(Rept. No. 109–21) on the resolution (H. Res. 163) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. 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 tomorrow.

PROTECTION OF INCAPACITATED PERSONS ACT OF 2005

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1332) to amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1332

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 ''Protection of Incapacitated Persons Act of 2005''.

SEC. 2. REMOVAL OF CERTAIN CASES TO FEDERAL COURT TO PROTECT THE RIGHTS OF INCAPACITATED PERSONS.

(a) RIGHT OF REMOVAL.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following:

''§ 1453. Protection of rights of incapacitated persons

''(a) Notwithstanding any other provision of this chapter, not later than 30 days after available State remedies have been exhausted, an incapacitated person, or the next friend of an incapacitated person, may remove any claim or cause of action described in subsection (b) to the United States district court for the district in which the claim or cause of action arose, or was heard.

''(b) The claim or cause of action referred to in subsection (a) is one in which the State court authorizes or directs the withholding or withdrawal of food or fluids or medical treatment necessary to sustain the incapacitated person's life, but does not include a claim or cause of action in which no party disputes, and the court finds, that the incapacitated person, while having capacity, had executed a written advance directive valid under applicable law that clearly authorized the withholding or withdrawal of food or fluids or medical treatment in the applicable circumstances.

''(c) In hearing and determining a claim or cause of action removed under this section, the court shall only consider whether authorizing or directing the withholding or withdrawal of food or fluids or medical treatment necessary to sustain the incapacitated person's life constitutes a deprivation of any right, privilege, or immunity secured by the Constitution or laws of the United States.

''(d) The United States district court shall determine de novo any claim or cause of action considered under subsection (c), and no bar or limitation based on abstention, res judicata, collateral estoppel, procedural default, or any other doctrine of issue or claim preclusion shall apply.

''(e) As used in this section—

''(1) the term 'incapacitated person' means a born individual who is presently incapable of making relevant decisions concerning the provision, withholding, or withdrawal of food, fluids or medical treatment under applicable law; and

''(2) the term 'next friend' means an individual who has some significant relationship with the real party in interest, and includes a parent.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 89 of title 28, United States Code, is amended by adding at the end the following new item:

''1453. Protection of rights of incapacitated persons.''.

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

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

GENERAL LEAVE

Mr. SENSENBRENNER. Madam 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. 1332, the bill currently under consideration.

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

There was no objection.

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

Madam Speaker, I rise today in support of H.R. 1332, the Protection of Incapacitated Persons Act of 2005, which I introduced today with the gentleman from Florida (Mr. WELDON).

Madam Speaker, the Florida courts are poised to determine that Terri Schiavo will have her feeding tube removed on Friday. This legislation will protect Ms. Schiavo from starving to death by allowing her to have a Federal court consider her case anew, unrestricted by the findings of the State court.

H.R. 1332 authorizes the removal of cases in State court to U.S. Federal court to vindicate the Federal rights of incapacitated persons under the United States Constitution or any Federal law. Such proceedings would be authorized after an incapacitated person has exhausted available State remedies and the relevant papers must be filed in Federal court within 30 days after the exhaustion of available State remedies.

What is going on in Florida regarding Terri Schiavo is nothing short of inhumane. She is facing what amounts to a death sentence, ensuring that she will slowly starve to death over a matter of weeks. Terri Schiavo, a woman who smiles and cries and who is not on a respirator or any other 24-hour-a-day medical equipment, has committed no crime; and she has done nothing wrong. Yet the Florida courts seem bent on setting an extremely dangerous precedent by saying that we must stop feeding someone who cannot feed herself. Who is next? The disabled or those late in life? This legislation is humane and the right thing, not only to protect Terri Schiavo, but also to reinforce the law's commitment to justice and compassion for all, even the most vulnerable.

The bill applies to anyone who might find themselves in Terri Schiavo's situation, namely, those who are in an incapacitated state and facing a court order authorizing ''the withdrawal or withholding of food or fluids or medical treatment necessary to sustain the incapacitated person's life.'' The bill applies only to incapacitated persons, not to convicted criminals or those facing the death penalty, for example.

Furthermore, it applies only to those who have not executed in advance a written directive, commonly known as a living will, that clearly authorizes the withholding or withdrawal of food, water, and medical treatment in the event the person becomes incapacitated.

