with the real problem.

Here we are. We will be done early today. Do not have a highway bill. Do not have extended unemployment benefits. We cannot even get labels on our food that are meaningful for country of origin. Congress is being defied by the administration. Do we have time for those real issues? No, but we have time for this little frolic.

This is a pretty sad day in the House of Representatives. Let us deal with this real problem and deal with it seriously and appropriately.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Orlando, Florida (Mr. KELLER), the original sponsor of the bill.

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

I support the rule, and I support the bill as well. I wanted to briefly just touch on three issues. First, a little bit about the bill's substance; second, I want to talk about the process which led up to this fair rule; and, third, just to touch on the childhood obesity issue which recently has been raised by my colleagues on the other side of the aisle.

First, in terms of the bill's substance, the gist of this legislation is that there should be common sense in the food court, not blaming other people in the legal court. We need to get back to the old-fashioned principles of common sense and personal responsibility and get away from this new culture where everybody plays the victim and tries to blame others for their problems.

Now, I have heard from some of the other speakers that this is a frolic; this is just a waste of time. We should be talking about jobs. Well, it is interesting to me because we are talking about protecting the single largest private sector employer in the United States that provides 12 million jobs. Why do these people pretend to love jobs yet hate the employers who create these jobs? It defies common sense as much as their opposition to this bill.

Now, let us talk about the process a little bit. I support this rule, an open modified rule; and let me tell you a little bit about the background here. It is true based on an independent Gallup poll that nearly nine in 10 Americans oppose holding the fast-food industry legally responsible for the diet-related health problems of people who eat that kind of food on a regular basis. Interestingly, overweight people oppose this just like skinny people do; Republicans just like Democrats do. The country overwhelmingly, 89 percent, opposes these types of lawsuits.

Yet, nevertheless, every step of the way we have given this small percent of the people and their representatives who think it is a good idea the opportunity to have their fair say. We had a hearing on this bill and allowed the minority to call witnesses that they wanted. What witness did they call? What guy did they think most helped them? They called a man named John Banzhaf who said, ''Somewhere there is going to be a judge and a jury that will buy this, and once we get the first verdict as we did with tobacco, it will open up the flood gates.'' That is who they called.

So when we talk about opening up the flood gates, that this is a problem, and then they come today and say, it is not a problem, what are we doing here? There is no problem. Yet their own witnesses tell us they want to open up the flood gates. But they had their hearing. We then had a mark-up. We let them offer any amendments they wanted to. The amendments were shot down.

After the mark-up, we then moved it to the floor. I appeared before the Committee on Rules. I did not say I wanted a closed ruled or anything. I said, I trust the Committee on Rules to fashion the appropriate rule, and they gave them this open rule that any Member of 435 can offer something provided it is preprinted in the RECORD. So we have been pretty fair about the process here, especially given the fact that their opposition has so little support among the American people.

Third, let me address the issue of childhood obesity. Childhood obesity is a very serious problem in this country. In the past 30 years the childhood obesity rates have doubled. Why is that? Well, I do not stand before you in the well of Congress and hold myself out as the world's leading expert in fitness and health. But I did have the happy privilege of questioning Dr. Kenneth Cooper on February 12 of this year, who appeared before the Committee on Education and the Workforce who is the father of the aerobics movement, and nobody is more well respected. This is what he said: ''Thirty years ago did kids come home from school and eat potato chips and cup cakes and cookies? They absolutely did, just like they do today. The difference is they then went out and rode their bikes and played with their friends and did all other sorts of things.'' Nowadays, he said, those same kids come home from

school and sit on the couch and play video games and watch TV. He told us the average child spends only 900 hours a year in school and 1,023 hours in front of that TV set playing video games or watching TV.

Meanwhile, we now have only one State in the country, Illinois, that mandates physical education programs. I asked Dr. Kenneth Cooper, Do you think these lawsuits against the fast-food companies are going to make anyone skinnier? He said, absolutely not. Is it going to help to put a tax on Twinkies? Is that going to make people skinnier? Absolutely not. What is the answer? He told us the answer is personal responsibility and getting young people involved in daily physical activity. That is the kind of commonsense approach that most people in this country can relate to.

I urge my colleagues to support the rule and support the bill. They are both very fair.

