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House of Representatives

The House met at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your hand of mercy, O God, is strong enough to give us hope in the depths of our hearts; Your voice of comfort, O God, is sure enough to give us Your peace and assurance; Your mind, O God, is wise and perceptive and counsels us in the ways of life and Your mighty acts of compassion and grace, O God, give us confidence and promise in our daily lives. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

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

The VOLKMER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

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

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 61, answered ''present'' 1, not voting 28, as follows:

[Roll No. 158]

YEAS—344

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Myers
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Olver
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Woolsey
Wynn
Young (FL)
Zeliff

NAYS—61

Ackerman
Barrett (WI)
Becerra
Bishop
Bonior
Brown (CA)
Chenoweth
Clay
Clyburn
Coleman
Coyne
Crane
DeLauro
Deutsch
Evans
Fazio
Filner
Foglietta
Frank (MA)
Furse
Gephardt
Gibbons
Hastings (FL)
Hefley

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

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Hilliard	Neal	Schroeder
Hinchey	Oberstar	Skaggs
Jacobs	Ortiz	Stark
Jefferson	Owens	Taylor (MS)
Kanjorski	Pallone	Vento
LaFalce	Pastor	Visclosky
Lantos	Payne (NJ)	Volkmer
Lewis (GA)	Pelosi	Watt (NC)
Lowey	Pickett	Wolf
Manton	Pombo	Wyden
McKinney	Pomeroy	Yates
Menendez	Richardson	
Mineta	Sabo	

ANSWERED ''PRESENT''—1

Stockman

NOT VOTING—28

Abercrombie	Gonzalez	Seastrand
Baker (CA)	Klug	Thompson
Blute	Largent	Tucker
Boehner	Livingston	Velazquez
Chapman	McNulty	Weldon (PA)
Collins (MI)	Meek	Wise
de la Garza	Mfume	Young (AK)
Ehlers	Morella	Zimmer
Fattah	Murtha	
Frost	Riggs	

□ 1019

Mr. ALLARD, Mr. JOHNSON of South Dakota, and Ms. HARMAN changed their vote from ''nay'' to ''yea.''

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. EWING). Will the gentleman from Vermont [Mr. SANDERS] come forward and lead the House in the Pledge of Allegiance.

Mr. SANDERS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 607

Mr. QUINN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 607.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 requests for 1-minutes per side. Further 1-minutes will take place after regular business today.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget.

We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we are doing this now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for middle-income families; Senior Citizens' Equity Act to allow our seniors to work without government penalty; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

THE SPEAKER'S COLLEGE CLASS, SUBSIDIZED BY AMERICAN TAXPAYERS, SAID TO BE EXTREMELY PARTISAN

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, just how nonpartisan is NEWT GINGRICH'S college class?

The Speaker claims it is nonpartisan. He sold it to the Ethics Committee as a nonpartisan class.

The sole reason that donors get tax exemptions is because it is supposedly nonpartisan.

Yet, in the past 2 days, we have received new evidence that this class was as partisan as partisan gets.

The dean of the college who once helped teach the class now says that political and academic resources were commingled.

A Ph.D. student who helped set up the class said on Sunday: ''the class was intended to be partisan and very political.''

Mr. Speaker, this class, which promotes an intensely partisan, political agenda of the Speaker, is being subsidized by the American taxpayers.

And its fund were commingled with the Speaker's own political action committee, GOPAC.

It is time for the Speaker to come clean with the American people.

It is time for him to release the list of past GOPAC donors.

And it is time that we appoint a professional, nonpartisan, outside counsel to investigate this whole mess.

PRESIDENT CLINTON USING SCARE TACTICS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I do not think the President really understands what happened last November. I think he is trapped in a 1960's time warp. He seems hopelessly married to big-government ideas of the past, and he is using scare tactics to save big-government's agenda.

Yesterday Mr. Clinton was accusing Republicans of wanting to kill the school lunch program. This is absolutely not true. Mr. Clinton's problem is that he thinks he knows more about the needs of students than the 50 State Governors. He thinks that the bureaucrats here in Washington can do a better job of setting standards than the local school districts. I say to my colleagues, ''Let me tell you I trust Governor Bill Graves and the local school districts of Kansas a lot more than I do any Beltway bureaucracy.''

Mr. Speaker, if the President wants to continue to engage in this type of blatant political propaganda and demean his office in the process, he is free to do so.

Mr. VOLKMER. Mr. Speaker, Mr. Speaker——

Mr. TIAHRT. But while he is busy resurrecting the sixties, we will be working hard for the people by getting America ready for the next century.

Mr. VOLKMER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. The words will be taken down.

The Clerk will report the words.

□ 1030

Mr. VOLKMER. Mr. Speaker, I withdraw my demand that the words be taken down.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Missouri withdraws his demand that the words be taken down. The time of the gentleman from Kansas has expired.

THE TRUTH ABOUT SCHOOL LUNCHES

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, it amazes me the length Democrats will go to try to save Federal bureaucrats their jobs. Yesterday, the Democrat leadership and President Clinton launched a mean-spirited attack on Republican attempts to provide school lunches through block grants. But once again, just like a broken record, they did not tell the whole story.

The Republican approach will actually increase spending for school lunches by decreasing administrative costs, which translates into cutting the Federal bureaucrats. But Democrats shy away from anything new because they just cannot seem to get over their love affair with a bigger bureaucracy and a failed welfare system. However, sinking to scaring needy children—

even this is a little low for the White House.

Mr. Speaker, it is time to get on with making the Federal Government smaller, less costly, and more efficient. That is what the people want, and it is what the Republican majority is all about.

REPLACE WELFARE WITH WORK

(Mr. FORD asked and was given permission to address the House for 1 minute.)

Mr. FORD. Mr. Speaker, today I rise in support of a strong work program to replace our welfare system in this Nation. What the American people will get with the Republican bill is the illusion of a work-based welfare system. This bill wishes for more work that the Republicans have submitted to the Committee on Ways and Means, but it does not require work. It offers weaker work requirements than current law.

Mr. Speaker, it is time for us to say to the American people we are going to replace welfare with work. This bill does nothing to hold States accountable for performance. As if by magic, expect more families on welfare to go to work. The work requirements in their welfare bill will not work and serve the welfare population of this Nation. If it does not happen, then what we do in the Republican bill is we punish the children of the welfare population.

This bill is mean-spirited and shortsighted, and it is just plain mean on children in this country, and we ask for an alternative package, and that package would respond to the human needs of the people.

REPUBLICAN BILL IS STRONG ON WORKFARE AND STATE RESPONSIBILITY

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, you know, I rise very seldom this year to speak to the House for 1 minute or any time, but I hear comments about—like the former speaker had to say about the work program in the welfare reform bill the Republicans put out. It raises the hair on the back of my neck. You cannot get any stronger than telling people, and allowing States to even make it stronger, 2 years. Two years of welfare, then you go to work. You engage in some work program. And in 3 more years you are off.

How much stronger can you be? That is 100 percent. One hundred percent of those who are on welfare today in 5 years will be in a work program or they will be off of welfare. How much stronger can you get?

It is rhetoric coming from the minority side. That is all it is. They are trying to confuse the public. The Republicans have a strong welfare-work-State responsibility bill.

COMMENTS ON MEXICAN LOAN GUARANTEE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Uncle Sam will not help Washington, DC, because of waste, fraud, and mismanagement. Let's see if I understand this: Down there in Mexico there is waste, fraud, mismanagement, corruption, larceny, kickbacks, bribes, and conspiracy. There is even an armed revolution to boot. But Uncle Sam can find $53 billion to bail out Mexico.

Tell me, Mr. Speaker, who is now formulating the policy for the United States of America? The Three Stooges, or what? Beam me up. When Uncle Sam can say ''Sorry, Charlie,'' to Orange County, CA; Washington, DC; Youngstown, OH; and New York but find $53 billion for Mexico, that says it all, Congress. Think about it.

SCHOOL LUNCH SCARE PROGRAMS

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, I watched with utter disbelief yesterday as not only the Democratic leadership, but the President of the United States, stood up and scared every single school-aged child in this land by telling them we are going to starve them to death.

Mr. Speaker, once again the Democrats have not told the whole truth. We are not cutting school lunches. We are cutting Federal bureaucrats. Under the Republican plan, spending for school lunches will increase 4 percent at least next year, and administrative overhead will decrease dramatically.

I know it is hard for the Democrats to shake the Big Government ideology they have called for for so long, but Republicans are charging ahead to make the Government smaller and less costly. While we are busy seeking bold new solutions, all the Democrats can do is carp about tired myths and defend the failed and bankrupt welfare state.

NEW WELFARE PROPOSALS LACKING IN FAMILY VALUES

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, we have heard a lot about family values lately, but what kind of family values are contained in the Contract With America, which proposes massive tax breaks for the wealthiest people in this country, billions of dollar increases on military spending, including the discredited Star Wars Program, and at the same time cutbacks on programs desperately needed by the weakest and most vulnerable people in our society?

I was especially outraged yesterday by a subcommittee's elimination of the LIHEAP Program, which provides low-income people, including many senior citizens, heating subsidies in the wintertime. In my State of Vermont, over 20,000 households, including many senior citizens, take advantage of that desperately needed program.

Tax breaks for the rich, increases in military spending, and cutbacks on heating programs for the elderly and the poor. What family values.

FEED THE KIDS, NOT THE BUREAUCRACY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the Democrats' scare tactics never cease to amaze me. First they told the senior citizens if we pass the balanced budget amendment, you will never get another Social Security check. Next they went after the politicians. If the President has a line-item veto, you will never get a pork-barrel, I mean an economic development project, in your district again.

Now it is the school kids. If we consolidate 16 different food and nutrition programs, lay off hundreds of bureaucrats and make the system more efficient, kids will go hungry.

Mr. Speaker, I ask you, how hungry will these kids be when our country is broke? This debate is not about feeding the kids, but eliminating fat cat bureaucrats who have been picking the best helpings off children's plates for too long. Feed the kids, not the bureaucracy.

REMEMBER OLD-FASHIONED IDEAS

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, some of my colleagues like to say we have a ''new Congress.'' They are right.

A new Congress that loves the photo ops of passing a so-called crime bill, but votes to take police officers off our streets. A new Congress that loves the headlines of talking about moving people from welfare to work, but scoffs at the idea of paying Americans a livable minimum wage.

Yes, we have a new Congress. But it has forgotten a lot of old-fashioned ideas. Like the idea of giving those in need a helping hand—instead of pointing the finger of blame. The idea that we should help our constituents take back their streets from criminals. The old ideal that perhaps we should give our kids a hot lunch in their schools.

And the idea that every American who works hard and sweats and toils every day deserves to be able to feed their family and own their home and send their kids to college.

I know that our new Congress does not care much about these old ideas. But I guess we Democrats are sort of old-fashioned, so we will keep right on fighting for them.

MORATORIUM ON ESA

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I am pleased to join my colleague, Mr. CONDIT, in offering a bipartisan amendment that will extend the Regulatory Transition Act to cover listings and designations of critical habitat under the Endangered Species Act.

This amendment is necessary to protect the most endangered species of all, the American landowner. It is time that Congress gave hard-working, taxpaying American families the same rights as blind cave spiders, golden-cheeked warblers, and fairy shrimp.

Burdensome regulations imposed under the Endangered Species Act are reducing our landowners, farmers, and small business owners to a rare breed.

This year, Congress has the opportunity to amend the Endangered Species Act to balance the rights of landowners.

Until Congress reauthorizes the Endangered Species Act, we must put a stop to the out-of-control regulators and protect American property owners. Later today, we will offer a bipartisan amendment to extend the regulatory moratorium on Endangered Species Act listings and critical habitat designations. I urge my colleagues to support the bipartisan Condit amendment.

ONE LAW FOR EVERYONE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, in 50 days this Congress has passed only one bill that has been signed into law by the President. That measure quite rightfully demands that the Members of this Congress observe the same laws that apply to everyone else. The American people rightfully expect that Members will shoulder the same responsibilities as ordinary citizens and meet the same standards of behavior as ordinary citizens.

But what a difference a few weeks can make. I am deeply concerned to learn that a Member of this House who stands accused of serious ethical transgressions, indeed a cloud of alleged improprieties that threaten public confidence in this House, that Member has actually threatened to shield himself by introducing legislation to require his accuser to pay both his legal fees and the expenses of the Ethics Committee that is investigating him.

Mr. Speaker, does obtaining special legislation to immunize one's self sound like what an ordinary citizen does? No, it does not. But that is indeed what the Speaker of the House has threatened to do.

I suggest that not intimidation, but more speech is the way to deal with this problem.

□ 1045

IN SUPPORT OF THE REGULATORY TRANSITION ACT

(Mr. HOSTETTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Speaker, I rise in support of the Regulatory Transition Act.

Mr. Speaker, there is a frantic effort underway on the part of the administration to frighten the American public and this body about what those of us who would protect private property rights are trying to do. For years, Big Government has disseminated the message that the public needs of Washington, DC, to take care of it—that without Washington, DC, no one will look out for its health and well-being; that without Washington, DC, no one will protect its clean air and clean water; that without Washington, DC, no one will know what to do because only Washington, DC, knows what's good. Something may sound ridiculous but, as the message goes, it's coming from Washington, DC, so it must be a smart idea, because after all, doesn't Washington, DC, know best?

There was a different message sent in the last election. Washington, DC, doesn't know best. Regulation after regulation comes down the pike—micromanaging every facet of the daily lives of individuals and the daily operations of businesses. The people said, ''Enough.'' The administration responded by preparing some 4,300 new regulations to get through under the closing door.

If we are truly representing the American people, we must keep this from happening. The administration is trying to send a message that life as we know it will fall apart if these regulations don't get through. That is an unfortunate scare tactic. But let's show everybody concerned that the regulatory monster isn't vital to our existence, but it actually threatens our way of life as we know it. Let's cast a vote for smaller, smarter Government and defy those who are trying to scare the American public and this body into continuing with business as usual.

A COURSE IN ETHICS

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, this is the people's House. This is what democracy is all about.

According to Timothy Mescon, dean of Kennesaw State College, political and academic resources were commingled in the preparation of the course he cotaught with Speaker GINGRICH. This led Dean Mescon to admit to the Los Angeles Times this week that ''In hindsight, we would never do this again. There's no question about that * * * I feel horrendous about this thing, and it's embarrassing.''

Lois Kubal, a graduate student involved in the design of Speaker GINGRICH. This led Dean Mescon to admit to the Los Angeles Times this week that ''In hindsight, we would never do this again. There's no question about that * * * I feel horrendous about this thing, and it's embarrassing.''

Lois Kubal, a graduate student involved in the design of Speaker GINGRICH's so-called course, says that ''the class at KSC was intended to be partisan and very political.''

Even more disturbing, course content was sold to corporate sponsors. According to a request for funding, potential donors were promised they could participate or work directly with the leadership of the project in the course development process in exchange for their $25,000 or $50,000 check. This is how the course is taught, the game is played, at Newt University.

Mr. Speaker, the charges keep piling up. We need an outside, independent, counsel to investigate the serious ethical charges hanging over the head of the Speaker of the House, and we need one now.

MORE ON THE REGULATORY TRANSITION ACT

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, I want to talk today about the Regulatory Transition Act. This is a critical act for us and it is only a starting point, because over the past years we might as well clear out the floor of this Congress and let unelected bureaucrats come sit, take our places. They have been running the Government, lock, stock, and barrel. They have made laws. And the United States EPA, Mr. Speaker, might as well have come into the Ohio Valley and Youngstown, OH and Cleveland, OH and taken the food off the tables of people. They have over extended their arm.

It is time to make normal, commonsense, rational ideas to protect people but not to have the mismatch that we have had that has strangled the ability of blue-collar working people to literally just survive in the Ohio Valley and industrial parts of the State of Ohio.

So we want to protect people, but we have now the opportunity to correct the faults that have occurred of an overstretched bureaucratic arm.

WELFARE REFORM

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, as we struggle to find a balance between human needs and the desire to address the abuses and ineffectiveness of the current welfare system, we must not forget the major beneficiaries of welfare—children.

Any plan that does not adequately address the needs of children is destined to raise the misery of childhood hunger, homelessness, and disease to a magnitude we have never before witnessed in this country.

In my home State of California, 69 percent of current AFDC recipients are children who depend on welfare as a safety net to survive.

Children throughout this country will be virtually abandoned under H.R. 4, the Republicans' welfare reform bill.

In the subcommittee, the Republican majority refused to assure child care for mothers who got to work, refused to assure the safety of children in foster care, and refused to preserve SSI benefits for certain medically disabled children. And they are even threatening child nutrition programs.

It is reprehensible to leave our children, our future work force, physically and intellectually weakened by denying them nutrition, shelter, and health care.

This will only negate our goal of building a more self-reliant America.

IN SUPPORT OF THE CONDIT AMENDMENT

(Mr. BONILLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONILLA. Mr. Speaker, today we have an opportunity to better the lives of millions of Americans by passing the Condit amendment and putting a stop to the abuses of the Endangered Species Act. The Condit amendment should actually be called the Condit-Smith-Combest-Bonilla-Edwards amendment because it has been a good bipartisan effort to move this amendment forward once and for all putting a moratorium on the listing of endangered species in critical habitat in this country.

Too many times in this country we have seen development of constructions of hospitals stop because of the designation of a fly on the endangered species list. We have seen homes being torn down in some cases. You cannot even clear brush on your property anymore because the radical left wing environmentalists in this country think a rat might be living in your bushes and, therefore, do not give you an opportunity to do what you want on your property.

This is a vote for property rights, a vote for restoring some of the basic free enterprise values in this country that we hold dearly.

Vote for the Condit amendment today.

PFF/GOPAC

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, it appears that the web known as Newt Incorporated is beginning to unravel. A recent Los Angeles Times article details the intricate link between GOPAC, the Progress and Freedom Foundation and the Speaker's college course. While denying commingling all along, it appears that Newt Incorporated has been promoting a weird thirst for power at taxpayers expense. Meanwhile my friends wax indignant about illegitimacy, nutrition programs, and Big Bird.

It looks like the real welfare cheats might be some corporate sugar daddies. I have a rhyme:

Hickory Dickory Dak, it is time to investigate GOPAC. It is time for an outside counsel to clear all of the smoke arising from revelations about Newt Incorporated.

UNILATERAL ACTION BY THE PRESIDENT AGAIN

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the people of this country did not want us to spend billions of dollars and risk Americans lives going into Haiti. And the Congress knew that. We were not going to support it. Yet President Clinton unilaterally took action that put our troops at risk and sent our people in Haiti and spent billions of dollars in the process.

The people of this country did not want us to spend money bailing out Mexico. And yet President Clinton unilaterally is spending $53 billion of American taxpayers' money bailing out that country that is in an absolute mess.

And now yesterday unilaterally by executive order they are replacing strikers, a striker replacement bill is being passed by the executive branch without any act of Congress.

This is illegal, in many of our opinions. However, the President did it. Unilateral action again. Someone should tell this President this is a Republic and not a dictatorship.

PERMISSION FOR COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES TO SIT TODAY, THURSDAY, FEBRUARY 23, 1995, DURING THE 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unamimous consent that the following committee and its subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

The Committee on Economic and Educational Opportunities.

It is my understanding that the minority has been consulted and that there is no objection to this request.

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

Mr. DOGGETT. Mr. Speaker, reserving the right to object, I have consulted with the ranking member of the committee, and we will not object to this request.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

FEDERAL FOOD ASSISTANCE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, if the Personal Responsibility Act of 1995 passes, Federal nutrition programs for children and families will never be the same. School lunches and breakfasts will be slashed. Thousands of women, infants, and children will be removed from the WIC Program. National nutrition standards will be eliminated, and States will be able to transfer as much as 24 percent of nutrition funds for nonnutrition uses.

But, more is at stake. Retail food sales will decline, farm income will be reduced, and joblessness will soar. That is why, if I may borrow a quote, I will resist this change, ''with every fiber of my being.'' Many of the proponents of H.R. 4 want capital gains cuts. We want an increase in the minimum wage. They want block grants. We want healthy Americans. They want a full plate for the upper crust and crumbs for the rest of us. We want, and we will restore, Federal food assistance programs. It is irresponsible to do otherwise.

PROVIDING FOR CONSIDERATION OF H.R. 450, REGULATORY TRANSITION ACT OF 1995

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 93 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 93

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 450) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes. 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 Government Reform and Oversight. After general debate the bill shall be considered for amendment under the

five-minute rule for a period of not to exceed ten hours. 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 Government Reform and Oversight now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed 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 Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from the Commonwealth of Massachusetts [Mr. MOAKLEY], pending which time I yield myself such time as I may consume.

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

Mr. Speaker, I am pleased that today we are here fulfilling yet another promise to the American people and doing it under a rule that allows for an open amendment process.

House Resolution 93 makes in order the committee substitute from the Committee on Government Reform and Oversight and provides for 1 hour of general debate followed by up to 10 hours of amendment under the 5-minute rule.

In the opening debate today, I would like to point out that last weekend, many sports fans witnessed a very serious threat to public health and safety. In fact, several people were injured and thousands were placed in grave danger. Yet the Federal Government did not take any action to prevent these injuries. Nor is it likely to do so in the future.

I refer, of course, to our former Presidents playing golf in public. Notwithstanding the germaneness of this, this story serves to illustrate an important point, that the Federal Government, despite the best efforts and intentions it may have, cannot provide protection for all Americans at all times. Yet it seems that we are coming closer and closer to issuing detailed regulations on every minute detail of our daily existence.

I ask my colleagues, how many times have constituents come to them and asked for help to head off, sort out, or otherwise mitigate needless harm that has come to them or absolute disaster to them perhaps caused by poorly thought-out Federal regulation. Individuals, small businesses, volunteer groups, local governments have all been victims, have all been harmed in some way by the unending flood of Federal rules and regulations made by people who apparently have not got enough to do.

As we begin to stem this tide, it is important to remember that H.R. 450 is not eliminating the rules made since November. Repeat. We are not eliminating the rules made since November. We are merely providing a much-needed timeout for perhaps up to a year to allow Congress the opportunity to responsibly consider serious regulatory reform. I think we all know we need it. There is even precedent for this type of action.

President Bush placed a moratorium on new regulation from January 1992 to January 1993. Of course, not all Federal regulations are burdensome or counterproductive. Arguments can certainly be made that public health and safety regulations should not be subject to this moratorium.

The Committee on Government Reform and Oversight has wisely provided for a general waiver process for imminent health and safety threats. I understand that some would like to see certain imminent threats given priority over other imminent threats. I do not agree with the wisdom of this kind of amendment.

I was pleased to hear the ranking member of the Committee on Government Reform and Oversight, the gentlewoman from Illinois, state at the Committee on Rules yesterday that she would seek to have members cluster these amendments offering exemptions of a similar nature in a similar package.

□ 1100

It sounds like a good idea. This does make sense, and it will help us avoid the tedious and perhaps unnecessary litany of amendments we saw during consideration of the unfunded mandates bill.

I hope that the overall time limit that we have placed on this rule is useful for the gentlewoman, in helping her to organize the efforts to consolidate these kinds of amendments.

Mr. Speaker, it all comes down to this. The American people have asked us repeatedly through individual pleas, and more dramatically in the November elections, to reform the Federal rule-making process. We are taking the first step here by placing the burden of proof on the regulatory agencies to prove that new regulations are necessary. This is a responsible change and a good beginning for the reform process.

Mr. Speaker, I expect today we might hear a word or two from the minority side about the question of the 10-hour time limit on this. It was discussed in the Committee on Rules, and it has been much discussed. We have done a lot of homework and review of the records on this matter.

We think this is a fair way to proceed and still allow the necessary debate time to come forward, but also to provide for the orderly management of all legislation in this House. Of course, we have a very heavy agenda of legislation to undertake.

I know that the minority sometimes feel that they would like to have endless debate, and some might call it dilatory tactics, and in fact, we have seen some of that. Our view is that we have given the minority more than ample blocks of time to manage as they will to bring forward with their membership those issues they think they would like to debate on the floor. We hope they are able to use that time wisely.

It does, I admit, put a management burden on the minority leadership to control what they are doing, and I believe that is a fair burden to place on the minority. It is certainly one we had placed on us when we were the minority.

Mr. Speaker, I would hope that we will see wise use of that time, and if we do see wise use of that time, I am entirely satisfied that the 10 hours that we have set aside under the open amendment process will be sufficient.

Mr. Speaker, I urge my colleagues to support both the rule and the bill, and I reserve the balance of my time.

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

Mr. Speaker, I am opposed to this rule. Although my Republican colleagues have been using the words ''fair'' and ''balanced'' a lot lately, I have really learned that by ''fair'' and ''balanced,'' by some of the glossaries on the other side, they really mean ''restrictive.''

In fact, Tuesday I put a chart into the CONGRESSIONAL RECORD that shows the record on restrictive floor procedures. We simply applied the Republican definitions to the Republican rules, and it looks like they have granted about 71 percent restrictive rules so far. Sometimes we may have an open debate, but the rule could be restricted.

Most of the rules that have come out have been under some kind of a time cap which automatically makes the rule anything but open. Today's rule has a 10-hour time cap.

My colleagues on the other side of the aisle argue that this is necessary to keep the flow of legislation moving through the House. Mr. Speaker, what a difference a year makes. Just listen to them last year.

The gentleman from California [Mr. DREIER] said ''The rule is essentially a closed rule because it limits amendments by limiting debate on all amendments.'' Mr. Speaker, this is one of the more egregious rules that have been reported out by the Committee on Rules.

The gentleman from New York [Mr. SOLOMON], my dear friend and chairman of the committee, said last year ''Let me say that I oppose this rule for a variety of reasons, not the least of which is the fact that it restricts the time for the amendment process.''

Mr. Speaker, I agree that it is very important to keep the process moving along, but Republicans have a very interesting kind of time caps. Republican time caps include time for votes in addition to time for amendments, and by my calculations, the last three 10-hour time caps have been actually 7-hour time caps, because the vote has been eating up about three of the 10 hours on each of these bills.

If we had any truth in advertising requirements around here, Mr. Speaker, we would have to call it 7 hours for amendments and 3 hours for a vote time cap. Even more telling is if we would take the number of anticipated amendments, divide them into the remaining hours, we would probably have 10 to 15 minutes to discuss each amendment. That is not what I thought our Republican colleagues had in mind last year when they talked about improving the deliberative process.

It is also interesting to see the pattern of rules that seems to be developing. Yesterday we had a wide open rule on the Paperwork Reduction Act. I want to thank the gentleman from New York [Mr. SOLOMON] and my Republican colleagues for giving me that wide open rule. That is an open rule. I thank them for it, but they cannot put this rule in the same context with that rule.

Mr. Speaker, when the bill is not controversial, we open it up all the way. The more controversial it becomes, the more we close it down, so I think, because this is more controversial than yesterday's bill, we do close it down. They knew that yesterday's bill was nonconfrontational, so they gave us a full, wide open rule.

I think if they keep using that kind of a model, by the time we get to welfare reform, we will be lucky to get an hour for amendments.

Mr. Speaker, it is time for the Committee on Rules to live up to its preelection rhetoric of granting open rules to bills in the contract, and by that, I mean open rules as the Republicans used to define them. This bill would be a good starting point.

I do not think anyone would argue that there are some serious problems in our regulatory process, but there are also a lot of regulations in the pipeline, Mr. Speaker, that will protect American families. They will be frozen out by this bill, because this bill will limit regulations that ensure American families that their food is safe, that their drinking water is clean, and their airplanes are up to snuff.

Mr. Speaker, this bill does not just hurt families, it hurts the business people who play by the rules. By making the moratorium retroactive to November 20, this bill punishes businesses that have worked to comply with regulations, and that is just not fair.

Mr. Speaker, this bill is too far-reaching to be slapped together this quickly and without opportunity for improvement. It needs to be amended, and 7 hours is just not enough time to do it.

MEMBERS SHUT OUT BY THE 10-HOUR TIME CAP, 104TH CONGRESS

Mr. Speaker, this is a list of Members who were not allowed to offer amendments to major legislation because the 10-hour time cap on amendments had expired. These amendments were also preprinted in the CONGRESSIONAL RECORD.

H.R. 728—Law Enforcement Block Grants: Mr. BEREUTER, Mr. KASICH, Ms. JACKSON-LEE, Mr. STUPAK, Mr. SERRANO, Mr. WATT, Ms. WATERS, Mr. WISE, Ms. FURSE, and Mr. FIELDS.

H.R. 7—National Security Revitalization Act: Ms. LOFGREN, Mr. BEREUTER, Mr. BONIOR, Mr. MEEHAN, Mr. SANDERS (2), Mr. SCHIFF, Ms. SCHROEDER, and Ms. WATERS.

AMOUNT OF TIME SPENT ON VOTING UNDER THE THREE RESTRICTIVE TIME CAP PROCEDURES IN THE 104TH CONGRESS

Bill No.	Bill title	Rollcalls	Time spent	Time on amends
H.R. 667	Violent Criminal Incarceration Act	8	2 hrs 40 min	7 hrs 20 min.
H.R. 728	Block grants	7	2 hrs 20 min	7 hrs 40 min.
H.R. 7	National security revitalization	11	3 hrs 40 min	6 hrs 20 min.

FLOOR PROCEDURE IN THE 104TH CONGRESS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendment in order
H.R. 1	Compliance	H. Res. 6	Closed	None
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None
H.R. 5	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; preprinting gets preference.	NA
H.J. Res. 2	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	NA
H.R. 2	Line Item Veto	H. Res. 55	Open; preprinting gets preference	NA
H.R. 665	Victim Restitution Act of 1995	H. Res. 61	Open; preprinting gets preference	NA
H.R. 666	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; preprinting gets preference	NA
H.R. 667	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. time cap on amendments	NA
H.R. 668	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; preprinting gets preference; contains self-executing provision	NA
H.R. 728	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. time cap on amendments; preprinting gets preference.	NA
H.R. 7	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. time cap on amendments; pre-printing gets preference.	NA
H.R. 729	Death Penalty/Habeas	NA	Restrictive; brought up under UC with a 6 hr. time cap on amendments.	NA
S. 2	Senate Compliance	NA	Closed; Put on suspension calendar over Democratic objection	None
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; contains self-executing provision.	ID
H.R. 830	The Paperwork Reduction Act	H. Res. 91	Open	NA
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	ID
H.R. 450	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. time cap on amendments; preprinting gets preference.	NA

Note: 77% restrictive; 23% open. These figures use Republican scoring methods from the 103d Congress. Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I urge my colleagues to oppose this restrictive rule, and I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I am privileged to yield 4 minutes to the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

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

Mr. Speaker, I have a prepared statement here in which I really wanted to talk about the bill that is going to come before us. When I came here 16 years ago, one of my main purposes was to shrink the size of this Federal Government, to reduce the power of the Federal Government, and return it back to the private sector and to local and State governments.

I really wanted to talk about that, but I was just so taken by my good friend, the former chairman of the Committee on Rules, who is now the ranking minority member of the Committee on Rules, when he referred to this rule as the most egregious. What a difference an election makes.

I am reading here from the activity report of the Committee on Rules, which the former chairman, the gentleman from Massachusetts [Mr. MOAKLEY], filed at the end of the 103d Congress. Let me just quote my good friend, the gentleman from Massachusetts.

He says:

An overall time cap allows the House to manage its time, to make more reliable its schedule, and to provide some certainty about when measures will be on and off the floor. The printing requirement does not afford the same time certainty, since there is no way to know in advance how many amendments will be submitted and printed, or how many printed amendments will actually be offered,

And he goes on and on and on. That was the gentleman from Massachusetts [Mr. MOAKLEY], the gentleman we just heard, who now refers to this rule as egregious.

Let me read from the statement of the now-former majority leader of the Democratic Party, who is now the minority leader of the Democratic Party, when he appeared before the gentleman from California [Mr. DREIER], myself, and others who served on the Speaker's joint committee to reform this Congress.

The gentleman from Missouri [Mr. GEPHARDT] said, ''I believe we should support the Rules Committee when it puts time constraints on bills, as this provides more certainly for scheduling legislation.'' He was very wise.

Mr. Speaker, let me now read from the minority whip, who used to be the majority whip. This is what he had to say when we took up the State and Local Government Interstate Waste Control Act.

The gentleman from Michigan [Mr. BONIOR] said, ''The rule limits to 4 hours on this very important bill, to 4 hours, the time for consideration of the bill for amendment under the 5-minute rule.''

This is what he said about the rule: ''This is a simple, open rule. I urge my colleagues to support it,'' and we did. We in the minority supported it, because it was an open rule with time constraints.

My good friend, the gentleman from Massachusetts [Mr. MOAKLEY], standing over there, said something when we debated the American Heritage Act, which would have usurped local authority in my district. I sort of resented that, but I went on to support the rule. However, my friend the gentleman from Massachusetts, said at that time, ''The rule provides that each section shall be considered as read. Only those amendments printed in the CONGRESSIONAL RECORD prior to consideration of the bill will be in order, and debate on consideration of this bill for amendment is limited to 3 hours. This is a good rule,'' said the gentleman from Massachusetts. ''I urge adoption of the rule.''

Mr. Speaker, we have an obligation to move legislation through this Congress and to be as open and fair as we can and maintain comity between the two sides. That is what we are trying to do.

That is why we have had such overwhelming Democrat support for all of these issues during this first 50 days, overwhelming Democrat support for our positions.

Mr. Speaker, I rise in strong support of yet another open rule from the Rules Committee.

I also rise today in strong support of regulatory relief for businesses around the country.

H.R. 450, the Regulatory Transition Act of 1995, will stop the regulators in this town cold. The bill deserves strong support, from both sides of the aisle.

A regulatory moratorium is clearly necessary to halt the big-government regulations spewing forth from the Clinton administration.

The rule before us is a modified open rule, providing for a 10-hour amendment process. The rule does not set forth which amendments can and cannot be offered, it simply says that Members who have amendments should get organized in advance. We have been fair, recognizing the public's desire that we move our contract rapidly to the floor.

Yesterday in the Rules Committee, my good friend Mr. MOAKLEY stated that a rule with a time cap was labeled a closed rule by Republicans when we were in the minority.

Many things have changed in the last few months, but our definitions for kinds of special rules have remained the same. For reference purposes, I would point Members to the charts we inserted in the RECORD during the last Congress comparing open vs. restrictive rules from the 95th to the 103d Congress.

The modified open rule before us today is appropriate for the fair and orderly consideration of the moratorium legislation.

Mr. Speaker, when House and Senate Republicans were preparing to take control of our respective Chambers in December, we wrote to President Clinton and asked that he impose a moratorium on regulations by Executive order.

Since the President spurned our offer, it is necessary to pass this legislation and take a much needed time-out from new regulations. During that time, the Republican majority will schedule a comprehensive bill to reform the Federal rulemaking process.

Commonsense reforms such as requiring a risk assessment and cost-benefit analysis for new regulations will be brought to the floor.

A thorough analysis of the costs resulting from the loss of property rights will not be left out of this discussion.

Mr. Speaker, like so many of the Contract With America items, this is a bipartisan bill.

Several Democrats voted to report the bill from the Government Reform and Oversight Committee, and other Democrats opposed the various exemption amendments offered in the committee markup.

Like all of the other contract for America items, I expect this legislation to attain substantial bipartisan support upon final passage. As was the case with the unfunded mandates bill, a bloc of liberal Democrats may choose to offer countless exemption amendments to H.R. 450, the cumulative effect of which will be to gut the bill if those amendments pass.

But those who seek to relieve the multitude of private businesses that are struggling with needless Government regulation will not be deterred.

To the small businessman attempting to stay afloat in a sea of regulation—help is on the way.

Mr. Speaker, I urge support for the rule and the bill.

OPEN VERSUS RESTRICTIVE RULES 95TH–104TH CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	104	31	30	73	70
104th (1995–96)	13	8	62	5	38

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: ''Rules Committee Calendars & Surveys of Activities,'' 95th–103d Cong.; ''Notices of Action Taken,'' Committee on Rules, 104th Cong., through Feb. 20, 1995.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of ''Fast Track''	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A	A: Voice Vote (Oct. 5, 1994).
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A	F: 83–339 (Oct. 5, 1994).
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A	A: 384–28 (Oct. 6, 1994).
H. Res. 570, Oct. 5, 1994	MC	H. J. Res. 416: U.S. in Haiti	N/A	N/A	A: 241–182 (Oct. 6, 1994).
H. Res. 576, Oct. 6, 1994	C	H.R. 5231: Presidio Management	N/A	N/A	A: Voice Vote (Oct. 7, 1994).

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

A PROCESS PERSPECTIVE ON THE CONTRACT'S FIRST 50-DAYS, WEDNESDAY, FEBRUARY 22, 1995

Mr. Speaker, I think is is appropriate that we should be making day 50 of our 100-day Contract With America on the birthday of the Father of our Country, George Washington.

In his first inaugural address, Washington said that, ''The preservation of the sacred fire of liberty, and the destiny of the republican model of government are justly considered as deeply, perhaps as finally, staked on the experiment entrusted to the hands of the American people.''

Last November the American people said loud and clear that they wanted a change in their government, and entrusted control over their Congress to the Republican party. In the House the change was especially dramatic because Democrats had controlled the institution for the last 40 years running.

Public trust and confidence in Congress had fallen to all-time lows. Our job approval rating was somewhere around 18 to 20 percent. Every public opinion poll yielded the same results: by overwhelming majorities, the people thought we had lost touch with them and were no longer responsive to their views and needs.

The Republican Party offered a bold alternative to the longstanding orthodoxy of the ruling Democrats. We promised, in our Contract With America, less Federal Government, less spending, less taxes and a return of power, responsibility and decisionmaking to the people and the State and local governments closest to them.

In short, our contract recognized what George Washington articulated so well back in 1789, that the survival of our republican form

of government, this great experiment was dependent on returning it to the hands of the American people to which it had been originally entrusted.

And last November the American people spoke with one voice in saying they were ready and willing to take back their government and make it once again the servant of the people and not their master.

In his farwell address as President, in 1796, Washington said something else that bears noting in today's context, and that is that, and I quote, ''The basis of our political system is the right of the people to make and to alter their constitutions of government.''

And by that I think he meant not only the direct amendment of our Constitution, as important as that right is to the survival of our system of government, but also the composition, structure and processes of that government.

Not only did the American people make a major alteration in the composition of their government last November; they also committed to a new way of thinking about the size and role of government and how it operates.

And I am speaking here not just about the executive branch which tends to be the major focus of our attentions, but also the legislative branch.

Just as our Founders made the Congress the first branch of Government in the Constitution, House Republicans in our Contract With America, put the reform and renewal of the Congress first in our commitment to ''restore the bonds of trust between the people and their elected representatives.''

In that contract we promised, and I quote, ''to bring the House a new majority that will transform the way Congress works.* * * To restore accountability to Congress. To end its cycle of scandal and disgrace. To make us all proud again of the way free people govern themselves.''

To that end we promised that on opening day we would pass eight specific reforms ''aimed at restoring the faith and trust of the American people in their government.''

As you are aware, in the longest opening day of the Congress ever, lasting from noon on Wednesday, January 4 until 2:24 a.m. on Thursday, January 5, we kept that promise by thoroughly debating and voting on those 8 reforms and some 23 other changes to House rules. In addition, we passed the Congressional Accountability Act which applies the same workplace laws to the Congress as we impose on the private sector.

Among those opening day House reforms were provisions to cut committee staff by at least one-third; eliminate 3 committees and over 20 subcommittees; abolish proxy voting; open committee meeting and hearings to the public and media; place term limits on committee and subcommittee chairmen, and on the Speaker; require a three-fifths vote to increase income tax rates and prohibit retroactive income tax rate increases; require a comprehensive audit of House books; and require truth in budgeting.

I am proud that the Republican membership of this committee played a major role in helping to draft those House reforms last fall and in managing that package on the marathon opening day.

As you know, the Contract went on to promise in that in the first 100 days we would pass 10 major pieces of legislation. We will not go over all the same ground that our leadership did earlier today in reciting the progress made to date on our contract legislation. Instead, we want to make a few points about how the process has worked to date in the consideration of those contract bills.

Contrary to what you may have read in some newspapers, the contract did not promise that all contract bills would be considered under open rules. What the contract did say was that, and I quote, ''we shall bring to the House floor the following bills, each to be given full and open debate, each to be given a clear and fair vote.* * *''

However, the commitment was clearly there to fairness and openness in debt and voting. There were some serious observers of Congress who suggested that our opening day reforms were at odds with the commitment to passing all this major legislation in 100 days. One observer even recommended that we not make our open House reforms effective until after the 100 days had passed.