What Terri Schiavo and all disabled people deserve in contested cases is for justice to tilt toward life. When a person's intentions regarding whether to receive lifesaving treatment are unclear, the clear choice is to provide an innocent person with the opportunity to have a Federal court provide a ''double-check'' for life under Federal law, unencumbered by the decisions of a State court. A measure of a Nation's commitment to innocent life is measured in its laws by the extent to which the laws go to save it. This bill takes that extra step, not just for Terri Schiavo but for all of us. And I urge every Member of this House to take that step with me and overwhelmingly pass this bill.

Madam Speaker, I reserve the balance of my time.

□ 2145

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

Madam Speaker, I rise to oppose this bill because it is a dangerously reckless way to deal with some very serious issues.

The Committee on the Judiciary was supposed to have a hearing to examine this legislation, or rather another piece of legislation on this subject. This bill was introduced only a few hours ago. That hearing today was canceled and then we were told that this bill would be brought up.

We are dealing with some of the most difficult issues likely to come before this Congress, end of life issues, discerning the wishes of those unable to speak for themselves, ensuring due process and a fair and careful fact finding process.

Does this legislation do the job, or does it make matters worse? Has anyone looked closely at this bill? Have we

had a hearing? Have we had a markup? Has anyone had a chance to look at the competence of its drafting, at the effects of its language? No.

There is no way to make these judgments easy, even when the expressed desires of the patients are clear and unambiguous. Where there is disagreement on the medical facts or on the wishes of the patient, these cases can be heart rending, and sometimes bitter, beyond the comprehension of those who have been fortunate enough not to have to make those decisions.

Unfortunately, we have no choice. Even a decision to do nothing is a decision with consequences. Someone eventually will have to make that decision, either the patient or someone on behalf of the patient. In a dispute, a court must make the final call. I am grateful that burden has not fallen on my shoulders.

So what does this bill do? It would place the Federal judge and then Federal appellate judges in the middle of a case, after State courts, doctors, family members, counselors and clergy have struggled with that case perhaps for years. After everything is over, everything determined, everything adjudicated, and the participants finally sighing a sigh of relief that it is over, then a Federal judge jumps in.

It does not deal just with feeding tubes. It would allow intervention in any decision affecting any kind of medical care. Read the bill. It even says that the cause of action does not include a claim or cause of action in which no party disputes and the courts find that the incapacitated person while having capacity executed a written directive, et cetera.

What does that mean? It means that after someone writes a living will and says I do not want to be resuscitated, or do not use painful treatment beyond a certain point or whatever, and after the courts in that State have found that that is what happened, that that is what the person meant and that those instructions are to be followed, some busybody from outside can now come in and start the process all over again, notwithstanding the fact finding in the State courts, because we do not trust State courts any more. We do not trust the elected State courts, we want the unelected Federal judges that we normally excoriate in this Chamber. Now suddenly they are trustworthy and we want to come and say they should start a whole new proceeding after everything is over and drag the case on, to the anguish of the family members, for another few years.

This bill allows a large number of people, not just the spouse or a relative, to intervene in these cases, years into the proceeding, or even after everyone thought the proceeding was finished. Even if the incapacitated person has executed a written advance directive, any party can drag the matter into Federal court simply by ''disagreeing.'' That is what the bill says.

Do we have no respect for families? Do we have no respect for the carefully established procedures our State legislatures and courts have set up to wrestle with these difficult situations? Do we have no interest in writing a law for the whole country that might actually do the job right?

Unfortunately, the leadership is determined to vote on this important life or death issue without giving the Members of this House the opportunity to actually look at the issue or even read the bill or to think about it.

These things should not be done in haste tonight. That may be par for the course these days, but it is irresponsible and shows real contempt for the families who will have to live with this.

If you think this is the only way to prevent the disconnection of Terri Schaivo's feeding tube, that we should not legislate this way, we should give Members the opportunity to read bills, we should not ride roughshod over State judiciaries, but here we have an emergency because the case is coming down right away in Florida, consider this: The Florida legislature is considering its own legislation on this matter. There is no need to enact radical legislation unconsidered for the whole country just for this one case. Florida, for better or worse, is addressing it.

We should take back this bill and look at it carefully. People should at least read it. We should hold hearings. We should get expert witnesses. We should tighten up the drafting so that not any busybody can come and insert himself or herself into a family's anguish. We owe American families that much.