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

Mr. Speaker, I appreciate the gentleman's comments, but I would just say that what his bill does is it protects an industry that does not need to be protected at this particular point. We are dealing with a problem that does not exist. The problem that does exist is that we do have a problem with obesity in this country. This bill does nothing to deal with that issue. If anything, what it does is it tells the fast-food industry, you have no responsibility to our kids. You can do whatever you want to do. And that is the wrong message we want to be sending at this particular point.

I also want to correct the gentleman on one other thing. He referred a couple of times to this rule as an open rule. This is not an open rule. This is not an open rule. And by the definition taken by the Republicans when they were in the minority, they said any rule that is not considered under a completely open process is considered restrictive, and this is not a completely open process. They further said that these rules are the rules that limit the number of amendments that can be offered and include the so-called modified open and modified closed, as well as completely closed, rules.

This is not an open rule. The Republican majority when they came into power said they were committed to an open process. They have given us anything but an open process. And the question that I asked the distinguished chairman of the Committee on Rules still stands. If a Member is watching this debate and scratching their head, why are we debating such a trivial matter when we have so many other issues to deal with that really do impact the American people very directly, and they wanted to come down here right now and offer an amendment, they would be unable to under this restrictive process that the Republicans on the Committee on Rules have given us today.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I thank the distinguished Member from the Committee on Rules for yielding me time.

Mr. Speaker, I rise today urging my colleagues to oppose this rule and reject the Personal Responsibility in Food Consumption Act.

I think this is a trivial bill about obesity lawsuits that have not resulted in a cent in damages against anyone. So this is not about fixing something that is broken. This is pursuing something that, most frankly, does not exist. In something that refers to the food industry, it is an old quote, an old hamburger ad, ''Where's the beef?''

There are more pressing issues for us to tackle, particularly regarding food safety.

□ 1145

I want to direct my comments to this area of food safety, and I want to talk about lawsuits that have consequences and very serious consequences.

Meat processors have sued the USDA to block the enforcement of food safety standards that are designed to protect the public from pathogens like e-coli and salmonella. The processors have either won or forced the government to settle these cases, and our food safety system has been terribly weakened. One of the processors failing to meet basic standards on three separate occasions was able to continue to sell meat for use in school lunches.

To fight the impact of these cases, I have introduced a bill called Kevin's Law, named in memory of a 2½-year-old boy named Kevin Kowalcyk who died from e-coli poisoning in 2001.

Kevin's law makes it clear that the USDA can set and enforce food safety standards for deadly pathogens. This is not radical policy. This is something that is supported by the National Academy of Sciences, and this legislation has bipartisan support in both the House and the Senate.

I thank my colleagues the gentleman from Pennsylvania (Mr. ENGLISH) and the gentlewoman from Pennsylvania (Ms. HART) and Senators HARKIN and SPECTER for cosponsoring and supporting this legislation. It is something the Congress should be advancing on.

Mr. Speaker, 5,000 Americans die from food-borne illnesses every year in our country. The lawsuits this bill seeks to stop have not harmed anyone. In fact, as I said earlier and others have mentioned, this is about pursuing something that does not even exist. When we juxtapose what is taking place here on the floor today and what I described that threatens Americans today where 5,000 Americans die from food-borne illnesses, this is what we really should be pursuing.

The American people would support that path to eliminate these pathogens that are actually taking American lives. So if we are talking about ending destructive lawsuits, the House should be debating Kevin's Law to put some teeth into our food safety system.

If there is something that the American people I think have taken for granted are our very, very high standards in terms of food safety, but they do not necessarily exist any longer. So I urge my colleagues to defeat this rule and reject the underlying bill.

Mr. SESSIONS. Mr. Speaker, I would like to notify my colleague that we do not have any further speakers at this time, and I would entertain him to please feel free to run down that time and then I will choose to close.

Mr. MCGOVERN. Mr. Speaker, I will close the debate on our side, and I yield myself such time as I may consume.

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

Mr. MCGOVERN. Mr. Speaker, first, I will enter into the RECORD a letter from the Center for Science in the Public Interest opposing H.R. 339.

CENTER FOR SCIENCE IN THE PUBLIC INTEREST,
Washington, DC, June 18, 2003.