Our leadership and conference rejected such suggestions out of hand, knowing full well that things would be more difficult to pass the more open the process was, but that we would be considered hypocrites if we did not apply our own process reforms to our most important legislative measures.

I am proud to report that we have succeeded far beyond most observers' expectations in keeping the process open while still staying on schedule in passing our contract bills. And I am referring both to the committee process in reporting bills as well as to the House floor process in considering them.

I think it is important to note that the contract did not promise that we would pass each of our bills in the exact form as drafted in our contract. Our leadership rightfully recognized that an open process would mean changes in those bills both in committee and on the floor. That is how democracy should work.

Contrary to the baseless charge of some in the other party, we are not walking blindly in lock-step or like lemmings over a cliff in passing these bills without change. The strength of our system is in its deliberative nature and its effect in improving legislation at every stage of the process. That in turn helps to ensure bipartisan and public support for the final products.

Significant amendments have been successfully offered by Democrats and Republicans alike in committee and on the floor, and the bills have consequently gone on to be reported and passed with large, bipartisan majorities.

Our own Rules Committee, for instance, had original jurisdiction over both the unfunded mandate reform bill and the legislative line-item veto bill. We adopted, on a bipartisan basis procedural changes in those bills in committee, and further amended them on the floor, again with bipartisan support. The same was true in the Government Reform and Oversight Committee with which we shared jurisdiction over those bills.

That was true as well at the committee level in other committees reporting other contract bills, and in the further amendment of those bills on the House floor.

Of the first 13 special rules reported by the Rules Committee through the end of last week, 8 or 62 percent were completely open, 3 others were modified open, meaning in this case that they had time limits on the amendment process, and just 2 were modified closed.

Contrast that, if you will, with the first 13 special rules reported by the Democrats at the beginning of the last Congress. Only 3 or 23 percent were completely open, while the other 10 were either closed or modified closed.

In looking at the amendment process that has taken place so far this year under those first 13 special rules, we have found that a total of 148 amendments have been offered on the House floor, of which 74 were adopted. Of those 74 amendments adopted, 38 were offered by Democrats.

So, I think we can say that the process to date has been relatively open, fair, and bipartisan. And that in turn helps to account for the fact that not only were 9 of those 13 rules adopted by a voice vote, but most of the bills have also been passed by large, bipartisan majorities. We are demonstrating both a new openness and responsiveness to the will of the American people that cuts across party lines.

Let me simply conclude by saying that working under the time constraints of the 100-day contract has been exciting and exhilarating, but also difficult and challenging for our committees and House membership. We are obviously working long and hard hours. That in itself produces some tension and conflict in the process.

There have clearly been times when our process reforms have run up against the necessities of getting bills to the floor and getting them passed. There have been some legitimate complaints along the way. But there have also been a host of frivolous and hypocritical complaints from the minority, especially when you consider the restrictive and abusive procedures those same Democrats foisted on us when they were in the majority.

But, from this committee's perspective, if our open House reforms can work in this time-sensitive environment, as for the most part they have, then they will have passed their most difficult test.

The ultimate litmus test is in the quality, approval, and acceptance of the legislation we finally pass. The ultimate judges of that will be the American people. And the fact that our job approval rating by the people has more than doubled since last November, from 20 to 42 percent according to one recent poll, is the most telling tribute that we are not only doing the right thing, but doing it in the right way.

OPEN VERSUS RESTRICTIVE RULES, 104TH CONGRESS

H. Res. No. (date rept.)	Rule type	Bill No. and subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5—Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17—Social Security; H.J. Res. 1—Balanced Budget Amndt.	A: 255–172 (1/25/95).
H. Res. 51 (1/31/95)	O	H.R. 101—Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400—Land Exchange, Arctic Nat'l. Park & Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440—Land Conveyance, Butte County, Calif.	A. voice vote (2/1/95).

OPEN VERSUS RESTRICTIVE RULES, 104TH CONGRESS—Continued

H. Res. No. (date rept.)	Rule type	Bill No. and subject	Disposition of rule
H. Res. 55 (2/1/95)	O	H.R. 2—Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665—Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666—Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667—Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668—Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728—Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7—National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831—Health Insurance Deductibility	A: xxx–xxx.

AMENDMENTS OFFERED TO BILLS IN HOUSE UNDER SPECIAL RULES, 104TH CONGRESS

Bill and subject	Rule and type	Amendments offered	Adopted	Rejected
H.R. 5—Unfunded Mandates	H. Res. 38—Open	53 (R:7;D:46)	17 (R:7;D:10)	36 (R:0;D:36).
H.R. Res. 1—Balanced Budget	H. Res. 44—Mod. Closed	6 (R:2;D:4)	2 (R:2;D:0)	4 (R:0;D:4).
H.R. 101—Land Transfer	H. Res. 51—Open	0	0	0.
H.R. 400—Land Exchange	H. Res. 52—Open	0	0	0.
H.R. 440—Land Conveyance	H. Res. 53—Open	0	0	0.
H.R. 2—Line Item Veto	H. Res. 55—Open	17 (R:3;D:14)	6 (R:2;D:4)	11 (R:1;D:10).
H.R. 665—Victim Restitution	H. Res. 60—Open	1 (R:0;D:1)	1 (R:0;D:1)	0.
H.R. 666—Exclusionary Rule	H. Res. 61—Open	6 (R:0;D:6)	5 (R:0;D:5)	1(R:0;D:1).
H.R. 667—Prisons	H. Res. 63—Mod. Open	23 (R:11;D:12)	14 (R:11;D:3)	9 (R:0;D:9).
H.R. 668—Alien Deportation	H. Res. 69—Open	5 (R:4;D:1)	5 (R:4;D:1)	0.
H.R. 728—Law Block Grants	H. Res. 79—Mod. Open	19 (R:7;D:12)	13 (R:6;D:7)	6 (R:1;D:5).
H.R. 7—National Security Act	H. Res. 83—Mod. Open	17 (R:5;D:12)	11 (R:4;D:7)	6 (R:1;D:5).
H.R. 831—Health Deduction	H. Res. 88—Mod. Closed	1 (R:0;D:1)	0	1 (R:0;D:1).
		148 (R:39;D:109)	74 (R:36;D:38)	74 (R:3;D:71)

Source: Congressional Record, Daily Digest.

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

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. First of all, Mr. Speaker, I want to thank the gentleman for giving me the credit for saying, ''Mr. Speaker, this is one of the more egregious rules reported by the Committee on Rules.'' Actually, I was quoting the gentleman from California [Mr. DREIER]. Those were not my words.

Second, Mr. Speaker, my friend, the gentleman from New York, knows that, of course, I admit putting out closed rules, but I never put out a closed rule and said ''This is a wide open rule.'' I would just like some truth in explaining what kind of rule we are putting out.

We have all kinds of rules, but they cannot say that a rule that has restrictions by time, or on amendments, or caps on time, is an open rule.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. SOLOMON] has expired.

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

We never promised to do open rules, Mr. Speaker. The gentleman did. The whole plan of the Republican Party was every day to get up and talk about the Committee on Rules and the restrictive rules. We never said ''This is an open rule'' when it was a closed rule.

They just went back as soon as they got elected and changed the dictionary. It says ''Open rules. Any rule that the Committee on Rules puts out under the gentleman from New York [Mr. SOLOMON] will be an open rule.'' I just want to be fair with the American people and tell them what kinds of rules we have.

I agree that they are going to need closed rules, that they are going to need modified open rules. I agree they may have to do certain things to get legislation through. But please do not bring every rule out here and say ''This is a wide open rule.''

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

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I hope the gentleman is going to do what we did when we were in the minority. We supported every single one of those open rules that had time constraints on them.

Let me read this briefly: The Employment Retirement Security Act passed on a voice vote, we supported it; the Black Lung Benefits Restoration Act, with time constraints, we supported it on a voice vote; the Presidio Management bill we supported on a voice vote; and the American Heritage, as I said before, we did.

Let me just say to my good friend, the gentleman from Massachusetts, because we need to get serious, there have been 178 amendments so far allowed during this first 13 bills. Seventy-eight of those amendments were Democrat amendments. Of those amendments that were adopted by this House, 74 in total, 38 were by Democrats, and we voted for them.

Mr. Speaker, that is about as open as we can get, and fair, and to keep this body moving.

□ 1115

Mr. MOAKLEY. Mr. Speaker, reclaiming my time, I do not disagree with the gentleman from New York [Mr. SOLOMON]. There is only one disagreement. When we were passing out the same kind of rules you are passing out, we were gagging the American public. We were keeping Members of the House from expressing their will. ''That cruel Committee on Rules, another closed rule.'' If we put a period in it, it was a closed rule.

Mr. DREIER. Mr. Speaker, if the gentleman will yield, my friend offered one of my brilliant quotes. I would like to reciprocate by offering one of his brilliant quotes.

Mr. MOAKLEY. I want to say to the gentleman from California [Mr. DREIER], it was an outstanding quote.

Mr. DREIER. This is a quote from October 5, 1994, last fall, and this was during the debate on House Resolution 562, and you, Mr. Chairman, called it an open rule, only those amendments printed in the CONGRESSIONAL RECORD prior to consideration of the bill would be in order and debate on consideration of the bill for the amendment was limited to 3 hours.

Mr. Speaker, the gentleman from Massachusetts [Mr. MOAKLEY], the chairman at that time, referred to this as an open rule. I do not know if he said a wide open rule but it was called an open rule at that point. It seems to me that we have really got to underscore that under the leadership of the gentleman from New York [Mr. SOLOMON], the chairman, we have in fact created an opportunity for amendments to take place, and one of the distinguished Members on your side of the aisle said to me not too long ago, the average American out there believes very sincerely that we should within a 10-hour period be able to address a lot of these issues, and I am convinced that this is the responsible way to deal with it.

I think the gentleman from Florida [Mr. GOSS] has done a marvelous job of managing this, and I thank my friend for yielding.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking minority member of the Committee on Government Reform and Oversight.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the rule for the consideration of H.R. 450, the regulatory moratorium bill.

I oppose this rule because it puts a time limit on the consideration of the bill. Based upon the use of this time limit device on other bills, it is very likely that important amendments will be kept out of the debate, because sufficient time to debate them will expire.

The use of a time limit on this bill is particularly inappropriate for the following three reasons:

First, H.R. 450 is not a part of the Contract With America. Arguments about the need to complete consideration of the contract in 100 days do not apply to this bill. In fact, consideration of this bill limits the amount of time for the consideration of other aspects of the contract, so rather than limiting debate time, the moratorium bill should be deferred until after the 100 days.

Second, both Chairman CLINGER and I requested a totally open rule. At our markup, a number of amendments were not offered, because the chairman gave his assurance at the markup that he would request an open rule, and that members would be protected. However, the Rules Committee has ignored the request of the chairman and myself, and now amendments will not be protected if time runs out.

Third, although this bill consists of just a few pages, its reach is infinitely broader. It places a retroactive moratorium on all regulations and regulatory activity and affects every agency of the country, and every law of the Nation. In the past several weeks I have learned about problems this bill could cause in a variety of agencies administering laws written in all of our House committees. This bill was considered in great haste, and we keep discovering new problems caused by its ambiguities. Limiting floor consideration will mean that these problems cannot be corrected and confusion will reign supreme.

During the consideration of the bill in the committee we received a wave of lobbying by tax lawyers, who felt that the bill would unnecessarily hinder their profession, because tax interpretations would be delayed. So the committee made an exemption for tax interpretations.

As we continued to examine the bill after the committee consideration, we kept learning about other problems created by the bill. There were HUD regulations to help the elderly get housing. There were disability benefits for veterans. There were duck hunting regulations. However, those who wanted to exempt these regulations did not have high powered tax lawyers to sponsor their cause. As a result, we will create havoc, if this bill passes.

Mr. Speaker, as I said this bill is not a part of any Contract With America. It was crafted after the election, and could best be called a Contract With Special Interests. The Republican leadership is trying to squeeze this bill into a schedule that is already far too rushed. They apparently hope that the sooner the bill is passed, the fewer flaws we will find.

None of us wants foolish government regulations. Similarly, none of us wants foolish legislation that is poorly crafted. This bill is far too broad, and its effects are far too unknown. I urge defeat of the rule.

Mr. GOSS. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from Ohio [Ms. PRYCE], who is a welcome addition to the Committee on Rules.

Ms. PRYCE. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of this open rule providing for consideration of H.R. 450.

As the gentleman from Florida [Mr. GOSS], my friend, described in his opening statement, this is a very fair rule. Whether you want to buy into the debate whether this is an open rule, a wide open rule, or a modified open rule, I think we are never going to decide on these semantics between the two sides of the aisle. So let us just call this a fair rule because this is what it is.

When the Committee on Rules met yesterday morning, there was some thoughtful discussion on the pros and cons of limiting this debate on the amendment process to 10 hours. Let me say that I understand and appreciate the concerns that were raised. But there is nothing wrong with trying to impose a better sense of organization and time management on the overall amendment process that we have here in the House of Representatives. Since few Republican amendments are expected, the 10-hour time limit affords the Democratic leadership an opportunity to prioritize their Members' amendments as much as possible and to utilize an en bloc format whenever it is practical. There is no excuse for time to run out if time is properly managed.

In the 8 days we spent debating unfunded mandates, it taught us that discussing duplicative and overlapping amendments is not the most productive use of this House's time.

In addition to supporting the rule, Mr. Speaker, I also support the underlying legislation. Too often the debate over economic growth focuses only on the size of the deficit or on taxes. Escalating regulatory costs are often left out of this discussion. But make no mistake about it, Mr. Speaker, excessive Federal regulations have a tremendous impact on economic growth and the heavy burden of increasing regulation is ever present in our society. Job loss, reduced competitiveness and the diminished productivity are the real costs associated with runaway Government regulations.

The mayor of my hometown, Columbus, OH, recently observed that unless Federal regulations are cut back and based on common sense and measured risk, the waste of billions of dollars of misguided, one-size-fits-all mandates from Washington will cause a public backlash against legitimate Federal regulation.

I wholeheartedly agree. I commend the gentleman from Pennsylvania [Mr. CLINGER], the distinguished chairman of the Committee on Government Reform and Oversight, in moving this bill forward, in keeping with our contract and its commitment to easing Federal regulatory burdens.

Mr. Speaker, I urge my colleagues to support this fair rule so that the House can move one step forward to substantive regulatory reform.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to say that the gentlewoman just said that under the prescribed rules if the people use their time wisely that there is no reason everybody could not be heard. I would just like to bring to her attention on H.R. 728, the law enforcement block grants, that because the time ran out, that the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Ohio [Mr. KASICH], the gentlewoman from Texas [Ms. JACKSON-LEE], the gentleman from Michigan [Mr. STUPAK], the gentleman from New York [Mr. SERRANO], the gentleman from North Carolina [Mr. WATT], the gentlewoman from California [Ms. WATERS], the gentleman from West Virginia [Mr. WISE], the gentlewoman from Oregon [Ms. FURSE], and the gentleman from Louisiana [Mr. FIELDS] were shut out.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield, he can add my name to that, too. I had an amendment, too.

Mr. MOAKLEY. Mr. speaker, I yield 6 minutes to the gentleman from Missouri [Mr. VOLKMER], who also was shut out.

Mr. VOLKMER. Mr. Speaker, here we go again. This is another example of gagging Members of the House. There are 435 of us. There are only going to be a few of us permitted to offer amendments and speak on the bill of moratorium on regulations. That is not fair.

All we ask for, some of us, of this House, is not just comity but also fairness, and our ability to be able to express our ideas in this great body, this bastion of democracy. What this rule does is no different than many other rules we have seen come out of this Committee on Rules headed by the gentleman from New York that has restricted Members' ability to express their ideas on the floor of this House.

Mr. Speaker, for a long time, I always wondered about the other body and their deliberative process.

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

Mr. VOLKMER. I will not yield at this time. If I have time left, I will yield. Yesterday and the day before, I asked many Members of your side to yield and they refused to yield.

Mr. SOLOMON. But I always yielded to the gentleman.

Mr. VOLKMER. I will yield when I finish my speaking if the gentleman will permit.

The other body many times takes the long deliberative process. I have always felt that they should have some kind of rules as to how that other body operates, the time they take with legislation. But the more I see of this House of Representatives under this majority, I say that maybe the Senate, or the other body, has a lot more going for them, because all they want to do here is cram it. You cannot express your idea. You got elected by your people back home, but try and get recognized on this floor for debate or to offer an amendment. You are not going to get to.

They say at the beginning, the gentleman from New York, I will mention his name again, the day after we were sworn in, back on a Thursday afternoon, in this same Chamber, me standing right here in the same place, that gentleman down in the well right there, and he had a chart, and he was talking about the process of a bill through the Congress and how he had to have time and he was going to give open rules.

We saw an open rule yesterday evening, Mr. Speaker, and it did not take 10 hours. Some bills will take 2 hours. Some bills may take 12 hours. I have been here and you have been here when you have seen legislation take all week, under Democrats. I have yet to see one of your bills take a week.

I have yet to see one of your bills take 3 days, except unfunded mandates, and that was restricted on a Monday evening to 10 minutes on each amendment. So very few bills have had a true open rule.

And what is this bill all about that we are going to take up under this rule? It is about some special interests.

If we ever needed something called lobbying reform, and I do not see that coming, lobbying reform, this bill and a few others we have been taking up, even the one we did last night had to be cleaned up in committee, there was a special provision in there specifically for West Publishing Company, stuck in, other Members were not supposed to catch it, it was supposed to sneak through, and I wonder what lobbyist paid off what staff member or what Member on the other side, on the majority side, in order to get that special little treatment in there in that bill.

What have we got in this bill? We have got things for other people. I know that Tyson's down in Arkansas is going to love this bill. They are going to love it, because it means that the regulations pertaining to what is fresh and frozen poultry going into California is going to have to be put in abeyance under this bill and they are going to continue to sell it into California. Tyson's is going to love this bill.

How many others are going to love this bill? I am sure there are a whole bunch of big corporations out there that just love this bill. It is made for big corporations, for big business. That is who this bill is made for.

Later on, we are going to have a tax bill that is made for the wealthy, just like this bill is made for the wealthy.

In the meantime, what are they saying? ''Well, we're going to cut such things as school lunches.'' One thing I wanted to point out to the Members of the majority, they keep talking about their great contract, I call it a Contract on America. I don't think it is one with America. It was rejected by the people of my district, I want you to know that.

□ 1130

It was a campaign issue in my district. My people rejected it and reject it today because they see what that contract is to their people, to rural America. It is a ruination of the economy and the people of rural America, of the poor people, and it gives to the rich.

It is nothing, that contract is nothing more than good old Robin Hood in reverse, take from the poor, give to the rich.

Mr. GOSS. Mr. Speaker, I am very delighted to yield 2½ minutes to the distinguished gentleman from greater downtown San Dimas, CA, the vice chairman of the Committee on Rules, Mr. DREIER.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding me this time.

Mr. Speaker, I rise in support of this modified, open rule, and I do so to clarify exactly what it is that we are offering. It is a modified open rule. Not a wide open rule, not an open rule, a modified open rule. It is modified because we do have an outside time limit.

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

Mr. DREIER. I am happy to yield to my friend from South Boston.

Mr. MOAKLEY. Mr. Speaker, I am glad that the gentleman from California has been listening to my remarks, that they have not been just floating out there. I agree this is a modified open rule.

Mr. DREIER. I will say to my friend in reclaiming my time, Mr. Speaker, I always listen to my friend and I look forward to having his vote in support of this modified open rule.

And I should say that as we look at this question we should recognize that truth in marketing or truth in advertising has been brought forward by the 104th Congress, but in the 103d Congress a rule that was put into place to deal with ERISA in 1993, which had a 4-hour time limit to deal with an issue as complex as ERISA, managed by my very good friend from California [Mr. BEILENSON], was described as an open rule and, in fact, when the rule came out it was labeled an open rule, not a modified open rule as we do on this side, it was labeled an open rule and it had constraints on it on an issue as complex as that.

So I would argue that we on our side are being very forthright. And I have to say in response to my friend from Hannibal who was speaking about this issue of having greater opportunities to debate under Democrat rules than they have under ours, it is absolutely preposterous to hear arguments like that.

Anyone who has observed this institution over the last 50 days has concluded, and I know my friend from California, [Mr. BEILENSON] has observed several times up in the Committee on Rules that we are trying to be more open, we are trying desperately to allow Members to have the opportunity to participate, and offer amendments. And we are doing it. We are doing it, based on the track record we have.

My friend, the gentleman from Missouri [Mr. VOLKMER], indicated that we debated measures for weeks under the Democrats. We spent 3 weeks on the unfunded mandates legislation. If anyone questions that, I recommend that they talk to Chairman CLINGER or Mrs. COLLINS. It was a long and drawn-out process but we have gone through that. So we are being more open. I think that the American people have understood that it is absolutely ludicrous to claim that by any stretch of the imagination we are being less open than has been the case in the past.

I strongly support this modified open rule and I hope my colleagues will join in supporting it.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York [Ms. SLAUGHTER], a former member of the Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, this rule is another rush job, another example of our hit-and-run legislation that we have gotten too much of lately. The time limit in the rule continues a disturbing pattern we have seen that has been developing not only in rules on the floor but in the committees.

The process is too sloppy; it is fast and it is arbitrary, and we go through bills in a flash and hope that the Senate will be able to fix them.

I think this rule is further proof that the Contract With America is more concerned with flashy public relations than sound public policy.

A rushed process has left this bill with many flaws. And now we have a 10-hour time cap that makes it impossible to even talk about fixing its problems.

To add insult to injury, the rule counts the time that it takes to vote, again taking away time from this important bill which it is not too broad to say is a matter of life and death.

It is not as if the minority is acting irresponsibly. We have coordinated our efforts to limit the number of amendments in interest of efficiency. For example, I am offering a three-part amendment with three of my colleagues, and despite these combinations it is going to be impossible for us to address all of our concerns in the time available. And we have plenty of concerns.

In order to fix a few problematic regulations the bill shuts down the entire executive branch. In the process it delays or destroys many good regulations, and we are going to offer some amendments to try to affect some of the problems.

For example, my amendment would allow an improvement in the meat inspection system to go forward during the moratorium. I have rarely seen such poorly designed definitions in the bill, and even the bill's author cannot explain the exemption definitions clearly enough to determine which regulations are covered and which are not. The prospect of judicial review means a Federal judge could slice this fuzzy language apart, and every time the administration interprets a definition one way, a lawyer will drag the issue into court arguing for a different interpretation. There it will linger for months or years costing money, time and perhaps lives, even after the moratorium is ended.

Finally and most importantly, H.R. 450 threatens the health and well-being of every American. Every American is protected by regulations every day. We take it for granted, but these quiet rules ensure our health and safety.

We know, for example, that the Clean Water Act has made it possible for us throughout this country to have clean water in every part of the United States. The life-saving regulations with clean water, clean air, food inspection, nuclear plant safety, airline safety, all will be put on hold by this legislation.

Every day, from bad meat in the United States, 11 people die and 13,000 become sick because of the pathogens in the meat.

The scope of the problem demands action, not delay. We should not stop the proposed improvements dead in their tracks. Delay that is caused by the moratorium would sentence 3,421 more Americans to die needlessly.

Mr. Speaker, this rule continues our present practice of hit-and-run legislating. The new leadership cares more about sound bites than substance, and that is why I will vote against this rule and urge all of my colleagues to do the same.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, just briefly, we have been inserting the voting records on all of the rules from last year. The gentlewoman from New York [Ms. SLAUGHTER], from my State, was a member of our committee, and all of the speakers who have risen today in opposition to this rule, all voted down the line for every single one of the restrictive rules last year.

Let me say one more thing. You know we took time to ask the Democrat minority, to ask the conservative Democrats, to ask the Republicans how much time they needed. The conservative Democrats needed no time, they are satisfied with this bill; the Republicans needed no time for amendments on this bill. Therefore, there is a handful of liberals who have a few amendments they would like to offer and they want to take 4 days on this bill. There is adequate time in this rule already.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

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

Mr. Speaker, we are going to have to live with these laws for a very long time, as are all of the American people. Is it too much to ask that any duly elected representative from any of the 435 districts in this country be given, say, 5 minutes on the floor to express their concerns and enter into a colloquy to get questions answered regarding the intents of this legislation or offer an amendment? I do not think that is too much. You may say well, this is the law required by Speaker GINGRICH's contract, and it must prevail.

What will prevail here today is the law of unintended consequences. Is it the intention of the majority to allow the factory fleet, the trawlers out of Seattle, WA, to take all of the whiting off the Oregon coast and put local processors and small boats out of business? I do not believe the Republican majority wants to do that, but that is what this bill will do if we do not have a rule setting the allocations for that season, and this bill will prohibit that.

Is it the intention of the majority to overrule and suspend part of the crime bill that was just passed, part of the contract? What about compensation for crime victims? It cannot happen if we do not have an administrative rule, and what you are doing here today will prevent your part of the contract to give overdue compensation to crime victims, their just due.

□ 1140

Is it your intention? I do not believe so. If it is not your intention, then, to do these unintended consequences, you must give us more time to discuss this. You must give us more time to offer amendments for these things because I cannot say that the majority whip or others really intended to do these things. But that is what will happen if we pass this bill today as written in the contract. The law of unintended consequences will prevail and we will have to live with it for an awfully long time.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. EWING). The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, is it not, under the prevailing new rules of the House, forbidden to use telephone equipment, portable telephone equipment on the floor of the House?

The SPEAKER pro tempore. The gentleman is correct.

Mr. VOLKMER. Mr. Speaker, would the Chair please advise Members they are not to do so?

The SPEAKER pro tempore. The Member are so advised.

Mr. GOSS. Mr. Speaker, I am honored to yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY], the honorable whip of the majority party.

Mr. DELAY. I thank the gentleman for allowing me this time.

Mr. Speaker, I am just astonished at the rancor over this rule. Ten hours for a bill, 10 hours for a bill that we should not even have to be debating on this House floor. And of course the bill has been totally mischaracterized. But let me talk about this; I have a letter here that I will ask unanimous consent to put into the RECORD, to the President of the United States, dated December 12, December 12, signed by both the leadership of the majority in the House and in the Senate to the President of the United States asking him to put a moratorium on regulations under his direction, understood his control, under his guidelines, so that he can decide which regulations would have a moratorium or not.

And he refused. He refused. We asked him to do this so that when we brought up H.R. 9, the Regulatory Reform Act that calls for common sense and reasonableness in the promulgations of regulations and we worked through that bill and, hopefully, the President signs it, all these new regulations, all these new regulations would be under the new reform of regulations proposed in the Contract.

The President refused to do it. Instead the President, who wants the regulatory police to maintain their patrol of businesses and American families across this country, has chosen to totally mischaracterize and distort and mislead the American people about this moratorium bill.

The President, himself, said that the moratorium would cost lives and property. Well, obviously the President has never ever read the bill, and many of the Members that have already spoken have not read the bill. I have got the bill here for you to read.

But there are exceptions as it pertains to safety and health in the bill. All the President has to do is have one of his agency heads write him and say this will affect health and safety or the routine business, or this regulation will remove regulatory burden, and the President, himself, can exempt it.

In the bill we are giving, even though the President does not want it, we were giving the President the leadership he refuses to take on many issues in this regulatory moratorium, but yet he does not want to.

They throw up duck seasons and red tape. What they are talking being about is they do not want the bureaucrats to go through red tape. The proregulation party, the proregulation

party wants more regulations, they want to be able to put more regulations on the American people. They want to be able to drive up the cost of living to the American families by more regulations and silly regulations that we know are out there that we are trying to stop and bring some reasonableness to the regulations.

We all understand that there are necessary regulations to protect the safety of workers and the health of the country. But all I ask you to do is read the bill. We would not have to have this bill on the floor of the House if the President of the United States would show a little leadership.

(The text of the letter referred to is as follows:)

CONGRESS OF THE UNITED STATES,
Washington, DC, December 12, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, on November 8th, the American people sent a message to Washington. They voted for a smaller, less intrusive government. We urge you to respond to that message by issuing an Executive Order imposing a moratorium on all federal rulemaking. This moratorium should go into effect immediately and remain in effect for the first 100 days of the next Congress. During the moratorium, agencies should be directed to (1) identify both current and proposed regulations with costs to society that outweigh any expected benefits; (2) recommend actions to eliminate any unnecessary regulatory burden; (3) recommend actions to give state, local, or tribal governments more flexibility to meet federally-imposed responsibilities; and (4) make this information and the analysis supporting it available to Congress.

The moratorium we are proposing should not apply to all regulations. For example, the proposed moratorium should specifically exempt regulations that would relax a current regulatory burden. Previous moratoriums have exempted several types of regulations including those that (1) are subject to a statutory or judicial deadline; (2) respond to emergencies such as those that pose an imminent danger to human health or safety; or (3) are essential to the enforcement of criminal laws. It is our hope that you will review past exemption categories and use them to guide you in establishing similar standards for purposes of administering this moratorium.

Excessive regulation and red tape have imposed an enormous burden on our economy. Private estimates have projected the combined direct cost of compliance with all existing federal regulations to the private sector and to state and local governments at well over $500 billion per year. Your own National Performance Review observed that the compliance costs imposed by federal regulations on the private sector alone were ''at least $430 billion per year—9 percent of our gross domestic product.'' This hidden tax has pushed up prices for goods and services for American families, and limited the ability of small business men and women to create jobs. The Small Business Administration estimates that small businesses in this country spend at least a billion hours a year filling out government forms.

The annual Unified Agenda of Federal Regulations, released on November 10, 1994, indicates that the Administration completed 767 regulations during the past six months and is pursuing over 4,300 rulemakings during the next fiscal year. We believe this moratorium on new federal regulations would send a clear signal that, working together, we intend to ease the burden of federal overregulation on consumers and businesses that has slowed economic growth and stifled job creation.

Thank you for your consideration of this request. We look forward to working with you to ensure that regulatory policy works for the American people, not against them.

Respectfully,

BOB DOLE, TRENT LOTT, THAD COCHRAN, DON NICKLES, NEWT GINGRICH, DICK ARMEY, TOM DELAY, JOHN BOEHNER.

PARLIAMENTARY INQUIRIES

Mr. LAHOOD. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAHOOD. Mr. Speaker, is it within the realm of the House rules for Members to smoke on the floor?

The SPEAKER pro tempore. That is prohibited.

Mr. LAHOOD. I wish the Chair would advise Members of that, please.

The SPEAKER pro tempore. The Members are so advised.

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, at the rear of the Chambers, behind the rail, is that included in the area in which Members can smoke?

The SPEAKER pro tempore. That has been ruled to be part of the floor.

Mr. VOLKMER. And Members are not to smoke in the back behind the rail?

The SPEAKER pro tempore. The gentleman is correct.

Mr. VOLKMER. I thank the Chair.

The SPEAKER pro tempore. Members are so advised.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes at this time to the gentleman from Pennsylvania [Mr. FOX], a member of the Committee on Governmental Reform and Oversight.

Mr. FOX of Pennsylvania. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is a good and fair rule.

I believe that the prescription for economic recovery for this country is the three things we already passed: The balanced budget amendment; stopping unfunded mandates; eliminating pork by use of Presidential line item veto; and finally this very important legislation to stop the needless and costly Federal regulations which is affecting $500 billion annually as a cost to our businesses and therefore it cost jobs.

I think it is important to note this is sound public policy. And one regulatory horror story which I think the American people need to hear about involves a John McCurdy. Mr. McCurdy was the owner of a very small herring smokehouse where he had for many, many years produced more than 54 million filets in his business, without one case in that 20-year period of any food poisoning.

But then the Food and Drug Administration told him he had to acquire a $75,000 piece of equipment. Facing the hopeless choice between installing equipment he could not afford without fighting a legal battle with the FDA, Mr. McCurdy chose the only other alternative. He closed his business and laid off 22 employees.

Mr. Speaker, we need reasonable regulation, regulation that is pro-jobs, pro-employees, and pro-business, which, I submit, is pro-American.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentlewoman from Salt Lake City, UT, Mrs. ENID GREEN WALDHOLTZ, a very welcome addition to our Committee on Rules.

Mrs. WALDHOLTZ. Mr. Speaker, this rule is not a closed rule, by anyone's definition. This rule is a fair rule that allows us adequate time to consider this legislation and to deal with it responsibly.

Mr. Speaker, this is what we will be debating, 8½ pages of text in large type. It is important legislation, but it is not complex legislation. It does not void any regulation. In fact, as of November 20 of last year, it does provide us a means to go forward if there is any imminent threat to safety or health or for any other emergency. It also allows us to move forward with regulations necessary to enforce our criminal laws.

Mr. Speaker, 10 hours is more than adequate for us to have the philosophical discussion we must have as to whether this is good for the country, and it is adequate time in order for us to discuss any pertinent amendments to this legislation.

This is important legislation to relieve the burden on the people of our country, and it is a fair rule, and I urge my colleagues to support it.

Mr. GOSS. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Florida [Mr. MICA].

Mr. MICA. I thank the gentleman for yielding this time to me.

Mr. Speaker and my colleagues, the time is really at hand to begin the regulatory reform debate, and I cannot think of a fairer forum that has been provided than this rule.

Now we had the last 2 years to bring forward all kinds of proposals on regulatory reform, and the other side denied the opportunity for this debate. This is a fair rule, this is an open rule, and it is time that we brought before the American people the true facts about regulation, how regulation is tying up this country in knots, how regulation is ruining job opportunities in this country, how regulation is ruining our opportunity to compete in a world market.

□ 1150

This is a fair rule, it is an open rule, and I say to my colleagues, ''Don't be dissuaded by the administration, don't be dissuaded by the other side. This is the time and hour that the debate on regulatory reform has come, and the Nation will know the facts. This is

going to be an improvement for the country.''

Mr. Speaker, I support this rule. It is a good rule, and I ask my colleagues to vote for this rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the remaining time that I have on this side to the distinguished minority leader, the gentleman from Missouri [Mr. GEPHARDT].

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

Mr. GEPHARDT. Mr. Speaker, Members of the House, I want to rise to comment on this rule. I do not support the rule and will vote against it, but I want to make my feelings, and I think the feelings of most of our Members on our side, clear.

I have been quoted—I am led to understand—about what I say about these rules and what my thoughts are, so I want to make it crystal clear.

We are again and again being met with rules that are not what I define as open rules with a free ability to have a lengthy debate about very important issues. Time and time again on the contract items we are being met with time-limited rules, open in the sense that any amendment can be brought up in that time, but time limited.

Now I understand why there is a feeling on the Republican side that there needs to be time limits, but frankly the reason we are in this bind is because the Republican side has decided that this contract has to be considered in 100 days. It is a self-imposed restriction. I say to my colleagues, ''You have the right to do it, and I accept that, but that doesn't mean that on our side we have to agree with the idea that there is a compulsion or an urgency about getting all this legislation considered in 100 days.''

It is self-imposed. There is no rationality for it. No one would be hurt if this took 125 days. The other body has yet to finish the second contract item and is likely to be the rest of the year doing the rest of the items. It would not hurt us to go 125 days.

But I say to my colleagues, ''I accept the idea that it is your House to run and you'll set the rules. I understand that. But don't ask me to accept the idea or agree with the idea that 10 hours is enough for this bill.''

On two other bills we had, the law enforcement bills, we had 8 or 10 Members from both sides of the aisle who did not get to bring up their amendment because the time ran out. So we are left, when my colleagues do these time limits with open rules, with the ranking member and the chairman becoming substitute rules committees in trying to work out unanimous consent requests to try to get a time limit on different amendments. Now maybe that is the best way to do it; I do not know. It might be better if we could come to the Committee on Rules, and have a discussion and try to time-limit amendments, or maybe even in some cases certain amendments, if we were able to do that. But whatever is done, please do not come to the floor and say that I have agreed to this type of a rule or the Democrats are pleased with this type of a rule.

Mr. Speaker, we are not. We would far prefer to have more time for such important legislation so that Members who have amendments on both sides of the aisle would be assured of the ability to come here and get at least 20 minutes or a half an hour to discuss their amendments. I do not think that is too much to ask. This is important legislation.

I disagree with the idea that this is all straightforward, cut and dried, everybody agrees. They do not. This is going to have far-reaching impacts, just as every other piece of legislation we have had up, so I urge the other side to let us have more time. Let us consider the idea that 100 days is not magic. The country will not fall apart if we do not get every one of these things considered in 100 days.

Let us take the time, both in committee and on the floor, to allow as full, and free, and open a debate of these very important issues and the amendments that people want to bring so that the American people get the best possible product they can get.

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

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

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, we understand the desire of the majority to ensure that the bill made in order by this rule, the Regulatory Transition Act, is considered in a timely manner. However, the 10-hour limit on the amendment process contained in the rule is very troubling to many of us on this side.

Based on our recent experience with other bills which were considered under a 10-hour time limit on amendments, we can expect that the actual time spent debating amendments will be much less than 10 hours—somewhere between 6 and 6 hours. Since there are at least 15 amendments Members want to offer, the time limit virtually ensures that some of those amendments will be precluded—or, that the debate time on them will be so limited that it will be meaningless.

During the consideration of this rule in the Rules Committee yesterday, we offered an amendment to strike the 10-hour time limit on the amendment process, since it was our first preference not to have any time limit at all. That amendment was rejected on a straight party-line vote.

Then we offered an amendment to exclude the time spent on recorded votes from the 10-hour limit. That change would have meant that there would actually be 10 hours to debate amendments, rather than 6 or 7 or 8. That amendment was rejected on a straight party-line vote as well.

As I said, the majority's desire to have a time limit on the offering of amendments is understandable, but their insistence on including in that limit the time it takes to hold recorded votes is not. Our request to exclude time spent on recorded votes was a very reasonable one which should have been accepted. I would have provided more certainty about the number of amendments that could be offered, and it would have made the arduous process of paring down and prioritizing amendments—which Members on both sides of the aisle are affected by—significantly less difficult.

There is another reason we ought to be excluding time spent voting from the time limit on amendments: If voting time is included, sponsors of amendments are put in the uncomfortable position of having to choose between seeking a recorded vote and foregoing such a vote in order to increase the likelihood that other Members will get a chance to offer their amendments. It is simply not fair to put Members in that position.

Mr. Speaker, the moratorium on regulations that would be imposed by the Regulatory Transition Act is likely to have far-reaching consequences for the health, safety, and well-being of our citizens. We sought to have ample time to talk about those effects, and to debate modifications to the legislation which would decrease the likelihood that Americans will be harmed by this legislation.

Mr. Speaker, we should not be considering this bill under such a restrictive procedure. I urge Members to vote ''no'' on the rule.

Mr. GOSS. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, an awful lot has been said out here about who got what, and what is an open rule, and whether we have got the right approach to this.

I say to the distinguished minority leader, ''I went back and looked at the Joint Committee on the Organization of Congress, the 103d Congress back when he was in the responsibility of leadership for the majority, and looked at the testimony the distinguished gentleman made before the Joint Committee on Organization of Congress last January.''

Mr. Speaker, he said, and I quote, ''I believe we should support the Rules Committee when it puts time constraints on bills as this provides for more certainty for scheduling legislation.''

I think that that is a fairly clear statement, and I agree that the gentleman has made it very clear that we should not necessarily apply that to his support on this particular rule. But the fact of the matter is we have got a rule here that, when it is compared to the work of the Committee on Rules of the majority last year, and the 103d Congress is at least two and a half times more generous in terms of debate, the time constraints on debate, in legislation that I think most Members thought more pretentious than the debate on the legislation that is in front of us, which is after all a moratorium we are talking about while we get to the real question of real regulatory reform, and I would like to specifically suggest that the Employment Retirement Security Act of 1974, ERISA, it takes about 4 hours to explain what that is, let alone get into a debate on it, and yet we in the minority agreed

by voice vote to go along with what the Committee on Rules of the then majority asked us to do with that time constraint.

Then we had the State and local government Interstate Waste Control Act of 1994, again 4 hours, 40 percent of the time we are allowing for this moratorium resolution to deal with that that affects local governments and States, and it is a very serious issue. Again by voice vote we agreed to go along with that, and why did we do it? In the interests of the management of time. We accepted the responsibility on our side of the aisle, as the minority, to manage our time, to manage the debate, to make sure our speakers got covered what they wanted to get covered, to make sure that those amendments that were going to be brought in were brought in in an orderly way to make sure that dilatory tactics were not going to squeeze out people with higher priority, more worthwhile amendments. That is a responsibility the minority must accept.