I urge that this bill not be passed tonight, and that we stop, look, listen and think.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Madam Speaker, I rise in strong support of the Protection of Incapacitated Persons Act of 2005, and I rise at this late hour to commend the author of this legislation, the distinguished chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER). I also offer commendation to its lead cosponsor, the gentleman from Florida (Mr. WELDON).

Without the vision and the compassion of this chairman and this physician-turned Congressman, we would not be here tonight, and in all likelihood Terri Schiavo's life would begin to end this Friday when her feeding tubes are removed.

As the gentleman from Wisconsin (Mr. SENSENBRENNER) just said, a nation's commitment to life can be judged by the way it treats its most vulnerable. The courts in Florida at this very hour are poised to have Terri Schiavo's feeding tubes removed Friday. But in a stroke of rhetorical and legislative brilliance, the gentleman from Wisconsin (Chairman SENSENBRENNER) has instead offered, instead of removing her feeding tubes, that Congress will make it possible to remove her case to Federal court.

Under the protection of the Incapacitated Persons Act of 2005, individuals in an incapacitated state would have the opportunity to have their cases removed to the Federal courts. The District Court's consideration is restricted to determining whether the State court's ruling violates any right, privilege or immunity secured by the Constitution.

I must say I am a bit befuddled by the gentleman from New York's objections to this bill. It seems to me that many of our colleagues on the left are often content, and rightly so, to have the Federal courts defend the constitutional rights of Americans, and here in the case of one of our most vulnerable citizens, the arguments are lost on me as to why as to securing those constitutional rights the Federal District Court would not be the proper jurisdiction.

And with this I close: The Bible tells us we have three duties; to do justice, to love kindness, to walk humbly with our God. This is a deeply meaningful moment to this Member of Congress. I am grateful to the gentleman from Florida (Mr. WELDON) for his leadership. I am profoundly grateful to the gentleman from Wisconsin (Chairman SENSENBRENNER) for his compassion and his vision in bringing this bill to the floor. In so doing, the gentleman from Wisconsin (Mr. SENSENBRENNER) brings justice and kindness to the law in this extraordinary case and comes alongside the family of Terri Schiavo to say the American people hear you and are anxious to bring you relief.

Mr. NADLER. Madam Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Madam Speaker, I appreciate the gentleman's courtesy in permitting me to speak on this measure this evening.

I must note in passing as I was listening to my colleague from Indiana I know speak from the heart, but I find irony that he talks about perceived inconsistencies by people on our side of the aisle.

I note that this is the same majority party that would seek to deny the Supreme Court the authority to be able to deal with matters that relate to marriage. They think that that is not appropriate for the Federal court. They do not trust the Supreme Court to deal with these personal issues. But if they are thinking that they can continue with efforts to have government interfere with some of the most painful, personal areas, then they are willing to cast aside consistency and move forward.

I have watched as a Member of this Chamber a consistent effort to try and

interpose some people's version of what they sincerely believe from the heart, and I respect that.

But I have watched, for instance, in my State, where citizens have struggled with these sensitive issues of end of life. I come from Oregon. I have watched Oregonians struggle with a question of profound significance of how we are going to deal with end-of-life questions; who is going to have control, where is government going to intervene and how far are we going to extend it.

I have watched for 4 years as the Bush administration has engaged in an assault against the decision of the voters of Oregon, not unelected bureaucrats, not unelected judges. Oregonians, not once, but twice, decided to be the first State in the Union that was going to try and deal with these sensitive personal issues openly and honestly. Because I will tell you that in every State of the Union, every day, decisions are made by physicians and families that end up shortening life, maybe even terminating life.

The difference is in Oregon, that is the first State where we decided we are actually going to have a legal framework that deals with this, that provides guidance. The assisted suicide that we have requires not one but two doctors to work with citizens, to be able to provide a framework, finding among other things that they are at the end of their life, the last 6 months, and that they are not doing this out of an act of desperation or depression.

In fact, there is pretty pervasive evidence that by having this framework and giving people control, there are probably fewer suicides, because people have a sense that they control their own destiny, and that armed with this and a prescription that would end their life, many of them choose not to move forward.

But we have watched the assault against the decision of Oregonians, approved by the voters, by the Bush administration through the courts, that to this point has been thwarted. We found people in this Chamber who have seen fit to criminalize the practice of medicine by injecting the decision of prosecutors to determine the intent of physicians in these most personal of matters. Thus far, at least, it has been resisted.