Re hearing on H.R. 339.

Hon. CHRIS CANNON,
Chairman, Subcommittee on Commercial and Administrative Law Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN CANNON: On behalf of our 700,000 members in the United States, I request that you make this letter part of the record of the June 19, 2003 hearing on H.R. 339, The Personal Responsibility in Food Consumption Act.

The Center for Science in the Public Interest (''CSPI'') strongly opposes H.R. 339. Despite its stated purpose of banning frivolous lawsuits, H.R. 339 bans any lawsuit against a manufacturer, distributor, or seller of a food or a non-alcoholic beverage ''unless the plaintiff proves that, at the time of sale, the product was not in compliance with applicable statutory and regulatory requirements.''

H.R. 339 ignores the fact that both legislatures and administrative agencies frequently are too busy to enact specific standards dealing with a particular food safety or nutrition problem, and so the victims must turn to the courts for help. Meritorious lawsuits can, of course, spur the food industry to improve its practices.

Both Congress and state legislatures, recognizing their inability to deal with the myriad of food safety and nutrition problems, have delegated regulatory responsibilities to specific agencies. Congress, for example, has delegated regulatory responsibility over food to the Food and Drug Administration (''FDA''), the Department of Agriculture, and the Environmental Protection Agency.

However, these agencies, like their state counterparts, do not have enough resources to promptly address all the new concerns about food safety and nutrition. For example, in February 1994 CSPI petitioned the FDA to require the disclosure of trans fatty acids on packaged foods. More than five years later, in November 1999, the FDA published a proposed regulation in response to our petition. The FDA still has not issued a final rule, although FDA Commissioner Mark McClellan has said that a final rule, requiring the disclosure of the amount of trans in packaged foods, will be announced in the near future.

In conclusion, H.R. 339 should be rejected because lawsuits can play a valuable role in

protecting consumers by filling the interstices in legislative and regulatory requirements.

Sincerely,

MICHAEL F. JACOBSON, PH.D.,
Executive Director.

Let me conclude my remarks by again expressing my concern, first of all, over the rule because this is a restrictive rule, and what I have been trying to find out from the chairman of the Committee on Rules, and maybe the gentleman from Texas may be able to enlighten me on this, is the wave of the future, no more completely open rules? Are we now going to be forced to deal with restrictive rules on every bill that we now deal with?

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

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

Mr. SESSIONS. Mr. Speaker, I believe we had an open rule last week.

Mr. MCGOVERN. We have had one open rule out of, I think, nine, but I mean, it seems that now we are being required to preprint all our amendments in advance, which by my colleagues' own definition is a restrictive rule. Is that the wave of the future?

Mr. SESSIONS. I thank the gentleman for allowing me to respond. The Committee on Rules, when we file the rule and when we prepare these documents ahead of time, we notify every Member of Congress of our intent to have a meeting at the Committee on Rules to consider a subject. We ask them to please preprint those things that would be necessary. We ask every Member to please work with legislative staff who would help in preparing those documents to make sure that they are in order, would be made in order under the rule, under the rules of this House, and we believe we are trying to do things to move legislation forward, allow time just as we have done here, notify people ahead of time.

One of the things about this process is that for years and years the House has worked off Jeffersonian rules. We have a Speaker who is up here. We have a parliamentarian. We have people who make decisions about what is right and what is wrong and what is fair and what is not, and we believe what we have done here today from March 4 was said here on the floor of the House, all Members of Congress——

Mr. MCGOVERN. Mr. Speaker, reclaiming my time, I appreciate the answer. I guess the question that I asked to the chairman of the Committee on Rules, and I will ask the gentleman from Texas, if a Member of either party is watching this debate and would like to offer an amendment based on something that they have heard here today, do they have the right to come to the floor and offer an amendment at this particular point?

Mr. SESSIONS. Mr. Speaker, if the gentleman would yield, the answer is no.

Mr. MCGOVERN. Okay. So, again, it kind of makes my point of the restrictive nature of this process, and I raise this issue because I hope that this is not going to be a trend where Members are going to be restricted.