Mr. Speaker, I believe any fair, reasonable, prudent observer would agree that 10 hours of open rule debate is plenty for this moratorium, and I believe, if we go back and read the testimony before the Committee on Rules that we had, Ms. COLLINS suggested that she would be able to cluster amendments into packages on the same subject so we could move rather quickly on this particular piece of legislation.

□ 1200

The suggestion was made that somehow this is a self-imposed thing we are doing to ourselves. I would have to disagree with that. It is true that we are trying to move a big agenda. But it is an agenda that has been through the fire of a national referendum back in November. Yes, I would agree the vote at the ballot box was not on the Contract With America exclusively, but surely it was a part of that process, because whether the Republicans made it a part of that process or not, it is clear that many of the Democrats tried to make it a part of that process, and apparently succeeded.

So I would say to try and characterize the Contract With America's agenda as a self-imposed one at this point on this body is stretching the definition of self-imposed somewhat.

I think when you go back and you take a look at what we are trying to do and the way we are managing our time on this side, with the history of the unfunded mandates that we have seen, that legislation I believe was carried over 3 weeks on 8 actual working days, was subject to all kinds of dilatory tactics, we have felt it appropriate from the management of the majority, and we have the management of all legislation to deal with here, we have done a responsible job.

I know we are never going to end the debate on what is an open rule because everybody will define it their way. But the people of this country have spoken that they like better the way we are running the rules of this House right now. We are seeing a rise in the approval rating. When I go home and talk to folks around my district and in other places, I find people say we are finding the debate on the floor a lot more lively, a lot more pertinent, a lot more germane. You are getting good issues out there. They are being voted up or down, but at least it is not a truly gagged issue. People are getting out there and being able to put their hardware out for all to see in this amendment process.

Now, I regret if the other side, if the minority, has been unable to figure out a way to manage what priority amendments they wanted to bring up in the magnificent amount of time that has been allotted, but I suspect that the minority will get good at that, as we got good at it when we were the minority. We had 40 years to practice, and I hope perhaps that in the next 40 years you will have enough practice to be able to do the same. I think that would be an appropriate comparison after 40 years to see how we did.

Mr. Speaker, I urge support of the rule, I urge support of the bill, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

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

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 175, not voting 7, as follows:

[Roll No. 159]

YEAS—252

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—175

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar

Obey	Roybal-Allard	Torres
Olver	Rush	Towns
Ortiz	Sabo	Tucker
Orton	Sanders	Velazquez
Owens	Sawyer	Vento
Pallone	Schroeder	Visclosky
Pastor	Schumer	Volkmer
Payne (NJ)	Scott	Ward
Pelosi	Serrano	Waters
Peterson (FL)	Skaggs	Watt (NC)
Pomeroy	Slaughter	Waxman
Poshard	Spratt	Williams
Rangel	Stark	Wise
Reed	Stokes	Woolsey
Reynolds	Studds	Wyden
Richardson	Stupak	Wynn
Rivers	Tejeda	Yates
Roemer	Thompson	
Rose	Thornton	

NOT VOTING—7

Andrews	Gonzalez	Zimmer
Clayton	Meek	
Ehlers	Seastrand	

□ 1222

Ms. EDDIE BERNICE JOHNSON of Texas and Mr. KILDEE changed their vote from ''yea'' to ''nay.''

Messrs. STUMP, TALENT, and KINGSTON changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY TO COMMEMORATE THE DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res. 20) permitting the use of the rotunda of the Capitol for a ceremony to commemorate the Days of Remembrance of victims of the Holocaust, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

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

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation of objection, I am pleased to yield to the the gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight.

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

Mr. Speaker, House Concurrent Resolution 20 was approved by the Committee on House Oversight in its regularly scheduled meeting on February 8, along with three technical amendments, which I will offer at the appropriate time.

This concurrent resolution authorizes the use of the rotunda on April 27 for the annual congressional ceremony honoring victims of the Holocaust during the weeklong Days of Remembrance. Use of the rotunda will be authorized on April 27 from 8 a.m. to 3 p.m.

I understand that the U.S. Holocaust Memorial Council is in the midst of preparing the program for the rotunda ceremony. Many of our House and Senate colleagues have participated in this ceremony, that can only be described as moving, since it began in 1979.

This year, I think, Mr. Speaker, the Days of Remembrance take on special meaning as we commemorate the 50th anniversary of the liberation of the Nazi death camps.

The amendments I have at the desk, which I will offer when the gentleman withdraws his reservation, were recommended by the Legislative Council, and are not substantive in nature.

Mr. HOYER. Further reserving the right to object, Mr. Speaker, I share the Chairman's view that this is a very appropriate resolution, and that the use of the rotunda has historically been set aside for occasions of high moment and importance, and clearly, there is no occasion more important for the international community and humanity than to remember the tragedy that occurred in the thirties and forties, the massive loss of life, and the reality and possibility of man's inhumanity to man.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California [Mr. THOMAS] for the purpose of offering his amendments.

Mr. THOMAS. I thank the gentleman for yielding. I will offer those amendments, Mr. Speaker, when the reservation is withdrawn.

However, I just want to say briefly that as we have noticed a number of celebrations surrounding World War II and the commemoration of particular battles, or the public attention focused on certain aspects of World War II, I can think of no more appropriate remembrance than the impact on the world of the exposure and awareness to the world, of these Nazi death camps.

Mr. YATES. Mr. Speaker, I want to thank the gentleman from California for bringing my bill to the floor for consideration by the House of Representatives. I am pleased that the Committee on House Oversight has acted in such a timely fashion.

The U.S. Holocaust Council is mandated by the statute which created it to observe days of remembrance for victims of the Holocaust. It is equally appropriate for the U.S. Congress to take such steps as are necessary to permit the ceremony marking or remembering those murdered in the Holocaust to take place in the Capitol of the United States where it has taken place for 12 years preceding this one.

This bill will allow the ceremony to occur once again in the rotunda of the Capitol, this year on April 27, 1995.

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

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

There was no objection.

The clerk read the concurrent resolution, as follows:

H. CON. RES. 20

Whereas, pursuant to such Act, the United States Holocaust Memorial Council has designated April 23 through April 30, 1995, as ''Days of Remembrance of Victims of the Holocaust''; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony to be held at noon on April 27, 1995, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the United States Capitol is hereby authorized to be used on April 27, 1995 from 8 o'clock ante meridian until 3 o'clock post meridian for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Thomas: Strike out all after the resolving clause and insert: That the rotunda of the Capitol is authorized to be used from 8 o'clock ante meridian until 3 o'clock post meridian on April 27, 1995, for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremonies shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Mr. THOMAS. (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. THOMAS].

The amendment in the nature of the substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution; as amended.

The concurrent resolution, as amended, was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. THOMAS; Strike out the preamble.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from California [Mr. THOMAS].

The amendment to the preamble was agreed.

TITLE AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to that Title offered by Mr. THOMAS; Amend the title so as to read: ''Concurrent resolution permitting the use of the

rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust.''.

The title amendment was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE ON THE LIBRARY

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 86) electing members of the Joint Committee on Printing and the Joint Committee on the Library, and ask for its immediate consideration.

The Clerk read the title of the resolution.

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

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation, I yield to the gentleman from California [Mr. THOMAS] for the purpose of explaining the resolution.

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

Mr. Speaker, House Resolution 86 provides for election of the following House Members to the Joint Committee on Printing under the rules: Mr. ROBERTS, Mr. NEY, Mr. HOYER, and Mr. JEFFERSON.

It also provides for election of the following Members to serve on the Joint Committee of the Library: Mr. ROBERTS, Mr. NEY, Mr. FAZIO, and Mr. PASTOR.

Mr. Speaker, as the chairman of the Committee on House Oversight, I serve on both joint committees, and as chairman of the Joint Committee on Printing.

I expect the Committee on House Oversight to hold hearings on ways to reform Government printing and to improve ways of dissemination of Government information, and to make up legislation shortly thereafter.

As a result, it is our hope that in the 104th Congress, these joint committees should become obsolete, and therefore, unnecessary.

Mr. HOYER. Mr. Speaker, I thank the gentleman from California, the chairman of the Committee on House Oversight, for his explanation of the resolution and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from California.

There was no objection.

The clerk read the resolution, as follows:

H. RES. 86

Resolved, That the following named Members be, and they are hereby, elected to the following joint committees of Congress, to serve with the chairman of the Committee on House Oversight:

JOINT COMMITTEE ON PRINTING: Mr. Roberts, Mr. Ney, Mr. Hoyer, and Mr. Jefferson.

JOINT COMMITTEE ON THE LIBRARY: Mr. Roberts, Mr. Ney, Mr. Fazio of California, and Mr. Pastor.

□ 1230

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, during yesterday's rollcall votes 156 and 157 on H.R. 830, I was unavoidably detained. Had I been present, I would have voted ''aye.''

ORDER OF AMENDMENTS DURING CONSIDERATION OF H.R. 450, REGULATORY TRANSITION ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 450 in the Committee of the Whole, subject to the limit of 10 hours of consideration limit, that the following amendments and all amendments thereto be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed: Mr. CONDIT or Mr. COMBEST No. 18, 40 minutes; Mr. KANJORSKI No. 21 and 22, 30 minutes; Ms. SLAUGHTER No. 28, 30 minutes; Mr. BURTON either No. 5 or 6, 20 minutes; Mr. SPRATT No. 30, 30 minutes; Mr. WAXMAN either No. 36 or 37, 30 minutes; Mrs. COLLINS of Illinois No. 7, 30 minutes; Ms. NORTON either No. 25 or 26, 20 minutes; Mr. TATE, 20 minutes; Mr. HAYES, 20 minutes.

Further, the following amendments and all amendments thereto be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed, and that the Chairman of the Committee of the Whole be authorized to postpone requests for recorded votes on any of the following amendments until the conclusion of debate on all these amendments, and the Chair may reduce to a minimum of 5 minutes within which a recorded vote, if ordered, may be taken on these amendments following the first vote in the series: Mr. WISE No. 38, 30 minutes; Mr. GENE GREEN of Texas No. 20, 20 minutes; Mr. WAXMAN No. 35, 20 minutes; Mr. FATTAH either No. 3 or 4, 10 minutes; Mr. VOLKMER No. 34, 10 minutes.

Following disposition of these 14 amendments, further amendments would be in order, subject to the consideration limit of 10 hours.

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

There was no objection.

REGULATORY TRANSITION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 93 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 450.

□ 1232

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes, and the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee.

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

Mr. Chairman, today we will begin to set the stage for major and much needed regulatory reforms beginning with H.R. 450, the Regulatory Transition Act of 1995.

H.R. 450 provides a very necessary time out on the promulgation and implementation of regulations while Congress is in the process of deliberating long overdue regulatory reforms. During testimony provided at numerous hearings, both in our committee as well as other committees, we have heard endless tales of regulatory overkill. We are hearing the cries from small business owners that have shut down because they are overburdened by regulations—many of which are unnecessary or not cost-beneficial. We cannot afford as a society to continue along this path. According to the National Performance Review, the administration has conservatively estimated that Federal regulations cost the private sector alone at least $430 billion per year—which is about 9 percent of our gross national product.

Mr. Chairman, H.R. 450, introduced by Congressman TOM DELAY and Congressman DAVID MCINTOSH, provides for a regulatory moratorium to begin on November 20, 1994 and ending either on December 31, 1995 or when substantive regulatory reform—risk assessment and cost benefit analysis—is enacted, whichever is earlier. Although it is a broad moratorium on regulations, there are some very commonsense exclusions included in the legislation including exclusions for regulations to address imminent health or safety concerns or other emergencies, military or foreign affairs functions, internal revenue and financial issues, routine administrative functions, and also regulations that will streamline or reduce the regulatory burden. It is up to the head of the Office of Information and Regulatory Affairs or IRA at OMB to

certify that the regulation qualifies for an exclusion and publish a certification to that effect in the Federal Register.

Mr. Chairman, we are going to hear a lot of rhetoric today about how this bill will turn back the clock and undo Federal regulations which have been in place for 25 years. Or other tales of woe that this bill will not provide us with safe drinking water or allow us to have meat inspections. This is absolutely not the case, palpably untrue. This bill does not impact regulations issued before this temporary moratorium period. In addition, the health and safety exemption in the bill allows a great deal of flexibility and discretion to address these concerns. It will be up to those in the executive branch to make decisions as to what specific regulations will be exempt under this broad category.

This is a way flexible piece of legislation.

The legislation provides a number of benefits. First, it will give authorizing committees a chance to review regulations that are already in the pipeline and see whether they meet some of the criteria discussed here in Congress regarding cost-beneficial regulations. Second, it will also give some breathing space from the flood of regulations while Congress considers and passes major regulatory reforms.

Third, it will give the administration the opportunity to review their own administrative processes. I was pleased to see that the President the other day indicated that they were going to undertake a very massive review of existing regulation. I think that complements what we are trying to do here with a moratorium.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I am reminded of something that I read as a child:

Double, double, toil and trouble;
Fire burn and caldron bubble.
Fillet of a fenny snake,
In the caldron boil and bake;
Eye of Newt and toe of frog,
Wool of bat and tongue of dog . . .

Mr. Chairman, like the witches' brew in Macbeth, the bill before us is a dangerous concoction that places the special interests of business ahead of the interest of the ordinary working family.

H.R. 450 is not part of the Contract With America, and I doubt there are few Americans who went to the polls and thought they were voting to weaken food inspection procedures or to put a halt to testing for clean water.

Regulatory moratoria are not new. Presidents Reagan and Bush each had a moratorium on regulations when they took office and President Clinton already has a regulatory review process in place.

The problem with this bill, however, is that it goes far beyond those moratoria. On the one side, it does not ensure that regulations necessary to protect the health and safety of the American people are allowed to proceed. On the other, its broad sweep will kill dozens of regulations that no one would want to kill, including those that help our businesses remain competitive.

In order to explain the nature of the debate that will follow, let me start by making one thing clear. We have all heard horror stories about regulations. Some are cited in the committee's report on the bill.

We agree that foolish regulations should be halted until they receive a proper review. There is not a single amendment that we on this side of the aisle plan to offer that would allow those regulations to go forward. In fact, we have just two kinds of amendments.

One group makes sure that commonsense rules that the vast majority of us on both sides of the aisle would agree should go forward, can go forward. The other group makes sure that the American people are not harmed as a result of the moratorium. Even a strong supporter of a moratorium should take a good look at these amendments, because they make sense.

Let me briefly discuss some of our amendments to explain why they are so important to transforming this broad, sweeping, ambiguous bill into a moratorium that makes more sense.

One of our first amendments will eliminate the retroactive aspect of the moratorium. To my colleagues who are normally concerned about retroactivity of legislation, and to those who have expressed a concern about passing laws that constitute a taking, you should be concerned about this bill's retroactive aspects. Businesses have made millions of dollars of investments based upon the rules they had in front of them. Changing the rules in midstream is totally unfair and unprofitable.

We also have an amendment to clean up the judicial review language, so that clever lawyers cannot tie up regulations in court, even if they are exempted under the bill. Another amendment will clarify the language in the bill that attempts to define what constitutes an ''imminent threat to health and safety'' in order to give the same protection to the American people that the bill gives to private property.

We also have several amendments to legislatively clarify that we do not want certain regulations to be covered by the moratorium. Some are just commonsense rules that carry out laws that enjoyed wide support, or revise procedures that we would agree are necessary. For example, we think Members do not want to block the Federal Elections Commission from enforcing its new regulations prohibiting the private use of campaign funds. Similarly, we do not want to block sensible rules to enforce our trade laws, such as sanctions on China for copyright infringement.

Other rules that we wish to protect are essential to the health and safety of the American people. One amendment, for example, would allow the Agriculture Department to continue its work on improving meat inspection to detect salmonella and E coli bacteria, which you may recall was responsible for the death of several children in the past 2 years. Another gives the Federal Aviation Authority clear authority to regulate aircraft safety.

Throughout our debate in committee, the sponsors of the bill would often reject our efforts to exempt particular regulations by citing some provision of the bill which might provide an exclusion. The committee report is filled with their opinions on how the exclusions should be interpreted.

I would hope that if the proponents of the bill honestly and completely believe that certain regulations are exempted, they would just accept the amendment so we could proceed. We are offering these amendments to ensure that the regulations will be legislatively exempted and to send a strong message to the Senate that we do not want them to pass a moratorium that fails to exempt these regulations. We do not want to enable some clever lawyer to tie these regulations up in court.

So please don't tell us that a certain regulation might be covered by an exemption. If you have no problem with the regulations in the amendment, just accept it, so that we can save everyone the time. We adopted an amendment in committee to exempt tax interpretations; we have done it for bank regulations. We ought to do the same with rules protecting the American people.

In closing, let me note that at our markup, the room was filled with high priced lobbyists all watching to ensure their special interests were taken care of. Today there is a larger audience of people watching. They are the ones we are privileged to serve. Let us not forsake our responsibility to them—the American people—during this debate. Our mission here is to represent them, to ensure that they enjoy good health, breathe clean air, drink germ free water, and work in a safe place in pursuit of their happiness.

□ 1240

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from Alaska [Mr. YOUNG] for the purposes of engaging in a colloquy.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me this time for this colloquy.

Mr. Chairman, I appreciate the fact that the Committee Chairman has been willing to work with me to clarify the intent of House Resolution 450.

While this legislation does place a moratorium on regulations issued after

November 20, 1994, isn't it true that the bill also contains a provision exempting regulations dealing with routine administrative actions?

Mr. CLINGER. Mr. Chairman, if the gentleman will yield, the gentleman from Alaska is correct. In fact, section 6 stipulates that there is an exclusion for routine administrative functions of an agency.

Mr. YOUNG of Alaska. Furthermore, is it correct that you have clarified in your committee report that the bill does not apply to the expansion, contraction, or limitation of authority to harvest Federal fishery resources recommended by our Regional Fishery Management Councils or the Atlantic States Marine Fisheries Commission?

Mr. CLINGER. The gentleman is correct, and we were pleased to incorporate his suggested language within our committee report.

Mr. YOUNG of Alaska. Finally, Mr. Chairman, is it not true that H.R. 450 does not cover normal, annual, and routine housekeeping regulations like those establishing the opening and closing of various fisheries?

Mr. CLINGER. The gentleman from Alaska is once again correct and I compliment him for his leadership in clarifying this important matter.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the chairman for this colloquy.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], chairman of the subcommittee and coauthor of this important piece of legislation.

Mr. MCINTOSH. Mr. Chairman, this bill would say let us take a time-out on Federal regulations. Let us say to the American people we are going to change the way we do business here in Washington, no more day after day, more and more regulations. We are going to stop and redo the way the regulatory system works, so that we do not have burdensome regulations that cost us jobs, cost consumers more every time they go to the grocery store and ultimately put America at a competitive disadvantage.

The burdens of Federal regulations are enormous. One estimate is that they cost us $600 billion each year. That is the equivalent of $6,000 for every household in America. That is why I refer to regulations as a hidden tax on the middle class. This moratorium will say enough is enough, we are going to put a stop to this daily entourage of new regulations.

The cost of regulations to workers was documented in our subcommittee. Several small business men came in and talked about how they were no longer able to increase their work force, some of them indicated that they had to let workers go because of the cost of Federal regulations. One indicated he had increased investments over a series of years only to have the regulations changed, and that suddenly he had to face the choice of closing down his small business and letting tens of workers leave, or reinvest all of his life savings once again.

A good friend of my mine, Gary Bartlett from Muncie, IN, came up to me and said, you know, I can compete in the world market. I have a small business that I started in my garage. We now make auto parts and sell to Europeans and Japanese auto companies, but my biggest enemy is Uncle Sam and all of the needless and unnecessary red tape and regulations that I have to go through day in and day out.

If we look at the consumer, we have to spend 10 percent of our grocery bill; that means if you go to the grocery store and buy 50 dollars' worth of groceries, $5 of that goes to pay for Federal regulations. We need to stop that hidden tax on the consumer.

One of the regulations that will be stopped in our moratorium is a regulation that would force consumers in the New England States to spend $600 to $1,500 more every time they buy a new car. This regulation is unnecessary. There are ways we can receive the same benefits to the environment without asking the American people to pay $600 to $1,500 more every time they buy a new car.

This hidden tax on the middle class has got to be cut back. We tried to work hard with the administration to identify regulations to cut, to have a bill that would work with them to move forward so we could signal to the American people we have put an end to the entourage of regulations, but no, this administration wants to side with the Federal bureaucrats and continue to issue Federal regulations.

I urge a ''yes'' vote on this bill.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. PETERSON], ranking member of the Subcommittee on Economic Growth, Natural Resources and Regulatory Affairs.

Mr. PETERSON of Minnesota. Mr. Chairman, last year, the Federal Government issued over 64,000 pages of regulations in the Federal Register compared to 44,000 pages 10 years ago. Estimates are that our Government employs nearly 130,000 bureaucrats to write, interpret, and enforce those regulations. The bureaucrats responsible for issuing regulations to solve our Nation's problems, have sometimes become the problems themselves. The American public is fed up with silly rules and regulations that cost us time and money and don't accomplish anything. Something needs to be done to change the process.

When I first read H.R. 450 my reaction was that this bill was unworkable and frankly unnecessary. But the more I read and heard about the bill and the regulatory process, the more convinced I am that H.R. 450 is a good idea.

I speak today, Mr. Chairman, for a number of Democrats that support this bill. Do we think that everything in it is perfect? No. If we had dictatorial power we would do things differently, but basically it is workable. And I commend the chairman, the ranking member of the subcommittee, and the minority and all of the staff for working with us on this bill.

One of my main concerns about the original bill was the retroactive provisions. That was until I obtained a copy of the 615 regulations issued between November 9 and December 31 of last year and read them. The more I read, the more I believed that this bill was necessary. If every Member of Congress were required to read every Federal regulation, I am convinced that all of you would have a different view of the Federal regulatory process. The longer I worked on this bill, the more convinced I was that a wholesale attitude change was necessary in the regulatory process. I became convinced that what was needed was a 2 by 4 between the eyes of the Federal regulatory bureaucracy. H.R. 450 is just that, a 2 by 4 which serves as a wake up call, putting the bureaucracy on notice that business as usual is over.

This bill was crafted taking into account the failures of the Bush-imposed moratorium. It is meant to be wide in scope and to avoid narrow exclusions. H.R. 450 exempts routine regulations, it exempts regulations which reduce or streamline the regulatory process, it gives the administration the full authority to exempt regulations that are a threat to health and human safety, and is limited to those regulations that need to be looked at and reassessed. H.R. 450 places a temporary hold on regulations until common sense risk assessment and cost-benefit analysis is passed and signed into law. Furthermore, H.R. 450 gives the committees of jurisdiction time to look at regulations and lets them ask the question: Do these regulations really make sense?

The bottom line is that business as usual will be over with the passage of H.R. 450. It is a message that needs to be sent to the bureaucracy. The American people want a change in our inflexible and over-burdensome regulatory rulemaking process. I'm tired of going home and hearing yet another regulatory horror story. For example, Moorhead, MN, in my district, is being forced to pay $10 million to change their municipal water system when the engineering experts and health officials admit it is a waste of money. The regulations mandating this are not sensible, but typical of well-meaning but over-intrusive Federal bureaucrats.

I want to thank committee chairman CLINGER and subcommittee chairman MCINTOSH for their hard work and willingness to make this a bipartisan effort. While this bill is not perfect, it is workable and serves as a wake up call to the bureaucracy telling them things have changed. This bill puts us on course for a regulatory change in attitude which involves risk assessment and cost-benefit analysis, and hopefully keeps the Federal Government out of the people's lives except when it is absolutely necessary.

□ 1250

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the majority whip, the gentleman from Texas [Mr. DELAY], another coauthor of this very important piece of legislation.

Mr. DELAY. I thank the chairman of the committee for yielding this time to me.

Mr. Chairman, I have been waiting for today for 16 years. Ever since I opened up my small business and started to have to deal with bureaucrats constantly knocking at my door and piling on the paperwork, I have wanted to do something about the problem of Federal overregulation. With H.R. 450, the Regulatory Transition Act of 1995, we begin the process of reforming the regulatory system.

Regulations are out of control, and are only going more so under this administration. Measured by the number of pages in the Federal Register, in which all new regulations are published, each of Mr. Clinton's 2 years in office have seen the most regulatory activity since President Carter's last. The number of ''actual pages'', not counting corrections and blank pages in 1994, was 64,914 pages, the third highest total of all time, and an increase from 1993's count of 61,166 actual pages. Despite rhetoric to the contrary, regulatory activity under the Clinton administration is increasing, not decreasing.

In fact, the average American had to work full time until July 10 last year to pay the costs associated with government taxation, mandates, and regulations. This means that 52 cents of every dollar earned went to the government directly or indirectly.

On November 8, 1994, the American people sent a message to Washington. They voted for a smaller, less intrusive government. An important step toward reaching this goal is curtailing these excesses of Federal regulation and red tape that are now estimated to cost the economy over $500 billion annually.

Although regulations are often well-intended, in their implementation too many are oppressive, unreasonable, and irrational. For example:

An environmental engineer was criminally convicted of contaminating wetlands for moving two truckloads of dirt.

Another man faced a grand jury because he stabbed a protected falcon with a pitchfork as it killed a chicken in his front yard.

Mr. Chairman, one company paid $600,000 for failing to fill out a Federal form even though it had complied with an identical State law.

A drycleaner was fined for not posting a piece of paper listing the number of employee injuries in the last 12 months, when in fact there were no injuries during that time.

What do you think are the effects of such regulations? Besides the fact that Americans tend to lose respect for their Government, there is also the issue of cost. Regulatory costs that are imposed on businesses—both big and small—have to be paid, but you can be sure they are not paid by the business. Instead, these costs are passed directly on to the consumer, increasing the prices for the goods and services they buy and lowering our standard of living. Every American needs to realize that excessive regulation affects their family and their personal lives directly.

The last thing the Government should be doing is making it harder for Americans to pursue their dreams of entrepreneurship. Rather, we should be facilitating it, so that Americans can provide for their families free of regulatory roadblocks, which will result in a continued high standard of living for the whole country.

H.R. 450 is such a facilitator. This bill establishes the moratorium on Federal regulations President Clinton refused to order himself last December. It gives Congress—Republicans and Democrats alike—some breathing room to pursue the process reforms that are embodied in the Contract With America, such as cost-benefit analysis and risk assessment. Those reforms will then apply to those regulations that were suspended during the moratorium period, so that no new regulations since the election will have been promulgated without having gone through the tests of sound science and proper cost and risk analysis.

Make no mistake. A Federal regulation is a law that can affect life, liberty, and property of Americans. Fairness, justice, and equity must be reflected in the laws of the land, including Federal regulations.

The 104th Congress should undertake a thorough review of Federal regulations, starting with the way they are made and enforced, and make such adjustments to the statutes of this land as are necessary to reflect the mandate of the American people. No such thorough review has been possible for some 40 years. It is a daunting but welcome task. It cannot be achieved overnight, nor even in the first 100 days of this Congress, but we can make a start. That start will be impeded if legions of new regulations go into effect before even the initial consideration for regulatory reform and relief can be given.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina [Mr. SPRATT], a member of the committee.

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

Mr. SPRATT. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 450, the Regulatory Transition Act of 1995, as it is now written.

I share the concerns of this bill about the burdens of regulation. I believe the regulatory maze needs to be cleared out. But this bill is not the way to go. This is the all-time case of throwing out the baby with the bathwater.

H.R. 450 freezes action on almost all Federal regulations issued between November 20, 1994, and December 31, 1995. Its reach is so broad that even its sponsors can't tell us exactly what it embraces. For one thing, they did not try to inventory all the regulations issued or about to be issued before they filed this bill; and they cannot foresee all of the regs that may be needed over the next 10 months.

This bill reaches from health and safety rules to trade rules to rules for auctioning the radio frequencies. It includes rules I would gladly vote to suspend and rules I have worked to see implemented. It makes no distinction between regs we need and those we don't, and that's the problem with it. By reaching so far, it runs the risk of creating as much confusion as it seeks to prevent.

Let me give you just a sample of the regulations this bill may block:

On February 3, the USDA issued a rule to reduce illnesses caused by contaminated meat and poultry, due to E coli and salmonella. Now, you may think this rule falls under the exception in the bill for emergency regulations that deal with imminent threats to health. After all, the Centers for Disease Control estimates that 9,000 people a year die from food-borne diseases. But we debated that question in committee and came to no clear conclusion, because no one can say definitively whether the USDA rule deals with an imminent threat to health. The sponsors of the bill refused to delete the word imminent, and wouldn't accept an amendment that would settle the issue by specifying that the USDA reg is excluded, so the bill comes to the floor with a fundamental issue like this unsettled.

On December 21, HUD issued rules to prevent alcoholics and drug addicts from being admitted to HUD-assisted elderly housing. That's something most of us would support. Current regulations have been construed by the courts to treat disabled persons, as elderly, and the disabled include alcohol and drug addicts. Some may think that this rule falls under the exclusion for routine administrative functions, but that too is far from clear; and so unless we make this exclusion clear, the elderly may just have to wait to get the addicts out of their housing projects.

On December 2, 1994, Customs issued a rule to stiffen the penalties against illegal textile and apparel imports. Next month, Customs will issue draft rules of origin for textile and apparel imports. These rules of trade will stop Hong Kong from shipping to us under their quota goods that are actually made in China. Why suspend regs that stop fraudulent trade?

On January 4, 1995, an INS rule on asylum reform became final. This rule would defer the granting of employment for persons seeking asylum. Under the prior rule, asylum seekers were granted employment authorization simply upon filing for asylum. Everyone knows that asylum processing needs reform; why pass a bill that will stop it?

On January 24, 1995, the FAA issued airworthiness directives aimed at potential safety problems in aircraft. These are real safety concerns, but they may not fall within the emergency exclusion a an imminent threat,

and also may not fall under the exception for routine administrative functions.

This is merely a sample. There are at least a hundred regulations of some significance that have been issued that I could cite; and these are the regulations already issued. What health or safety rules will be issued or needed over the next 10 months that we can't foresee now? Often during markup, when we raised a question about prospective regulations, the sponsors assured us that they probably fell under one of the exceptions of the bill. But they could not be sure, so the issue is left hanging on words like imminent and routine, which will be litigated at length over the next year if this bill is ever enacted.

In committee, we did carve out a few explicit exemptions for tax and banking regulations. But why have specific exemptions only for banking and income taxes?

During consideration of the bill, amendments will be offered that exclude certain regs in clusters, under a particular heading. Our object in offering these amendments is to clear up a path through the enormous gray zone created because the boundaries of this bill are so ambiguous. For example, there will be amendments that make it clear that this bill does not block the Customs Modernization Act from being implemented, that make it clear that this bill does not stop sanctions against China or against other countries that engage in certain kinds of fraudulent trade, that settle any question about food safety regulation, that deal with airline safety, mine safety, that make it clear that this bill will not stop long-awaited rules for transuranic nuclear waste disposal, so that the Waste Isolation Pilot Project can go forward, that upgrade with mammography quality standards, that deal with personal use of campaign funds, that broaden veterans benefits for Persian Gulf syndrome, and that even deal with hunting season for ducks and waterfowl.

There will also be amendments that make the bill prospective only and remove one of its most problematical features—judicial review. This bill is not without merit. But it needs a lot of work before it deserves to be passed, or else we will create far more confusion than we prevent by passing it.

□ 1300

In committee we did carve out a few explicit exceptions for tax and banking regulations. But why have specific exemptions that clarify the bill just for taxes and just for bikers? During consideration of this bill amendments will be offered that include certain regs and clusters under a particular heading. Our object in offering these amendments was a clear path through this fuzzy gray zone that is created by this bill because of boundaries of it are so ambiguous. I urge every Member to carefully consider and to vote for these clarifying amendments that will create sensible exceptions and exclusions to this piece of legislation.

Mr. CLINGER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, we are literally drowning in regulations. Let me say to my colleagues that something is dramatically wrong when the tooth fairy can be charged with mishandling biohazardous waste. Tens of thousands of pages of regulations have been passed, millions and millions of complex rules for average Americans to deal with. I guarantee the average American cannot get up in the morning and live 1 day without violating one of these rules. We have tied up business, we have tied up industry, we have tied up local government. This is what the November 8 election was all about. The other side just does not get it.

This bill does not stop regulations. This only says, ''Stop, look and listen.'' This bill does not affect public health, safety, and welfare where there is an emergency.

I say to my colleagues, ''If all else fails, read the bill.''

President Reagan's measure in 1981 did some good; I am sorry, his executive order only stopped some of the onslaught. If we do not have the leadership from this administration to do the same thing, this Congress will impose this moratorium, and this is not a permanent moratorium.

If all else fails, read the bill. It is only temporary. It is only this year.

I submit that we have to stop killing jobs, we have to stop killing productivity, and we have got to allow this country to compete in the international arena. If we pass this measure, we can begin to do just that.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CONDIT].

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

Mr. CONDIT. Mr. Chairman, I rise in support of H.R. 450, and I would like to associate myself with the remarks of the gentleman from Minnesota [Mr. PETERSON] who I think has done an outstanding job on this. I want to commend him for that.

Mr. Chairman, I thank the gentlewoman for allowing me this time to speak on this important issue.

Speaking with people back home, time and time again, the problem of unnecessary and overly burdensome regulations is brought to my attention. So I am pleased that this House is now considering H.R. 450, the Regulatory Transition Act of 1995.

Mr. Chairman, just so there is no misunderstanding, many existing Government regulations are necessary, and provide significant benefits to our country. My concern is that in recent years, at a time when the number of regulations are increasing, we are failing to ensure that these regulations address real risks at a cost that is comparable to the benefits provided. As you may know, improving the Federal Government's ability to conduct risk assessment and cost-benefit analysis has been an interest of mine and I look forward to continuing these efforts.

I must agree that a moratorium on regulations is a controversial first step. But it is one that I support because we must begin now, if we are to reform the flawed processes which have resulted in so many regulations and simply do not work in the real world. I am pleased that the Congress will soon be considering important changes in our rulemaking process, such as requiring risk assessments on all major regulations. However, these changes will take time. That is why I believe that a moratorium on new regulations is a necessary first step toward reforming the regulatory process.

No one can anticipate the future, and I believe that it is important that H.R. 450 grants the President broad authority to grant exemptions from the moratorium for emergencies. I am also pleased that the bill excludes regulations that repeal or streamline current regulatory burdens.

Regulatory reform should be a priority for the 104th Congress, and I am encouraged that we are now moving forward with H.R. 450 to begin the effort on regulatory reform. I urge Members to support this legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, the Republican Party would like to have the American public believe that all government regulation is evil and burdensome. The proposal before us today will stop all government regulations issued since November 20, 1994. I believe this is another master gimmick being promoted by the headline hungry Republican Party that is willing to pursue destructive policy in order to gain favor with a disenchanted public. This is one more initiative by the Republican Party to close debate and rule by decree. This proposal paralyzes Government in order to fix it. This is not the way to do things around here. We do not need to hurt our fellow American citizens in order to help them.

Let me give my colleagues two examples in agriculture alone. The first relates to the fresh cut flower and fresh cut greens promotion information program which was implemented when the rule passed in December 1994. If House Report 450 is passed today, the program cannot be implemented and will result in widespread losses to producers and to shippers. We are talking here about jobs.

A second example is rules establishing comprehensive regulations governing the introduction of nonindigenous organisms that may be plant pests. It is estimated that harmful introductions have cost the American taxpayer $97 billion. We need these regulations to protect the American public.

Mr. Chairman, my own district, where we have a base closure example, we required local hiring preferences. Those regulations were put into law just recently, the Federal Register, so that one could hire local businesses affected most by the base closure. Those base closures would be thrown out.

Lastly, let me just read a part of the bill here that says the enactment of new law or laws require that the Federal rule-making process include cost-benefit analysis. I say to my colleagues, ''You cannot, you cannot, do cost-benefit analysis. You can't do it for military music, the salute to the flag or to the kinds of provisions that are included in this bill.''

I urge a rejection of House Report 450.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. BASS], another new member of the committee.

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

Mr. BASS. Mr. Chairman, I rise in support of House Resolution 450.

Sixty-five thousand pages—actually 64,914 pages—in 1994 alone. Who reads all these pages? Who is affected by all these pages? Who is writing all this staff? The answer is there are a lot of people writing a lot of regulations. Nobody has the opportunity really to understand what is going on. We need a rest.

Mr. Chairman, that is what House Resolution 450 does. It gives us a rest for a little while. We have got to get on the stick here and reduce the size and influence of the Federal Government.

Who is going to be affected by all these regulations and the moratorium that we will have over the next year? My colleagues, it will be families, small business people, people who are affected day in and day out by these regulations.

I do not know what all these people are going to do who write all these regulations. They will probably be listening to classical music for the rest of the year, but it is time we pass this bill, House Resolution 450.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BAESLER].

Mr. BAESLER. Mr. Chairman, I would like to associate myself with the remarks of Mr. PETERSON. I support this bill very strongly because I think it will go a long way in preventing some irreparable damage to major industries in Kentucky, namely tobacco and the soft drink industry, and I fully support it, and I vigorously resist many of the amendments that will try to undo what this bill tries to do.

Mr. CLINGER. Mr. Chairman, I yield 2½ minutes to the gentleman from Kansas [Mr. ROBERTS], the chairman of the still powerful Committee on Agriculture.

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

Mr. ROBERTS. Mr. Chairman, first I want to thank the gentleman from Pennsylvania [Mr. CLINGER] and the subcommittee chairman, the gentleman from Indiana [Mr. MCINTOSH], for their work to make sure that this legislation will not in any way impede the routine regulatory decisions and actions vital to commerce in a very workmanlike fashion, which my colleagues have done. They have addressed the concerns of the Committee on Agriculture; I appreciate that; with report language that clearly states this legislation is not intended to apply to the marketing orders and our ability to distribute the vital commodities that we have to do.

This legislation is good for agriculture, it is good for rural and small town America, and it is long overdue.

Now some of my colleagues across the aisle, I understand their concern, but they have expressed very reasonable concerns about the law of unintended effects, that this moratorium will endanger essential regulations. That is not the case. This bill exempts routine administrative action and most of the warnings that have been raised by the majority.

Now I realize virtually every Federal agency is under marching orders by this administration to warn of impending doom and that the regulatory sky will fall. That is not going to happen now. I am also sure that agency lawyers can interpret legislation to provoke all sorts of legal problems, if they so choose.

□ 1310

That does not have to be that way. We should not have a problem.

The other side of the story in reality is that regulatory overkill pouring out of this town has endangered the economic well-being and the essential services of virtually every community, every county, every State, every business up and down Main Street; every hospital, every school, everybody in America. The total cost, $600 billion nationwide, and it is breaking the back of our local government.

What is at stake is the very confidence of the people of the United States and their faith in our Government. We are regulating our citizens out of business with a shotgun, You-are-guilty-until-proven-innocent approach. The gentleman from South Carolina [Mr. SPRATT] said we should not throw the baby out with the bath water. Right now the bath water would not meet the clean water standards, the soap would not be labeled right, the tub would be judged unsafe, and parents could not bathe the baby without proper instruction, certification and schooling. It is time for moratorium.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

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

Mr. RICHARDSON. Mr. Speaker, I oppose this legislation, but let me say at the same time I have great respect for my friend, the gentleman from Pennsylvania [Mr. CLINGER], who is producing rapidly a lot of legislation.

I do think that we have to be careful. When we look at what moratoriums mean, basically any moratorium in my judgment is not good. It is basically creating temporary bottleneck and gridlock. This is something that the other side has abhorred for years. But when you have a moratorium, it means nothing can happen. You delay a decision.

So what we are doing is creating regulations, in my judgment, that do not create jobs. What we are doing is preventing regulations that create jobs, that protect children, that keep planes and trains from crashing, and keep hunters from hunting. That is in essence what we are doing. What we are doing is basically trying to use Band-Aids after open heart surgery.

The administration has worked hard and with success to streamline agency rule making. Let that continue. The Congress can use its oversight authority to curb overzealous agency action. The Vice President has taken the lead in this direction, not just with reforming government, by cutting Federal workers, over 280,000, to finance the crime bill, and there are task forces in every single department of government designed to curb regulation. This is ongoing. Why do we have to interfere with this process?

This moratorium is so strict that agency employees would be prohibited from almost doing anything by risk assessment. In other words, a paralysis would virtually take place. Any agency decision to exclude a rule except for emergencies could be challenged in court, tying things up further and keeping lawyers further employed.