Well, Madam Speaker, the assault by ideologues and the intolerants who would impose government on these most personal decisions continues. We have seen it in Florida. This is a case in Florida we have all been following, where the politicians repeatedly have been seeking to intervene over the objection of the husband in this case.

The courts in Florida have seen fit to render judgment, but it is not good enough for folks. They want to go ahead over the objection of the parties involved, and they want to remove this to the Federal courts. As I pointed out, the same people that wanted to deny the authority of the Federal courts to deal with issues; for example, of marriage, to interfere with decisions with which they disagree.

You may not be from Oregon or Florida, but make no mistake, this is a drumbeat to take away the authority of citizens to deal with these most personal of matters. No one will be safe if we allow this path to continue. Families, local courts, voters, are going to be overruled by people in their zeal to tell others how to lead their lives.

I strongly urge that this misguided proposal be rejected.

Mr. SENSENBRENNER. Madam Speaker, I yield 3½ minutes to the gentleman from Florida (Mr. WELDON), the principal cosponsor of this resolution.

□ 2200

Mr. WELDON of Florida. Madam Speaker, I thank the gentleman for yielding me time.

I practiced medicine for 15 years prior to my election to this body; and, unfortunately, I personally had to get involved on many instances in cases like this. And I would just share with Members there were instances where I did support families' wishes to withdraw food and water. For me, the dividing line always was, are you prolonging the death? Are you prolonging suffering or are you prolonging life?

The case that has precipitated this piece of legislation does not involve a dying person. It does not involve a person with a terminal disease. It is not a person in a vegetative state. She has an active EEG. She has eyes that respond, a face that tries to smile. She tries to vocalize.

In my opinion, this legislation that the chairman has brought forward is essentially the same thing as the bill I introduced last week. My legal remedy was a habeas corpus method of dealing with it. The chairman has, I believe, actually come up with a better solution; the removal act I think is a better way to deal with this.

I would just simply point out to all of my colleagues, we do not actually in this bill make a determination that her feeding tube will stay in. It simply allows a Federal review to make sure her rights under the Constitution are properly protected, the right to due process, the right to equal protection, and as well her right to life.

The annals of medical history are filled with numerous cases of people in these semi-comatose states who come out of it. And as we all know, the mother and father and the brothers and sisters desperately do not want her to be starved to death and that the original guardian in this case found the testimony of the husband that she, Terri, had prior voiced no life sustaining measures should she ever be in this condition. His testimony was not credible.

Let me tell Members, I have been there; and when people have voiced a sentiment that they do not want heroic measures should they ever be in this type of condition, it is brought up immediately. It is not brought up 7 years later. The person comes in, they have had a stroke, a car wreck and you hear immediately from the family members, Uncle Joe or grandma said if they were ever like this, she would not want life-sustaining measures. You do not have a 7-year pause in this case.

Just to close, we do not actually say this woman will continue to get her feedings. All we simply say is there will be a review; and I think there desperately needs to be a review. This is unprecedented for a judge to order the withdrawal of food and water from somebody. It has never been done before to my knowledge. And then to order that the family members cannot put a glass of water up to her mouth, this constitutes, in my opinion, cruel and unusual punishment.

I commend the chairman for what he has done.

Mr. NADLER. Madam Speaker, I yield 5 minutes to the distinguished 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. Madam Speaker, I thank the distinguished ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary, both for his very thoughtful presentation and as well for the difficult position that we are in in highlighting the difficult position we are in to say to my friends on the other side of the aisle and proponents of this legislation that I too do not want to see Miss Schiavo lose her life or begin to lose her life Friday with the termination of any sort of assistance. But we find ourselves in a very complex and difficult posture.

One might argue that the more appropriate vehicle for this particular case is a private relief bill that we believe may be offered in the other body because this is certainly not a poster case for any sort of right way to handle this very tragic circumstance.

I agree with the gentleman from Florida (Mr. WELDON) that if you had had evidence that someone articulated their desire to not be in this condition, it seems that you would have brought this at an earlier time.

I think what draws me to this particular legislation and wishing that we had been able to do, as the gentleman from New York (Mr. NADLER) has suggested, and that is to have a full hearing on this matter, is to be able to answer these very difficult questions.