Again, it is not just something the Democrats feel passionately about. Again, I have been reading quotes from Republicans over the years who feel very passionately about the importance of not having preprinting requirements because they believe that that constitutes a restrictive rule. So I think that there is a bipartisan consensus here that we should move away from restricting debate and restricting what can be offered and opening up this process on controversial bills and on noncontroversial bills. That is the only point I would make to the gentleman.

With regard to the bill that we are talking about here today, I will again say that I regret that we are dealing with this particular bill today because it does not address any real problem. This is a bill that corrects a problem that does not exist. These lawsuits that people are complaining about with regard to obesity and the fast food industry are being routinely dismissed. This is not a problem.

The problem is obesity. The problem we should be talking about here is how to make sure that our kids get more nutritious foods. The issue that we need to be dealing with here is how to make sure that the Federal programs that provide breakfasts and lunches to our children in schools meet proper nutrition guidelines.

The issue we should be talking about is better labeling, informing the public in a better way about what, in fact, they are eating. We should be encouraging more corporate responsibility by the fast food industry, and that is not being debated here. In fact, what we are trying to do is we are sending the exact opposite signal to the fast food industry.

We should be encouraging more physical fitness programs in our schools and so that our young people can take advantage of them, and we should also be having a discussion on this floor about the issue of hunger, which is relevant to this issue of obesity.

As I pointed out in my opening statement, people who have precious little resources tend to buy things that are high in calories, that are not nutritious, and there is a relationship between hunger and obesity, and it is something we never even talk about on the floor of this House.

But then we bring this bill to the floor. We bring this bill to the floor, and we are telling the people who are watching here today that we are addressing a huge problem out there, a problem that does not exist, and we are bringing this bill up today and we are only in for a couple of days, notwithstanding the fact that we are not dealing with the issue of extending unemployment benefits to those workers who are unemployed, which is a national disgrace.

I do not know how people can come here and appear on the House floor with a straight face having not dealt with that issue. I know the gentleman from Texas' (Mr. SESSIONS) district, like my district, includes a number of people who are out of work, who have run out of their unemployment benefits, who are desperately trying to figure out how to make ends meet, put food on their table and pay their bills, and they are looking to us to help them out, to provide them a bridge until they can get a job. We are not doing anything here, and we should be ashamed of that fact.

The gentleman from Oregon mentioned the transportation bill that is kind of languishing in committee. That will put people to work, but we are not dealing with that. We are not dealing with the issue of those who do not have health insurance. We are not dealing with anything that matters to anybody, and here we are again dealing with an issue that really is trivial. This place is becoming a Congress where trivial issues are debated passionately and important ones not at all.

So, for a whole bunch of reasons, I oppose the rule because it is restrictive, and I oppose this bill because it is silly. We should not be dealing with this today. We should be dealing with something important.

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

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

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

Mr. SESSIONS. Mr. Speaker, this House has, in the 8 years I have served in it had debate after debate, hours on the floor, to make sure that we discuss the issues that are of relevance and important to the American public, but these same things also take place, the debates, in our committee system, and committees hold hearings. Committees go around the country to hear testimony from people about issues like obesity, like prescription drugs, like health care, that are important to the American public and to our health and to our safety.

Mr. Speaker, these issues about obesity and about what the answer would be, we hear from the trial lawyers that they want to open up the floodgates, and we hear from people who are engaged from the nutritional side talking about how better labeling would be good or how food that is served to our children should be leaner and have less fat. We have heard from people like Dr. Kenneth Cooper from Dallas, Texas, talk about how our children need more physical fitness and to be more active. All of these things have contributed to a part of what this bill is about.

Mr. Speaker, I will include in the RECORD at this point the testimony of Dr. Gerard Musante, who is the founder of the Structure House, before the Senate Subcommittee on Administrative Oversight and the Courts on October 16.

TESTIMONY OF DR. GERARD MUSANTE

Good afternoon, Chairman Sessions and Honorable members of the Subcommittee on Administrative Oversight and the Courts. I am Dr. Gerard J. Musante and I appreciate the opportunity to appear before you today. I have been called here to share my expertise and educated opinion on the importance of personal responsibility in food consumption in the United States. This lesson is one I have been learning about and teaching for more than 30 years to those who battle moderate to morbid obesity—a lesson that emphasizes the criticality of taking responsibility for one's own food choices. I am testifying before you today because I am concerned about the direction in which today's obesity discourse is headed. We cannot continue to blame any one industry or any one restaurant for the nation's obesity epidemic. Instead, we must work together as a nation to address this complex issue, and the first step is to put the responsibility back into the hands of individuals.