The committee made sure that exclusions exist for tax and banking regulations, but they would not add exclusions for meat and poultry inspection, safe drinking water regulations, mine safety regulations, programs that help the working class. Assurances that exclusions protect health and safety regulations are not worth anything. They are going to be tied up in court with lawsuits. We are employing a lot of lawyers with this legislation.

The committee language makes it easier to exclude regulations on the basis of damage to property, rather than damage to individuals and human beings. So what we have is piecemeal legislation, a piecemeal amendment process, exempting certain statutes and programs from the moratorium. It is more evidence of the fact that this is a bad idea. How do we pick and choose in a day what should be exempt and what should not be exempt?

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 1 minute to the gentleman from Texas [Mr. COMBEST], the chairman of the Permanent Select Committee on Intelligence.

Mr. COMBEST. Mr. Chairman, this bill goes right at the heart of what the frustration in this country is, and I would challenge Members of this Congress to walk down the streets of your community, stop anyone, and ask them what their concerns are, and I bet you more than not you will hear that the

concerns are over-government regulations. For 10 years that is what I have heard in my district. It is ironic that people in the district look at the concerns and then recognize the fact that this administration is trying to govern by regulation.

Most people in my district do not understand that regulation that seems to be so stupid can many times be put into law. What we are doing by this act, Mr. Chairman, is we are going to put the stupid test to regulations. If it is stupid, it is not going to become one.

There is nothing that is creating more of a problem economically to the American people than over-government regulation. The average American family today is expending $6,000 a year to comply with Federal Government regulation. That is $6,000 they ought to be able to keep in their pocket.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, whether the regulation is smart or stupid will make no difference under this legislation before us today because this legislation will stop all regulations, without giving consideration to whether it is very much needed by the middle class in this country.

People look to regulations to protect them from harm. Whether it is environmental threats or safety concerns, regulations are in place to be there to protect people. This legislation would put a moratorium on all those regulations.

The big winner will be the corporate special interests that will be relieved from the obligation to live up to standards that protect the public. The big loser will be the middle class, the people who are hard working and expect that someone is going to pay attention to them. And the people they are looking to are those of us in this Hall today.

The tobacco industry illustrates to me a good example of how H.R. 450 would work. There is probably no more protected special interest in America than the tobacco industry, yet the tobacco industry would probably be the Nation's biggest winner under H.R. 450.

The Food and Drug Administration is in the process of conducting an investigation as to whether the tobacco industry acted improperly in adding or manipulating the nicotine in cigarettes to keep people addicted, and particularly marketing it to kids. So FDA is trying to decide do they have jurisdiction over this matter. This moratorium legislation would keep FDA from even doing its investigation, let alone promulgating any regulations.

OSHA is looking at protecting people in the workplace from secondhand smoke. It is a serious environmental threat. It is a class A carcinogen. It can cause a nonsmoker who is forced to breathe in that smoke to get lung disease and heart problems. All of these concerns we think about when we associate cigarette smoking and the smoker, yet OSHA would be stopped from their investigation on this very issue because the scope of this proposal is so broad that they could not even get further comment on a proposal to deal with protecting people in the workplace.

This is not what the American public wants, regulatory relief that allows the tobacco industry to continue to promote and sell cigarettes to our children.

There are other examples of how this bill will hurt the middle class. It will delay efforts to improve the safety of meat, poultry, and seafood. It would remove dangerous chemicals from drinking water under a proposal, and those proposals would be stopped. There is a proposal to establish standards for mammography, and those standards would be stopped. Protect children from iron poisoning and reduce toxic emissions from incinerators, these are regulations that are about to be proposed, and they would be stopped by this moratorium.

I think it is a part of what is clearly not just in and of itself a transition to another bill, it is part of a salvo on attacking all of our Nation's regulatory safety net.

Other provisions we are going to get up before this Congress next week which are part of this so-called Contract with America would be even more extreme, because they would create a regulatory maze that would prevent the agencies from protecting our health and safety. They in fact would roll back 25 years of environmental progress.

There are good regulations, there are bad regulations. Let us figure out how to make regulations smart and effective, not simply to take all regulations and stop them from going into effect, either through a moratorium, which is part of what this legislation would do, or the regulatory, so-called, reform bill that we will get next week, which will cripple government from doing anything to protect people. The people we are trying to deal with are the middle class.

□ 1320

Mr. CLINGER. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 14 minutes remaining, and the gentlewoman from Illinois [Mrs. COLLINS] has 5 minutes remaining.

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute the gentleman from Minnesota [Mr. GUTKNECHT], another new and very valued member of our committee.

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

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

Mr. GUTKNECHT. Mr. Chairman, I do not know how many times we have watched NCAA basketball games or other basketball games on TV. We will see, when one team has a run and they have scored about 11 points in a row and the other team seems to be against the ropes. And we will hear the announcer oftentimes say, it is time to get a TO. They better take a TO. And we all know what that means. Let us take a time out.

Let us, if one is the coach or if one is a supporter of that team, they know what that means. The other team has a run going. You are against the ropes and you need some time to just think about it, to regroup, to go back to the huddle and see of you cannot restructure this thing.

I think what small business and even some big businesses around the country are saying, please, let us at least have a TO. Let us take time out so that we have time to recapture our thoughts and perhaps see if there is not some sensible way to deal with this.

What American business is not saying is, we want no regulations from the Federal Government. I think what they are saying is, we want reasonable regulations. That is what this is about. This is a time out.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I thank the ranking member, the gentlewoman from Illinois [Mrs. COLLINS], for yielding time to me.

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

Mr. FATTAH. Mr. Chairman, during the course of our deliberations on this bill, I am going to offer an amendment that would exempt from this moratorium the proposed regulations of the Federal Trade Commission to prevent telemarketing fraud. The Telemarketing Consumer Fraud and Abuse Prevention Act of 1994 was a law that was passed in the last session. That law had broad bipartisan support in the last Congress. It passed in the House by a vote of 411 to 3. It passed the Senate by a voice vote.

Numerous congressional hearings over a 7-year period have shown that telemarketing fraud was costing Americans about $40 billion a year and that the elderly and small businesses are the principal victims. The hearings also showed that new legal tools were needed to stop this rip-off. The law directs the FTC to issue its final regulations by August 16, 1995, and then the law, in a novel approach, authorizes State attorneys general as well as the FTC to enforce these Federal regulations.

H.R. 450 would bring to a halt this bipartisan effort to stop telemarketing fraud. H.R. 450 prohibits the FTC from issuing a final rule by the statutory deadline of August 16, and it even prohibits the FTC from going ahead with

analyzing public comments and holding a public hearing on the proposed rule.

Sections 6(3)(A) of H.R. 450 makes it clear that the moratorium applies both to the issuing of a rule and to any other action taken in the course of the process of rulemaking. This amendment should be supported hopefully by both sides of the aisle.

Mr. Chairman, the last Congress spoke clearly and decisively on telemarketing fraud. There is no reason for us to put that work on hold.

I urge support for this amendment, when it comes up in the debate.

Mr. CLINGER. Mr. Chairman, may I ask who is entitled to close debate?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is entitled to close debate.

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

I want to point out a couple of things that have been discussed during the debate this afternoon. The gentleman from California indicated that this bill was going to roll back 25 years of health and environmental legislation. And that would be true if in fact we were going to reach back and deal with the regulations that have been put on the books in those 25 years, but that clearly is not the case.

This bill is only prospective, that is prospective from the point of November 20 until the end of the year. It is also temporary. We are not saying that this moratorium is going to go on forever. In fact, it has a final date of December 31 of this year. And could be much earlier than that if, in fact, regulatory reform legislation which we will be considering next week does pass.

So this is not a long-term and it is also, Mr. Chairman, not an unprecedented step. During the administration of President Bush, there was an executively imposed moratorium on regulations which went on for over a year, I believe. And in that case, there were no deleterious effects, no horrible rending of the social network or the social safety network, no destruction of the environment as a result of that moratorium. This is merely an opportunity, a temporary opportunity to try to say, let us put a hold on these things until we really get a sense of how we are going about imposing regulations. And clearly, I think even on both sides of the aisle, it would be admitted that we have gone overboard, that we have a sort of a sausage machine that just grinds out regulations without any thought given to what the ultimate impact may be, what the cost may be to the people that we are impacting. So, yes, there are indeed many regulations that are vitally important to the health and safety. We think that those types of regulations are clearly covered and exempted under the exemptions that we provide for imminent threats to the health and safety of individuals.

We do not think that this is a draconian device. It is merely a device that gives us a chance to review where we stand.

I would just point out, Mr. Chairman, that the legislation does indeed have a tremendous amount of support from hundreds, hundreds of national organizations inside and outside the beltway, including the American Farm Bureau Federation, the gentleman, chairman of the Committee of Agriculture, spoke earlier about the support of the farm community and the fact that their concerns, while having milk marketing orders and others, would not be affected. I think the American Farm Bureau Federation would not be endorsing this bill if there was a real threat to agriculture. The National Federation of Independent Business, the National Electrical Contractors, National Grocers Association, the U.S. Chamber of Commerce and the list goes on and on and on. So, Mr. Chairman, there is a tremendous amount of support for this bill outside this chamber, but also there is tremendous support right here in this chamber, for the legislation has about 150 cosponsors. In fact, it passed out of my committee, the Committee on Government Reform and Oversight, with a bipartisan vote of 28 to 13.

I just wanted to try and put this thing in context, that we are really dealing here with a rather modest proposal to give both ourselves and the administration, when I point out there is a companion, I view the effort by the President when he said he is directing every department-level, cabinet-level office as well as every agency to review the regulations which they have, to take a hard look at them and to come back with recommendations for those that could be eliminated. We hope that they will do that. But that is a companion piece to what we are dealing with. What we are dealing with is primarily new regulations, new burdens that are going to be imposed, not those that are already in existence. We applaud the President's efforts to look at existing regulation and perhaps eliminate those.

I think this would be a cooperative effort, not an adversarial effort, because we are both trying to do the same thing, which is deal with this regulatory overkill we have in this country.

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

Mrs. COLLINS of Illinois. Mr. Chairman, will the Chair tell Members how much time remains on both sides?

The CHAIRMAN. The gentlewoman from Illinois, [Mrs. COLLINS] has 2½ minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 8 minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT], a new and valued Member.

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

Mr. Chairman, I rise in strong support of H.R. 450.

The distinguished majority leader, who is an economist, has called government interference in our businesses and in our lives ''the invisible foot'' of big government. And he is right. That foot is on the throat of people who create jobs.

Almost every day my office receives calls from small businessowners in Kansas who are caught between running their business and fighting with needless government regulations.

One man in Wichita who runs a roofing business called my office because the government wants him to secure his roofing ladders with ropes. But the ropes create a safety hazard to the workers, who get their feet tangled in the ropes. This is clearly counterproductive.

Let me quote from a letter recently received:

> As a small businessman I can tell you firsthand that I am drowning in a sea of regulation from Washington.

When we enact mindless regulation without understanding its costs we are playing a deadly game of Russian roulette with American jobs. When the gun goes off small businesses shut their doors, and ordinary working people lose their jobs. It's not smart, and it's not right.

For these reasons I urge H.R. 450's passage.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, I rise in strong support today of H.R. 450. The greatest burden that free enterprise and entrepreneurs and those who wish to pursue the American dream have today, the greatest problem they have is the regulatory burden they face every time they walk out the door, trying to create more jobs, trying to be more productive in this country.

Yesterday we were visiting with one of the representatives from the administration, and it was pointed out to us that there has been a problem in recent years with job growth and job creation, and I pointed out to them that one of the greatest reasons, perhaps the greatest reason, that there has not been as much job growth in this country in recent years is because the entrepreneurs, the small businesses, those who believe in free enterprise have to operate with handcuffs every day because the regulatory burden is so great.

Mr. Chairman, I am delighted that this effort we are undertaking today is a bipartisan effort. There is strong support on both sides of the aisle. I am excited because small business people in America can once again look to Congress and understand that they will have a friend and an ally in Congress as they get up to work every morning, oftentimes 7 days a week, to create jobs and be more productive in America.

Later on today, Mr. Chairman, we will also offer an amendment that will address private property rights. Regulatory burdens that have been imposed on people who own homes, small businesses, farms, and ranches across America mean people no longer have

an opportunity to do what they want on their own property.

Regulations have also been a tremendous burden on them, and I am delighted that this amendment that we will be offering later on, which we will elaborate on, is a tremendous bipartisan effort, as well, that we are excited about presenting today.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been mentioned that there has been bipartisan agreement in committee with this legislation. I just want to point out that there has also been bipartisan opposition to this bill in committee.

Let me say, too, Mr. Chairman, that I think that the Washington Post today really tells the story on this particular legislation. It has a story on the Federal page entitled ''Ambiguity Rules the Day.'' That in fact is what it does. This says ''The Republicans' rulemaking moratorium aims to relieve Americans of burdensome Federal regulations, but the bill that comes to the House for debate today could create just as much confusion as it seeks to prevent.'' It goes on to say that ''* * * the moratorium * * *, the first of the measures to come to the House, may gain its notoriety not from what it seeks to stop but its ambiguity. The bill will allow thousands of exemptions and create enormous gray areas likely to confound both rule-making and their congressional opponents.'' Further it says ''Beyond specific categories, however, the bill becomes fuzzy enough to provoke immediate chaos.''

There is no way I could say it any better than that, Mr. Chairman. What happens here is that we have this bill, which was very hastily crafted. I would want to say, it was not very artfully crafted. As I understand it, it is supposed to be a bridge between this bill and some others that have to do with risk assessments and cost analyses and things of that nature. It is a bill that does not do what it purports to do. It is very, very hazy, it is very, very fuzzy. It is the kind of legislation that I do not think has been very well-written. I think its purpose may have been laudatory, but its effect is not that.

For that reason, Mr. Chairman, I would certainly urge all of my colleagues to vote against this bill when it comes up for debate. The one thing we tried to do is to offer amendments that make good common sense.

I would certainly hope that my colleagues would vote for the amendments that we have offered, because I just do not believe that my colleagues on the other side of the aisle intended for there to be chaos, intended for there to be fuzzy rulings and ambiguity about the kinds of things that this bill is supposed to do when it comes down to the operation of the Federal Government.

For that reason, Mr. Chairman, I would say to them, pay close attention to the amendments that we have offered. They are very seriously given, they are very carefully thought out, they are very carefully drawn, and it seems to me that they are something we ought to do.

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I would like to enter into a dialog with the gentleman from Pennsylvania.

Mr. Chairman, as the gentleman knows, in the last couple of years we have instituted some of the largest trade agreements that mankind has ever accomplished. Of course, in anything as complicated as that, it does take regulations to carry them out.

We hope that the gentleman's language will give the administering agencies as broad a latitude as possible to carry out these agreements. We do not want to be in a position of not having passed these agreements, and having promised the world we will do some things, and then turn around and welsh on our own agreements.

I have sent the gentleman some correspondence on this. I hope to receive the gentleman's assurance that he feels that it is important in carrying out these agreements that the administrators have pretty broad latitude in issuing their regulations.

Mr. CLINGER. Mr. Chairman, let me assure the gentleman that we are very sensitive and very aware of the concern of the gentleman and others on the Committee on Ways and Means that were so vitally involved in negotiating these agreements. We think that the language would clearly allow this.

Mr. GIBBONS. Mr. Chairman, if the gentleman will continue to yield, I include for the RECORD a copy of my letter.

The letter referred to is as follows:

COMMITTEE ON WAYS AND MEANS,
Washington, DC, February 22, 1995.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing in regard to the exception to the moratorium on Federal regulatory rulemaking actions in H.R. 450, the Regulatory Transition Act of 1995, for ''statutes implementing international trade agreements''. While we believe this exception is essential if H.R. 450 is enacted into law, we are deeply concerned about the narrow interpretation of this language set forth on page 22 of the Committee report which authorizes the Administration to conduct rulemaking actions during the moratorium period only with respect to provisions in such statutes which are ''specifically required'' to implement U.S. obligations under international trade agreements.

Such a narrow interpretation is contrary to the statutory basis on which implementing legislation for international trade agreements has been developed and passed by Congress and would potentially undermine the effectiveness of that legislation. The special ''fast track'' procedures set forth in the Trade Act of 1974, and reauthorized by subsequent Congresses for consideration of trade agreement implementing legislation, specifically states that such procedures apply to legislation which contains provisions which are ''necessary or appropriate'' to implement such agreements. Those procedures also require the Congress to approve an accompanying statement of administrative action which sets forth procedures and interpretations which are subsequently reflected in agency regulations.

Within that framework and on a bipartisan basis, committees of jurisdiction have developed, together with the Executive branch, and Congress has passed legislation since 1974 encompassing statutory changes and authority to issue regulations necessary or appropriate to implement U.S. trade agreement obligations. For example, legislation passed by the 103d Congress on a bipartisan basis to implement and North American Free Trade Agreement and the Uruguay Round multilateral agreements represented a careful balance of divergent commercial and political interests on a range of issues. An interpretation of the exception to the moratorium which limits rulemaking authority to only those provisions that are specifically required to implement trade agreement obligations is contrary to the intent of Congress in passing this legislation and will preclude agencies from issuing regulations to administer those provisions which are appropriate to achieve effective or intended administration of the statutes or agreements involved. Such an interpretation also runs the risk of upsetting the careful balance of interests reflected in the statute and unnecessarily reopening the debate on controversial issues.

In sum, we believe the statutory language contained in H.R. 450 should stand on its own. We further believe for the reasons stated above that the interpretation given to this language in your Committee report is totally inappropriate. Any changes in previously enacted trade agreement implementing legislation should be debated by committees of jurisdiction through the normal legislative process, and not be achieved through a regulatory vehicle such as H.R. 450.

We appreciate your cooperation on this matter.

Sincerely,

SAM M. GIBBONS,
Ranking Democratic Member.

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

Mr. Chairman, just to respond to the gentleman from Florida, it is clearly our intent not to interfere with the carrying out of negotiated treaties, particularly referring to GATT and NAFTA.

Mr. Chairman, I yield the balance of our time to the gentleman from Indiana [Mr. MCINTOSH], the author of the bill.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 3 minutes and 15 seconds.

Mr. MCINTOSH. Mr. Chairman, first let me commend you. It is an honor for me to be able to speak today on this bill that I helped author, and have a fellow colleague in the freshman class chairing the Committee of the Whole. You are doing a wonderful job, and I appreciate that.

I want to thank also my Democratic colleagues who have supported us in this, particularly the gentleman from Minnesota [Mr. PETERSON], the ranking member on our subcommittee. His contributions to this bill have helped craft it into a very strong piece of legislation.

Mr. Chairman, let me say, I do think the choice is clear today before this body, whether we are going to continue business as usual, to continue to have 4,300 new regulations coming out of this administration, to continue to be on the side of the 130,000 Federal bureaucrats who spend their time writing and enforcing regulations, or whether we are going to be on the side of the American people and say enough is enough. It is time we take a time out on Federal regulations. It is time that we have a moratorium, so we can go through and start getting rid of the unnecessary and ridiculous and burdensome regulations.

I wanted to share with the body some of the examples that have come to my attention, both as chairman of the subcommittee, and as working with former Vice President Quayle, as his staff director of the Council on Competitiveness.

One of those regulations was a rule that apparently would bar the tooth fairy in the United States. It was a requirement that every dentist not give back baby teeth to their parents. When we inquired, ''Why on Earth would you need to have that type of regulation,'' the agency said ''We are worried that those baby teeth might be hazardous waste material.''

Mr. Chairman, that, of course, is one of the most ridiculous assumptions we could possibly make. We asked ''Could you think about that a little longer?'' And they eventually said, ''Yes, the dentist can give back baby teeth.'' The tooth fairy can visit the American home.

Another issue that has come to my attention was the Consumer Product Safety Commission guideline that recommended that on the worksite every bucket with 5 gallons or more that could contain water have a hole in the bottom of it.

We asked ourselves, why on Earth would you want a bucket with a hole in the bottom of it?

□ 1340

Someone decided that it might contain water and that could become a hazard if someone slipped and fell and landed facedown in the bucket. Their response: Put a hole in the bottom of the bucket so that it leaks water and can no longer contain what it is meant to.

Another example from my district was Mr. Floyd, who is a farmer in Muncie, IN. He has had his farm in his family for over 50 years now. One day one of the neighboring businesses accidentally broke the drainage tile that allowed his property to be drained and farmed, creating a big mud hole. Soon after that, he was visited by Government regulators who told him, ''You can no longer farm your farm. We've decided that this mud hole is a wetland and needs to be protected.''

There you have Mr. Floyd, an 80-year-old farmer from Muncie, IN, going up against the Federal Government who says you can no longer use your farm because someone accidentally destroyed the drainage tiles and you now have a mud hole that we, the Federal Government, want to protect as a wetland.

Those types of regulations are ridiculous and they need to come to an end. This moratorium will put a stop to that needless regulation.

Mrs. COLLINS of Illinois. Mr. Chairman, over the course of our consideration of H.R. 450, a number of individuals and groups have expressed concerns over the impact that H.R. 450 would have on various important regulations. I have obtained copies of correspondence that these groups have sent to me and other Members. I would ask that these letters be inserted into the RECORD, for the benefit of my colleagues.

NEXTEL,
Washington, DC, February 13, 1995.

Hon. CARDISS COLLINS,
Ranking Member, Committee on Government Reform and Oversight, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN COLLINS: I am writing to you on an urgent matter concerning the application of H.R. 450, the ''Regulatory Transition Act of 1995'', to an ongoing Federal Communications Commission (''Commission'') rulemaking which would enhance competition in the mobile telecommunications industry. As currently drafted, the ''regulatory moratorium'' legislation could indefinitely postpone Commission adoption of proposed rule changes which will result in the introduction of new mobile services, enhanced competition in the mobile marketplace, reduced administrative burdens on the Commission, and greater radio spectrum auction fees to the U.S. Treasury. While clearly this it not what the authors of H.R. 450 intended, we believe that is what the effect of this legislation will be, unless modified as suggested below.

Nextel Communications, Inc. (''Nextel''), is today the leading operator of traditional analog Specialized Mobile Radio (''SMR'') systems. Upon closing of certain pending transactions, Nextel will provide fleet dispatch communications to approximately 750,000 customers throughout the United States, Nextel has already invested nearly half a billion dollars to develop, construct and operate a nationwide digital wide-area SMR system which is fifteen percent more efficient than existing analog technology. This unique service offers mobile workforce customers a combination of private network dispatch, mobile telephone, paging, text messaging, mobile data (including portable computer and portable fax support) and enhanced services such as voice mail and call forwarding, all on a single handset. Nextel is currently operating its new digital system throughout most of California and is introducing this service in the greater New York and Chicago areas this quarter. In California alone, Nextel has created over 500 new jobs.

The Commission last year initiated a rulemaking procedure concerning wide-area block licensing for radio spectrum currently allocated for SMR services. The Commission's rulemaking is required by the Omnibus Budget Reconciliation Act of 1993 (''OBRA 93'') which established a new common carrier category of mobile communications providers—''Commercial Mobile Radio Service'' or ''CMRS''. In creating this new category of service, Congress mandated that the Commission eliminate regulatory disparities among different types of mobile service providers offering competing services. The ''regulatory parity'' provisions were designed by the Congress to promote fair competition among providers of commercial mobile services, regardless of their current regulatory status, and are an essential part of the spectrum auction provisions contained in OBRA 93.

The regulatory parity provisions in OBRA 93 require that SMR services reclassified as CMRS be subject to technical requirements comparable to those that today apply to substantially similar common carrier services, such as cellular telephone and Personal Communication Services (''PCS''). The reclassified SMRs have until August 10, 1996 to make whatever changes are necessary to come into compliance with the new regulations. Delay in adopting regulatory parity rules will harm reclassified SMRs who do not yet know what regulations they will be required to comply with only 18 months from now. Such delay will prolong the existing competitive disadvantage of these carriers vis-a-vis cellular and PCS services, contrary to the express intent of OBRA 93. The mobile communications consumer will be the ultimate loser.

Delay in finalizing the Commission's regulations will also harm the government. The Commission is now burdened with nearly 40,000 backlogged, private radio service applications, many of them for SMRs. It is proposing the elimination of some of its current licensing requirements and substituting others which will greatly simplify the licensing process and allow the Commission to eliminate much of its current processing burden. The creation of a contiguous spectrum block wide-area SMR license in the pending rulemaking will permit the further introduction of spectrum efficient technologies. In addition, as part of the pending rulemaking, the Commission is proposing to auction wide-area SMR licenses on a Major Trading Area basis to operate on four blocks of contiguous spectrum. A wide-area, contiguous channel block license would promote regulatory parity and enhanced competition while bringing the U.S. Treasury much needed revenues.

While the regulatory parity provisions of OBRA 93 are clearly intended to enhance fair competition by equalizing regulatory obligations, in reality a new regulatory scheme would be substituted for the existing one. Thus, it is not entirely clear that the exclusion which exists under H.R. 450 for rulemakings which the Head of the Agency and the Administrator of OIRA certifies is limited to ''repealing, narrowing, or streamlining a rule, regulation, or administrative process'' would be applicable to the Commission's regulatory or parity rulemaking. Nor is it clear that the exclusion applicable to an ''action relieving a restriction or taking any action necessary to permit new or improved applications of technology'' could be used to exempt the Commission's rulemaking from the moratorium—although this is the clear intent of the Commission's proposal.

Nextel firmly believes that any further delay in the Commission's rulemaking would play into the hands of those entrenched market participants who fear increased competition. Delay will deny consumers the benefits of increased competition. Delay will also reduce revenues to the Treasury and perpetuate an impossible Commission administrative burden. H.R. 450 should be amended to exclude from the moratorium rulemakings which are designed to enhance competition.

Sincerely,

ROBERT S. FOOSANER,
Senior Vice President, Government Affairs.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, February 9, 1995.

DEAR GOVERNMENT REFORM AND OVERSIGHT COMMITTEE MEMBER: On behalf of the 2.2 million members of the National Education Association, I urge you to vote against HR 450, the Regulatory Transition Act of 1995, during Committee markup.

HR 450 would freeze and delay implementation of a broad range of important federal regulations until an unspecified future date and would retroactively apply to many regulations already in effect. If enacted, HR 450 will undermine and negate many important safeguards and protections for Americans, and lead to confusion and uncertainty among state and local governments and employers attempting to understand their responsibilities for complying with federal laws.

Among the hundreds of regulatory actions that could be negated by this bill are:

Department of Labor final regulations to implement the Family and Medical Leave Act, scheduled to take effect on April 6;

Department of Education guidance to states and school districts on how to implement the new Gun-Free Schools Act;

Regulations currently being developed by the Education Department that are necessary to implement the new provisions of the recently enacted Elementary and Secondary Education Act;

Education Department regulations and guidance on the new college student Direct Loan program, which will save the federal government billions of dollars;

Proposed OSHA standards to protect workers from harmful indoor air pollutants; and

Expected FCC regulations to implement the Children's Television Act.

By imposing an across-the-board freeze on all federal regulations, the Congress would prevent the federal government from carrying out its responsibilities and leave many Americans without the benefit of important guidance and protections. NEA urges you to vote against this ill-conceived plan for reducing the scope of safeguards Americans expect from the federal government.

Sincerely,

MICHAEL D. EDWARDS,
Interim Director.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, February 22, 1995.

Hon. JOHN M. SPRATT, Jr.,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SPRATT: This responds to your letter seeking the views of the Department of Justice on the judicial review provision contained in H.R. 450, the Regulatory Transition Act of 1995. Specifically, you ask whether section 7 of the bill authorizes a remedy of judicial review for an individual seeking to delay or stop a regulation.

Section 7 states that, ''No private right of action may be brought against any Federal agency for violation of this Act.'' However, its next sentence contravenes this apparent bar to a private right of action by providing. ''This prohibition shall not affect any private right of action or remedy otherwise available under any other law.'' In effect, standard Administrative Procedure Act review would still be available to challenge an agency's determination that a rule fit within an exemption and was legal under the Act. This is recognized by the House Government Reform & Oversight Committee report which states,

This section makes it clear that the Act does not grant any new private right of action. However, this section does not affect any private right of action (for a violation of this Act or any other law) if that right of action is otherwise available under any other law (such as the Administrative Procedure Act provisions of title 5, United States Code).

As you know, the Administration strongly opposes H.R. 450. Its judicial review provision is but one of the bases for this opposition. We believe section 7 will result in litigation each time a new rule is promulgated during the moratorium. We strongly oppose this language and think the bill should include an express bar to judicial review.

We appreciate the opportunity to express our views on this important issue. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

ALUMINUM COMPANY OF AMERICA,
Washington, DC, January 30, 1995.

Hon. DAVID M. MCINTOSH,
Chairman, National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee, Government Reform and Oversight Committee, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MCINTOSH: I am writing to express the concerns of Aluminum Company of America (Alcoa) about the potential effect of your proposed moratorium on federal rulemaking activities on the promulgation of EPA's rule to implement the Acid Rain Opt-In Program for Combustion Sources. The proposed rule was published in the Federal Register on Friday, September 24, 1993; it has just cleared OMB, and is in the final clearance process at EPA.

Alcoa has strong concerns about the timing of this rule, which, as you can see, already has been delayed several years. Under the requirements of Title IV of the 1990 Clean Air Act Amendments, the program should have been established in May 1992. A public hearing and comment period followed the proposal of the rule; 43 comments were filed and while some addressed how certain parts of the program should be implemented, none suggested the program should not exist. Significant positive benefits of the program could be lost, if the rule is not promulgated soon.

As the attached paper entitled AGC Opt-In Concerns describes, Alcoa's subsidiary, Alcoa Generating Corporation (AGC), owns three generating units at the Warrick Power Plant in Warrick County, Indiana, which supply electricity only to our aluminum plant and are, therefore, classified as industrial boilers. The opt-in program presents an opportunity for AGC to lower the cost of making aluminum by lowering the net cost of the electrical energy supplied to the smelting process. Reducing the sulfur dioxide emissions through fuel switching and other control means and selling the resultant excess allowances to others would provide a cost improvement that would allow the Warrick smelter to be more competitive and would help protect the jobs of more than 900 Indiana employees.

Phase I of the Acid rain Program began on January 1, 1995. AGC had hoped to opt in to the program before that time so that we could take advantage of the utility markets' need for allowances. Use of allowances would enable utilities to meet the requirements of the Clean Air Act at a lower cost to them and their consumers. Any further delay in the issuance of the regulations jeopardizes our ability to negotiate necessary contracts and participate in the program at all.

The delay in this rule also threatens our ability to become a host site for a full scale test of a process selected under the DOE Clean Coal III technology program. As a host site for the NOXSO scrubbing process at one of our units, we might assure continued use of our current Indiana coal source at that unit, but also have the opportunity be part of the development of a technology to protect other high sulfur coal sources. Without opt-in, our participation in this project will not be feasible.

The opt in program seems to be an excellent way for our country to continue to make environmental progress while respecting considerations of cost-effectiveness and helping our industries to remain competitive. Delays in its initiation will threaten those benefits. I urge you to consider our concerns and assure that your greatly appreciated efforts to improve our regulatory environment do not mistakenly prevent the implementation of a rule that will benefit all stakeholders.

Thank you for your consideration. I would welcome the opportunity to discuss this matter or answer any questions you may have about our interest and shall contact your staff to see about arranging a meeting.

Sincerely,

MARCIA B. DALRYMPLE,
Manager, Government Affairs.

READ THE FINE PRINT

(By Thomas O. McGarity)

AUSTIN, TEX.—After the elections, the Republicans asked President Clinton for an outright ban on new Federal regulations. The White House said no—that it would generate needless litigation and red tape. Then the new House majority whip, Tom DeLay of Texas, introduced a bill to impose a retroactive moratorium on rulemaking.

Representative DeLay's ''Regulatory Transition Act of 1995'' would bar executive and independent agencies from issuing proposed or final rules, policy statements, inquiries and possibly guidance manuals until the end of June. It would also stay any actions the agencies have taken since the election. Hearings on the bill have been held in the House, and it is expected to move through both houses with little serious debate.

The purpose of the moratorium is to stop agencies from issuing new regulations while the Republicans enact the regulatory reforms promised in their Contract With America. But the fine print in the bill shows that the moratorium would not apply across the board to all regulations.

The act exempts actions that would repeal, narrow or streamline rules or regulatory processes or ''otherwise reduce regulatory burdens.'' In short, the moratorium is a sieve that would screen out rules that protect the environment, consumers, workers and victims of discrimination while allowing changes that cut the costs of complying with regulations.

The bill exempts action necessary to deal with ''an imminent threat to health or safety.'' This is meant to be a very narrow exception, and a DeLay staff member told the media that it would not apply to pending Occupational Safety and Health Administration rules to protect workers from death and injury. The aide said it would not apply to the proposed OSHA ergonomics standard, which would protect assembly line workers from repetitive motion injuries.

The bill had been in the hopper just a few days when special interest groups that helped finance last year's campaign became troubled. The Independent Bankers Association of America and the American Bankers Association realized that the moratorium would prevent the Federal Deposit Insurance Corporation from carrying out a planned reduction in the premiums banks pay to rebuild reserves drained by bank failures that stemmed from deregulation in the 1980's.

Faced with the prospect of paying millions of dollars in premiums they had not counted

on, the bankers pressed Mr. DeLay's office for an amendment to address their special situation and were assured that he would be happy to oblige.

Thus, the frazzled workers on the poultry assembly line who must slice seven birds a minute get no relief. The workers' boss's banker does.

The new majority claims that a new age has arrived on Capitol Hill, but to those outside the Beltway it sure looks like politics as usual.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, February 22, 1995.

Hon. CARDISS COLLINS,
Ranking Member, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MS. COLLINS: As the House of Representatives takes up H.R. 450, the Regulatory Transition Act of 1995, I would like to state the Department of Transportation's strong opposition to enactment of the bill. If H.R. 450 were presented to the President, I would recommend that he veto the bill because of its interference with important transportation safety regulations.

The President has made elimination of unreasonable and burdensome regulations a priority and has directed a detailed review of all the Department's regulations. This preserves each agency's ability to carry out its statutory mandate in the public interest. In contrast, H.R. 450 is designed to interrupt the regulatory process while consideration is given to permanent revisions. This approach would gravely impair the Department's ability to carry out its most important responsibilities. It would also create tremendous confusion with respect to rules that have gone into effect or have deadlines during the moratorium period, especially those that the bill would cover retroactively.

H.R. 450 would halt important transportation safety initiatives, such as rules to make commuter airlines meet the safety requirements of larger carriers, highly cost-beneficial rules to reduce deaths and injuries from head impacts in car crashes, and action to prevent natural gas pipeline explosions and hazardous material releases. The moratorium indiscriminately affects all Federal rulemaking activity, regardless of its merit or benefits. Retroactively taking regulations out of effect, after industries have invested time, money, and effort in compliance, imposes needless costs and disruption on regulated parties.

The narrow exceptions built into the proposed bill do not surmount these objections. The cumbersome approval procedure proposed for ''emergency'' safety rules would unacceptably slow action to respond to genuine emergencies immediately (e.g., FAA directives addressing equipment on an aircraft that needs to be modified to prevent crashes). Further, many important safety rules may not address ''imminent'' hazards. Many routine agency actions, often issued by DOT field offices (e.g., Coast Guard adjustments of opening times for drawbridges), appear not to fall within the bill's exceptions. Although some of our rulemaking may qualify for exclusion, the availability of judicial review could indefinitely hold up action in these areas as well.

I want to work with Congress to improve further the way that this agency and others carry out their statutory responsibilities, but this legislation will interrupt and delay our common goal.

The Office of Management and Budget advises that there is no objection to transmittal of this letter, and that enactment of H.R. 450 would not be in accord with the program of the President.

Sincerely,

FEDERICO PEÑA.

DEPARTMENT OF AGRICULTURE,
Washington, DC, February 22, 1995.

Hon. CARDISS COLLINS,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN COLLINS: Thank you for your work on behalf of food safety issues.

On February 3, 1995, the Food Safety and Inspection Service (FSIS) published the Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems proposed rule. Sanitation requirements, microbial testing, and process control systems for all meat and poultry plants as proposed in the rule are designed to close an existing gap in the current inspection system that does not focus directly and scientifically enough on preventing contamination of raw meat and poultry products with microbial pathogens. The magnitude of the problem underscores the importance of uninterrupted efforts to eliminate pathogens such as E. coli O157:H7, Salmonella, and Listeria monocytogenes in the food supply. Nearly 5 million cases of foodborne illness and 4,000 deaths may be associated annually with meat and poultry products contaminated by microbial pathogens according to the Centers for Disease Control and Prevention.

A regulatory moratorium, which applies to the Pathogen Reduction/HACCP proposed rule, would deny the United States Department of Agriculture's ability to meet the public's valid expectations concerning the safety of the food supply. All work on the FSIS Pathogen Reduction/HACCP proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country to encourage public participation in the rulemaking process and answer technical questions would need to be canceled.

The adverse impact on food safety is an important reason why the Administration opposes the passage of H.R. 450. We appreciate your efforts and the efforts of your fellow Members of Congress to protect the public's health and welfare.

Sincerely,

MICHAEL R. TAYLOR,
Under Secretary Food Safety.

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, February 15, 1995.

Hon. JOHN D. DINGELL,
Ranking Member, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: Thank you for your letter of February 6, 1995, inquiring about the potential effect of the regulatory moratorium of H.R. 450 on the Securities and Exchange Commission and securities markets. I am writing to respond on behalf of the Commission.

It is difficult to identify which Commission rules would be affected by this moratorium. In part, the difficulty is due to the uncertain duration of the moratorium. In the most recent version we have of the bill, a copy of which is attached, the moratorium period would end either with passage of regulatory reform legislation or on December 31, 1995. It is head to predict, in February, what rules may be necessary because of changes in the securities markets before December.

It is also difficult to identify which rules would be affected because of uncertainties in the legislative language. The ''regulatory rulemaking actions'' that may not be taken during the moratorium period are defined to include not only the issuance of rules and proposed rules, but also ''any other action taken in the course of the process of rulemaking,'' other than cost-benefit analysis or risk assessment. ''Rulemaking'' is defined as ''agency process for formulating, amending or repealing a rule.'' These definitions could be read to reach not only the issuance of rules and proposals by agencies, but any work by agency staff on rules or potential rules. If this reading is correct, a moratorium could seriously impede the Commission's ability to formulate and adjust its rules to the changing realities of the securities markets.

We have thus not attempted a comprehensive catalog of the Commission rules and rulemakings that are or could be affected by H.R. 450. There are, however, several important rules that we believe would probably be affected by the moratorium:

Unlisted Trading Privileges. As you know, Congress last year passed the Unlisted Trading Privileges Act (''UTP Act'') to simplify the process of obtaining UTP for a security listed on another exchange. The purposes of the Act including reducing regulatory burdens and opening up competition among the exchanges. The Act required that the Commission issue rules within 180 days, i.e., by April 21, 1995. The Commission presently expects to issue final rules shortly before that date.

Although H.R. 450 has an exception for rules that the head of an agency and head of the Office of Information and Regulatory Affairs both certify are ''limited to * * * reducing regulatory burdens,'' it is not clear that the UTP rules would come within this exception. If not, and if H.R. 450 passes before the Commission adopts final UTP rules, the Commission would not be able to issue these rules until the moratorium ends. If the moratorium legislation passes after the Commission adopts rules, the rules would not take effect until the end of the moratorium period. In either case, the ironic effect of H.R. 450 will be to delay adoption and implementation of rules generally designed to reduce regulatory burdens and to make competition among securities markets more fair. Delay will also injure investors, who are the ultimate beneficiaries of intermarket competition.

Risk Disclosure. The Commission is considering issuing a rule of interpretation to improve disclosure by corporate issuers regarding certain financial instruments, including derivatives. Similarly, the Commission is exploring methods to improve disclosure of the risks in mutual fund portfolios, including the risks created by derivative investments. Depending upon the timing and scope of the moratorium, work on both of these projects could be suspended.

Municipal Disclosure. The Orange County bankruptcy has again shown how important disclosure is to the individual investors who now hold over $500 billion worth of municipal securities. On November 10, 1994, the SEC revised the rules that apply to brokers and dealers of municipal securities to encourage more complete, more timely disclosure by municipal issuers. These rules are now set to take effect on July 3, 1995. If H.R. 450 passes after July 3, 1995, the retroactive provision of Section 3 would delay the effective date of these rules until the end of the moratorium period.