I think what draws me to this initiative is the fact that it does point to the fact that there is no written document, and there is an oral representation by someone that Miss Schiavo does not want to remain in this condition. The written document qualification is, I think, an important aspect of the initiative, and it has merit, and it gives the bill certainly more credibility.

Where I have difficulty, of course, is the definition of ''next friend.'' I think

it is too broad. It lends itself to the criticisms of my colleagues, which is, who is defined as such. We appreciate the passion of the parents of this young woman. I think they have legitimate standing. But ''next friend'' defined as an individual who has some significant relationship, does that mean a church member and family members are fighting against it?

So more thought on this particular bill as it expands itself to incapacitated persons is what I think that we would have needed. I think also we have a circumstance as to whether or not this does mean that you would interfere in all kinds of medical procedures as opposed to this unique and special circumstance. Is a person incapacitated temporarily or for a long period of time? If it is a temporary incapacitation, meaning they have come in with a terrible tragic accident and may have the ability to recover, what does that mean in terms of this particular initiative? Does it then come in at that point or is it a long-term incapacitation?

The idea that someone could argue or could utilize the courts, in this instance the courts in the State of Florida, to act on their desires to eliminate the feeding of an individual to me is abhorrent. But I hope that this legislation would not then be the precedent for interference in a woman's right to choose, and I think this is a difficulty when you jump the legislative process and come from a written legislative initiative and then come to the floor of the House with no opportunity to ask the hard questions and to answer the hard questions as well.

I would hope that the Private Relief Bill that is proposed in the other body is a route that is taken. I believe a bill that is as broad as this one needs a full hearing, and I believe that this also cries out for bipartisanship.

All of us feel the pain that the parents of this young woman are experiencing. All of us feel the pain of the dilemma of the decision-making as to what should happen. And all of us sense that there is a greater opportunity for her, meaning that she should have the opportunity, or many of us feel that she should have the opportunity, to live. I do. But I am certainly concerned that we would put it in this format with no opportunity for a full hearing, no opportunity for amendment, and no opportunity to fully understand the broadness of this legislative initiative.

I think the Federal court and the constitutional provisions have a great deal of merit. I think that this particular party has the right to have their constitutional rights assessed. I would hope that all of us would have that right.

There are those who choose to die and those who choose to live. It would be far better to have done so in a broader way.

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

Madam Speaker, the gentlewoman from Texas (Ms. JACKSON-LEE) has said that the Private Relief Bill is the way to go rather than the legislation that is before us. If the Private Relief Bill were introduced or came over from the Senate, Terri Schiavo would be dead before we could consider it.

I would draw the Members' attention to rule XIII clause 1(a)(3) of the rules of the House of Representatives that says that the Private Calendar is provided in clause 5 of rule XV to which shall be referred all private bills and all private resolutions.

There is no exception to that.

And rule XV clause 5 says that the private calendar shall be called only on the first Tuesday of every month, and at the Speaker's discretion, in addition, the third Tuesday of the month.

Furthermore, clause 5 of rule XV says that the Speaker may not entertain a reservation of the right to object to the consideration of the bill or resolution under this clause.

That means that private bills go through without debate.

And furthermore, under the clause that I have just cited, two Members may object to the private bill in which case it is recommitted to the committee.

So if only two Members are opposed to a private bill and come to the floor and object, that kills it once and for all.

Now, those are the procedural hurdles against the private bill coming up. And that is why the only way to deal with this issue in a timely manner is through public legislation such as the bill that is currently under consideration.

Madam Speaker, I yield 2½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Madam Speaker, I thank the gentleman for yielding me time.

The genius of our federalist democracy is that it maximizes the power of people to govern themselves by explicitly requiring that those decisions that can be made at the local level are within the purview of local government. Those decisions that can be managed at a State level are within the purview of the State government, and that only in exceptional cases can Federal power override the power of State and local governments.

This is a very tragic situation. It is a difficult and serious issue. It is one that every State legislature has struggled with. And the laws in our different States are different because the people across our large and diverse democracy differ on some of these issues.

I personally believe that the reason America is still vital and strong is because we are a federalist democracy, and we do have this wonderful vitality and differences in how we govern ourselves at the State level.

For 7 or 8 years this has been a tragic and disputed case in Florida. It has been through the Florida court system. It has had review. And we are setting the precedent in this bill of creating a Federal option when people do not like what the laws they made for their own State deliver to them.