As a clinical psychologist with training at Duke University Medical Center and The University of Tennessee, I have worked for more than 30 years with thousands of obese patients. I have dedicated my career to helping Americans fight obesity. My personal road, which included the loss and maintenance of 50 of my own pounds, began when I undertook the study of obesity as a faculty member in the Department of Psychiatry at Duke University Medical Center. There, I began developing an evidenced-based, cognitive-behavioral approach to weight loss and lifestyle change. I continue to serve Duke University Medical Center as a Consulting Professor in the Department of Psychiatry. Since the early 1970's, I have published research studies on obesity and have made presentations at conferences regarding obesity and the psychological aspects of weight management. Today, I continue my work at Structure House—a residential weight loss facility in Durham, North Carolina—where participants come from around the country and the world to learn about managing their relationship with food. Participants lose significant amounts of weight while both improving various medical parameters and learning how to control and take responsibility for their own food choices. Our significant experience at Structure House has provided us with a unique understanding of the national obesity epidemic.

Some of the lessons I teach my patients are examples of how we can encourage Americans to take personal responsibility for health and weight maintenance. As I tell my participants, managing a healthy lifestyle and a healthy weight certainly are not easy to do. Controlling an obesity or weight problem takes steadfast dedication, training and self-awareness. Therefore, I give my patients the tools they need to eventually make healthy food choices as we best know it. Nutrition classes, psychological understanding of their relationship with food, physical fitness training and education are tools that Structure House participants learn, enabling them to make sensible food choices. As you know, the obesity rates in this country are alarming. The Centers for Disease Control and Prevention have recognized obesity and general lack of physical fitness as the nation's fastest-growing health threat. Approximately 127 million adults in the United States are overweight, 60 million are obese and 9 million are severely obese. The country's childhood obesity rates are on a similar course to its adult rates, as well as increases in type II diabetes. Fortunately Americans are finally recognizing the problem. Unfortunately, many are taking the wrong approaches to combating this issue.

Lawsuits are pointing fingers at the food industry in an attempt to curb the nation's obesity epidemic. These lawsuits do nothing but enable consumers to feel powerless in a battle for maintaining one's own personal health. The truth is, we as consumers have control over the food choices we make, and we must issue our better judgment when making these decisions. Negative lifestyle choices cause obesity, not a trip to a fast food restaurant or a cookie high in trans fat. Certainly we live in a litigious society. Our understanding of psychological issues tells us that when people feel frustrated and powerless, they lash out and seek reasons for their perceived failure. They feel the victim and look for the deep pockets to pay. Unfortunately, this has become part of our culture, but the issue is far too comprehensive to lay blame on any single food marketer or manufacturer. These industries should not be demonized for providing goods and services demanded by our society.

Rather than assigning blame, we need to work together toward dealing effectively with obesity on a national level. Furthermore, if we were to start with one industry, where would we stop? For example, a recent article in the Harvard Law Review suggests that there is a link between obesity and ''preference manipulation,'' which means advertising. Should we consider suing the field of advertising next? Should we do away with all advertising and all food commercials at half time? We need to understand that this is a multi-faceted problem and there are many influences that play a part. While our parents, our environment, social and psychological factors all impact our food choices, can we blame them for our own poor decisions as it relates to our personal health and weight? For example, a recent study presented at the American Psychological Association conference showed that when parents change how the whole family eats and offer children wholesome rewards for not being couch potatoes, obese children shed pounds quickly. Should we bring lawsuits against parents that don't provide this proper direction? Similarly, Brigham and Women's Hospital in Boston recently reported in ''Pediatrics'' that children who diet may actually gain weight in the long run, perhaps because of metabolic changes, but also likely because they resort to binge eating as a result of the dieting. Do we sue the parent for permitting their children to diet?

From an environmental standpoint, there are still more outside influences that could be erroneously blamed for the nation's obesity epidemic. The Center for Disease Control has found that there is a direct correlation between television watching and obesity among children. The more TV watched, the more likely the children would be overweight. Should we sue the television industry, the networks, cable, the television manufacturers or the parents that permit this? And now we have internet surfing and computer games. Where does it stop? School systems are eliminating required physical education—are we to also sue the school systems that do not require these courses?