Three-Day Settlement. The delay between a securities trade and settlement creates risk not only for the parties to the trade but also for the entire securities settlement system. In October 1993, the SEC adopted a rule to shorten the settlement cycle for corporate securities from five to three business days. This rule is now set to take effect on June 7, 1995. If H.R. 450 passes after June 7, 1995, the retroactive provision of Section 3 would

delay the effective date of this change until the end of the moratorium period. The result would probably be substantial costs for the securities industry and customers in changing the settlement period from five to three business days on June 7, then back to five business days under H.R. 450, and then back to three business days under the rule.

Electronic filing. The SEC's electronic filing system, known as EDGAR, makes documents filed with the SEC available more rapidly and electronically. In December 1994, the SEC adopted a schedule for the continuing transition to electronic filing, which provided that companies not yet filing electronically would begin on various dates starting in January 1995 and ending in May 1996. H.R. 450 would extend, until the end of the moratorium period, the deadline for the companies required under this schedule to start filing electronically prior to passage of H.R. 450.

These are but a few examples of how H.R. 450 would affect securities markets and investors. If you or your staff have any questions about these issues, please do not hesitate to contact us.

Sincerely yours,

ARTHUR LEVITT,
Chairman.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to H.R. 450. I'll be the first to admit that certain Federal regulations make little sense and should be repealed. Moreover, we need to more carefully evaluate the effects of regulations and work with the regulated community to ensure that we accomplish our goals in the most efficient and sensible manner. This bill does not achieve these goals. In fact, it employs a meat cleaver when a scalpel is more appropriate.

This legislation is another example of bad public policy that has been hastily put together in order to meet an arbitrary deadline set by the Republicans in their Contract With America. It is becoming painfully obvious to me that ''the Contract says we are going to do this'' is becoming the refrain around here regardless of the implications of these ill-conceived proposals which I believe were thrown together to because they sound good on the surface. I do not believe the American people think that just because the contract says something will be done that it should be when it becomes clear that it is bad policy.

This bill isn't the Regulatory Transition Act, it's the Regulatory Demolition Act. It suspends all regulations issued between November 20, 1994, and December 31, 1995. Originally the bill only covered a 6-month period but it has been increased to more than a year. Oh, I know the bill says until December 31 or when other regulatory reform measures are enacted, whichever comes first. I think most of my colleagues agree that the other body is far less enamored with these proposals than Republicans in the House so it is safe to assume that December 31 is the more likely deadline. The language in this bill will result in the suspension of just about every regulation issued during this period. The definition of emergency is so narrow that few regulations will qualify and onerous certification requirements just compound this problem. I am also very concerned that while the bill includes endangerment of private property in its definition of imminent threat to health or safety, it does not include general threats to public health, safety and well-being. If not implementing a regulation might adversely affect a developer then we'll allow it, but a regulation addressing a human health issue can only go into effect if it will prevent death or serious injury rather than safe guard general welfare.

Mr. Chairman, I believe this bill will actually undermine efforts to improve the regulatory process. It defines regulatory action banned by the bill very broadly, including notice of inquiry, advanced notice of proposed rulemaking and notice of proposed rulemaking. For those familiar with the process of developing regulations, these are information gathering measures which open the process to all interested parties and afford them the opportunity of to raise important issues and point out possible pitfalls. These devices allow agencies to say here is what we are thinking about doing, what is your reaction and how can we do things better. I wish my Republican colleagues would explain to me how the process can be improved if agencies are barred from soliciting input from entities which might be covered by a regulation. This definition is totally counterproductive and again demonstrates that the proponents of this bill have not fully thought out its effects.

I am very concerned about the implications of this bill on the interests of the residents of my State. For example, important regulations issued by the National Marine Fisheries Service in December 1994 and January 1995 designed to protect certain New England fishstocks will be repealed. These regulations will help to stem the dramatic decline of haddock, cod, and flounder and rebuild these important species. Without these measures, it is very likely that these species will become extinct thereby driving fishermen in communities like Stonington, CT, out of business. As the bill is written, these regulations, which respond to an emergency, do not qualify as such. Furthermore, regulations issued by the Environmental Protection Agency last month to improve air quality in the Northeast will be declared void. These regulations were requested by nine States in the region and are among the most flexible I've ever seen. This bill casts aside the will of nine States and abrogates regulations which are a model of flexibility. Once again, this bill throws the baby out with the bath water purely and simply.

Mr. Chairman, this is an ill-conceived measure which will jeopardize the health, safety, and well-being of every American. It does not facilitate a transition as the title suggests. Instead, it creates a massive chasm which its proponents virtually guarantee can not be bridged. It does not seek a separate out those measures which have widespread public support or address many important issues which might not cause immediate death. This bill is bad public policy and should be defeated.

Mr. CLAY. Mr. Chairman, I rise in opposition to H.R. 450. This is absurd legislation intended to prevent the President from exercising his constitutional responsibility to enforce the laws of the United States. It is an ill-conceived bill that creates tremendous confusion as to what kinds of regulations are subject to the moratorium and what kind are not. In effect, the new majority wants to make the President a powerless executive. If they succeed, the public will suffer.

The impact of this legislation on regulations intended to protect the health and safety of American workers clearly illustrates the extent of the confusion that enactment of this legislation would cause. The bill specifically provides that the Office of Management and Budget's Administrator of the Office of Information and Regulatory Affairs may issue a waiver for any regulation that is certified as necessary because of an imminent threat to health or safety. The term ''imminent threat to health or safety'' is further defined to mean ''the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans * * *.''

The Supreme Court has interpreted the Occupational Safety and Health Act to require a finding that a hazard poses a significant risk to workers before the Occupational Safety and Health Administration [OSHA] may regulate it. Therefore, based upon the text of the bill, it would appear that regulations issued by the Occupational Safety and Health Administration are potentially exempt under the imminent threat to health or safety exemption.

However, the committee report accompanying this legislation, Report No. 104–39 part I, goes on to state:

The inclusion of the word ''imminent'' is not intended to pose an insurmountable obstacle to the certification of health or safety regulations. Rather it is intended to guard against the undisciplined use of this exception as a means to evade Congress' intent. For example, this committee does not intend this exception to include OSHA's regulations prescribing ergonomic protection standards which require employers to build new work environments to prevent disorders associated with repetitive motions. Such regulations would not be excepted from the moratorium under section 5(a) because they do not address a threat that is imminent.

The imposition of a test of imminence of injury is absurd. Apparently, while the Republicans continue to adhere to the view that employers should not kill employees immediately, it is perfectly alright for employers to kill them slowly.

OSHA has prepared a protective rule to safeguard workers from exposure to methylene chloride, a carcinogenic solvent used to strip furniture and for other purposes. Methylene chloride is a carcinogenic. It does not kill instantly. It nevertheless produces death. By OSHA's estimate, a 1-year delay results in an estimated 21 deaths and 32,000 illnesses that otherwise would have been prevented. In my view, the methylene chloride rule clearly falls within the purview of the imminent threat to health and safety exception. Nevertheless, the committee report creates confusion and invites litigation over this issue.

The Republican indifference to the health and safety of working Americans becomes explicit with regard to the ergonomic regulations that the committee specifically intends to be subject to the moratorium. It is estimated that a 1-year delay of the ergonomic regulations will result in serious musculoskeletal or cumulative trauma disorders to 300,000 additional workers. Liberty Mutual estimates that the average musculoskeletal disorder costs $8,000 in workers' compensation claims, including wage replacements and medical benefits. The 300,000 additional ergonomic injuries, therefore, pose a potential cost of $2.4 billion. Many of these injuries would be prevented by the timely issuance of a protective standard requiring employers to develop ergonomics programs for at-risk jobs. Apparently, the Republicans prefer to allow workers to continue to be injured.

Mr. Chairman, based upon what has been put forward to explain this bill, it is impossible

to tell what kind of regulations are subject to the moratorium. What does it mean to streamline a regulation? What kind of matters relate to foreign affairs functions? What is a routine administrative function? More seriously, what is an imminent threat to health or safety?

The confusion engendered by this legislation is impractical, counter-productive, and unnecessary. It is also dangerous. I, therefore, urge the defeat of H.R. 450.

Mr. KIM. Mr. Chairman, I rise in support of this Regulatory Transition Act—it represents another commonsense reform in the Republican Contract With America.

The Federal bureaucracy is out of control issuing regulation after regulation. Many of these are unnecessary and have become great burdens on American businesses. Many of these regulations are contradictory and—in some cases—jeopardize the economic prosperity and personal safety of the public.

For example, in my own district I witnessed the struggle between the Federal Aviation Administration and the Fish and Wildlife Service over whose regulations were more important at Ontario Airport. The FAA's regulations require the destruction of vegetation around the airport. This is needed to keep birds away from being sucked into the engines of the jets flying people in and out of the airport. This is clearly a safety issue—one bird strike can crash an airliner.

But, because there was an endangered species—an endangered insect—a fly—near by, Fish and Wildlife regulations prohibited the destruction of the vegetation near the runway.

For 8 months everything was stalled and the risk of bird strikes increased. The bureaucrats were so academic and dedicated to their own particular regulations, they became illogical. An insect became more important than the life and death of people.

It's time to say, ''stop!'' to this nonesense.

It's time to re-evaluate and reform the way new regulations are issued. This bill will make sure that any new regulations are:

First, necessary;

Scond, logical—that means they make practical sense;

Third, cost-effective; and

Fourth, do not contradict other laws and regulations already in effect.

Mr. DOOLITTLE. Mr. Chairman, I rise today in strong support of H.R. 450, the Regulatory Transition Act. This legislation prohibits Federal agencies from promulgating new rules and regulations until December 31, 1995. In addition, the bill suspends any Federal rules issued since November 20 of last year.

Mr. Chairman, this legislation provides a needed time out from the onslaught of Federal regulations. Currently over 110 executive branch agencies issue regulations, including approximately 22 independent regulatory boards and commissions. Thomas Hopkins of the Rochester Institute of Technology places the total cost of complying with Federal regulations at $600 billion in 1994. Other estimates find the annual cost of these regulations to be closer to $1 trillion annually.

The worst aspect of excessive Federal regulation is its impact on job creation. According to the Heritage Foundation, regulation destroys jobs in several ways:

First, reductions in efficiency, productivity, investment, and economic growth due to regulation translate into fewer jobs. Second, regulations may raise the general costs of a particular business, leaving it unable or unwilling to hire as many workers as before. Third, regulations may raise the cost of employment by imposing specific costs tied to each new employees hired.

In order to provide flexibility, the bill includes commonsense exceptions for the enforcement of criminal laws, military and foreign affairs, reduction of preexisting regulatory burdens, continuation of agencies' routine administrative functions, or because of an imminent threat to health or safety.

Mr. Chairman, the people from my district and my State want to see their families unburdened from the heavy regulation that destroys real economic opportunity. A year off from costly Federal regulations will help advance this objective.

I urge my colleagues to support H.R. 450.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 450

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 ''Regulatory Transition Act of 1995''.

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term ''deadline'' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term ''moratorium period'' means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term ''regulatory rulemaking action'' means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term ''regulatory rulemaking action'' does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term ''rule'' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include the granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term ''rulemaking'' means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term ''license'' means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term ''imminent threat to health or safety'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 10 hours.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

Pursuant to the order of the house of today, the following amendments and all amendments thereto will be debatable for the time specified, equally divided and controlled by the proponent and an opponent of the amendment:

Amendment 18, by the gentleman from California [Mr. CONDIT] or the gentleman from Texas [Mr. COMBEST] for 40 minutes;

Amendments 21 and 22 by the gentleman from Pennsylvania [Mr. KANJORSKI] for 30 minutes;

Amendment 28 by the Gentlewoman from New York [Ms. SLAUGHTER] for 30 minutes;

Amendment 5 or 6, by the gentleman from Indiana [Mr. BURTON] for 20 minutes;

Amendment 30, by the gentleman from South Carolina [Mr. SPRATT] for 30 minutes;

Amendment 36 or 37, by the gentleman from California [Mr. WAXMAN] for 30 minutes;

Amendment 7, by the gentlewoman from Illinois [Mrs. COLLINS] for 30 minutes;

Amendment 25 or 26, by the gentlewoman from the District of Columbia [Ms. NORTON] for 20 minutes;

An amendment by the gentleman from Washington [Mr. TATE] for 20 minutes;

An amendment by the gentleman from Louisiana [Mr. HAYES] for 20 minutes.

Amendment 38 by the gentleman from West Virginia [Mr. WISE] for 30 minutes;

Amendment 20 by the gentleman from Texas [Mr. GENE GREEN] for 20 minutes;

Amendment 35 by the gentleman from California [Mr. WAXMAN] for 20 minutes;

Amendment 3 or 4 by the gentleman from Pennsylvania [Mr. FATTAH] for 10 minutes, and amendment 34 by the gentleman from Missouri [Mr. VOLKMER] for 10 minutes.

Further, the Chairman of the Committee of the Whole May postpone a request for a recorded vote on any of the 11th through 15th amendments until the conclusion of debate on those amendments, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in this series of questions shall not be less than 15 minutes.

Further amendments will be in order following disposition of the aforementioned amendments, subject to the limit of 10 hours pursuant to House Resolution 93.

AMENDMENT OFFERED BY MR. CONDIT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONDIT: In the proposed section 6(2)(B), strike the period at the end and insert a semicolon, and after and immediately below clause (ii) insert the following: ''except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)3)), the term means the period beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.''

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California [Mr. CONDIT] and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state it.

Mr. CONDIT. Did the Chair state that I am in control of 20 minutes?

The CHAIRMAN. The gentleman is correct. The gentleman is in control of 20 minutes.

Mr. CONDIT. Mr. Chairman, I ask unanimous consent to give 10 minutes to my colleague, the gentleman from Texas [Mr. COMBEST], the cosponsor of the amendment, for his use, and retain 10 minutes for my use.

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

There was no objection.

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

Mr. Chairman, I rise today to offer a bipartisan amendment to H.R. 450 that would extend the regulatory moratorium for new listing of endangered species or designation of critical habitat under the Endangered Species Act. These moratoria would continue until the law is reauthorized on December 31, 1996.

Under the current law, numerous species have been listed without adequate scientific proof of the need of their protection. This has resulted in severe regulatory action which would limit the use of natural resources and private

property while creating significant economic hardships on communities throughout this country.

For example, species listing a critical habitat designation has caused land values to plummet which has caused serious tax revenue shortfalls in many local communities across the United States. In this regard, the endangered species stands as a prime example of an unfunded Federal mandate.

We understand and we appreciate the value of protecting species that are truly in danger of becoming extinct. However, this decision needs to be based on sound scientific data with consideration to the economic impact that it would cause local communities throughout this country.

This is not what is happening under current law. Until the Endangered Species Act is reauthorized and these issues are considered, a moratorium should be placed on additional endangered species designation.

Several bills in Congress have been introduced with bipartisan support that would attempt to do what we are trying to do today, Mr. Chairman. That is, limiting new listing of endangered species or threatened species as well as limiting designated critical habitat. The Endangered Species Act does not consider an impact on human population, and I believe that this extended moratorium would provide leverage, and we need some leverage, necessary to ensure that the Endangered Species Act would be reauthorized in this Congress.

Today that is why I stand to urge the adoption of this amendment. It would give us the opportunity to spend some time to force Congress to consider reauthorization of the Endangered Species Act. It would also give breathing room for communities across the country, local governments, private property owners, so that they could catch up with the list of endangered species that have been passed up to this point.

Mr. Chairman, I would ask that Members support this amendment.

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

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

Mr. Chairman, I am pleased to stand with Mr. CONDIT in offering this amendment today. Our amendment will extend the regulatory moratorium in the case of new listings of endangered species or designations of critical habitat until the Endangered Species Act [ESA] is reauthorized or the end of 1996. The ESA expired in 1992 and until the act is reauthorized the bureaucracy should be shut down.

Under current law several species have been listed without adequate scientific proof of the need for their protection. This has resulted in severe regulatory actions which limit the use of natural resources and private property. These regulations have no real benefit to species protection. Over the last few years we have seen more and more cases of lives of law-abiding citizens being affected by ESA actions. These regulatory actions have resulted from a poorly written law.

Do I have interests that concern me parochially? Yes, I do. I am concerned about the possible listing of a 2-inch minnow. This could lead to unneeded regulation of drinking water for 11 cities in Texas and pumping of water by farmers for irrigation. Excess pumpage of ground water could result in fines of up to $100,000 for individuals and $200,000 for corporations per incident, plus 1 year of jail time. Our people and our economy depends on the use of these resources for their survival. Yet they could be subject to these enormous fines for normal water usage. Even though the Federal Fish and Wildlife Service says the minnow is endangered the Texas Parks and Wildlife Department concludes that the Arkansas River Shiner is neither threatened nor endangered.

When the act is reauthorized it should be rewritten to bring more legitimate science into the process and include strong provisions to protect property rights. Until that is accomplished the bureaucracy should not be allowed to continue wasting Federal resources. Citizens Against Government Waste says our amendment ''addresses one of the many examples of waste and mismanagement of taxpayer dollars.''

There is no need to protect species which are not endangered while restricting the use of precious natural resources and private property.

Support the bipartisan amendment to bring rational science back into the endangered species process.

□ 1350

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

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. CLINGER. Mr. Chairman, in the event that the time is opposition is not claimed, may I as the chairman of the committee claim that time?

The CHAIRMAN. In the absence of a true opponent the gentleman, as chairman of the committee, may claim the time with unanimous consent.

Mr. CLINGER. Mr. Chairman, I ask unanimous consent that the time in opposition might be claimed by myself.

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

Mrs. COLLINS of Illinois. Mr. Chairman, reserving the right to object, it is my understanding someone may be coming in opposition to the amendment, so I would ask that the gentleman not do that at this time.

Mr. CLINGER. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO], one of the supporters of the amendment.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the Condit amendment to House Resolution 450, the Regulatory Transition Act of 1995.

It is important that we know what this amendment does and does not do.

It does not gut the Endangered Species Act. The ESA and its substantive provisions are left intact, untouched by the amendment.

The amendment does put the brakes on what is clearly a runaway train. Simply put, the Department of Interior is overwhelmed by the sheer number of listing decisions it faces.

There is plenty of blame to be shared for the current predicament we find ourselves in as we struggle with reforming the ESA.

A recent Wall Street Journal article reports that a last-minute consent decree signed by Bush administration officials on their way out the door left over 400 species petitions waiting at the Department of the Interior before the current administration was even sworn in.

To be specific on December 15, 1992, the Bush administration signed a settlement agreement stating that the U.S. Fish and Wildlife Service would act on 382 species petitions by September 30, 1996.

That settlement agreement is a legally binding requirement for the Service to act on nearly 400 species listing petitions in less than 4 years. And the agreement does not prevent new petitions from being added to that list of nearly 400.

Be that as it may, there is clearly a crisis in the implementation of the ESA.

The Condit amendment calls for a much needed time out in the species wars—a battle that threatens to divide people of goodwill on all sides.

The moratorium is temporary; it gives Congress the ability to control its own destiny.

This moratorium goes away so long as this Congress deals with reauthorization of the Endangered Species Act.

Otherwise, the moratorium expires naturally on December 31, 1996, after the adjournment of the 104th Congress.

Mr. Speaker, the Endangered Species Act is broken. But it needs to be fixed, not gutted.

This amendment will give us time to carefully consider how to fix the act. It also puts more pressure on both the legislative and executive branches to fix the act.

I have my own ideas about how we can fix the ESA. Basically, I believe we need to open up the act to allow for more public review and input.

We need comprehensive, multi-species habitat plans that take into consideration the human impacts of listings.

And we need a clear statement of the economic impacts of a listing decision. I am not advocating that ESA decisions be driven solely by the impacts on the treasury, but I am saying that

we need to know the exact burdens associated with the benefits we seek.

The ESA as written now is like a black box. A petition is dropped into the box and a listing comes out of the side. Unfortunately, the process that takes us from that petition to the listing is either unknown or incomprehensible to the average American citizen.

We need to open the act to the sunshine—to the light of public review.

We also need to restore the people's faith in the accuracy and quality of the science used in listing decisions.

I have a six-point plan for reauthorization of the ESA. These concepts in my plan have received favorable review by a wide range of interests, including local farm bureaus, the Governor of California, and others interested in reforming rather than gutting the ESA.

Mr. Speaker, I submit my proposal for reauthorization of the ESA and the Wall Street Journal article I cited earlier to be included in the RECORD.

In closing, I reiterate my support for this commonsense approach to call a time out to let the agencies charged with implementing the ESA to catch their breath.

We have to make some tough choices. We can no longer treat these species questions as if we have an unlimited pot of money for ESA purposes. The ongoing, hostile budget debate highlights the fact that we have limited resources in every aspect. We have to live within our means.

I support the Condit amendment as the first logical step toward a commonsense reauthorization of the Endangered Species Act.

FINDING A BALANCE FOR CALIFORNIA: REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

(By Congressman Vic Fazio)

The stakes for California in the reauthorization of the Endangered Species Act could not be higher. California has more listed species and candidate species than any other state. Each country has at least one species listed.

Reasonable implementation of the Endangered Species Act (ESA) calls for balancing of environmental quality with the economic livelihood and cultural identity of many California communities. Over the last few years, I have spoken repeatedly about the need for significant improvements in the ESA. As Congress prepares to debate the reauthorization, I have suggested six specific changes to the Act that I believe are vital to California's interests.

First, the implementation of the Act must provide an opportunity for greater public input. Currently, the public has no role in the petition process to list a candidate species endangered until after the agency has decided to list a candidate species as threatened or endangered.

Second, we need to speed up the process of developing and implementing species recovery plans. Right now, recovery plans have been prepared for barely forty percent of all listed domestic species. I believe the preferred time for the development of recovery plans should be in no less than one year after the listing occurs. Delays only serve to disrupt local economies and put the listed species in continued, and sometimes increased, jeopardy.

Third, the Act should include a thorough peer review of the data and analysis considered in decisions to list. Currently, the Act requires agencies to use ''the best scientific and commercial data available'' in making listing decisions. Unfortunately, ''the best scientific and commercial data available'' is not defined in the Act or the accompanying regulations. Unbiased peer review is the best way to ensure that the information used will support a listing decision without any subjective interpretation and ensure that it is both clear and convincing.

Fourth, Section 10 of the Act should be expanded to encourage the development of habitat conservation plans which address more than one listed or candidate species. The Act currently does not permit the development of habitat conservation plans for candidate species nor does the Act clearly encourage multiple species plans. Careful habitat planning can prevent the need to list a candidate species and speed the recovery of species already listed.

Fifth, the Act should be amended to provide equal access to the courts for those who challenge the listing of a species. Currently, the Act provides for judicial review for only those individuals or parties that oppose an agency's decision denying a petition to list a species. No similar access to the courts is provided to those who challenge the listing.

Sixth, and finally, the Act should be amended to require the development of an economic impact report concurrently with the listing of a species. The public has a right to know the best estimate of the total cost of implementing the Act for a given species. The report should detail the various direct and indirect economic factors that will be implicated by a listing and provide a reasonable estimate of the larger economic picture in light of the listing.

Balance is the key to reauthorizing the Endangered Species Act. The stakes in California are high, but we can protect our environment without destroying our economic prosperity by providing for greater public input into the decisions that affect us all.

[From the Wall Street Journal, February 17, 1995]

CAUGHT IN A TRAP—DEMOCRATS GET SNARED BY GOP PACT ON LIST OF ENDANGERED SPECIES—A BUSH-ERA 'CRITTER QUOTA' BOOSTS ANIMAL PROTECTION—AND ANTIREGULATORY IRE—MOSQUITOES VERSUS A RARE FROG

(By Timothy Noah)

TIBURON, CA.—It is Charlie Dill's job to kill disease-bearing mosquitoes, but he has had another pest on his mind lately: the Interior Department's Fish and Wildlife Service.

Mr. Dill, manager of the Marin-Sonoma Mosquito Abatement District, a local-government agency, keeps mosquito populations in check by dropping small fish that love to eat the insects into ponds and streams. Trouble is, some researchers say these ravenous mosquito fish also love to eat the eggs of California red-legged frogs, which, though rare, can be found in the San Francisco Bay area. And the service has proposed placing the frog on the endangered-species list.

Though people like Mr. Dill worry that this may make mosquito hunting more difficult, Interior Department officials say they had little choice. They cite a little-known legal settlement that President Bush's Interior Department and environmental groups reached after the 1992 election. The agreement committed the Clinton administration to propose listing nearly 400 endangered species over four years—in effect imposing a critter quota.

'A WINK AND A NOD'

Thanks to the quota, the number of plants and animals annually added to the list of endangered species, which averaged 50 a year during the Reagan and Bush administrations, now averages nearly 100 a year. This heightened regulatory activity, in turn, has added to a political backlash against environmental rules in general and the Endangered Species Act in particular.

''What our predecessors did was fight the lawsuit and then after the election was over, with a wink and a nod, say to the plaintiffs, 'We'll agree to whatever those numbers are,'' complains Interior Secretary Bruce Babbitt. ''It puts us in a reactive mode, always working from a very tight corner that we've been painted into.''

Former Bush administration officials deny that there was any deliberate effort to make life miserable for their Democratic successors. But ''a lot of stuff got flushed through'' between Election Day and Inauguration Day, concedes former Interior Department Solicitor Tom Sansonetti.

SNAIL'S PACE

The rising tide of antiregulatory sentiment in the new Republican-controlled Congress is viewed as a rebellion against the liberal policies of a Democratic administration. And, it is true, Democrats generally do tend to view government regulation more favorably than their Republican adversaries. But since the wheels of government don't turn quickly, some of the rules most abhorrent to conservatives—or the circumstances that created them—are the product not of two years of Democratic-run regulatory agencies but of the previous 12 years of Republican rule. The critter quota is one such example.

During the Reagan administration, a conservationist in Boulder, Colo., Jasper Carlton, grew frustrated with the Fish and Wildlife Service's seeming reluctance to add animals and plants to the federal endangered list. Mr. Carlton was uniquely well-equipped to notice this because he was among the most active endangered-species litigants in the U.S.; to date, he has been a plaintiff in 90 cases involving endangered species. In Mr. Carlton's words, he was ''getting fed up with the fact that it was so hard to get a listing of any species.''

BOTTLENECK IN WEST

Endangered-species listings, which had numbered 57 in fiscal 1980, the last full year Democrat Jimmy Carter was president, dropped to five in fiscal 1981. By the mid-1980s, annual listings had crept back up to around 50, but data collected by Mr. Carlton suggested that even this pace wasn't keeping up with extinctions that the Fish and Wildlife Service's own officials saw looming. The backlog was particularly hefty in the West, home of the California red-legged frog. (The West leads the nation in threatened extinctions because of its diverse topography and because of the relative newness of its commercial and residential development.)

Mr. Carlton figured that the backlog violated the fairly exacting requirements of the 1973 Endangered Species Act, which stipulates that if scientific evidence shows a species is endangered, it must be placed on the endangered list, regardless of political or economic consequences. So he joined the Fund for Animals and several other environmental groups in suing the Interior Department to compel the listings.

The department wasn't confident it could defeat the environmental groups in court. And after President Bush lost the 1992 election, recalls Eric Glitzenstein, an attorney for the Fund for Animals, ''a lot of potential objections'' to settling ''were cleared away. . . . Maybe the Republican administration

thought, 'Hey, let's see how the Democrats do with all these listings.' ''

''I'm sure there were forces in the department . . . who were very cognizant of the fact that the Bush administration was no longer going to have to deal with that,'' says Steven Goldstein, who at the time served as spokesman for Interior Secretary Manuel Lujan.

CHOOSING TO SETTLE

The government lawyers chose to settle. In an agreement dated Dec. 15, 1992, the Bush administration pledged that the Fish and Wildllife Service would, by Sept. 30, 1996, propose listing all species ''for which substantial information exists to warrant listing them as either endangered or threatened.'' The service had a list of these species—382 to be exact. Substitutions could be made, with proper reasoning, and certain species could be dropped from the backlog list, but only with voluminous scientific justification that in most cases would be hard to come by. (The settlement addresses only ''proposed'' endangered-species listings, but since more than 0% of all such proposals become, after a period of public comment, legally enforceable ''final'' listings, that distinction is largely moot.)

Today, at least one Bush administration official contends that signing the agreement was a mistake because it compelled the Interior Department to make too many listings. ''They wouldn't have signed if I had anything to do with it,'' says Cy Jameson, former director of the Bureau of Land Management.

Other former Bush officials disagree. John Turner, former director of the Fish and Wildlife Service, maintains the agreement had ''little impact'' because he was already accelerating the agency's actions on endangered species. He says it is ''absolutely not'' true that the November election goosed the decision to settle; the mandate to list about 100 species a year ''fit within the targets that we'd outlined for ourselves.''

On this last point, the numbers bear Mr. Turner out, In 1991, Fish and Wildlife listed 54 endangered species; in 1982, it listed 93, Virtually all of the 1982 listings were proposed before the Fund for Animals filed its lawsuit and became final before the settlement was struck in December 1992. The listings increased, Mr. Turner says because ''I just believed strongly in protecting diverse life forms.''

FRENZY OF ACTIVITY

Nevertheless, the net result of the critter quota has been that the Clinton administration is compelled to maintain a frenzy of species listing. By legal fiat, listings have maintained a brisk pace (95 in 1988), 103 in 1994), and will continue to do so through the 1996 election year. There currently are 919 plants and animals on the list.

Today, Mr. Babbitt says ''I would not have signed'' the settlement, though he adds that, given the listings bottleneck in the 1980s, the quota was probably inevitable. ''When administrative agencies fail to do their job,'' he says, ''they are inviting this kind of judicial takeover.''

Which brings matters back to item No. 135 on the court-ordered list of 382 species: the California red-legged frog.

Naturalists are puzzling over the causes for a declining frog population world-wide, but in the case of the California red-legged frog the answer is pretty straightforward. The long-legged amphibian was plundered by grenouille hunters for French restaurants that sprang up in San Francisco in the wake of the California Gold Rush, then fell victim to competition with the heartier bullfrog, introduced by settlers from the East in the 1890s. After widespread agricultural and urban development in the 20th century, the red-legged frog's range shrank to a few coastal areas, which are believed to represent only about a quarter of its former habitat.

By 1992, Mark Jennings, a zoologist affiliated with the California Academy of Sciences, was petitioning Fish and Wildlife to declare the California red-legged frog endangered. The department proposed listing the frog in February 1994—and promptly set off a squall among California's mosquito hunters.

The trouble began with the circulation of a study written by Randy Schmieder, a recent graduate of the University of California at Santa Cruz. As an undergraduate, Mr. Schmieder had compiled evidence suggesting that the non-native mosquito fish used by public-health officials to gobble up mosquito larvae were also gobbling up the eggs of red-legged frogs.

Mr. Schmieder's findings, and the fact that he then lacked a graduate degree, have made him the subject of criticism among mosquito-fish partisans. But in its proposed listing, the Fish and Wildlife Service noted Mr. Schmieder's findings, and the agency says it may have to limit use of mosquito fish to protect the frogs. (Mr. Babbitt says the California red-legged frog is ''a case that cries out for more biology and careful research.'')

RISK OF DISEASE

Mr. Dill says any restrictions on use of mosquito fish is cause for concern. California officials have been using the South American fish to control mosquito populations since a malaria epidemic during the 1920s. In 1993, the last year for which data are available, Mr. Dill's small Petahamn-based agency put 1,200 fish in 222 different water sources: ponds, streams, bird feeders, artificial lagoons and wherever else mosquitoes are liable to swarm.

Without proper mosquito control, says Mr. Dill, Californians risk contracting a variety of diseases, such as encephalitis, which had been detected in the animal population as recently as 1993. Should use of the mosquito fish be restricted in the future, he adds, he wouldn't stop killing mosquitoes. Rather, ''there would be a direct increase in the amount of chemicals we use'' to control mosquito infestation. The chemicals Mr. Dill refers to are ''biological'' pesticides, generally viewed as less harmful than their synthetic counterparts. But they are more harmful than mosquito fish, Mr. Dill says—and more expensive, too.

''If only they would take their time,'' Mr. Dill says of the Fish and Wildlife Service's final declaration that the red-legged frog is endangered, which is expected soon. ''We need the freedom to put the fish wherever we think it would do us some good.''

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, February 15, 1995.

SUMMARY OF ENDANGERED SPECIES ACT PETITION ACTIONS

The data below reflect findings on listing petitions received by the Fish and Wildlife Service in 1990, 1991, 1992, 1993, and 1994. The data pertain only to petitions to list taxa and do not include petitions to delist, reclassify, revise critical habitat, list humans, etc. More than half of the petitions were rejected either at the 90-day or 12-month stage. Section A is taken from petitions received during 1990 through 1993 (4 years) because only a few petitions received in 1994 have had 12-month findings come due.

A. 12-Month Findings on Species Petitioned for Listing in 1990, 1991, 1992 & 1993:

Not Warranted—26 native species (no foreign species).

Warranted/Warranted but Precluded—42 native + 53 foreign birds = 95.

12-Month findings overdue—23 native species (no foreign species).

90-Day Findings on Species Petitioned for Listing in 1990, 1991, 1992 & 1993:

Substantial—89 native species + 53 foreign birds = 142.

Not Substantial—115 native species (no foreign species).

90–day findings overdue—2 native species (no foreign species).

Subset of petitions to list native species during this period:

206—native species petitioned for listing.
115—turned down at 90 days.
91—remaining.
26—turned down at 12 months.
42—warranted/warranted but precluded.
23—findings overdue.
0—(68 percent turned down).

B. Petitions Received in 1994:

26 native species.
8 foreign species (7 butterflies, koala).
34 species.
As of 2/15/95:

90–day finding substantial—8 native + 8 foreign.

90–day finding not substantial—0.

12–month finding not warranted—1 (lynx).

12–month finding warranted/warranted but precluded—0.

PARLIAMENTARY INQUIRIES

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

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COMBEST. Mr. Chairman, if no one is here to claim the time of the opposition, is it proper under the House to ask for disposition of that time at this time, so that all of the time by proponents is not used up prior to someone claiming the time?

The CHAIRMAN. The Chair would inquire if any Member in the Chamber rises in opposition to this amendment?

Mrs. COLLINS of Illinois. Mr. Chairman, I will have a parliamentary inquiry after the Chair has answered the gentleman's parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, the Chair has not answered the gentleman's question yet.

The CHAIRMAN. The Chair was attempting to determine if there was any Member in the Chamber seeking recognition in opposition.

Mrs. COLLINS of Illinois. That was not his question, Mr. Chairman.

The CHAIRMAN. The time can be disposed of by unanimous consent.

Mrs. COLLINS of Illinois. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, can the time be retained so that a Member who is probably on the way can have the opportunity to speak in opposition to the amendment?

The CHAIRMAN. If a Member were to object, the time could only be claimed by a Member in opposition.

Mrs. COLLINS of Illinois. I thank the Chair.

Mr. COMBEST. A further parliamentary inquiry, Mr. Chairman: In order to be able to have equal debate on the

issue, could the gentleman from California [Mr. CONDIT] and the gentleman from Texas [Mr. COMBEST] both reserve their time, and let us wait until someone appears or a decision is made about the remaining 20 minutes?

The CHAIRMAN. The Chair would ask if any Member in the Chamber is opposed to the amendment and wishes to be recognized?

Mrs. COLLINS of Illinois. The Chair has not answered the question, Mr. Chairman.

The CHAIRMAN. The Chair is exercising his prerogative to determine if there is opposition.

Mrs. COLLINS of Illinois. Mr. Chairman, I am exercising mine as a Member of this body to have an answer so I can know how I want to approach this issue.

The CHAIRMAN. The gentlewoman will suspend. Does a Member in the Chamber rise to claim time in opposition?

If there is no Member in the Chamber to claim the time in opposition to the amendment, does any Member object to the chairman of the committee claiming the time?

Mrs. COLLINS of Illinois. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

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

The CHAIRMAN. The gentleman will state it.

Mr. CLINGER. Mr. Chairman, in the event no one is in the Chamber to claim time in opposition to the amendment and this is the appropriate time to make that claim, does the time lapse?

The CHAIRMAN. The time does not lapse until the Chair puts the question on the amendment.

Mr. CLINGER. In other words, the Chair is telling me, Mr. Chairman, if someone comes at the end of this debate when all of the proponents of the amendment have completed their time, and somebody in opposition appears and spends 20 minutes attacking the amendment, the proponents would not have an opportunity to answer those points?

The CHAIRMAN. That is the order of the House.

Mr. CLINGER. I thank the Chair.

Mrs. COLLINS of Illinois. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewomen will please state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, it is my understanding that the majority always has or the offerer of the amendment always has the opportunity to close. If in fact, as I understand, the gentleman from Texas [Mr. COMBEST] is coauthor of that amendment, in that case would he not have the opportunity to close?

The CHAIRMAN. If the Member claiming time in opposition were representing the committee position, then that Member would be entitled to close.

Mrs. COLLINS of Illinois. Mr. Chairman, I said, if the one who is the author, the offerer as a coauthor of the amendment would have the time to close if in fact he were a Member of the majority who has offered the amendment.

The CHAIRMAN. The answer to the gentlewoman's question is ''no.''

Mrs. COLLINS of Illinois. It is?

The CHAIRMAN. It would depend on who controls the time in opposition.

Mrs. COLLINS of Illinois. The gentleman from Texas [Mr. COMBEST] certainly controls that amount of time. If he has that amount of time I am sure a gentleman on this side of the aisle would yield him that time to close if he so chose or even if he asked.

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

The CHAIRMAN. The gentleman from California will state his parliamentary inquiry.

Mr. CONDIT. What happens if the gentleman from Texas [Mr. COMBEST] and myself finish our time?

The CHAIRMAN. Then the Chair would put the question on the amendment.

Mr. CONDIT. What if I yield back the balance of our time at this moment?

The CHAIRMAN. The gentleman may do that.

Mr. CONDIT. And we would call for a vote.

The CHAIRMAN. Do the gentlemen yield back their time?

The gentleman from California is recognized.

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

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

Mr. COMBEST. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COMBEST. Mr. Chairman, is it my understanding if the gentleman from California and gentleman from Texas yield back their time, the question would be put?

The CHAIRMAN. The gentleman is correct.

Mr. COMBEST. Under the parliamentary inquiry, Mr. Chairman, if I could I want to be certain there is not a misunderstanding that we are trying to close this out. I was wishing, if some Member were here to enter into debate, that we might be able to do that.

Mrs. COLLINS of Illinois. If the gentleman will yield, the Member we thought was on the way over here apparently has not come over here and, therefore, I would suggest that he might not be on his way any longer. He had plenty of time to get here by now.

Mr. COMBEST. Mr. Chairman, I appreciate the gentlewoman's comments and realize she may be in a somewhat peculiar situation and I want to make sure there is not a misunderstanding that we are trying to close out debate here.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. POMBO].

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

Mr. POMBO. Mr. Chairman, I rise in support of this particular amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, I rise in strong support of the Condit amendment.

Mr. Chairman, I am pleased to join my colleague, Mr. CONDIT, in offering a bipartisan amendment to extend the Regulatory Transition Act to cover new regulations under the Endangered Species Act.

The Endangered Species Act has destroyed the rights of hardworking, tax-paying American families for the sake of blind cave spiders, fairy shrimp, and golden-cheeked warblers. The following horror stories are not exceptions; they are the rule:

Landowners in 33 Texas counties are endangered because their land may be designated as ''critical habitat'' for the golden-cheeked warbler. This designation could render vast amounts of property useless and valueless.

In Montana, a rancher was fined $3,000 for violating the Endangered Species Act. His crime? He shot and killed a grizzly bear that charged him on his own property.

In Round Rock, TX, a school might not be expanded because Federal agents discovered a blind cave spider nearby. Government officials forced this delay after the school district had spent almost $100,000 of taxpayer money on environmental studies.

Just imagine if the Endangered Species Act had been around throughout history. In the Bible, Noah could have been condemned as an animal-hater, fined, and kept from launching his arc. American history could have been changed forever: George Washington could have been imprisoned for cutting down the cherry tree. Lewis and Clark could have been fined for trampling native grasses.

Until Congress reauthorizes the Endangered Species Act to balance common sense with environmental concerns, we must protect American landowners by putting regulators on a leash. This amendment would extend the regulatory moratorium on listing of endangered or threatened species or designation of critical habitat until Congress reauthorizes the Endangered Species Act.