Under our system, they should just change those laws, and they had time to do that. It does not make me happy to speak against this bill. I am not on the committee. I have not had background in it, but I know from talking to many Members on the floor that this is a matter of very deep concern to them. They are very concerned about what we are doing here tonight, and I just want to put on the record not only has this bill had no hearings but Members had no notice. And many Members will be very surprised tomorrow morning to find out that we passed this bill in suspension.

That is an insult to democracy on such an important issue that I regret that this has come to the floor and I personally oppose it.

Mr. NADLER. Madam Speaker, I yield 5 minutes to the distinguished gentlewoman from the State of Florida (Ms. WASSERMAN SCHULTZ).

(Ms. WASSERMAN SCHULTZ asked and was given permission to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Madam Speaker, I thank the gentleman from New York (Mr. NADLER) for yielding me time.

□ 2215

I stand here as a Member representing the great State of Florida and as someone who served in the Florida Senate when this gut-wrenching issue was debated intensely almost 2 years ago, where we determined that Terri Schaivo would be allowed to have her feeding tube be reinserted by order of the Governor, who had decided that he was going to be able to usurp a court decision. That was ultimately ruled unconstitutional and for very good reason.

There is no doubt that this is a family tragedy. In fact, this is just about the most personal and heart-wrenching of all matters that could arise in any family, but this is a family matter, where there is no room for the Federal Government in this case or in any case that a family has to make the most personal of decisions when dealing with an end-of-life decision.

This case in particular related to Terri Schaivo has been through 10 court decisions, 10 court reviews, and each time the courts have sided with Terri's husband and Terri Schaivo's wishes, where they have ruled that she made it clear that she would not have wished to remain in a persistent vegetative state.

There is no reason on earth why the U.S. government should step in to circumvent the wishes of one dying woman, and the gentleman from Florida, my colleague from the great State of Florida, maintains that Terri is not in a persistent vegetative state. Yet, doctors who have examined her, and I

would imagine that my colleague from the State of Florida has not examined Ms. Schaivo, doctors who have examined her have consistently said that she is in a persistent vegetative state. In fact, it is only physicians who the Schindlers have employed who have said she is not, and they have reviewed her via videotape. The doctors that have actually examined Ms. Schaivo have determined that she in a persistent vegetative state.

The courts independently arrived at the decision that they believe that Terri wished to never remain in a persistent vegetative state. They interviewed her husband, her sister-in-law and friends of the family, but the decision that they reached was based on the testimony independently retrieved from her brother, from her sister-in-law and friends. They all testified that Terri had made her intentions clear.

The court and the doctors that examined Ms. Schaivo found that she has no cerebral cortex; that the reactions and responses that we have seen on TV dozens of time, that she seems to respond to her parents when they talk to her, that those are all reflexive, that they are not direct responses to interaction with people.

The doctors have examined her, again have examined her, that have reviewed her records, that have reviewed her MRIs have said that she is in a persistent vegetative state.

This is a horrible case. No matter what the facts are, it is a horrible case, but Terri Schaivo made her wishes clear, and we should not interject this body, the Federal Government, the United States Congress, into a personal family matter.

We are taking one set of facts for one family, which is the tragedy of one family and applying it to tens of thousands of families who have or will have loved ones in nursing homes, in hospice facilities or even those being kept alive by their families in their own homes. We are reaching all the way into very personal family cases in communities all across the country, and we are trying to apply a one-size-fits-all solution to all of them. That is totally inappropriate, and I think if we ask just about any family in America whether they think it would be okay if the United States Congress made an end-of-life decision for their loved ones, they would resoundingly say no.

I find it particularly hypocritical that those that talk about the defense of marriage now want to interject the Federal Government between a husband and his wife on what was a personal family matter. I ask that we think about how we would feel if, God forbid, our own loved one were in a persistent vegetative state and were in the circumstances and faced the circumstances that Terri Schaivo does. Would we want the United States Congress making the decision or would we want to be involved in that decision ourselves solely on our own?

I think that most families would resoundingly say that they want to make that decision. There but for the grace of God go I.

Mr. SENSENBRENNER. Madam Speaker, I yield 1 minute to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Madam Speaker, I thank the chairman of the Committee on the Judiciary for yielding me time, and for bringing this bill, H.R. 1334, the Protection of Incapacitated Persons Act, to the floor, and I thank the gentleman from Florida (Mr. WELDON), my physician colleague, as coauthor of this bill.