Throw social influences into the mix and we have a whole new set of causes for obesity. Another recent study in ''Appetite'' indicated that social norms can affect quantitative ratings of internal states such as hunger. This means that other people's hunger levels around us can affect our own eating habits. Are we to blame the individuals who are eating in our presence for our own weight problems? As evidenced in these studies, we cannot blame any one influencing factor for the obesity epidemic that plagues our nation. Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves ''off the hook,'' to say it's not their fault, and that they are a victim. To do this can bring about feelings of helplessness and then resignation. Directing blame or causality outside of oneself allows the individual not to accept responsibility and perhaps even to feel helpless and hopeless. ''The dog ate my homework'' and ''the devil made me do it'' allows the individual not to take serious steps toward correction because they believe these steps are not within their power. We must take personal responsibility for our choices.

What does it mean to take personal responsibility for food consumption? it means making food choices that are not detrimental to your health, and not blaming others for the choices we make. Ultimately, Americans generally become obese by taking in more calories than they expend. But certainly there are an increasing number of reasons why Americans are doing so producing rising obesity rates. Some individuals lack self-awareness and overindulge in food ever more so because of psychological reasons. Others do not devote enough time to physical activity, which becomes increasingly difficult to do in our society. Others lack education or awareness as it relates to nutrition and/or physical activity particularly in view of lessened exposure to this information. And still others may have a more efficient metabolism or hormonal deficiencies. In short, honorable members of the Subcommittee, there is yet much to learn about this problem.

Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction. No industry is to blame and should not be charged with solving America's obesity problem.

Rather than pointing fingers, we should be working together on a national level to address the importance of personal responsibility in food consumption. The people who come to Structure House have a unique opportunity to learn these lessons, but they are only a select few. These lessons need to be encouraged on a national level, from an early age—in schools, homes and through national legislation that prevents passing this responsibility onto the food or other related industries. In closing, I'd like to highlight the fact that personal responsibility is one of the key components that I teach my patients in their battle against obesity. This approach has allowed me to empower more than 10,000 Americans to embrace improved health. I urge you to consider how this type of approach could affect the obesity epidemic on a national level. By encouraging Americans to take personal responsibility for their health by limiting frivolous lawsuits against the food industry, we can put the power back into the hands of the consumers. This is a critical first step on the road toward addressing our nation's complex obesity epidemic.

For years, I have seen presidents call for ''economic summits.'' I urge that we consider an ''obesity summit.'' Let me suggest instead of demonizing industries that we bring everyone to the table—representatives in the health care industry, advertising, restaurants, Hollywood, school systems, parent groups, the soft drink industry, and the bottling industry. Instead of squandering resources in defending needless lawsuits by pointing fingers, let's make everyone part of the solution. Let us encourage a national obesity summit where all the players are asked to come to the table and pledge their considerable resources toward creating a national mind set toward solving this problem.

That would be in the interest of the American people.

I feel privileged to be a part of the Subcommittee's efforts. I want to thank you for allowing me to testify here before you today and I will now be glad to answer any questions.

Mr. Speaker, let me tell my colleagues what he said. He is a gentleman who has worked for 30 years on obesity in this country, and he said, ''Through working with obese patients, I have learned that the worst thing one can do is to blame an outside force to get themselves 'off the hook,' to say it's not their fault, and that they are a victim. Congress has rightly recognized the danger of allowing Americans to continue blaming others for the obesity epidemic. It is imperative that we prevent lawsuits from being filed against any industry for answering consumer demands. The fact that we are addressing the issue here today is a step in the right direction.''

Mr. Speaker, I will tell my colleagues that the Republican House and the Republican Senate are addressing the issues. We are doing those things that not only Members find of interest to people back home, but also in the interest of what is the right thing for America to do.

I feel like what we are doing today is right in line with what all 50 States have and that is a law that says we will not take these fast food restaurants to task, to go and have a lawsuit against them, and the Federal Government, we, as members of Congress, are going to affirm that, to avoid a problem before it becomes one. We have been warned about the problems. We are trying to do aggressive things and the right thing for it.