Join this bipartisan coalition and support the Condit amendment.

□ 1400

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BONILLA].

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

Mr. BONILLA. Mr. Chairman, I strongly support this amendment.

Mr. Chairman, today, I join a bipartisan group including Messrs. CONDIT, COMBEST, SMITH, EDWARDS, and HAYES, in offering an amendment which will help put a stop to the

current abuses of the Endangered Species Act [ESA]. I am very proud to be a part of this effort.

In its current form the Endangered Species Act—though well intentioned—works contrary to, and often against, one particular species—the human being.

Many hard-working ranchers, farmers, and homeowners in Texas have a greater fear of the golden cheeked warbler than they do of Federal tax hikes and tornadoes. In my own hometown of San Antonio, TX, the entire source of water has been held hostage by Federal agencies and courts over a small fish called the fountain darter. This amendment is an important first step to allay some of those fears and bring common sense to the ESA process. We in Congress must act and insure that human beings no longer play second fiddle to spiders and snakes.

Specifically, this amendment will suspend the further listing of endangered or threatened species and the designation of new critical habitat until the Endangered Species Act is reauthorized by Congress. The ESA's authorization expired in 1992. This measure is a realistic vehicle toward reforming the ESA. Passage will compel Congress to consider human factors and bring balance to the ESA when it considers the reauthorization. ESA must be reconstructed with amendments which not only protect the environment, but respect property rights.

Protecting property rights does not mean that threatened species cannot be protected. It simply means that human costs should be considered when the ESA is imposed. It also means that Government agencies, such as the Fish and Wildlife Service, should be creative in finding ways to balance these goals, rather than slamming the heavy fist of the Federal bureaucracy down on landowners. The Federal Government should work in concert with the true stewards of the land, instead of threatening them with fines without warning.

Please join us in this important bipartisan effort. It is long since past time that we bring sanity and common sense to the ESA process. This will stop current abuses and make possible real reform of the ESA.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. LUCAS].

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

Mr. LUCAS. I also strongly support the bill.

Mr. Chairman, I rise in strong support of the amendment coauthored by my good friends, Mr. CONDIT and Mr. COMBEST. I believe that of all the amendments offered to improve this legislation this is one of the most important.

The 104th Congress must put a moratorium on any future endangered species listings until the Endangered Species Act is reauthorized. As currently written, the Endangered Species Act should be considered a pariah in society and be cast out with many other over-zealous big-government institutions that plague individual freedom, industry and potential economic development. It is fundamentally flawed and must be redrafted.

Last month, I came to the floor and spoke in morning hour about a little bait fish lurking in the Arkansas River Basin that might have the power to stop those in the agriculture industry from irrigating their land, or protecting their crops. I wondered if the little bait fish might inhibit rural towns from utilizing their primary water sources or impact a major metropolitan area's $250 million downtown restoration project which is crucial to its economic future. I spoke of my dissatisfaction with the Fish and Wildlife Service who failed to respond to my queries on the proposed listing of the Arkansas River Shiner in a timely fashion. And I called on my colleagues to cosponsor legislation putting a moratorium on any new listings until the ESA is reauthorized.

This bipartisan amendment offered by Mr. CONDIT and Mr. COMBEST will buy the American people time and protection from the ever growing ESA web that is sweeping our country. I am confident this Congress will shortly take up this task. I look forward to infusing a little common sense into the act. Private property rights, economic impact, cost-benefit analysis, and human compassion must be an integral part of a new Endangered Species Act.

In addition to the sponsors of the amendment, I would like to laud Mr. SMITH, Mr. BONILLA, and Mr. POMBO for their efforts on the issue. I urge my colleagues to support this important addition to this legislation.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. HOSTETTLER].

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

Mr. HOSTETTLER. Mr. Chairman, I rise in favor of the Condit bipartisan amendment to H.R. 450. As a cosponsor of H.R. 490, the bill introduced by my colleague, Mr. SMITH, the gentleman from Texas. I am quite aware of the hardships that have been caused by sending the original Endangered Species Act into regulatory overdrive. In my district, there have been coal operations endangered because of the potential listing of a water snake that happens to abide in mines. There have been farmers with easements placed on their farms to preserve potentially critical habitat for bats. The horror stories elsewhere about ranchers being fined for protecting their sheep from bears and farmers jailed for killing rats are numerous.

But beyond the horror stories, there is a fundamental issue at stake. The rights of American citizens to own and enjoy their property. No one is advocating the wanton extermination of legitimate species here. But it's time that we make a decision about what takes a higher priority—the property rights of taxpaying American citizens or the comfort of creeping things and the special interests that represent them. Mr. Speaker, I urge passage of the Condit-bipartisan amendment and final passage of H.R. 450.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona, [Mr. HAYWORTH].

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

Mr. HAYWORTH. Mr. Chairman, I stand in strong support of this amendment.

This amendment provides Americans temporary relief from the onerous and intrusive provisions of the Endangered Species Act [ESA].

When residents of Greenlee County, AZ attempted to repair a dirt road after flooding wiped it out last November, heavy handed bureaucrats from the U.S. Fish and Wildlife Service threatened a daily fine of $20,000 if the work wasn't halted.

The dirt road in question is near the Blue River designated as habitat for the loach minnow which the Fish and Wildlife Service has listed as threatened under the Endangered Species Act.

Elsewhere on the Blue River, in Pinal County, AZ, the county is seeking to replace a bridge which washed out during a flood in 1993. The county has two alternatives: Spend $4 million to replace the washed out bridge in the same high risk location, or build a bridge upstream out of harms way for half the cost.

Common sense would dictate building the cheaper, safer bridge. Unfortunately, Mr. Chairman, I've learned that nothing makes sense about the ESA and the only thing common is for the Fish and Wildlife Service to trample on the rights of people.

The ESA has allowed bureaucrats to make decisions having serious negative economic consequences throughout regions of the United States. These decisions are made without benefit of comprehensive economic analysis or without public accountability.

Let me mention an example of just one area of the ESA in desperate need of reform. The Fish and Wildlife Service views State borders as a division of species habitat. For example, if you have a population of birds that crosses a State border, it could be considered as two different species. One could be listed, while a plentiful amount lived on the other side of the stateline. Again, common sense is lacking from the process.

Of the 853 species placed on the endangered or threatened lists in the law's 22 year history, only 24 have come off. Of this 24, over half should not have been listed in the first place. In some cases the courts have forced the Fish and Wildlife Service to remove species from the list. With regards to recovery programs it is estimated that each species cost an average of $3 million to recover. I should also note, Mr. Chairman, that another 3,600 are being considered for listing. Unless we reform the ESA, beginning with this temporary moratorium, expect to see the problems faced by those in Greenlee and Pinal County coming soon to a city, county, or backyard near you.

As a member of the Endangered Species Task Force, I believe that we must address these concerns immediately. In the interim, however, the Condit amendment halts further listings until Congress can properly reauthorize the ESA.

I urge my colleagues to support this important amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HERGER].

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

Mr. HERGER. I thank the gentleman, and I stand in strong support of this amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STOCKMAN].

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

Mr. STOCKMAN. Mr. Chairman, I want to stand in support of this bill and this amendment.

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

Mr. EDWARDS. Mr. Chairman, I rise today in support of the Condit-bipartisan amendment to H.R. 450 and in doing so recognize the importance of reforming the Endangered Species Act. This amendment is virtually the same as a bill introduced last year by Congressman HENRY BONILLA and me. The act, expiring in 1992, should have been reauthorized by Congress more than 2 years ago. Since that time, endangered and threatened species continue to be listed and critical habitats continue to be designated—without the act being reviewed by Congress.

This amendment is simple. It would suspend the authority of the Secretary of the Interior to designate funds for the further listing of any endangered or threatened species or for the designation of critical habitat until the Endangered Species Act is reauthorized.

If we do not adopt the Condit-bipartisan amendment, the Endangered Species Act could continue in full force without congressional review.

Presently, 775 animals, plants, and insects are listed as endangered or threatened under the Endangered Species Act—almost a 400-percent increase from the original endangered species list. Another 3,900 species are candidates for listing.

I see the result of this in my own backyard where the U.S. Fish and Wildlife Department proposed to designate portions of 33 counties for the protection of the golden-cheeked warbler. This proposal would have encompassed some 20 million acres.

The current enforcement of the Endangered Species Act is a direct attack on private property rights. It seems that there are more protections for bugs and birds than for people and their constitutional private property rights.

We cannot continue an act that is not working. Help stop Endangered Species Act abuse; return common sense to environmental law. Vote yes on the Condit-bipartisan amendment to H.R. 450.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Condit-bipartisan amendment to H.R. 450, the Regulatory Transition Act.

The Condit-bipartisan amendment would extend the regulatory moratorium for new listings of endangered species or designation of critical habitat under the Endangered Species Act [ESA]. Therefore, there could not be any new listings until Congress reauthorizes the ESA or until December 31, 1996.

The lack of common sense exercised under the ESA in designating critical habitat was clearly illustrated in the State of Texas last year when the U.S. Fish and Wildlife Service designated 33 counties in Texas as critical habitat for the golden cheeked warbler.

The Fish and Wildlife Service regulations in designating this critical habitat fly in the face of common sense. Property owners in the habitat area have been prohibited from making even the most limited alterations on their land, such as building fences or trimming hedgerows.

The critical habitat designation is intended to prevent activities that harass the warblers. However, the activities that are considered harassment include ''chasing away a warbler that took up residence on the front porch of a farmhouse,'' according to a Fish and Wildlife official interviewed in the Wall Street Journal. This same official considered the Agency's enforcement of its policies ''reasonable and prudent.''

Reasonable and prudent enforcement of the warbler's critical habitat should not mean that private property owners are stripped of their rights to manage their own holdings. Reasonable and prudent enforcement should mean that concern for the environment and endangered species is tempered with common sense to protect the rights of landowners.

The only reasonable and prudent course is for Congress to unite to see that common sense drives changes in the current regulations. We can do that today by supporting the Condit-bipartisan amendment to H.R. 450.

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today to speak in favor of the Condit amendment to H.R. 450—the Regulatory Transition Act.

Let me tell you a little story about an animal called the copper-belly water snake.

It's a nonpoisonous snake that ranges from Michigan to Kentucky—mostly in the wetlands.

Now by all accounts it's a very nice snake. And those of us from farm States know that snakes provide a useful service removing rodents and other nuisances.

But if the copper-belly water snake is added to the threatened species list, thousands of farmers throughout Kentucky could be out of work.

We've heard too many such stories:

The farmer who accidentally ran over an endangered mouse.

Or the man who killed a rat in his basement, only to find out that it was a protected species.

What sort of fine might a Kentucky farmer be forced to pay if he accidentally ran over a copper-belly water snake?

Would the regulatory forces that serve as judge, jury, and executioner impound his tractor?

Our farmers are generally the best stewards of our land. They have to be—their crops depend on fertile soil and clean air and water.

The men and women who literally make their living off the land are already suffering due to overzealous regulators.

The coal industry could also be affected by the copper-belly water snake.

Nearly 500 people in the western Kentucky county of Daviess still depend on coal-mining to put bread on the table.

Are we to shut down the few remaining mines if a copper-belly water snake decides to go undergound?

Let me again say, Mr. Chairman, that I have no quarrel with the copper-belly water snake.

I've certainly never been bitten by one.

But I urge my colleagues to support the amendment to H.R. 450—so that our farmers, miners, and indeed all of us aren't bitten by the latest version of the snail darter or spotted owl.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The amendment was agreed to.

AMENDMENTS OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I have amendments at the desk that were proposed by Mr. KANJORSKI, who is on his way to the Chamber, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments, Nos. 21 and 22, is as follows:

Amendments offered by Mrs. COLLINS of Illinois: Amend section 6(2)(A) (page , line) to read as follows:

(A) beginning on the date of the enactment of this Act, and Amend section 7 (page , beginning at line) to read as follows:

SEC. 7. JUDICIAL REVIEW.

This Act shall not be considered to authorize or require any action that is subject to judicial review.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. Under the order of the House of today, the proponent and an opponent will each control 15 minutes.

Does the gentleman from Pennsylvania [Mr. CLINGER] rise in opposition?

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendments.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I said, the gentleman from Pennsylvania [Mr. KANJORSKI] is on his way to the Chamber.

Mr. Chairman, I support the gentleman's amendments.

As far as I am concerned, the two worst things about this bill are that it is retroactive and that it does not prohibit judicial review. The gentleman's amendment solves both problems.

Under the bill, many regulations that have already been issued would be suspended, even though business and others, in good faith, may have made major investments in order to comply.

In addition, proponents of this bill overlook the fact that Federal regulations often create markets and opportunities for business. H.R. 450, with its retroactive starting time for the moratorium, would require agencies to take away opportunities that business has already received.

For example, the FCC took action recently to allocate for sale of the private sector 50 megahertz of spectrum

that has been controlled by the Federal Government.

Why would we want to stop this rulemaking which will create new opportunities for U.S. telecommunications firms, and at the same time cut back the Federal Government's role in telecommunications?

Mr. Chairman, we ought not to be changing the rules once the game has already started, and that is what this bill does.

Mr. Chairman, H.R. 450 also fails to prevent a court challenge of an agency decision to exclude a rule from the moratorium.

Although the bill does not specifically authorize judicial review of agency decisions, neither does it preclude judicial review under the authority of other laws.

The committee report states, and I quote:

The section makes it clear that the Act does not grant any new private right of action. However, this section does not affect any private right of action (for a violation of this Act or any other law) if that right of action is otherwise available under any other law (such as the Administrative Procedure Act provisions of title 5, United States Code).

With the courts looking over their shoulders, clever lawyers can tie up regulations in litigation for months, even if they fall under one of the bill's exclusions.

Judicial review, therefore, effectively guts the authority in the bill to exempt a rule or regulation from the moratorium.

Unless excluded, important health and safety rules, rules pertaining to foreign affairs or military functions, rules relating to the provision of benefits, as well as rules affecting financial institutions could be suspended by the courts—even if an agency head believed these rules fell within the statute's exemption provisions.

The authors of this bill recognize that it is a difficult decision to decide that a rule is necessary to avoid an imminent threat to health and safety, so the committee report provides guidance. However, it is almost a certainty that if an agency exempts a regulation under that standard, business will be in court to challenge that decision. Is that what we want?

The gentleman's amendment is a major improvement over the language of the bill, because it eliminates judicial review and retroactivity. I urge my colleagues to support the amendment.

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

I do so to rise in opposition to the gentleman from Pennsylvania, Mr. KANJORSKI'S amendments en bloc.

Let me point out that in terms of trying to do this in a cooperative effort, we did request of the administration to have them declare a moratorium on all regulation activity for the first 100 days of this Congress so that we would have an opportunity to do that. That was not an unprecedented action. In fact, moratoria have been declared by both Presidents Reagan and Bush heretofore.

This basically would move the date only prospectively, but it would not pick up a vast horde of regulations, frankly, that really, I think, need to be looked at before they are passed on to the American people, about 600 during the time of this amendment.

So, moving this to a prospective date I think would undercut a real purpose that we are trying to accomplish here.

The other element that I think needs to be dealt with is the amendment to eliminate all judicial review, which is included in the gentleman's amendment, is unnecessary. This amendment is really redundant because section 7 of H.R. 450 already contains a limitation on judicial review. It provides simply that no private right of action may be brought against any Federal agency for violation of this act. This makes it clear that the act does not grant any new private right of action enforceable in the courts.

It is clear because this moratorium was limited in nature. The longest it can go is to December 31 of this year. And then it could be terminated much before that if in fact we pass regulatory reform under H.R. 9, that the time period that would be involved would be so short you would not really be able to conduct an effective judicial review.

On the other hand, we did not want to take away from people the rights that they presently have under existing law, primarily under the Administrative Procedure Act.

So I would submit this amendment is really unnecessary because there is no extended or no expanded right of judicial review in the bill. For that reason, I would oppose the amendment

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 13 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI] and I ask unanimous consent that he be allowed to further yield time.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 13 minutes.

Mr. KANJORSKI. I thank the chairman.

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

Mr. Chairman, I want to thank the ranking member of the committee, the gentlewoman from Illinois [Mrs. COLLINS], and I rise in support of the amendment, obviously, because what we have here in the text of this legislation is that when you join it with what would be allowed under the APA rule is that every rule promulgated by every agency of the U.S. Government will be subject to court review and court action.

What we are structuring here is an absolute freeze on the actions of government for the next period of time, however that may eventually last, that the moratorium is in place.

If that is not bad enough, what we are allowing here by virtue of allowing judicial review under the APA regulations is that in the future any contested promulgated rule or regulation frozen in place in this time can be attacked by virtue of the right of review under judicial review. So that 4 years down the road, if something is felt to not comport with the act itself in the moratorium, you will be able to have an attack and a request for judicial review to go over that and have that rule or regulation set aside or the effectiveness set aside.

A simple example would be a rule or regulation by the wildlife area in Interior. If there were a question raised on the licensing or area qualifications for duck hunting—duck hunting—which nobody in this Chamber would oppose, activists rights organizations could attack the promulgated rules and regulations allowing that duck hunting to occur however and for whatever purpose the rule is promulgated. It would end up in the court and the decision under the judicial review would take such a period of time that whatever the purpose and finality of that ruling would be, would be inconsequential because of the passage of time.

□ 1410

What we have created here in essence, when we look at the total bill itself and the judicial review that is allowed under existing law by implication of this entire statute, is we have allowed an opportunity for those people who fundamentally and philosophically do not believe that government should work in any respect. They will have accomplished their end.

This is not just a moratorium. This is not just a surgical procedure to rule out of order improper or zealous rule makers or improper application of rules. This is a process and procedure that by not being surgical in our strike will allow those people with the worst intentions to prevail and to have consequences that we cannot even determine now, during the moratorium period, or for years thereafter, and the one thing we are certain of is that by use of allowing judicial review of this act we are going to allow the freezing of the remaining 2 years of the Clinton administration.

Now, if that is the intention of the makers of this statute, and if the intention of the makers of this statute is not providing for no judicial review during the moratorium period or thereafter, they will accomplish their end.

So I would recommend that everybody from the minority or the majority that desires to close government down in all respects of what we do, they should definitely vote against this amendment, but if they are sensitive to the fact that what we are doing is causing a wealth of litigation to occur by anyone and for any purposes, then we should seriously review what we are doing today.

We have, on February 22, received a communication from the U.S. Department of Justice, Office of Legislative Affairs and under the signature of the Assistant Attorney General of the United States that lays out the Justice Department's position on this amendment, and not reading the entire letter other than the fact that they support the amendment in its entirety, if I can quote a portion of this?

It says, ''As you know, the administration strongly opposes H.R. 450. Its judicial review provision is one of the bases for this opposition. We believe section 7 will result in litigation each time a new rule is promulgated during the moratorium. We strongly oppose this language, and we think the bill should include an express bar to judicial review,'' and this amendment provides that ''express bar'' to judicial review.

I cannot urge my colleagues more firmly, and this is not a partisan issue. This is a Government issue. This is a question of whether or not we believe this Government should function and whether or not we are not capable as a Congress of finding another way to correct overzealousness in rulemaking or improper applications of rules. The fact is there are tens of thousands of rules promulgated every year. The overwhelming majority are necessary and do not cause problems or conflict with the people, but in fact enable us to carry on government. In order for us to solve the problem of perhaps 1 or 2 percent where there is some disagreement we are throwing out literally the baby with the bath water, and I think the admonishment of the U.S. Department of Justice should be taken seriously and those people that are interested in Government functioning should understand that they have made a thorough review of this act, and particularly section 7, and on the basis of that I would recommend all my colleagues to act in a bipartisan way to see certain that we do not freeze the activities of Government.

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

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG], a very valued and contributing member of the committee.

Mr. SHADEGG. Mr. Chairman, let me focus the debate on this issue.

Quite frankly what we have here is a proposal to subsume the entire moratorium in one rule. The language which appears in the existing bill is carefully crafted to preserve the rights which presently exist. That language appearing in section 7 says no private right of action may be brought against any Federal agency for a violation of this act. What that means plainly and simply is: By the passage of this measure we are not creating a new and separate right of action. However, there is a second sentence also intended to preserve that balance, and that is: This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

Mr. Chairman, those combined two sentences are designed to preserve the status quo, and what that means is that anyone who is in a rulemaking proceeding and who has a right to bring an action under the Administrative Procedures Act is authorized to bring that act under this section. No new action is created, but no existing action is taken away.

What the Kanjorski amendment does when it proposes to change the language of section 7 is to literally take away the entire meaning of the moratorium. What it would do in effect is to say that any regulatory agency which chose to ignore willy-nilly the moratorium itself and to proceed with a regulatory action, no matter what the basis for that was, could not be challenged in court for doing so. The plain and simple effect of that is to mean that no regulatory action would be stopped. We would have passed a moratorium which would say that for this period there were to be no ongoing rulemaking regulatory actions, and yet there would be absolutely no penalty whatsoever for a Federal regulatory agency that just simply chose to ignore that language altogether.

I suggest to my colleagues that when they understand that language of the Kanjorski amendment and when they understand that effect, it is not surprising that the administration supports that amendment and opposes the current language in the bill, and it is not surprising that what they will have done is rendered this entire act meaningless. This Congress is not about passing a moratorium which will have no effect whatsoever, a moratorium which will say the U.S. Congress wants to suspend all rulemaking actions and all regulatory actions except those for which there are enumerated exceptions, but nonetheless imposes no penalty whatsoever for doing so.

Mr. Chairman, I cannot more strongly than that urge the rejection of that amendment on the ground that it would render the entire moratorium and the very important purpose the moratorium will serve nugatory and accomplish nothing.

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may consume to respond to and perhaps engage with the gentleman.

I think the gentleman is suggesting that rulemaking authority, as passed in statute by this body, has no way of a check and balance operating, and I suggest that most authorizing legislation authorizes a Cabinet-officer-level individual. The secretary shall have the authority to promulgate rules and regulations so that any agency that would come under the umbrella, and most of them do, of a Cabinet officer would subject that Cabinet officer to impeachment from office if he violated the clear intent of Congress as expressed by this legislation.

We are not crippling this legislation. What we are basically doing is taking out the second sentence of section 7 because that is the devil in the details. The gentleman said that the purpose of section 7, and he read it, that no right of action may be brought against any Federal agency for violation of this act.

□ 1420

That is a great sentence, and if that were the only sentence, I would have no problem with that. But the next sentence says ''This prohibition shall not affect any right of action or remedy otherwise available under any other law,'' which is the Administrative Procedures Act of the United States. So individuals do have actions and rights of actions under the Administrative Procedures Act, so therefore the second sentence really vitiates the expressed intent in the first sentence, and using the description of legislative language, the second sentence becomes controlling of the first sentence.

So very clearly we can have actions that exist under the Administrative Procedures Act, will exist in this act and be able to be used to attack all future rules and regulations.

Let me tell you how serious it is. The seriousness is in rulemaking as it is described. We are just thinking we are attacking things already out there. This legislation defines rulemaking. The term ''rulemaking'' means any agency process for formulating, amending, or repealing a rule. It means that if your constituent or mine who finds a commentary period and expresses their feelings on a rule or regulation and sends that in, if the agency opens that commentary, they have violated the rulemaking procedure of this House, and it could not only cause them difficulty under this act, it could vitiate that rule and the subsequent value or efficacy of that rule in the future.

We are really muzzling, gagging, the American people, interested people in legislation, Members of Congress. If I send a letter to an agency about the fact that I do not think the rule or regulation should be effective the way it is, and that agency opens my letter, under this basis that is formulating, amending, or repealing and taking an agency process to do that, and they are in violation of the statute. And under the APA section under judicial review, that process could be knocked out, the rule itself could be knocked out in the moratorium period of time, and thereafter if the moratorium leaves a ''no other actions taken of that process'' during the moratorium period of that time.

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

Mr. KANJORSKI. I yield to the gentleman, with the understanding that we will trade time back in the future.

Mr. SHADEGG. Mr. Chairman, I simply want to make a couple of points. First, by acknowledging that what you think should happen here is that we

should go to the Under Secretaries or the Secretaries who have the authority to promulgate your rules, you are acknowledging that the Kanjorski amendment would leave no judicial remedy for an Agency which chose to ignore the moratorium. You are at least agreeing that is your proposal.

Mr. KANJORSKI. There is no process to ignore it? No. You can just tell the Secretary.

Mr. SHADEGG. Absolutely. So everyone affected by a rulemaking proceeding would be left at the mercy of calling the Secretary of that particular regulatory Agency and asking him to stop. He could not go to court and pursue the current legal rights he would have but for the language. That is, you are taking away a right he would have under the APA to go to court and challenge a rulemaking proceeding by the Kanjorski amendment.

Mr. KANJORSKI. Reclaiming my time, I am taking away the advantage that wealthy individuals and corporations in this society would have to stop the progress and protection of our people, whereas average Americans could never assume their rights under the APA.

I think it goes to the essence of what this act is all about, and maybe it extends beyond this act and goes to what we are here for this first 100 days, it is all about. It is a tremendous shift of power, to give the wealthiest elements and corporations of our society a special seat in government, a special opportunity in litigation, to frustrate the protections and the needs of average Americans. You bet your life I think that is the problem.

Mr. SHADEGG. What we are talking about really is the fact that average Americans take advantage of the APA on a regular basis, and that you are taking advantage of this moratorium to take away their right to go to court and challenge the regulatory agencies that are currently regulating and taking away their rights. The purpose of the moratorium is to preserve the status quo for the time period. The language of section 7 does that precisely by saying we are creating no new right of action, but we are preserving the existing rights of action.

Mr. KANJORSKI. No, you are going beyond that, so that I may answer you. You are reserving a right of action that is based on this statute, if the APA rules are the vehicle to bring that action. So you are accomplishing nothing by the first sentence, it does not even matter being there, because the second sentence becomes controlling, and everybody who could attack this and would be denied that right under the first sentence of the act, has the right under the second sentence if they proceed under Administrative Procedures Act.

Mr. SHADEGG. The first sentence of the amendment simply says that this legislation does not in and of itself create a new right of action. That is because it was not the goal of those who are proponents to create a new right of action or to increase any amount of litigation. That is what the sentence says.

Mr. KANJORSKI. What it says in simple language, maybe I cannot read it right, this prohibition shall not affect any private right of action or remedy otherwise available under any other law. The Administrative Procedures Act allowed people to go for judicial review to attack every other law and every law, and this is every law, and therefore they come in and have the same rights that they have.

Mr. SHADEGG. Therefore the moratorium as written preserves their current legal rights and your amendment would take away those rights.

Mr. KANJORSKI. I am going to the essence of what the moratorium is all about. Are we attempting to have a moratorium and freeze until you have an opportunity to examine what may be misused and abused, or are you using the moratorium to freeze Government and deny average people the rights of judicial review, but allow large corporate entities to spend the money and to take the actions to frustrate this Government, and not only frustrate this Government, but to frustrate the rights of average American people who cannot afford the legal price to pay to go to litigation.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired. The gentleman from Pennsylvania [Mr. CLINGER] has 9 minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MCINTOSH] for purposes of engaging in a colloquy with the gentleman from Nebraska [Mr. BEREUTER].

Mr. MCINTOSH. Mr. Chairman, I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, on February 15, 1995, HUD issued regulations to revise and clarify the final rule on escrow accounting procedures under the Real Estate Settlement Procedures Act. The final rule was published on October 26, 1994 and established accounting rules and methodologies for computing escrow accounts on federally related loans. The amendments to those regulations, which were published last week make a number of changes which were sought and are supported by the mortgage industry. I would like to clarify that it is just these type of regulations that would fall within the exclusion of Section 6(3)(B)(i).

Mr. MCINTOSH. Yes, the gentleman is exactly right. The recently published amendments to the final rule on escrow accounting procedures are an example of the type of regulation intended to be covered by that exclusion. The February 15 regulations reduce regulatory burden by streamlining the notice required to be sent to borrowers by lenders when itemizing their escrow account. That regulation amending the final rule also streamlines the administrative process for implementing this major new requirement that is being imposed on mortgage servicers, by providing an additional month to allow the industry to gear up to comply with the final rule.

It is exactly the type of rule that we would allow to go forward because it limits the burden and reduces the regulatory impact.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes for the purpose of engaging in a colloquy with the gentleman from California, [Mr. RADANOVICH].

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

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

Mr. RADANOVICH. Mr. Chairman, the moratorium on Federal regulations does not apply to the California Bay-Delta agreement of December 15, 1994, and the actions necessary to implement that agreement.

The December 15 agreement is an accord between the Federal agencies of the Department of the Interior, Commerce, and EPA and the State of California. It is not a Federal regulatory action.

The agreement calls for the withdrawal of the EPA final rules for water quality standards in the delta, once the California Water Resources Control Board adopts its own final rules under State law. This is expected to happen in March 1995. Thus, there is no impediment to the implementation to the bay-delta agreement as a result of the EPA regulations becoming subject to the moratorium.

The agreement also calls for the 1995 Biological Opinions on winter run salmon and Delta smelt to be consistent with the bay-delta agreement. This means that the existing 1994 biological opinions must be revised to conform to the bay-delta agreement. It should be clear that the revision on these biological opinions is not a regulatory action subject to the moratorium. If, for some reason, the 1994 biological opinions could not be revised to conform to the bay-delta agreement, there could be a significant water cost to Federal and State contractors south of the delta. This would be a significant obstacle to the continued implementation of the bay-delta agreement.

We know that the gentleman from Pennsylvania is aware of the environmental problems in California in the San Francisco Bay and the Sacramento-San Joaquin River Delta. We know that you are also aware of the recent historic agreement between the State of California and a number of Federal agencies that has temporarily resolved many of the environmental problems in the delta.

Mr. CLINGER. The gentleman is correct. I am aware of the agreement.

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] yield to the gentleman from Pennsylvania

[Mr. KANJORSKI] for the purpose of raising a parliamentary inquiry?

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

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KANJORSKI. Mr. Chairman, is the discussion on the floor germane to the amendment or not germane to the amendment, and should it not be included in some other aspect of the transaction occurring today? I was kind enough on my side to yield to the other side to have a discussion. I thought the remainder of the time of my friend, the gentleman from Pennsylvania [Mr. CLINGER], would be either used on my amendment, or the gentleman would afford me the opportunity to discuss some of the pertinent facts relevant to my amendment. But now I see nongermane material is being discussed here.

The CHAIRMAN. The debate must relate to the amendment when that question is raised.

Mr. RADANOVICH. It does, as it clarifies the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] may proceed.

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

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

Mr. DOOLEY. Mr. Chairman, while we considered offering an amendment, we do not, at this time, believe that the bay-delta agreement is jeopardized by H.R. 450. We are, however, seeking your assurance that should questions arise during continued debate on this legislation, you will work with us to make sure that the agreement—which is so important to the agricultural, urban, and environmental interests of California—is protected from the requirements of H.R. 450.

Mr. CLINGER. My colleagues have my assurance that I will work with them on this issue.

□ 1430

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. DAVIS], a member of the committee.

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

I am always puzzled when I hear remarks about only wealthy individuals and big corporations would be able to sue under this act. I have perused the language of the act and find no such language that excludes small businesses, individuals, or anyone else who feels aggrieved by a large Federal bureaucracy from suing.

Perhaps the gentleman from Pennsylvania can show me the language he is referring to.

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

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

Mr. KANJORSKI. Mr. Chairman, what I am showing the gentleman is partiality and reasonableness.

Does he know of any of his constituents on an average basis that can afford legal counsel of $50,000 to $100,000 to attack the efficacy of a rule?

Mr. DAVIS. Mr. Chairman, reclaiming my time, let me tell the gentleman what we found in Fairfax County, when we held hearings on this at the Fairfax Government Center.

First of all, to go back to the issue of retroactivity that the gentleman talked about, we have over 50 billion dollars' worth of costs, if all of these regulations were to be promulgated, that would go down, many of these on small businesses and individuals across this country. We heard the testimony of Mr. Bill McGillicuddy, a small businessman with AutoCare, Inc., talking about some pending rules and regulations before the EPA under the Clean Air Act and how this, Mr. Ron Harrel, a Mobil Oil dealer in Fairfax, Dennis Dwyer of Potomac Mills Exxon in Virginia. These individuals would be put out of business, if certain regulations now pending before EPA were put into compliance.

Their option here is to come as a group and sue. They may not have the money individually, but a group of service station operators together could get together. These are not wealthy individuals. They are not big corporations. But they need this remedy of judicial review to be able to correct what I consider to be some very, very gross overreaching by the Federal bureaucracy. That is really the issue in this case.

And to make this a class-warfare issue, that this applies only to wealthy individuals and corporations is, I think, misleading and really gets us off the point.

Mr. KANJORSKI. Mr. Chairman, if the gentleman will continue to yield, I hope I do not leave the impression of a class-warfare issue, because I could go to the other side. I would predict under the present act, if it goes into effect as it does now, you will see billions of dollars of construction activity come to a grinding halt until the people that are making that investment are certain as to what the status of the law, the rule or regulation will be.

Mr. DAVIS. Reclaiming my time, I yield to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Would the gentleman consider the fact that there are billions of dollars in activity that do not happen to date because banks cannot lend money, not knowing the regulatory impact of properties that are held as collateral for loans to do commercial activity? And would the gentleman answer the question, the gentleman from Virginia, how many people does he represent that have $250,000 to go into Federal court to have to assert a constitutional takings under the fifth amendment since there is no low-cost administrative procedure to undermine them from the burdens that they now face under regulations of disclaimer?

Mr. DAVIS. I would just note once again, it is the National Federation of Independent Businesses, the small businesses that are endorsing this legislation and moving forward. And I understand the gentleman's concern. I will oppose the amendment.

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

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 271, not voting 8, as follows:

[Roll No 160]

AYES—155

Abercrombie	Gordon	Obey
Ackerman	Green	Olver
Baldacci	Gutierrez	Owens
Barcia	Hall (OH)	Pallone
Barrett (WI)	Harman	Pastor
Becerra	Hastings (FL)	Payne (NJ)
Beilenson	Hefner	Pelosi
Bentsen	Hinchey	Pomeroy
Berman	Holden	Rahall
Bevill	Hoyer	Rangel
Bishop	Jackson-Lee	Reed
Boehlert	Jefferson	Reynolds
Bonior	Johnson, E. B.	Richardson
Borski	Johnston	Rivers
Boucher	Kanjorski	Rose
Brown (CA)	Kaptur	Roukema
Brown (FL)	Kennedy (MA)	Roybal-Allard
Brown (OH)	Kennedy (RI)	Rush
Bryant (TX)	Kennelly	Sabo
Clay	Kildee	Sanders
Clayton	Kleczka	Sawyer
Clyburn	Klink	Schroeder
Coleman	LaFalce	Schumer
Collins (IL)	Lantos	Scott
Collins (MI)	Levin	Serrano
Conyers	Lewis (GA)	Skaggs
Coyne	Lofgren	Slaughter
DeLauro	Lowey	Spratt
Dellums	Luther	Stark
Deutsch	Maloney	Stokes
Dicks	Manton	Studds
Dingell	Markey	Stupak
Dixon	Martinez	Taylor (MS)
Doggett	Mascara	Thompson
Doyle	Matsui	Thurman
Durbin	McDermott	Torres
Engel	McKinney	Torricelli
Eshoo	Meehan	Towns
Evans	Menendez	Traficant
Farr	Mfume	Tucker
Fattah	Miller (CA)	Velazquez
Fields (LA)	Mineta	Vento
Filner	Minge	Volkmer
Flake	Mink	Ward
Foglietta	Moakley	Waters
Ford	Mollohan	Watt (NC)
Frank (MA)	Moran	Waxman
Franks (NJ)	Morella	Wise
Furse	Murtha	Woolsey
Gejdenson	Nadler	Wynn
Gephardt	Neal	Yates
Gibbons	Oberstar	

NOES—271

Allard	Bateman	Bunn
Archer	Bereuter	Bunning
Armey	Bilbray	Burr
Bachus	Bilirakis	Burton
Baesler	Bliley	Buyer
Baker (CA)	Blute	Callahan
Baker (LA)	Boehner	Calvert
Ballenger	Bonilla	Camp
Barr	Bono	Canady
Barrett (NE)	Brewster	Cardin
Bartlett	Browder	Castle
Barton	Brownback	Chabot
Bass	Bryant (TN)	Chambliss

Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Andrews
Ehlers
Frost
Gonzalez
Hilliard
McCarthy
Meek
Zimmer

□ 1452

Mr. JOHNSON of South Dakota changed his vote from ''aye'' to ''no.''

Mr. TAYLOR of Mississippi and Mr. SERRANO changed their vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SLAUGHTER: At the end of section 5 (page , after line), add the following new subsection:

(c) FOOD AND WATER SAFETY REGULATIONS.—Section 3(a) or (4)(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) MEAT AND POULTRY INSPECTION.—Any regulatory rulemaking action to reduce pathogens in meat and poultry, taken by the Food Safety and Inspection Service of the United States Department of Agriculture and with respect to which a proposed rule was published on February 3, 1995 (60 Fed. Reg. 6774).

(2) DRINKING WATER SAFETY.—Any regulatory rulemaking action begun by the Administrator of the Environmental Protection Agency before the date of the enactment of this Act that relates to control of microbial and disinfection by-product risks in drinking water supplies.

(3) IMPORTATION OF FOOD IN LEAD CANS.—Any regulatory rulemaking action by the Food and Drug Administration to require that canned food imported into the United States comply with standards applicable to domestic manufacturers that prohibit the use of lead solder in cans containing food, taken under sections 201, 402, 409, and 701 of the Federal Food, Drug, and Cosmetic Act and with respect to which a proposed rule was published at 58 Federal Register 33860.

The CHAIRMAN. Under the previous order of the House of today, the gentlewoman from New York [Ms. SLAUGHTER] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the gentlewoman's amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee, will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from New York [Ms. SLAUGHTER].

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

Mr. Chairman, anyone who dismisses the problem of micro-organisms in our food has not been reading the newspapers. But few realize just how widespread these quiet killers are.

According to the Centers for Disease Control and Prevention, bacteria in meat and poultry products cause nearly 4,000 deaths and 5 million illnesses each year. Last year's outbreak of E. coli at fast food restaurants on the West Coast is just one example of such a tragedy. In fact, there were confirmed outbreaks of E. coli in dozens of States over the past 2 years, and other pathogens such as salmonella are even more widespread.

For a person infected by a food-borne pathogen, there is usually no treatment or cure. These diseases are particularly dangerous for children and the elderly, whose immune systems are weaker. For them, the sickness often follows a painful course ending in death.

Beyond the enormous human suffering caused by food poisoning in meat products, the economic cost is gigantic. Estimates vary, but the price tag in medical care and lost wages is over $4.5 billion annually.

For this reason, I have written a simple, carefully drafted amendment. It would clearly exempt three particular regulations crucial to providing safe food and water.

One has to do with the importation of food in lead cans which we do not allow American manufacturers to do, and the other is the cryptosporidium that is being found in America's drinking water.

We will hear more about these issues from other speakers. As a former bacteriologist with a master's in public health, I would like to concentrate on the third regulation, which would finally modernize our outmoded meat inspection system.

Just this month, the Department of Agriculture started the process of developing new pathogen standards. The proposed rule began a 120-day comment period—double the standard length. The Department also plans an aggressive outreach campaign to hear the views of every concerned party. In fact, the administration has followed a model of responsible regulation, carefully listening to every viewpoint before reaching any decision.

Unfortunately, not exempting food safety would stop that process right in its tracks. In a letter to me yesterday, the Undersecretary for Food Safety told me what would happen under a moratorium. He wrote—and I quote:

All work on the . . . proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country . . . would have to be cancelled.

That is not reform, Mr. Chairman. It is vandalism. This process would benefit everyone, even those who want to change the proposal. It is supported by industry and consumer groups, and suspending it serves no purpose. While we saw the development of new pathogen standards, more Americans will be poisoned by their dinner at home or what they eat in restaurants or what they eat at school.

Mr. Chairman, these are invisible killers. We are going to hear that this will be taken care of in the imminent threat to health and safety. Unfortunately, the kinds of pathogens that we are talking about do not give an advanced notice that they are going to happen. We will not know that there is a threat to health and safety until after it has occurred.

□ 1500

What we are trying to do with the new regulation, Mr. Chairman, is to prevent it from happening in the first place.

The tragedy is that in the United States when food inspection started in

1906 or 1907, based on a public outcry from a book by Upton Sinclair, we have maintained that same method of operating and checking on meat and poultry, with very little update. What we were doing now was for the first time to recognize the role of pathogens in meat inspection and what happens.