I think part of the question here is whether or not Terri Schaivo is truly in a persistent vegetative state. I practiced medicine for 26 years, and in my opinion, no, I have not examined Ms. Schaivo, but I trust my colleague the gentleman from Florida (Mr. WELDON). I agree that she is not in a persistent vegetative state. The pictures of her, we have seen them on television, the balloon that she followed with her eyes, the smiles, the recognition of her family.

I think this lady deserves the right to live, and as a physician Member of this body, I feel very compelled to stand up here and passionately support this bill, and I hope my colleagues on the other side will join us because I think it is the right thing to do.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Madam Speaker, this House has seen plenty of outrage, but this is the most outrageous thing I have ever seen.

You come with a bill that is not on the calendar. You pop it out in the middle of the night, when all the Members are down at the White House on the Republican side having dinner with the President. You try and change what is going on in a court because you do not like what is going on in a court.

How do you know what is going to come out of those courts in Florida? Oh, no, let us put it up in a Federal court or let us change everything.

The Members on the other side of this aisle do not believe in process. You do not believe in government by law. You believe in raw power. If you have power, you can bring anything out here at any time and run it through here without any debate and no hearings and no anything. You ought to be ashamed of yourself that you have no shame, that you would come on this floor like this with a bill that is as complicated as this and do it without a single moment of hearing. It is a disgrace.

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

Madam Speaker, I would just refer the membership to the text of the bill on the top of page 3, which says, and I read it, ''In hearing and determining a claim or cause of action removed under this section, the court shall only consider whether authorizing or directing the withholding or withdrawal of food or fluids or medical treatment necessary to sustain the incapacitated person's life constitutes a deprivation of any right, privilege or immunity secured by the Constitution or laws of the United States.''

Now, in every civil rights lawsuit that was removed to Federal court, the Federal court applied privileges and immunities and protections provided by the Constitution of the United States or Federal law, and all this bill does is to allow the same type of review on whether someone's Federal rights are deprived by action of the State court in the Federal court.

If we did not do this in the civil rights revolution of the 1960s, this country would be a lot different place and a lot worse place than it is today. It was Federal judges that applied Federal law in those cases, and if it was good enough to apply them in the civil rights cases of the 1960s, why is it not good enough to deprive a person who is incapacitated the same type of Federal judicial review on their Federal rights in a Federal court?

We should not deprive an incapacitated person of a judicial review in a Federal court of their Federal civil rights, and that is why this bill ought to pass.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield myself the balance of the time.

Madam Speaker, the phrase that the distinguished chairman just read is a catch-all phrase. If a person thinks a court in a State is depriving someone of civil rights they can go into Federal court under a section 1983 action and say that there is an alleged deprivation of Federal rights under current law.

This is far broader. What we have heard from the distinguished gentlewoman from Florida about the facts of the case are compelling, but I would remind everybody this bill is way beyond the facts of this case.

It establishes for any interested person, someone who has a significant relationship with the incapacitated person, whatever that means, no definition, a right to come in, overturn what the courts have decided, overturn what the family has decided, what she has decided and subject that family to the agony of perhaps years of further litigation.

Maybe that has to be done in some cases, I do not know, but this kind of slapdash legislative procedure with no hearing, no consideration, no real understanding of what this bill does in cases far beyond Terri Schaivo should not be on this House floor tonight, and I urge a ''no'' vote.

Mr. SENSENBRENNER. Madam Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Madam Speaker, I thank the Chair for allowing me to

speak on this important bill tonight. I thank my colleague from Florida for bringing this issue before us tonight. Truly time is of a critical nature in this case.

Madam Speaker, all I would offer at this point is we would not be here discussing this bill if this patient had written down advance directives prior to her illness, and that is an important point that is being lost in this debate. This bill does nothing to undo a living will or an advanced directive.

An advance directive is available to any of us. A person does not need a lawyer to have one. They can go on the Internet, type in living will under their search engine and they will get a variety of options a person can complete themselves, leave with their family physician, their care giver, their hospital. I would urge people to consider filling out and filing an advance directive well in advance of any such illness and save families, spare families the difficulties that we have seen evidenced in this case.

Mr. SENSENBRENNER. Madam Speaker, I yield myself the balance of the time.