I support this rule. I support this underlying legislation, and I think that it will win overwhelmingly because this is the best answer.

Mr. HASTINGS of Florida. Mr. Speaker, we are fat. America is the fattest nation on the planet and getting fatter all the time. It is estimated that as many as one in five Americans is obese, a condition defined as being more than 30 percent above the ideal weight based on height.

Being overweight and obese in the United States occurs at higher rates in racial and ethnic minority populations, such as African Americans and Hispanic Americans, compared with White Americans. Persons of low socioeconomic status within minority populations appear to be particularly affected by being overweight and obese. Also, according to the surgeon general, women of lower socioeconomic status are about 50 percent more likely to be obese than their better-off counterparts.

Obesity is fast becoming our most serious public health problem. Indeed, obesity is linked to disease such as type-2 diabetes, heart disease and certain types of cancer. An estimated 300,000 Americans die each year from fat-related causes, and we spent $117 billion in obesity-related economic costs just last year, according to U.S. Surgeon General David Satcher.

Congress should consider comprehensive legislation aimed at America's obesity epidemic. Instead, Mr. Speaker, here I stand debating a closed rule for a bill that pre-determines that in no plausible circumstance do food companies bear responsibility for their acts.

This bill is so overbroad that it provides immunity even where most would think liability is appropriate.

For instance, as an observant Hindu, Mr. Sharma considers cows sacred. Not surprisingly, Brij Sharma did not eat at fast food restaurants. But in 1990, when McDonald's announced that it was switching from beef fat to ''100 percent vegetable oil'' to cook its French fries, Mr. Sharma began going to the fast food chain to eat what he believed were vegetarian fries.

Imagine Mr. Sharma's terror when he read in a newspaper the following heading, ''Where's the beef? It's in your french fries.'' He was outraged to learn that McDonald's french fries are seasoned in the factory with beef flavoring before they are sent to the restaurants to be cooked in vegetable oil.

McDonald's has apologized, admitted wrongdoing and agreed to pay more than $10 million to charities chosen by vegetarian and Hindus plaintiffs. Is it not preposterous that this bill would bail out the fast food industry from liability for wrongdoing such as this? Of course it is.

In addition, this bill is an unnecessary, premature, overly broad affront to our judicial system and to our system of federalism. Congress is preemptively taking away the ability of judges and jurors to consider the particular facts and evidence of cases, and a plaintiff's ability to have his or her day in court.

Mr. Speaker, regardless of one's position on the merits of lawsuits against the industry, the line drawn between the responsibility of an individual end and society's start should be answered by judges and juries, and not by legislators in the pockets of campaign contributors.

This incredibly large portion of legislative junk food, being served to feed Republican special interests, is as unhealthy as the industry it attempts to protect.

I urge my colleagues to oppose this ill-conceived legislation.

Mr. SESSIONS. 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. REHBERG). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken later today.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2714) to reauthorize the State Justice Institute, as amended.

The Clerk read as follows:

H.R. 2714

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''State Justice Institute Reauthorization Act of 2004''.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, $7,000,000 for each of fiscal years 2005, 2006, 2007, and 2008. Amounts appropriated for each such year are to remain available until expended.''.

SEC. 3. TECHNICAL AMENDMENTS.

(a) STATUS OF INSTITUTE.—Section 205(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(c)) is amended by adding at the end the following new paragraph:

''(3) The Institute may purchase goods and services from the General Services Administration in order to carry out its functions.''.

(b) STATUS AS OFFICERS AND EMPLOYEES OF THE UNITED STATES.—Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by inserting '', notwithstanding section 8914 of such title'' after ''(relating to health insurance)''.

(c) MEETINGS.—Section 204(j) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(j)) is amended by inserting ''(on any occasion on which that committee has been delegated the authority to act on behalf of the Board)'' after ''executive committee of the Board''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

□ 1200

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2714, the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, Congress established the State Justice Institute as a private nonprofit corporation in 1984. Its purpose is to improve judicial administration in the State courts. SJI accomplishes this goal by providing funds to State courts and to other national organizations or nonprofits that support State courts. SJI also fosters cooperation with the Federal judiciary in areas of mutual concern.

Pursuant to oversight legislation passed in the previous Congress, the