But every day that we delay this moratorium that would cause this delay, 11 Americans will lose their lives and every day over 13,000 will be ill. The delay caused by the moratorium will sentence 3,420 more people to die needlessly in the United States.

It does not matter what Members think of the details of the Agriculture Department proposal, or it does not matter what they think of the regulatory process overall. It does not matter what their district is or what political party they belong to. A vote for this amendment is a vote for your constituents, it is to ensure that food and water are safe.

I am not willing to sacrifice my constituents' lives, health, and wealth on the altar of regulatory reform, and I ask all of my colleagues not to sacrifice theirs. Please support the Slaughter amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I come from Milwaukee, WI, and Milwaukee, WI, unfortunately made national headlines in 1992 because of a severe outbreak of illness resulting from the parasite, cryptosporidium.

This amendment also would permit the research and the regulations that are being done at the Federal level by the EPA on the outbreak, and provide help to other communities who suffer this same tragedy in their own communities.

Since this tragedy has already hit my community the easiest thing in the world for me to do is say we have already taken care of the problem in Milwaukee. I do not care what happens anywhere else in the country; if they have another outbreak in another community, that is their problem. But I do not think that is what the American people want. I do not think the American people want the Federal Government, when it has the opportunity and the resources and the requirement, to come in and try to help people save lives.

In committee and on the floor today I am going to guess that we are not going to hear anything about the merits of this regulation. No one will talk about why we should stop the work on cryptosporidium. What we are going to hear is that it is not part of the program or somehow we are going to slow down this bill and/or we are going to try to gut this bill because of this amendment.

But this is a good amendment. The Federal Government by its nature does not only do bad things. I know it comes as a surprise to some Members of this body, but the Federal Government actually does some good things, and preserving safe drinking water in our country is one of them, preserving safe food in our country is another.

I am all for getting rid of unnecessary regulations, but let us do it when we find a regulation that does not work. But when we have a regulation that works, let us work it, let us have it help save lives. And this is what this amendment does.

So I would ask the Members of this body to please vote their conscience and do the right thing. A regulation that works should move forward.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, this is an extreme bill; while calling for a moratorium on new Federal regulations may sound good, it will have unintended consequences that will put millions of Americans at risk.

Our amendment is simple and straightforward: It will allow the Federal Government to continue its efforts to ensure the safety of our Nation's food and water.

For example, this amendment will allow the Federal Government to continue its efforts to protect our citizens from the threats posed by cryptosporidium in our water and E. coli bacteria in our meat.

In my district, in my home of New York City, people are very worried over recent discoveries of the cryptosporidium parasite in our water supply.

They have good reason to be worried: Recent outbreaks in Milwaukee of the disease caused by this parasite, cost over 100 people their lives and made hundreds of thousands sick.

The medical evidence clearly demonstrates that for our most vulnerable populations this illness can be fatal.

Only in 1994, was the EPA able to issue rules about collecting data on the dangers posed by this disease.

And now the experts at EPA tell us that this bill will halt testing for this deadly parasite.

We cannot allow that to happen.

Mr. Chairman, the safety of our drinking water is precisely the type of problem that the Federal Government is best equipped to combat because it affects the residents of all 50 States.

Water does not respect State boundaries; neither do parasites or bacteria.

As currently drafted, this bill could present a threat to every American who eats or drinks.

Our amendment would simply remove any ambiguity about the continuing ability of the American Government to combat these deadly threats.

Parasites don't take a moratorium; microbes don't take a moratorium, and safeguards shouldn't take a moratorium.

Please support this amendment.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes. I do so to oppose the gentlewoman's amendment. I know of her expertise in this area as a microbiologist and her great concern for the implications of this measure, but I would submit that the amendment is really unnecessary because the bill does provide a very, very broad exception for health and safety. In fact, if Members read the Washington Post, it would suggest it would exempt everything out of that. I do not think we go that far, but I think it does provide the kind of assurance to the gentlewoman that that kind of thing would not be held up.

The legislation reads, imminent health and safety means the existence of any conditions, circumstance, or practice reasonably expected to cause death serious illness or severe injury to humans.

And the legislation is very flexible, Mr. Chairman. It is structured so that the head of the OIRA regulatory administration will make the determination as to what qualifies as imminent health and safety, and the head of OIRA determines it meets the criteria, and I think the sorts of things the gentlewoman from New York is mentioning would probably meet that criteria that the regulations could and should be promulgated and implemented.

I suggest it is not just end result that is going to be affected by this, because the opponents say that humans need to die or get violently ill prior to meeting a test for imminent health or safety. This is just not the case. The regulations can be promulgated prospectively if it is perceived that without doing so there would be harm done, and I think the case that the gentlewoman talks about would not be precluded from proceeding with the testing for that purpose.

So I would submit that the gentlewoman's amendment is not necessary and would be covered by the existing exemptions in the bill.

Mr. Chairman, I yield 4 minutes to the author of the measure, the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Chairman, I think it is very important as we discuss this legislation that we be aware of the important changes that were made in committee on the bill dealing with health and safety. I think Members will hear a lot of claims by the administration and others that this legislation would undo 20 years of regulation, that this legislation could lead to the loss of life and other claims which are clearly preposterous and intended to scare the American people.

For that reason, Mr. Chairman, I want to read the provision of this bill that deals with health and safety. Any regulation that is needed to protect against an imminent threat to health and safety is exempt from the moratorium and can go forward. The definition of imminent threat to health and safety means ''any regulation that is

needed to prevent the condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans or substantial endangerment to private property during the moratorium.''

What this exception says very clearly is that the regulatory bodies can protect against death, they can protect against threats of severe injury, and they can protect against threats of substantial endangerment to private property. All they need to do is go to the President's staff at OMB and say we need an exemption. The President can issue that immediately, and the agency can go forward.

□ 1510

Now, perhaps some of these agencies are not competent enough to deal with these threats, and they may try to hide behind the moratorium and not issue the regulation. But let it be very clear today, looking at this language in the bill, any serious threat to human health or safety can and will be dealt with pursuant to this moratorium.

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

Mr. MCINTOSH. I yield to the gentleman from Missouri.

Mr. VOLKMER. The gentleman just said, I think, you added some words in there as you talked, the term ''imminent threat to health or safety''; then you said, ''means a proposed rule that deals with the existence''; I do not see that ''means a proposed rule'' in there at all.

Mr. McINTOSH. The language of the bill says that any regulatory action needed to address an imminent threat to health or safety can go forward, and what this language does is tells us what regulations are dealing with an imminent threat to health or safety.

Mr. VOLKMER. Right. The existence of a condition, circumstance, or practice reasonably expected to cause death, serious illness; now, what if you are just trying to improve on a process of inspection so that you have less likelihood of causing disease? That is not an imminent threat, I would say.

Mr. McINTOSH. Let me say I think that is an important question. I think the test the agency would need to meet in those regulations is: Are they calculated to prevent death, serious injury, or substantial loss to property? A lot of times an agency will say, ''We are protecting health and safety,'' but when you actually read the regulation, none of the provisions end up meeting that criteria. In those cases, they could not go forward.

But if they want to improve an inspection process and can show that they will prevent a death or severe injury, then they would be exempt.

Mr. VOLKMER. What if they cannot positively, but based on the best scientific evidence that it is an improvement over an inspection process that is currently being used, but you cannot show that if you do not do it there are going to be deaths, you cannot show that serious illness is going to occur?

Mr. McINTOSH. The burden on the agency is to show their regulations would be helpful.

Ms. SLAUGHTER. Mr. Chairman, if I could just make a comment to the gentleman from Indiana [Mr. MCINTOSH], I know previously you worked for Vice President Quayle. I think it is probable we have an obligation to point out you misspelled existence.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI], who has done a good deal of work on this issue.

Mr. TORRICELLI. Mr. Chairman, I thank the gentlewoman for yielding.

The Members of the majority may not think that this will impede regulations for food safety.

But one would think the U.S. Department of Agriculture would be somewhat controlling. In a letter to the gentlewoman from New York [Ms. SLAUGHTER], they have written that the current program will be suspended. There will not be a need for public comment. They will not proceed with the February 3 regulations, because while the threat to human safety is real, it is not imminent. It is substantial, but it may not be immediate. And years of work, years of work to try to protect the American people are going to be lost.

My colleagues, 2 years ago a young woman in my district named Katie O'Connell walked into a fast-food restaurant in New Jersey, and 48 hours later she was dead. That case has been repeated 4,000 times a year, year in and year out across this country.

We have an epidemic of food safety, because we have not improved the methods of inspecting food for 75 years in this country. The average American food inspector has less than a half a second to use his eyes and his nose in the age of the computer and electronic sensor to determine whether or not food is safe for your table, and they are missing thousands of times determining contaminated food.

The cost of the February 3 regulations on the industry will be two-tenths of 1 cent per pound. Too much of a cost to bear for American industry to save thousands of lives.

I know the majority wants to vote with their leadership. I know they want to lessen the burden. But the costs for your constituents are too great.

My colleagues, support the amendment. It is simply the right and decent thing to do.

Mr. CLINGER. Mr. Chairman, I might point out to the gentlewoman from New York that that misspelling was deliberate. We wanted to just see if everybody was paying attention, and we are delighted that you were.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Chairman, I appreciate the chairman yielding to me.

Mr. Chairman, I am just flabbergasted by this debate on this amendment. I just ask the Members to read the bill.

Nothing in this amendment nor much of what has been said in support of this amendment has anything to do with the bill. The bill is very specific in giving exemptions to these regulations that affect safety and health and food inspections and many other of the issues.

It is obvious to me, Mr. Chairman, that this amendment is the first step down the slippery road to status quo.

What is underlying the statements by the President and proponents of this amendment is that they believe in regulations. They believe in the regulatory police. They believe in what has been going on in the last 40 years as it pertains to regulation. They believe in being able to find that man that got fined for moving two truckloads of dirt, or they believe in the regulations that classify children's teeth as hazardous waste and take on the tooth fairy herself.

What we are trying to do and what the American people are trying to ask us to do is give us a break from these outrageous regulations that have been placed upon us.

What the proponents of this amendment want to do is gut the moratorium bill and stop the regulatory reform effort. Over and over again we keep hearing about what horrible things we are going to inflict on the American people through this moratorium. We have heard it from the White House, from a number of the executive agencies, and from certain Members.

Clearly the other side has run out of ammunition against this bill and has resorted to the lowest of politics in trying to scare the American people beyond what is even contemplated by the moratorium.

The bill cannot be written more clearly. The moratorium exempts regulations that are needed to protect against imminent threat to health and safety.

Their examples of such regulations could include food regulations on E. coli bacteria, medical testing regulations for cancer. The President, in the bill, the President decides when written by the head of the agency whether that particular regulation ought to be exempted.

Remember, it is up to the Federal agency to identify which regulations should be exempt from the moratorium.

And I finish with this, if the President of the United States had shown any leadership on regulations, we would not even be discussing this bill at all.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the committee.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, no one can see E. coli, salmonella, or any other bacteria on meat. Visual inspection is inadequate. Only microbial testing, as could be required under the U.S. new meat inspection rule, can tell whether the meat we feed our children might actually kill them.

At our committee's markup of this bill, we had a young woman who appeared who lives every day with the tragedy that can come from bacterial contamination of meat.

Mrs. Nancy Donely from Chicago, IL, lost her 6-year-old son, Alex, in July of 1993 after he ate E. coli contaminated hamburger meat. She has made the safe food campaign her passion. She led opposition to the meat industry's efforts recently to dispense with sampling hamburger for E. coli. She is a very strong advocate for the USDA's new meat inspection regulations.

Mrs. Donely has said Alex's last words to her were, and I quote, ''Mommie, don't worry.''

For us not to worry that we have failed to protect little children like Alex from illness and death caused by bacteria-contaminated meat, we have to vote to exempt the meat inspection regulations from the moratorium in this legislation. It just seems to me that there is a commonsense way to go about any kind of bill that would put a moratorium on something that is so important as the food we eat, as the water we drink, as the air we breathe, as benefits we give to all American people, that we simply cannot fail to pass this amendment offered by the gentlewoman from New York.

□ 1520

It just makes good sense in order to do so. Nobody wants to be accused of not protecting our children. We hold our children to be the most precious possessions, and in order for you to continue to protect their health, we certainly have to vote for this amendment.

Mr. Chairman, I rise in support of the gentlewoman's amendment.

All Members should support this amendment. Unless we explicitly exclude the new meat and poultry inspection rule from the moratorium, the Department of Agriculture has told me that they do not believe the rule would qualify for an exception under the bill's exception for rules that are needed to deal with imminent threats to health or safety.

You will likely hear the proponents of the bill claim that they have taken care of this problem in the committee report, and there is no need to worry. Be on notice, however, that in order to exempt the new meat and poultry inspection rule from the moratorium, the Department of Agriculture would have to determine that failure to issue the rule would pose an imminent threat to the public health or safety.

Now, I want to make sure each Member of this House understands completely that the Department of Agriculture does not believe it could make the determination necessary to exclude this regulation.

Let me read from a letter I received from Michael R. Taylor, Under Secretary of Agriculture for Food Safety, that is dated February 22, 1995. It says in part that:

All work on the FSIS [Food Safety and Inspection Service] Pathogen Reduction/HACCP proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country to encourage public participation in the rulemaking processs and answer technical questions would need to be canceled. The adverse impact on food safety is an important reason why the Administration opposes the passage of H.R. 450.

So, should we care that the moratorium would block implementation of the new meat and poultry inspection rules?

I firmly believe we should. Meat and poultry sold to the American consumer are currently being inspected under procedures that were implemented in 1907. These 82-year-old procedures simply call for visual inspection of animal carcasses.

The meat inspection rule that the Department of Agriculture published recently in the Federal Register represents a drastic improvement over this outdated, outmodied system. This regulation would, for the first time, simply require that processors test meat and poultry regularly for bacteria. This regulation is also the Agriculture Department's long-awaited response to the massive food borne illness outbreak that spread across the west coast 2 years ago.

No one can see E. coli, salmonella, or any other bacteria on meat. Visual inspection is inadequate. Only microbial testing, as could be required under the USDA new meat inspection rule, can tell whether the meat we feed our children might kill them.

At our committee's markup of this bill, we had a young woman appear who lives each day with the tragedy which can come from bacteria contamination in meat. Mrs. Nancy Donley, from Chicago, IL, lost her 6-year-old son, Alex, in July of 1993, after he ate E. coli contaminated hamburger meat.

She has made the safe food campaign her passion. She led opposition to the meat industry's efforts recently to dispense with sampling hamburger for E. coli, and she is a strong advocate for the USDA's new meat inspection regulation.

Mrs. Donley has said that Alex's last words to her were, ''Mommy, don't worry.''

For us ''not to worry'' that we have failed to protect children like Alex from illness and death caused by bacteria contaminated meat, we must vote to exempt the meat inspection regulation from the moratorium in this legislation.

I completely disagree with the proponents of this bill that we should delay for 1 minute, much less 6 months, the implementation of regulations that can require the testing needed to detect bacteria on meat. Only such testing will reduce the number of deaths and illnesses from food poisoning.

Mr. Chairman, the gentlewoman's amendment would exempt from the moratorium rules that provide important protections for the public health. If the proponents of the bill feel so strongly that their bill exempts these matters, then we need to make that point explicit and clear in the bill itself.

When concerns were raised in the committee about the moratorium's possible application to bank and tax regulations, these matters were excluded from the bill. We should do the same thing for the important food and water safety regulations addressed by the gentlewoman's amendment.

I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the chairman of the Subcommittee on Civil Service, the gentleman from Florida [Mr. MICA].

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

Mr. MICA. I thank the gentleman for yielding this time to me.

Mr. Chairman, ladies and gentleman of the House, I cannot believe what the other side of the aisle is saying. Let us really get the facts straight here.

They are accusing us of delaying. They are accusing us of endangering health and welfare.

Well, let me say this: I served on the subcommittee that oversaw this matter, so I know in depth what tool place. The problem with E. coli bacteria is not anything new. The report goes back to May 21, 1993. The question about risk-based inspections and the need for monitoring meat and poultry are here in these reports that span the length and breadth of this administration.

Come on, let us get the facts straight here. What is going on?

Mike Espy said at a press conference, May 1993, he said, ''The regs are on the way. I have directed FSIS officials to publish in 90 days.''

Do not give me that.

Let us see what the New York Times said about delays in this process. This is an article in the New York Times, June 9, 1994.

The decision by the Agriculture Department in 1993 which spared Tyson and other poultry producers from rigorous inspections brought a chorus of complaints from the meat packers and consumer groups about enforcement of an industry with longstanding ties to the President.

Come on, let us not scare the people of this country. We also know that we heard in those hearings on E. coli bacteria, people were told to cook their meat.

The point brought up about Milwaukee, here is another example: There are 53 water contaminants mandated by this Congress in regulations to study and the Milwaukee contaminant was not one of them. The blame is here. We are not delaying anything.

You saw the chairman of this subcommittee stand up and give an explanation of the exemptions for public health, safety, and welfare.

I tell you, ladies and gentlemen, this is not going to do anything to endanger any child or any individual. It is not going to endanger the health, safety, and welfare of one American.

What we are doing is we are saying we are overregulating. We are saying—why not concentrate on real problems.

We are passing regulation after regulation that does not make any sense. We are tying up industry, business, and local government, and the people of this country are rebelling against that regulation. That was the message on November 8, and that is the message today.

If we want to look at delay, if we want to look at reasons for endangering the health and welfare and safety of people, look at what this administration has done, look at the delays that have been caused here. The date of this rule is February 4, 1995. That is when it came out. Those are the facts.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT], a member of the committee.

Mr. SPRATT. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, the problem we had in committee with this is the language of the bill itself. The imminent threat to health or safety exclusion falls under section 5, which is emergency exceptions. So the context of this is there must be an emergency and there must be an imminent threat.

We tried to rewrite this language so it would clearly apply to cases of food health and safety, to no avail.

So I ask the other side, and yield the time necessary to get an answer: Is the bill, is the regulation which deals with E-coli, with salmonella and other food pathogens, is that sort of regulation sufficient to come under this exclusion? Will they state for the record whether or not this sort of regulation would be excluded under this language, since they seem to imply that it already is? Is that what they are saying, that the regulation is already excluded? Or are they saying this kind of regulation dealing with food-borne pathogens, E-coli, salmonella, are they saying it is so excluded that it is unnecessary to have this amendment?

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. I thank the gentleman for yielding this time to me.

Mr. Chairman, I do not know how many of you have read this rule. This is the rule that is being talked about. I think everybody should take a copy of it and read it; that is, the proposed rule.

You know, we need to get back to what the situation is. First of all, if the department knows how to reduce the threat to health and safety, they have the power to do that without having to go through rulemaking already.

Second of all, there is nothing in the proposed rule that is going to guarantee that we are going to have—we are not sure. Some people think what is in here is going to reduce the risk, and some people are not so sure it is not going to cause more problems. So there is a difference of opinion on the issue.

There are different aspects in this regulation. Some of this regulation does not go into effect for 4 or 5 years. So it is way beyond the moratorium. There are some specific issues that may do some good: The antimicrobial rinsing provisions that are in this bill where they are going to ask the companies to have that as standard operating procedure. Some folks argue that, by putting the Federal regulation in place, we are actually going to get in the way of industry.

So I do not think that you can argue that holding up parts of this bill, this rule, if they are held up, which I do not think they will be, is going to make any difference. They were 3 years getting out in the first place.

Lastly, we had this discussion about cryptosporidium in the committee. You know, this is a problem, and we got all the groups together, the water organizations, to discuss how to deal with this, and they all agreed what they should do. I do not believe we need a Federal rule or regulation to accomplish this. The testimony was that they all agree what needs to be done, they can go out and do it. Why do we have this mentality in this country that unless the Federal Government mandates that you regulate or that you do a rule, that it cannot be done? Clearly, this case is being taken care of with the local communities working together. We do not need a rule in that area.

So this is covered in the exception, and I oppose the amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield the remaining 1 minute to the gentleman from Virginia [Mr. MORAN], a member of the committee.

Mr. MORAN. I thank the gentlewoman, my friend from New York [Ms. SLAUGHTER] for yielding to me.

This amendment would do 3 things: It would enable us to regulate pathogens in meat and poultry, deadly microbes in drinking water and lead in canned food. Those are the 3 specific regulatory areas we are trying to insure will continue.

You heard from Mr. BARRETT, who represents Wisconsin, where thousands of people in Milwaukee got sick because of cryptosporidium in the water supply. The Environmental Protection Agency was able to take that experience, and when they found cryptosporidium in the Washington area water supply, they were able to stop it. As a result, we did not have thousands of people getting sick in the Washington area.

What they now need to do is to determine what the appropriate tolerable level of cryptosporidium is. They need to conduct the experiment. This would prevent them from being able to do that.

You know, I cannot imagine why we would want to prevent these kinds of what are really both common sense and terribly important regulations.

On the one hand you say we ought to leave it up to the administration to exercise judgment, and the rest of the time they spend criticizing the administration for exercising poor judgment. Let us get the law protecting the America.

Mr. CLINGER. Mr. Chairman, I am pleased to yield the balance of time to the gentleman from Wisconsin [Mr. GUNDERSON], who is a member of the committee and who is also an expert in this area.

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

□ 1530

Mr. GUNDERSON. Mr. Chairman and Members, I rise in opposition to this amendment, and I do so because this amendment frankly is exactly why we need regulatory reform. The fact is that what this amendment is trying to do is to preserve a rule making regulatory process of the Department of Agriculture that does not repeal the existing regulations. It just overlaps a whole bunch of new regulations on top of existing regulations at a cost of $750 million for implementation, $250 million annually, and then on top of that they are doing this without any kind of comprehensive meat inspection reform. Comprehensive meat inspection reform means you change the law and you change the regulations. You got to do both. They are trying to pick one thing up in isolation and say they have got to do that. As has been articulated earlier here, my colleagues, they do not need this exemption to deal with critical food safety issues. They did not propose this regulation until 20 months after the E. coli outbreak occurred, and so this is all face-saving propaganda that has nothing to do with comprehensive meat inspection reform. The subcommittee will take that issue up, and we will bring it to this Congress.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN].

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

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER]

Mr. Chairman, I rise in support of the amendment to H.R. 450 the Regulatory Transition Act offered by my colleague from New York, Ms. SLAUGHTER. This amendment is the least that should be done to minimize the damage to public health that will result if this ill-conceived piece of legislation is enacted.

I note that we once again have a narrow time-limit to debate and amend a hastily-crafted bill here on the floor. I would have to agree with the majority that we may as well not use more than 10 hours on H.R. 450. All the time in the world would not be enough to improve this bill, and it would take us many days to enumerate all the regulations that protect human health and safety, ensure workers a

safe workplace, protect our food supply, maintain and improve our environment, create jobs, and save taxpayer and consumer dollars.

I will offer one such example of a set of regulations that would be stiffled by the enactment of this bill: the regulations to improve our meat and poultry inspection system. The Food Safety and Inspection Service recently issued a proposed rule to modernize our meat and poultry inspection program. This rule has been in development for quite some time. The need for improvements to our inspection system were brought to national attention through the tragic deaths of a number of children 2 years ago when they became the victims of an outbreak of a food-borne illness. Ten years ago, the National Academy of Sciences recommended that FSIS develop a program that would control contamination from pathogenic microorganisms. A GAO study completed in May of last year recommended that FSIS develop a mandatory hazard analysis and critical control point system. USDA has now followed this wise advise. Why should this regulatory action be postponed? Do we need a few more outbreaks of food-borne illness or a few more deaths to qualify this rule for an exemption from this moratorium?

The FSIS estimates that compliance with this rule will cost industry $2 billion over a 20-year time period. However, it is estimated to save 3 to 12 times that amount in public health costs, not to mention that it will save lives. How much does it cost the restaurant industry and the meat and poultry industry if an outbreak of a devastating disease results in public perception that their products are unsafe? Too much.

The assumption that underlies this legislation is that all Federal regulations are unjustified. This is ridiculous. Some of our children grow up to be criminals. Should we put a moratorium on the birth of any additional children until we find a solution to that problem? Let us not throw out the baby with the bathwater. This bill proceeds from an incorrect assumption and then broadly applies a one-size-fits-none solution to regulatory problems associated with some specific statutes.

There are statutes that we have enacted that have not enabled Federal agencies to pursue the most cost-effective regulatory pathways. They should be improved. Instead of jeapordizing public health and safety through passage of one-size-fits-all legislation, let us do regulatory reform as it should be done. We need to use a common sense, responsible, statute-by-statute approach to achieve the sensible, cost-effective regulatory policy that industry and the public deserve.

The CHAIRMAN. All time on the gentlewoman's amendment has expired.

The question is on the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER].

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

RECORED VOTE

Ms. SLAUGHTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 249, not voting 8, as follows:

[Roll No. 161]

AYES—177

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—249

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Andrews
Barton
Ehlers
Frost
Gonzalez
McCarthy
Meek
Zimmer

□ 1550

The Clerk announced the following pair:

On this vote:

Mrs. Meek for, with Mr. Barton against.

Messrs. LIVINGSTON, BROWDER, CRAMER, and BROWNBACK, Mrs. LINCOLN, and Mr. WILLIAMS changed their vote from ''aye'' to ''no.''

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Burton of Indiana: In Section 6(3)(B)(ii), after the comma following ''agreements'' insert the following: ''including all agency actions required by the Uruguay Round Agreements Act,''

The CHAIRMAN. Pursuant to the order of the House, the gentleman from Indiana, [Mr. BURTON], and a member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the statement I am about to make, while it applies to the textile industry, other parts of the GATT agreement that apply to steel, auto parts and possibly other industries would also be positively impacted by this amendment.

Mr. Chairman, I offer this amendment to the Regulatory Freeze Bill, H.R. 450, to prevent this legislation from inadvertently thwarting an action specifically mandated by Congress on an important matter pertaining to Customs Service rules of origin.

Congress was very clear on what it wanted Customs to do last year when it approved the Uruguay Round Agreements Act, because that legislation spelled out in precise detail how the U.S. Customs Service would be required to promulgate this rule of origin for textiles and apparel. There is no leeway for the bureaucracy to make any interpretation because Congress told them what to do. The regulation was actually spelled out for Customs when Congress approved these principles as part of the Uruguay Round implementing legislation.

For years the United States Customs Service has used a cutting rule of origin which permits country-of-origin status to be determined by where a garment is cut, not where it is actually made. This has enabled China to ship billions of dollars worth of goods through third countries in circumvention of the quotas they have agreed to.

No other major country has used such a liberal rule of origin requirement which permits quota evasion. And in the Uruguay Round agreement itself, the signatory nations agreed to work to standardize the rules of origin for textile production and products.

Accordingly, the U.S. Customs Service recommended and this Congress agreed, as part of the Uruguay Round implementing bill, to bring our Customs rules in line with the rest of the world.

What I am offering today is an amendment to clarify that these regulations, which were considered and duly voted on by the Congress and which by law must be issued shortly, will be exempted from the regulatory freeze. There simply is no need to freeze actions which have been directed by the Congress.

And I would like to once again state, Mr. Chairman, that the amendment is drawn in such a way as to positively impact on other industries such as the steel industry and auto parts industry.

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

The CHAIRMAN. Does the gentlewoman from Illinois [Mrs. COLLINS] seek recognition in opposition to the amendment?

Mr. CLINGER. Mr. Chairman, I ask unanimous consent that if no Member is prepared to seek to control the time in opposition to the amendment, that the time might be given to the gentlewoman from Illinois [Mrs. COLLINS].

Mr. VOLKMER. Mr. Chairman, is the gentleman's request that the time in opposition be given either to the gentlewoman from Illinois [Mrs. COLLINS] or to the gentleman from South Carolina?

Mr. CLINGER. Mr. Chairman, that is my request.

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

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I would just say that this is an outstanding amendment. I think it is supported by all Members on this side that I know of. It is much needed to this bill.

It is interesting to me, though, that an amendment like this that is providing an exception, like the one before, there will be others after it, is going to now be accepted by the majority. I agree with that, but I do not understand the philosophy of the majority. Perhaps the chairman can elaborate on that, why they can accept certain ones as exceptions and not others. Can the gentleman from Indiana tell me why?

Mr. BURTON of Indiana. Mr. Chairman, reclaiming my time, I yield to the gentleman from Pennsylvania, [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, in response to the gentleman from Missouri, my position is, I do not really think the amendment is necessary, because I think that it is covered under the existing exceptions that are provided for foreign affairs and because there is a trade exception under the bill. But I do not think that, in other words, I think it may be covered but to ensure that, we would certainly accept this amendment.

□ 1600

Mr. VOLKMER. Mr. Speaker, the gentleman did not say that on the last amendment.

Mr. BURTON of Indiana. It may be an interpretation of what is really insurance as far as these industries are concerned.

Mrs. COLLINS of Illinois. Mr. Chairman, will be gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I would like to pose a question.

The gentleman's amendment refers to rules, ''as required by section 334 of the Uruguay Round Act.''

Under the bill, there is an exclusion in section 6(3)(B)(ii) for rules relating to ''statutes implementing trade agreements.''

Why, therefore, I would ask the gentleman, does he believe his amendment is necessary?

Mr. BURTON of Indiana. Mr. Chairman, I would say to the gentlewoman, I think I agree with what the chairman said, that it probably is not absolutely necessary. However, there are a number of industries in this country that feel like there needs to be some insurance that there is no misinterpretation. That is why we have offered the amendment, to make sure they feel comfortable with this piece of legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I agree with the gentleman's concern. As a matter of fact, I have a couple of concerns myself.

One, of course, has to do with the textile and apparel workers. I have a lot of those in the city of Chicago, and I know this moratorium bill would have made it more difficult for customs to stock illegal textile imports, so I am going to support the gentleman's agreement.

I am also concerned that H.R. 450 could stop our Government from imposing sanctions against China for pirating copyrighted United States products, like compact disks and videocassettes. I would also like to think that that would also clarify that those sanctions would not be permitted, as well.

Mr. BURTON of Indiana. Mr. Chairman, I think it could be interpreted to be broad in that regard, too.

I would just reclaim my time and thank the gentlewoman for her comments. I think this amendment speaks for itself, and I would rather not get into a lengthy discussion on China and other things of that type. However, I do think this amendment is broad enough that it probably covers a lot of those concerns.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

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

Mr. GILMAN. Mr. Chairman, I am pleased to rise in strong support of the amendment offered by the gentleman from Indiana [Mr. BURTON]. This amendment would ensure there would be no interruption in the rulemaking authority for the Rules of Origin provision contained in the Uruguay Round Agreements Act. It is of great importance to the textile and the apparel trade during the current 10-year phase out period for all import quotas on these products.

The rules of origin provision has the full support of the U.S. textile and apparel unions and trade associations representing some 2 million American workers.

Adoption of this amendment is also essential to help to deter fraud and abuse of the Rules of Origin by several leading exporting countries.

Under the new rules, the country of origin is where the garment is assembled or where the fabric is woven.

The illegal transshipment of apparel products has in the past been a key irritant in our bilateral relationship with China. I ask my colleagues for their support for this provision, which will prevent any future efforts by China to export garments into this country illegally under the quota of its neighbors, including Hong Kong and countries in Asia and Latin America.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, as I said earlier, I am very concerned about the fact that there should be some kind of sanctions imposed against China for pirating patented and copyrighted United States products, such as compact discs and videocassettes, and the Trade Representative has recently announced those sanctions.

They would be implemented pursuant to a rule printed in the February 7, 1995, Federal Register. Few challenge our findings that China has violated the intellectual property rights of American companies. We know of at least 29 factories in southern China which produce 75 million compact discs a year, of which 70 million are exported.

These pirated copies are competing directly with U.S. exports, and cost the copyright industries of the United States almost $1 billion in lost exports each year. For the past 20 months we have been negotiating with China in an effort to get them to agree to stop these pirating activities. Those efforts have failed.

In documents provided to the committee by the Office of Management and Budget, H.R. 450's impact on the China sanctions is described in this way: ''The moratorium would hold up the trade sanctions and subject them to challenge, affecting the administration's ability to set trade policies to protect U.S. firms and consumers.''

Therefore, I am very happy about the gentleman's amendment. The reality is that the sanctions the administration has said it would impose on China are the only leverage we have to encourage the Chinese to stop pirating United States copyrighted products.

Why would we ever want to make it more difficult for the administration to get the Chinese to stop violating United States intellectual property rights? Similarly, a proposed rule published in December by the Customs Service would establish a 180-day conditional release period for imported textiles and textile products, during which it can be determined whether a product is entitled to entry into the U.S. market.

It is well-known that many foreign countries successfully avoid U.S. textile quotas by shipping their products through a third country. The conditional release period provided for in the new rule would have given Customs the time it needs to verify country of origin and to stop illegal shipments from entering our country.

In documents provided by OMB, the impact of H.R. 450 on the rule is described in the following way: ''Textiles will continue to enter the United States illegally due to lack of a provisional approval period, unfairly competing with products from domestic textile producers.''

Therefore, it just makes all kinds of sense to have the gentleman's amendment. Mr. Chairman, it is just about time for us to look very carefully at the kinds of rulemaking that would be stopped if H.R. 50 were not amended by some real sensible amendments, so I thank the gentleman for offering this, because it certainly does a great deal to help those people in my district who are textile workers, and those in my district who are very concerned about the fact that there is so much copyrighting of videocassettes and compact discs.

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

Mr. BURTON of Indiana. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I think this is a fine amendment. It was an oversight that it was not included in the original bill. Mr. Chairman, I urge our Members to vote for it. It corrects a situation for the textile and apparel industries that badly needs to be realized and corrected.

I commend the gentleman from Indiana [Mr. BURTON] for sponsoring this amendment, and I join hands with him to get it passed.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was agreed to.

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

Mr. Chairman, I yield to the gentleman from California [Mr. RADANOVICH].

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

Mr. RADANOVICH. Mr. Chairman, I am told that I may inform my colleagues in this House that I have an amendment to offer, but in the interest of ensuring the speedy passage of H.R. 450, I will not offer the amendment, but instead start a dialogue concerning an issue which must be dealt with in the near term. That issue is the regulation concerning ''fresh'' and ''frozen'' chickens. My points are these:

Why cannot this wait until the moratorium is over?

Shoppers across the country are paying anywhere from 40 cents to 1 dollar more per pound for chicken they think is fresh, when it isn't. This means that American homes are being defrauded of millions of dollars each year and to wait means we are sitting back and knowingly allowing this fraud to continue for an entire year.

In California in particular, it would mean another year in which out-of-state processors can intentionally undersell regional producers by misrepresenting their product. The industry has 25,000 employees and has steadily lost market share to frozen chicken sold as fresh.

How long has this fight been going on?

USDA has been trying to change this rule since 1988. The Food Safety and Inspection Service changed it's policy to stop the use of the term ''fresh'' on frozen chicken, but powerful national poultry producers intervened and stopped the new policy from going into effect.

The California legislature tried to act on its own to prohibit mislabeling in September, 1993. When they were stopped from doing so by a Federal court, they started working to persuade USDA to adopt a better standard for the whole country.

□ 1610

Mr. Chairman, based on these concerns, I urge the Committee on Agriculture to consider in some appropriate context the passage of a special allowance for this regulation. I find it difficult being a small businessman with this kind of concern, and I support fully H.R. 450, but I wish that in this particular area, a consideration would be given.

Mr. Chairman, I submit for the RECORD a short fax sheet explaining the history of this problem, as follows:

THE FRESH CHICKEN CONTROVERSY

Historically, national poultry producers have been putting fresh labels on frozen chicken. They freeze their chicken rock solid, label it fresh, truck it across the U.S., thaw it out locally and sell it to consumers as if it had never been frozen. These producers know that consumers will pay a premium for fresh food, but consumers don't know they're being duped.

On July 11, 1988, after months of scientific analysis, the Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) issued Policy Memo 022B, raising the fresh poultry labeling standard from 0 to 26 degrees Fahrenheit. This meant that national producers could no longer put fresh labels on chicken chilled below 26 degrees—the actual freezing point for poultry. National producers were not happy with this policy change.

On January 11, 1989, despite FSIS's scientific conclusions six-months earlier, USDA abruptly rescinded Policy Memo 022C and restored the old standard allowing producers to once again freeze chicken as low as 1 degree Fahrenheit and still label it as fresh.

In 1993, the California legislature unanimously passed a law mirroring the short-lived Federal standard of 26 degrees. The National Broiler Council and the Arkansas Poultry Federation sued, arguing that a

state cannot pass a more stringent labeling rule than the U.S. government. USDA filed a brief in the lawsuit supporting the poultry industry position. A Federal court blocked enforcement of California's law on jurisdictional grounds on April 8, 1994. The issue was appealed.

Many other states, including New York, Arizona, Oregon, Maine, Alaska, Illinois, Washington and Puerto Rico, have passed poultry labeling laws regarding the definition of ''fresh'', as well as organic and kosher production and processing.

On February 10, 1994, USDA Secretary Mike Espy issued a press release, pledging that USDA would direct the Food Safety and Inspection Service (FSIS) to reexamine whether current policy on fresh labeling is reasonable.

On June 16, 1994, the Government Operations Subcommittees on Human Resources and Intergovernmental Relations and Information, Justice, Transportation and Agriculture conducted a joint hearing on USDA rules concerning ''fresh'' labels on poultry products. Richard Rominger, USDA Deputy Secretary, testified that FSIS staff would review current policy on two tracks: evaluate scientific literature concerning temperature effects on poultry, and, conduct regional hearings to assess consumer expectations. These results would form the basis of any policy revision regarding labeling of ''fresh'' poultry.

Support for a new rule continued to grow. Well-known and respected consumer groups urged Secretary Espy to act, including Consumers Union, Consumer Federation of America, National Consumers League and Public Voice for Food & Health Policy.

On July 27, ''The Truth in Poultry Labeling Act of 1994'' was introduced by Senators Boxer and Feinstein and Representative Condit in the 103rd Congress. The Senate approved Senator Boxer's Amendment to S. 2095 expressing the sense of the Senate that delays in proposing a new rule must be ended and a decision must be made ''as expeditiously as possible.''

FSIS Administrator Michael R. Taylor promised Senator Barbara Boxer and Representative Condit that truth-in-labeling would be addressed on a ''fast track''.

On August 26, 1994, USDA Food Safety and Inspection Service announced public hearings on the use of the term ''fresh'' on the labeling of raw poultry products to be held on: September 12, 1994 in Modesto, California; September 16, 1994 in Atlanta, Georgia; and September 20, 1994 in Washington, D.C., to assist FSIS in developing a new policy.

Consumer advocates, chefs, consumers and home economists came forward and testified at these public hearings across the country that it was time for USDA to listen to consumers and end mislabeling of poultry.

In a letter to Senator Boxer and Congressman Condit. USDA promised a rule before Thanksgiving.

On December 14, 1994, a victory was won by California consumers when the Ninth Circuit Court of Appeals reinstated the provision making it illegal for poultry frozen below 26 degrees Fahrenheit to be advertised or sold as fresh.

Consumer advocates Public Voice for Food and Health Policy and the National Consumers League implored USDA to change federal labeling laws so that all Americans are afforded the same protection against the misrepresentation of frozen chicken being sold as fresh.

On December 21, 1994, Senator Boxer again urged USDA Deputy Secretary Rominger to expedite rule-making, particularly in light of the recent California Court decision. Deputy Secretary Rominger again assured her that a proposed rule would be announced within four weeks. Consumers, chefs, consumer advocates, home economists and members of Congress continue to anxiously await USDA's resolution of this priority issue.

While USDA drags its feet, Congressman Condit introduces H.R. 203, ''The Truth in Poultry Labeling Act'' in the 104th Congress.

On January 17, 1995, FSIS finally acts and releases a proposed regulation on labeling ''fresh'' poultry prohibiting the use of the term ''fresh'' being used on raw poultry products whose internal temperature has gone below 26 degrees and requiring thawed products which have gone below 26 degrees to be labeled ''previously frozen.''

Truth-in-advertising and honest labeling have not yet been achieved. Consumers, consumer advocates, poultry producers, and other supporters who believe in honest labeling can tell USDA to not bow to the pressure of those producers interested in continuing to mislead the public. FSIS must be vigilant in preserving the rights of consumers. Comments to the Federal Register will be accepted until March 20, 1995.

A federal rule on poultry freshness will not stop national producers from selling chickens nationwide, nor will it stop them from selling at lower prices than in-state growers; it will simply enable consumers who wish to pay a premium for freshly killed poultry to make an informed selection.