Madam Speaker, I agree with the gentleman from New York (Mr. NADLER) that this is a complicated bill, and it is an unusual procedure that we are bringing this matter before the House of Representatives tonight. However, if we do not deal with this issue, by the time we get around to having hearings and markups and debates and perhaps a conference committee this woman will have died, and that is why I think it shows the compassion of this House of Representatives and those who are supporting this bill to allow a Federal court to view whether or not this woman's civil rights, secured by the Constitution and laws of the United States, have been violated. I think she is entitled to have that kind of a Federal review before a final decision is made on whether to allow her to starve to death or to die of dehydration, and that is why we are here tonight.

It shows that the Congress can be compassionate, and it shows that we can deal with issues promptly, rather than saying oops, maybe something could have been done in the Federal court in a review of her Federal civil rights, but it is too late because she passed away.

Please pass the bill.

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

The SPEAKER pro tempore (Mrs. DRAKE). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1332, as amended.

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

A motion to reconsider was laid on the table.

□ 2230

THE JOURNAL

The SPEAKER pro tempore (Mrs. DRAKE). Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. MCDERMOTT. Madam Speaker, I ask unanimous consent to use the time of the gentleman from Ohio (Mr. BROWN).

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

There was no objection.

APPOINTMENT OF PAUL WOLFOWITZ AS PRESIDENT OF THE WORLD BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Madam Speaker, having watched that last bill, I continually am surprised in this House that I think I have seen everything, and then I see another one like this one tonight. But on the television today we saw an even more amazing thing. We saw the architect of the Iraq war and all the problems that still remain, the killings, the massacring of civilians, the instability of the government, the inability for them to pick their leadership, their inability to give security to the people of Iraq, we see that every day on the television. It is all the creation of a man named Paul Wolfowitz and his friend, Mr. Rumsfeld, the Secretary of War. The two of them together have put together this disaster that we now face.

Now, one would think that, given the failure of the planning and all of what went on in the Iraq war, you would be about to see the end of Mr. Wolfowitz one way or another. But history has some really interesting things in it.

Some of you may remember the Vietnam War. There was an architect for the Vietnam War. His name was Robert McNamara. Robert McNamara led us into the swamp; 58,000 people died. Tons and tons of folks died on the Vietnamese side. We wasted money. We put ourselves deeply in debt. And when it was over, Lyndon Johnson made him the head of the World Bank. Who would think that today the President of the United States would reward a man who has created the mess in Iraq with the job of being the head of the World Bank?

Now, what does the World Bank do? At the end of the Second World War we set up four institutions. We set up the World Bank, the United Nations. We set up the International Monetary Fund. They were all to stabilize what was going on economically and tie us together in trade.

And we take a man who is an avowed American imperialist, who believes in establishing hegemony across the whole world on the base of military power. That is really what the neocons believe. And the President says, you know, this is just the kind of guy we need at the head of the World Bank.

What does the World Bank do? Well, if a country wants to build a dam or they want to do some road improvement projects or they want to do some AIDS prevention or some AIDS treatment, they come to the World Bank and ask for loans. Imagine the world coming to the feet of Paul Wolfowitz and trying to get him to understand about rebuilding. This is a man who has flattened Afghanistan and flattened Iraq, has come in here and asked for $80 billion again and again and again, even today, 80 more billion dollars, and they still do not have the water running and the sewage moving, and they do not have electricity, and they do not have the basic requirements of a civil society in Iraq. And he comes in here, now to be the head of the World Bank. We are going to give him billions of dollars to hand out to the world to rebuild the very mess that he created. What in the world is the President thinking?

I suppose he thinks, well, maybe, you know, Paul created all those problems over there, bombed everything and led our neocon ideas, that if we could just get enough power, we just bomb enough, you could have a city like Fallujah in Iraq. It is a city of about 400,000 people. It is flat. Just like we did in the Second World War to Dresden, and we did with the atomic bomb in Hiroshima and Nagasaki. He flattened that city.

Well, that was to save it, you know, because they were so resistant in that city to American democracy that the only solution Paul Wolfowitz and his confreres in the department of war could think of was to bomb it flat. And now he is the World Bank president, and he will be letting the loans to put Fallujah back on its feet. Man, I have seen everything.

The SPEAKER pro tempore (Mrs. DRAKE). Under a previous order of the