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

Mr. CLINGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I had an amendment to do the very same thing. I still plan to offer it, if time allows, because I have been in contact with USDA and the general counsel over there, and they advise me that these regulations will not be able to go forward if this bill passes and becomes law as it is presently written. What it will mean is that the matter now being proposed at USDA to correct the problem that the gentleman has in California will not be done.

So I think that the gentleman surely would join with me in that amendment if we get an opportunity to do it.

Mr. RADANOVICH. I wish to raise the issue, but I have no intention of stopping the speedy passage of H.R. 450.

Mr. VOLKMER. What do you mean? You had rather not take care of the problem?

Mr. RADANOVICH. I had rather it be taken care of in the Committee on Agriculture.

Mr. VOLKMER. Committee on Agriculture. How are we going to do it in the Committee on Agriculture? I am a member of the Committee on Agriculture.

Mr. RADANOVICH. I am not interested in slowing the passage of H.R. 450, sir.

Mr. VOLKMER. Yippee.

AMENDMENT OFFERED BY MR. SPRATT

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

AMENDMENT OFFERED BY MR. SPRATT

At the end of the bill (page , after line), add the following new section:

SEC. . REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, Interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator or the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administrater laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce Intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7320).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1983 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licensee utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased

competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking ws published on February 9, 1995 (60 Fed. Reg. 7118).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

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

Mr. Chairman, I rise to support the Spratt-Payne-Coble-Ballenger-Hefner-Rose amendment to H.R. 450.

Basically, Mr. Chairman, this amendment carves out several selected exceptions to this regulatory freeze to allow for rules that American businesses have actually sought and supported. Our amendment would mean the moratorium would not apply to five subject areas:

No. 1. Trade sanctions against China. Mr. Chairman, if this bill passes, the administration may, I cannot say this with any certainty, but it may be barred or at least impeded from imposing sanctions against China for pirating our patents and copyrights. Section 6 of the bill does exclude from the freeze ''statutes implementing international trade agreements.'' But the sanctions we would impose upon China do not implement any international trade agreements, they are sanctions imposed under our own trade laws. So they may not be precluded as a rule-making action as this bill is written now.

Our amendment would make certain simply that we can sanction China for pirating our patents and copyrights, and I do not see how anybody can oppose that.

No. 2. Implementation of the so-called Customs Modernization Act. American exporters and importers alike support the Customs Modernization Act because it cuts costs and cuts delays as well. The Customs Service supports it because the Modernization Act saves millions of dollars and allows Customs to streamline its operations and get rid of obsolete requirements. H.R. 450 will potentially stop Customs from implementing by regulation all parts of the Modernization Act. Surely there is no reason for us to do that. The Spratt-Payne-Coble-Ballenger-Hefner-Rose amendment would ensure that this bill does not inadvertently get in the way of Customs modernization. There is nothing wrong with that.

No. 3. Wider access to telecommunications, the so-called auction of the spectrum. H.R. 450 will potentially suspend rules that govern the auction of the spectrum that have been issued recently and it could require the FCC to shut down its auction for as much as the next 10 months. Since December, these FCC auctions have raised $6.1 billion. Do we want to have H.R. 450 stop the Government from collecting revenues of this magnitude for the rest of the year? Do we want to prevent the FCC from making available additional spectrum to police and public safety officials under new and revised regulations? Our amendment would make certain that we do not do that.

No. 4. Improved opportunities for regional stock exchanges. The SEC issued rules this month to allow for increased competition among regional stock exchanges. H.R. 450 would freeze these rules with all others. Our amendment would simply ensure that they go forward.

Finally, Mr. Chairman, Customs is about to issue textile rules of origin which we just talked about that will authorize our Government to stop exporting countries like Hong Kong from shipping to us goods under their quota which are actually made in China. This is a form of fraud. Surely we do not want to block rules that crack down on fraudulent trade. That is why we just accepted the Burton amendment, but mine goes further and deals with other textile and apparel import rules and regulations that deal with fraud, evasion and circumvention.

For example, Customs has recently issued another rule that stiffens the penalties against textile transshipments which are a form of fraud and quota evasion. This amendment would simply allow that these regulations against trade fraud and evasion take effect. That should not be objectionable to anybody, particularly since the Burton amendment was just accepted without objection without any more than a voice vote.

I say to my colleagues, regardless of how you want to vote on H.R. 450, you ought to vote for this amendment. If you want to have our Government have the power to impose trade sanctions upon China, you should vote for this amendment. If you want to see the auction of the spectrum and the billions of dollars it is generating in revenues for the Treasury go forward under new clarified rules of procedure, then you should vote for this amendment. If you want to crack down on fraud and evasion by countries that ship billions of dollars into our markets but flout our rules of trade, then you should vote for this amendment.

These are regulations, as I said at the outset, that American businesses have sought and supported, many of us in this House have sought and supported them, and we gain nothing and we lose a lot by freezing actions on them for 13 solid months.

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

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

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

Mr. Chairman, basically I think the same argument would apply to this as would apply to some of the others that have been suggested, and, that is, whether this would accomplish what the gentleman really seeks to accomplish. It seems to me that we have provided an exemption here that would deal with the issue that the gentleman raises. I gather there are two issues raised in this amendment. The one on the textile element was not covered by the last amendment, may I ask the gentleman?

Mr. SPRATT. If the gentleman will yield, it was only partially covered by the last amendment, because the last amendment went to the rules of origin which are a legally dictated rule that was imposed upon the Treasury Department by the GATT-implementing legislation when it was passed. This deals with a wider spectrum of rules and regulations that apply to fraud, evasion, circumvention, textile trade fraud, more than just the rules of origin problem.

Mr. CLINGER. Specifically what do you provide with regard to the FCC?

Mr. SPRATT. There are rules now pending which have been issued by the FCC that will deal with additional auctions of the spectrum in a certain megahertz range. We will have members of the Committee on Commerce come here shortly and speak to that. But basically if those rules do not go forward, then the auction itself could be impeded and billions of dollars could be in jeopardy.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, it is my understanding that much of the provisions that are being discussed in this amendment actually can go forward under the exceptions that we currently have in the bill. Specifically those dealing with the FCC licensing provisions, we have an exemption for licenses that would allow the FCC to go ahead and issue all of those licenses. It is my understanding that it is their practice to implement their policies on a license-by-license basis, be able to go forward, both with the auction and the other licenses that they would seek to offer.

In terms of the regulations regarding trade in the textile area, to the extent those are related to an international trade agreement, the exception there would apply. Those that are related to fraud in a criminal sense would be able to go forward under the exception allowed for regulations necessary to enforce criminal statutes.

For those reasons, I think the real gravamen of this amendment is taken care of already in the bill and we do not need to have special exceptions in this case.

□ 1620

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the ranking member of our committee, the gentlewoman from Illinois, [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Carolina.

Business loves to complain about burdensome Federal regulation, but the fact of the matter is that business also benefits from Federal regulation. The regulations included in the gentleman's amendment make this point very clear.

The regulations issued by the Federal Communications Commission which are contained in the Spratt amendment are good examples of Federal regulations that benefit business. The FCC has a rulemaking under way pertaining to mobile wireless radio services, such as wireless fleet dispatch communications.

There is a company in Chicago, NEXTEL, which is eager to compete in providing this service, and they need this rule issued to be able to compete effectively.

Why would we want this moratorium to apply to rules like this? Are we against regulations that will produce revenues for the Federal Treasury and increase competition?

NEXTEL does not believe the exclusions in the bill protect them, and they have said so in a letter to me. They would not be eligible for the exclusion for new technologies. Their technology is already being offered in Los Angeles, and as of last month in Chicago as well. But, to compete with other telecommunications firms, NEXTEL needs the common carrier status which this rule would grant it.

Furthermore, NEXTEL is by no means the only beneficiary of this rule. Until this new rule goes forward, more than 800 companies similar to NEXTEL all over the country, will be stopped from competing to provide wireless mobile radio services.

Finally, regulations will soon be issued by the Securities and Exchange Commission which will promote the competitiveness of regional stock exchanges in Chicago, Boston, Philadelphia, Cincinnati, Los Angeles and San Francisco.

These regulations would eliminate the time regional stock exchanges must wait before they can trade in new stocks listed on the principal exchanges.

I was a cosponsor of the Unlisted Trading Privileges Act under which these regulations are being issued. This legislation had strong bi-partisan support and passed the House three times before it was included in last year's budget reconciliation bill.

Why would we want to block implementation of regulations that will promote competitiveness of the regional stock exchanges?

Unless we are willing to surrender to foreign unfair trade practices and do not care about creating a competitive, state-of-the-art telecommunications industry, we should exempt these regulations from the moratorium.

I urge my colleagues to support the gentleman's amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

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

I will simply say, Mr. Chairman, that I was in favor of the Burton amendment, a good sound amendment, but I believe the Spratt-Coble-Ballenger-Payne amendment extends the propriety thereof and I think it extends it in areas that are needed.

Sanctions against transshipments and other forms of quota violations, in my opinion, Mr. Chairman, are epidemic and I think we need this additional amendment to address that.

Textile and apparel workers, my mom used to be one, worked at a hosiery mill, was a machine operator. I represent thousands of employees who earn their living to this day in textile miles, a very significant cog in the American wheel of industry.

I think this is an amendment that is needed. I think it will address areas that in my opinion the Burton amendment does not address, and furthermore, I think will do harm to no one.

I think it will enhance America's role, in fact, not just in the textile and apparel area but otherwise. I urge support of the amendment and I thank the gentleman for having yielded time to me.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in strong support of the Spratt, Payne, Coble, Ballenger, Hefner, Burr, Rose, Funderburk amendment to H.R. 450. While I am pleased that the gentleman from Indiana's amendment was accepted and I think it was a very important amendment. It does not address several other issues that are critical to American industry, particularly the American textile industry, while I am pleased our amendment on the other hand, does in fact speak to the needs of our industry.

Our amendment is a good government amendment. It protects American businesses and workers from unintended consequences of the regulatory moratorium. It allows several specific exemptions to the moratorium that American businesses want and need.

Our amendment will allow the Customs Service to continue its fight against illegal transshipments. These illegal shipments or textile and apparel goods represent up to $4 billion in lost sales every year to the American textile and apparel industry.

Last year, as part of the GATT implementing bill, the Congress directed the Customs Service to take additional measures to fight this serious transshipments problem. Unfortunately, the language of H.R. 450 would prevent the Customs Service from issuing regulations to implement what Congress specifically requested.

The Customs Modernization Act is also addressed. Importers and exporters alike have complained for years that Customs procedures and structures are badly in need of reform. In response to those concerns, Congress passed the Customs Modernization Act as part of the NAFTA implementing bill in 1993.

Since then, Customs has been proceeding in a very deliberate manner to reform itself in a way that will be more responsive to the businesses who depend on importing and exporting to survive.

However, this comprehensive, bipartisan, and widely supported effort will not go forward without the exemption that this amendment would grant.

Mr. Chairman, our amendment is aimed at just one thing: Preserving American jobs by preserving the competitiveness of American businesses.

I urge my colleagues to support this amendment.

Mr. CLINGER. Mr. Chairman, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

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

Mr. DINGELL. Mr. Chairman, I rise in support of the Spratt-Payne amendment. It is a necessary and important piece of amendatory legislation.

This bill is going to have some surprising effects, many harmful, and many which will surprise those who support it.

I refer specifically to the situation with regard to FCC regulations which govern the behavior of the entirety of the telecommunications industry.

I would point out to my colleagues that the amendment would prevent the suspension of a series of important regulations relating to the issuance of new licenses for operations of portions of the radio spectrum to assist the growth of our telecommunications industry.

I would tell my colleagues if these regulations are suspended, serious consequences occur. First of all, American industry is delayed in getting into the new telecommunications services. American business and consumers are hurt by that action.

Revenues are lost both to providers of service and to users of telecommunication services.

Beyond that, it will preclude the taxpayers from benefiting from the competitive bidding procedures established by the Congress in the 1993 reconciliation bill.

The Spratt-Payne amendment ameliorates to a large degree these deficiencies. It exempts from the sweeping scope of this legislation 3 important FCC regulations that create business opportunities and that protect the public interest.

It exempts those which protect the public safety and bring important revenue into the Federal Treasury.

The amendment also provides an exception for regulations issued last November that created the Personal Communications Services, the PCS's.

□ 1630

These regulations establish geographic areas that would be covered by PCS licenses. They establish the bandwidth and other circumstances associated with the behavior of licensees.

The regulations establish the basis for companies to bid for licenses at auction. In December, on the 5th day, the FCC commenced to auction the PCS licenses. This auction is still going on today. As of the close of business last night, bids totaling $6.3 billion had been logged into the FCC computers. When the three pioneer preference licenses are factored in, the total amount in FCC computers is $6.9 billion that would come to the taxpayers if the FCC is not precluded from including those revenues in those regulations because of the enactment of this, quite frankly, silly piece of legislation.

What will happen to these bids if the regulations that govern the licenses are suspended? Will the bidders such as AT&T or Pacific Telesis or any other bidders keep bidding? Will they continue to make payments to the Treasury hoping that the regulations will ultimately be permitted to take place?

Another regulation that the Spratt-Payne amendment would exempt from the allocation or, rather, from the provisions of this legislation, are allocations of 50 megahertz of radio spectrum the Federal Government has transferred to the FCC for new uses, something that the American manufacturing and telecommunications industry desperately needs. Potential users of these frequencies are police, fire, public safety users of the spectrum in our largest cities. There is a critical shortage of this spectrum.

I urge my colleagues to reject the language of the bill and to adopt the Spratt-Payne amendment.

Mr. SPRATT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from North Carolina [Mrs. CLAYTON].

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

Mrs. CLAYTON. Mr. Chairman, I rise in support of the Spratt-Payne-Coble-Ballenger amendment. It is important to textile workers and industry in North Carolina.

Mr. SPRATT. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time. I thank him and the gentleman from Virginia for making this amendment.

To follow on what the gentleman from Michigan was just referring to, we have two very important issues that would, in fact, be affected if we did not pass the amendment before us right now. No. 1, out of the Commerce Committee last year we passed legislation on something called unlisted trading privileges.

Now, it all sounds very technical, but the net result of it is that it allows the Philadelphia Stock Exchange, the Boston Stock Exchange, the Chicago Stock Exchange, Pacific Stock Exchange, Cincinnati Stock Exchange to get into all new activities in a much more telescoped timeframe than they have ever been allowed to engage in trading before. It is a real spur to competition out in the marketplace. It is something ultimately we were able to pass on a unanimous basis.

But if the amendment does not pass, it will be impossible for the Securities and Exchange Commission to be able to get this regulation in place and to give benefits to the Chicago and Philadelphia and Pacific, other regional, stock exchanges in their competition with New York and the American Stock Exchange.

Second, we have a tremendous revolution taking place in this country that involves cellular phones, faxes, and wireless technologies of all kinds. Last year we passed laws out of the Commerce Committee so that the Federal Communications Commission would transfer 50 megahertz of spectrum for use in this area.

By the way, when you think about 50 megahertz, you have an idea just what that is, that is all of the spectrum now being used for cellular phones, all of them. We are talking about moving over the spectrum so we can have this revolution so the Dick Tracy two-way wrist radio is something that is in the stores within 2 or 3 years.

If this amendment does not pass, it is going to stall, delay, and make almost impossible our ability as a Nation to get our product out onto the international market first so that we are most competitive, so the jobs are here in the United States.

Those are two examples. We could go on, but I think that just so you have a sense of the range of concerns of industries as diverse as the Pacific Stock Exchange and every cellular and fax and wireless company in the United States. Let us hope this amendment passes.

Anyone who is listening, American competitiveness very much depends upon the Spratt-Payne amendment passing this House this afternoon.

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

Mr. Chairman, I think we feel that the items that the gentleman is attempting to deal with in this amendment would be eligible to go forward under exemptions which are provided in the bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, let me say that the points that my colleague, the gentleman from Massachusetts [Mr. MARKEY], has raised are some very important changes in the regulatory system, and he and his staff are to be commended for having worked on those, in particular reducing the burdens on some of the exchanges outside of New York so that they can offer those additional services.

It is the opinion of the authors of this bill and my committee, subcommittee, and the gentleman from Pennsylvania [Mr. CLINGER], the full committee, those types of regulations are exempt from the moratorium precisely because they do reduce the current regulatory burden on the private sector, and that the SEC could go forward with those regulations. The FCC can go forward with its licenses and allow the private sector, through an auction process, to expand the cellular phone markets and other services that they seek to provide for.

So I think the problem is addressed in the moratorium legislation. There is not a need for an explicit amendment.

One of the things that we have very carefully guarded against is starting a long list of particular regulations that would be exempt because of the problem of statutory construction. If you have a very general provision that says we are going to protect health and safety, we are going to allow regulations that reduce burdens on the economy, but then you start a list of particular amendments or particular regulations, there might be something that is not on the list, and our concern was those items not on the list that protect health and safety or reduce a burden could be held up because they were not listed.

We tried to keep it a very general provision allowing the particular regulations that the gentleman from Massachusetts [Mr. MARKEY] mentioned to go forward.

For that reason, I would urge that the body today vote against that amendment.

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

Mr. MCINTOSH. I yield to the gentleman from Massachusetts.

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

There is an exemption in your legislation for licensing. What we have to distinguish though is the difference between licensing and the FCC promulgating rules and regulations with regard to bandwidth, with regard for geographic distancing, with regard to who is eligible. Right now, based upon the regulations that are out there, $6½ billion—billion dollars—has been bid by companies for this spectrum.

If we change that today, all of that money is just going to be taken back off the table by all of these companies because of the uncertainty which is going to be established. So it has a big

impact on our deficit-reduction objectives as well, because these companies are bidding based upon the FCC's ability to lay out not just the licensing but the eligibility, bandwidth, geographic spacing of all of these technologies as well.

So I appreciate what you are trying to do in licensing. It just does not quite reach the problem, and it will affect all of the cellular phone competition out there in the market.

Mr. MCINTOSH. If I could respond to that, because I want to make it clear to the FCC, in our opinion they can continue to grant those licenses. It is my understanding they can, on a case-by-case basis, apply all of those criteria as they issue the particular license. I want them to be sure and go ahead and issue those licenses.

Mr. MARKEY. If the gentleman will yield further, they can issue the licenses under the exemption. What they cannot do is establish the regulations for the conditions dealing with the issuance of the license, and that is not in fact exempted in your language; they will be handcuffed in terms of the ability to take the next step, and as a result, all the bidders will pull the $6 billion worth of bids for this spectrum off the table.

You have an error here in terms of the overall operation of how the FCC actually promulgates regulations, and it has an impact on a bipartisan piece of legislation that passed which will generate $6 to $10 billion if the FCC is allowed to proceed as they have.

Mr. MCINTOSH. Mr. Chairman, let me just conclude by saying I think that the provisions in the bill right now would let them specify those general policies and continue on with their licensing program. But I appreciate my colleagues' bringing this to our attention.

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

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 189, not voting 10, as follows:

[Roll No. 162]

AYES—235

Abercrombie
Ackerman
Bachus
Baesler
Baldacci
Ballenger
Barcia
Barr
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Burr
Cardin
Chambliss
Chapman
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fowler
Frank (MA)
Frost
Funderburk
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Hoke
Holden
Houghton
Hoyer
Hunter
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
LaHood
Lantos
Laughlin
Leach
Levin
Lewis (CA)
Lewis (GA)
Lincoln
Lipinski
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McInnis
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Myrick
Nadler
Neal
Norwood
Oberstar
Obey
Olver
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Quillen
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Solomon
Spence
Spratt
Stark
Stenholm
Stockman
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Wamp
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOES—189

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Bass
Bateman
Bilbray
Bilirakis
Bliley
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clinger
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Gallegly
Ganske
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hutchinson
Hyde
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Largent
Latham
LaTourette
Lazio
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Nethercutt
Neumann
Ney
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce
Quinn
Radanovich
Ramstad
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Stearns
Stump
Talent
Tate
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Andrews
Barton
Ehlers
Fattah
Gekas
Gonzalez
McCarthy
Meek
Ortiz
Porter

☐ 1658

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. Barton against.

Mr. NEY, Mr. CRAPO, Mrs. CHENOWETH, Mr. DOOLITTLE, Mrs. CUBIN, Mr. METCALF, and Mr. SCHUMER changed their vote from ''aye'' to ''no.''

Mr. CHAMBLISS and Mr. STOCKMAN changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1700

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment, amendment No. 36.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: In section 5(a)(2) (page , line), strike ''imminent threat'' and insert ''substantial endangerment''.

In section 6(7) (page , beginning at line)—

(1) strike ''death, serious illness, or severe injury'' and insert ''substantial endangerment'';

(2) in the heading strike ''IMMINENT THREAT'' and insert ''SUBSTANTIAL ENDANGERMENT'', and in the text strike ''imminent threat'' and insert ''substantial endangerment''; and

(3) strike ''during the moratorium period''.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California [Mr. WAXMAN] and a Member opposed, will each control 15 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

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

Mr. Chairman, I offer this amendment on behalf of the gentleman from Wisconsin [Mr. BARRETT], the gentleman from Vermont [Mr. SANDERS], and myself. The purpose of this amendment is to apply the same protection to human health that H.R. 450 would provide to private property. This bill provides an exemption from the moratorium for imminent threats to health or safety. In section 6(7) this is defined to be a reasonable expectation of death, serious illness or severe injury to humans, or substantial endangerment to private property.

This definition in H.R. 450 provides significantly more protection to private property than to health. My amendment would equalize the level of protection. It would apply the substantial endangerment test to both private property and human health. It is inconceivable to me that this body would want to go on record as providing more protection to private property than to human health. It is inconceivable that we want to set up a different standard for the protections of private property than for human health, which is exactly what this bill would do, and it does not make sense. Let me explain why H.R. 450 provides more protection to private property than human health.

This bill in the case of private property requires a reasonable expectation of an endangerment, and that would be sufficient to exempt a regulation from the moratorium. There is no requirement to show that there is a reasonable expectation of actual injury. All you have to show is that private property is placed in jeopardy.

In the case of human health or safety, the standard of a reasonable expectation of an endangerment is not enough to exempt the regulation. It is not enough to show that people will be put in a dangerous situation. Instead, you must show it is likely that there will be actual death, actual illness, or injury.

This test is much more difficult to meet than private property tests. It is much easier to show that there is a reasonable expectation that some property may be endangered but not actually injured, which is the private property test, than to show that there is a reasonable expectation that some person will be actually injured, which is the health test.

Private property gets more protection than health for a second reason, also. A regulation to protect private property can be exempted from the moratorium so long as the endangerment is just substantial. When it comes to human health, however, the agency must show that the injury is either severe or serious. Obviously, the threshold of showing that an injury to health or people is serious or severe is higher than the threshold of showing that an injury to property is merely substantial.

So this amendment would delete the requirement that the injury occur during the moratorium period. It would equalize the standard. This is essential to ensure that agencies can act to prevent serious health impacts that should occur, especially outside the moratorium period.

Mr. Chairman, let me describe this issue of the moratorium period. The Food and Drug Administration is in the process of examining whether there ought to be any regulations with respect to the tobacco industry, but under the language of this bill, they only look for a threat to severe injury during the moratorium period.

Well, there is no more important health and safety regulation being considered than the one that deals with FDA, where they are concerned about tobacco companies targeting children. But work on this regulation would be halted under H.R. 450 because FDA could now show that the injury to children would occur during that moratorium period.

Three thousand kids start smoking everyday. Hundreds of these kids will eventually die from smoking. Under H.R. 450 this is not considered an imminent threat because they are not going to die for 20 to 30 years.

So we would do two things in this amendment: One, establish the same standard whether it is public health or danger to property; and not restrict the legislation to threats only within the moratorium period.

Mr. Chairman, I would urge support for this amendment.

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

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania will be recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute, merely to point out to the gentleman in the report where we make it very clear that it is certainly not the intent to raise concerns or interest in property to a higher level than that which we provide for human health. We define ''imminent threat to health or safety'' to mean the existence of a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property, during the moratorium period. In setting forward this definition, the Committee has not elevated protections of private property above human health or safety, or even attempted to equate endangerment to private property with death, illness or injury to humans. Rather, it seeks to protect both human health and safety and private property according to appropriately separate and distinct standards. It is the Committee's understanding that the moratorium should not prevent the promulgation of rules and regulations that are necessary to make food safe from E. coli bacteria, or others discussed in regard to the slaughter amendment.

Mr. Chairman, we reject the notion this is somehow raising this concern to a higher degree.

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

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise in strong support of this amendment.

I am very concerned about how H.R. 450 would impede the Department of Energy's ability to write needed safety regulations for the clean-up of the Hanford nuclear weapons complex.

The Hanford complex has 1500 sites contaminated by radioactive and hazardous waste. Some of this radioactive waste has begun to leak into the Columbia River and contaminate its water and fish. DOE needs the ability to act quickly to promulgate regulations to protect the safety of workers at the Hanford site and to protect the public from the hazardous waste stored there.

You say that H.R. 450 contains an exemption for regulations to address ''imminent threats to health and safety.'' What I want to know is how long will it take the DOE to get an exemption under this law? It is my understanding that DOE would have to submit a written request to OMB and to the appropriate congressional committees in the House and Senate. Then OMB would have to find in writing that this waiver was indeed necessary. And finally the DOE Secretary would have to publish the findings and waiver in the Federal Register. How long will this process take?

Mr. Chairman, the threats to public safety from the Hanford complex are real and can impact citizens throughout the entire Northwest. If there is any doubt that the Department of Energy will be impeded in protecting American citizens from Hanford's radioactive hazards, then I say that risk is too great.

I urge my colleagues to vote for the Waxman amendment.

□ 1710

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. EHRLICH].

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. EHRLICH].

The CHAIRMAN. The gentleman from Maryland [Mr. EHRLICH] is recognized for 4 minutes.

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

Mr. EHRLICH. Mr. Chairman, with all due apologies to my subcommittee chair and to the gentlewoman on the other side, we have, in fact, corrected the misspelling, a demonstrative piece of evidence we have here. The gentleman from California will recall our debate in subcommittee and in committee and, in fact, on the floor of the

House. As the chairman quite rightfully said, this bill does not provide a priority to property and the committee report, in fact, specifies that property is not elevated above health and safety. But because the gentleman made such an eloquent point in committee, I have gone through the legal research to the code.

As the chart here states, the term ''imminent threat to safety or health'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness or severe injury to humans or substantial endangerment.

The issue the gentleman raised in committee was, what about the relative thresholds here. Do we have a lower threshold with respect to property as opposed to health and safety? That is the point I researched. I would like to tell the gentleman that in the code, the term ''serious illness'' is actually defined. And the definition of serious illness is an imminent hazard. It is subsumed within the definition of imminent hazard. That definition applies to death, serious illness and severe personal injury, and that applies to human beings.

Under the other part of the definition of imminent hazard, we see the provisions that apply to property. Substantial endangerment to health, property or the environment. So that it is quite clear under the code, under the way the actual terms are defined under the code, we have not created separate thresholds with respect to human health and safety on the one hand and property on the other.

In fact, what we have done is create the same threshold with respect to the central issue here, although we have used different language with respect to health on the one hand, property on the other.

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

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

Mr. WAXMAN. Mr. Chairman, if the gentleman claims that they are both treated the same, why not use the same language? Why have any doubt? The clear wording of that section is to say that there is a substantial endangerment for property but reasonably expected to cause death or injury when it comes to people. Why not a substantial endangerment to people or a substantial endangerment to property?

It just seems to me that the gentleman's logic is incorrect, as is the spelling at least of one of the words on that chart. If we are going to achieve the same result, both property and humans, then let us use the same standards.

Mr. EHRLICH. Mr. Chairman, in fact, I understood the gentleman's point, but the fact is, the language, the verbiage used in the code uses different language dependent upon whether we are talking about humans on the one hand, property on the other. And that was the point I made earlier.

Mr. WAXMAN. Mr. Chairman, if the gentleman will continue to yield, the only point I would say is that we are writing the law here. Let us write the law so that the standard is the same and we will not have what I believe in clear words that give a higher threshold before we will protect human beings than before we step in to protect property while this moratorium is in effect.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. SANDERS], a cosponsor of this amendment.

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

I am proud to be a cosponsor of this amendment that saves human lives and I strongly urge its adoption.

In its current form, the moratorium does not apply to regulations that protect against imminent threats of serious illness, severe injury, or death or substantial endangerment to private property. As Mr. WAXMAN described, this is an absurd provision that gives greater protection to private property than to human life. I think this is a absurd set of priorities that needs to be changed.

Furthermore, the bill is misleading because it does not allow regulations that protect public health and safety. In fact, it threatens regulations implemented last year that:

Promote safer meat, poultry, and seafood;

Establish standards for water quality;

Set standards for disposal of nuclear and other hazardous waste;

Set motor vehicle safety standards for brake systems;

Amend performance standards for children's life jackets;

Set safety standards for baby walkers and children's toys; and

Standardize aviation rules.

Under the current definition of ''imminent threat of human health and safety,'' regulations that protect against activities that cause cancer, AIDS, or any other illness that has a latency period cannot be implemented. Today 1 in 3 of us will get cancer, and tragically 1 in 4 will die of it. Over 60 different occupations are at a documented risk of cancer, including farmers, petrochemical workers, asbestos workers, plastics manufacturers, and radiations workers. If this amendment is not adopted, the administration will not be able to respond to this expensive and debilitating health care crisis by implementing regulations that prevent cancer.

For instance, regulations that provide certification standards for mammography that are required by law will not be implemented unless this amendment is adopted. Regulations that prevent breast cancer and save lives should be implemented.

Indoor air regulations that protect against toxic exposures that ultimately cause asbestosis, lung cancer, or other serious respiratory illnesses, will also be prohibited if this amendment is not adopted. OSHA has been considering a rule banning smoking in workplaces nationwide, the FDA is considering to regulate cigarettes as a drug, and the Department of Health and Human Services is working on regulations that limit smoking in schools and other places where children congregate. All of these plans will be put on hold unless this amendment is adopted. Lung cancer is the No. 1 cancer killer. The immediate implementation of regulations like these could save many lives.

Also, nuclear safety standards for waste disposal, like the regulation allowing nuclear wastes to be transferred from sites in Idaho, Colorado and other States to a WIPP facility in New Mexico, will be retroactively canceled. Thus, more Americans could potentially be exposed to toxic substances that cause serious illness and death.

I simply do not see the sense in the current language which allows regulations that protect against deaths in 1995, yet prohibits regulations that protect against deaths in other years. If the drafters of this bill intended to protect against cancer and AIDs, then this intention should be made clear in the plain meaning of the definition of ''imminent threat to human health or safety.''

I strongly urge you to support this amendment which clearly states that we care enough about human lives to permit regulations that prevent serious illnesses, severe injuries, and death in any year and gives human lives as much protection as the bill gives to private property.

□ 1720

Mr. BARRETT of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Minnesota.

Mr. BARRETT of Wisconsin. Mr. Chairman, I want to thank and compliment the gentleman from Vermont, and I have to admit I am befuddled by the fierce opposition to this amendment. It seems like common sense to me.

The gentleman from Maryland [Mr. EHRLICH], I think gave an eloquent explanation as to why we have in the exact same paragraph two different standards, one for property, one for human life, but we are going to use different language to meet the exact same standard.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, I think it is incumbent as we start thinking about changes in this finely crafted exemption for health and safety that we address some of the particular problems that have come to our attention in drafting this moratorium.

For example, there is the guideline from the Consumer Product Safety

Commission which would require that all buckets have a hole in the bottom of them, so that they can allow water to go through and avoid the danger of somebody falling face down into the bucket and drowning; the leaky bucket regulation.

There is also the regulation that allows FDA officials to break into a doctor's office in Kent, WA, and hold at gunpoint the doctors and the nurses there to force them to answer a series of questions, because they use injectible vitamin B and other products. Would those regulations be exempt under this new standard?

There is also a regulation that the Occupational Safety and Health Administration, OSHA, promulgated which would require that all baby teeth be disposed of as hazardous waste material, rather than be given back to the parents, to allow the tooth fairy to come back and do that. How would the amendment apply to those regulations?

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

Mr. MCINTOSH. I am happy to yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman, is reiterating the point I was making. Yes, there are regulations which are silly; yes; there are regulations which are useless and should be gotten rid of, but the scope of what the gentleman is talking about is not amusing.

Yes, holes in buckets is very funny, gets good laughs, I agree with the gentleman. But cancer and breast cancer, particularly, are very serious problems in America. AIDS is very serious. It is not a laughing matter.

What the gentleman's legislation does is it may deal with the holes in the buckets, fine, but is also preventing the Government from taking measures that will save people from getting cancer. That is not so funny.

Mr. MCINTOSH. Reclaiming my time, Mr. Chairman let me make it very clear that this moratorium does not do that. There is the language which the gentleman from Maryland [Mr. ERLICH] pointed out, and I pointed it out earlier, and I thank the gentlewoman from New York, [Ms. SLAUGHTER] for pointing out the spelling error, which seriously says regulatory agencies must deal with health and safety threats that pose an imminent danger to human health and safety. That exception would allow regulations that prevent loss of life to go forward.

What we need to do, Mr. Chairman, is to protect the American people from the silly, stupid, needless regulations that not only are humorous, they are very serious in their consequences of costing jobs when companies move overseas or go out of business. They are very serious when consumers have to spend $6,000 a year more to comply with those regulations. I urge a ''no'' vote on this amendment.

Mr. WAXMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.).

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the Waxman amendment.

Mr. Chairman, the definition of imminent threat to health or safety that is now in the bill H.R. 450., is inadequate. It is an unusually high standard for demonstrating personal injury; it would require that death, serious illness, or severe injury occur during the moratorium period.

It would also permit substantial endangerment to private property to be a basis for finding imminent threat to health or safety. Not only is it unusual to have harm to property as a basis of a health or safety standard, but it would also arguably be easier to exempt a rule on the basis of endangerment to private property than it would be to exempt a rule on the basis of a threat to human health.

The Waxman amendment, therefore, does one important thing; it equalizes the standard for injury to persons and injury to property. Under the amendment, a regulation could qualify for the imminent threat to health or safety exemption, if it could be expected that substantial endangerment to humans or private property would occur.

Why is it so important to have a reasonable standard? The answer is because no one, including the authors of this bill, can say with any certainty whether a particular regulation would be excluded from the moratorium. A perfect example of this is the meat inspection rule.

At the end of our committee's debate on the amendment to exempt the meat inspection rule, the chairman of the subcommittee spoke with Mrs. Nancy Donley, whose 6-year-old son died from eating E Coli contaminated hamburger. He told Mrs. Donley that he would put language into the committee report, making it clear that the Agriculture Department could go forward with the meat inspection rule.

I think the addition of this language in the report could be helpful, but it provides no assurance that the meat inspection rule can go forward. The bill does not prohibit anyone from challenging in court an Agriculture Department decision to exempt the meat inspection rule from the moratorium. Furthermore, what about all the other perhaps equally significant health or safety rules that are not mentioned in the committee report. A standard is needed that could be used to exempt these rules as well.

We, therefore, need a clear and simple standard under which we could exempt a matter on grounds of threat to health or safety. The Waxman amendment gives us such a standard, and I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Florida, [Mr. MICA], a member of the committee.

Mr. MICA. Mr. Chairman, I speak in opposition to the Waxman amendment. I would like to make several points.

First of all, the new language that is being proposed here, I really do not believe that it does that much to protect public health, safety, and welfare. I know the gentleman is well-intended, I know our independent colleague is well-intended, that they are indeed concerned about public health, safety, welfare.

However, I think that we have provided in this moratorium some very specific language that in fact will do the job. In fact, we are not ending regulation as we know it. This is not an end to regulation. This is, again, as I said earlier on the floor, this is a stop and let us look at what we are doing with these regulations. Let us make some sense.

We have a mechanism in the bill and I believe we have a precedent for the language that we have put in this bill, to really accomplish what they would like and really, in a more effective fashion. That is why we have to defeat the Waxman amendment.

Again, Mr. Chairman, we are all concerned here. We are all human beings. I am a parent. I have children. I am concerned about the air they breathe, the water they drink. I am concerned about our environment.

However, we have to start taking all this regulation in perspective. This is not an indefinite moratorium. Even the moratoriums of the Reagan administration were more long-term than this. In fact, this even says if we take time and read it, that when we have some provisions in place to look at the cost and the benefit and risk, that we can go forward.

We have in here protections that reasonable people, working together, can use to go forward, and we can enact necessary restrictions and needed regulations.

No, in fact, this is not an end to regulation as we know it. This bill is concerned about people; that we have limited resources; that this country and its taxpayers want the very best regulation as far as protection of the health and public welfare and safety of our children. So yes, we on this side of the aisle, are concerned.

We want to work with the gentleman, and we want to pass something reasonable. We think our language is better. I urge my colleagues to come down here and to sort through all of the smoke and mirrors, to defeat this amendment, to pass a well-crafted, a well-defined piece of legislation that will put a stop sign, that will put a yield sign, and that will also put a go sign and a green light where we must protect public health, safety, and welfare.

With those comments, I do appreciate the gentleman's position, and speak against his amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT] a member of the committee.

Mr. GUTKNECHT. Mr. Chairman, I rise in opposition to the Waxman amendment. I do so for a couple of reasons.

First of all, Mr. Chairman, we are convinced on this side that the amendment is not needed. We know the gentleman from California [Mr. WAXMAN] is sincere in his concern about human health. I also want to make the point, I think to a certain degree, however, we labor under an illusion, and part of the background for this amendment is that somehow government regulation can create a risk-proof society, and that somehow, with more government regulation, we can completely prevent people from getting cancer, from people getting sick, from people not having a certain risk as it relates to their health.

The truth of the matter is, Mr. Chairman, and I used this example in committee, and I would share it with the body now, last year I was invited to the Governor's mansion of the State of Minnesota.

I was 1 of 17 Members who ate pineapple. As a result, I got sick. In fact, we never really did determine what the bacteria was, but I would share with the Members that that pineapple had been inspected by the USDA, it had been processed all the way under USDA regulations.

I guess what I said then and I would say now is that I got sick under government regulations, and I got well, despite government regulations. The truth of the matter is we cannot create a completely risk-proof society.

□ 1730

We see over there about 64,000 pages of government regulations. Bad things still happen. There is no amount of government control or regulations that is going to completely stop that.

I really do not believe that this amendment is needed. I rise in opposition to it. I would encourage a ''no'' vote.

Mr. CLINGER. I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, to close debate on my amendment, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARRETT].

The CHAIRMAN. The gentleman from Wisconsin [Mr. BARRETT] is recognized for 2 minutes.

Mr. BARRETT of Wisconsin. Mr. Chairman, I remain perplexed. We hear the gentleman from Maryland and the gentleman from Minnesota talk about how they do not like bureaucrats. ''We don't like bureaucratic language. We don't like unnecessary or silly regulations.'' Yet before us we have a paragraph where you have two standards: One standard for property, a different standard for human life.

The gentleman from California [Mr. WAXMAN] has eloquently explained why it does not make sense to have those two standards and argues that the standard for property is higher than the standard for human life. The gentleman from Maryland argues that is not the case, that even though they are different phrases, they have the same identical meaning. That is not only a lawyer's dream, it is a law review editor's dream to have within the same paragraph two different definitions and have someone argue that they are the same language, that they have the same meaning.

Somehow I fail to see what is going on here other than to say if you are arguing that we want to have the same standard, why create bureaucratic language to give two different meanings to two different phrases? If you mean that they have the same standard, let us give them the same standard. There is no other explanation and no other clear-cut way to do it than to say let us not create more litigation, let us not create a dream for lawyers, let us say what we mean. If we mean it is the same standard, let us say so.

What we are doing here, you are opening yourself up for attack by setting a lower standard for human life than for private property. That is not what we want to do. We do not want to create more regulation, we do not want to create more litigation, and this amendment goes to that goal.

If you want more regulations, if you want more litigation, then defeat the Waxman amendment, because he is trying to streamline the process and have clear, simple language. For those reasons, I think it makes sense.

Again, I am completely befuddled as to why we want to have a paragraph with two different definitions that the majority argues have the same meaning.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 259, not voting 8, as follows:

[Roll No. 163]

AYES—167

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—259

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton

Scarborough	Spence	Walker
Schaefer	Stearns	Walsh
Schiff	Stenholm	Wamp
Seastrand	Stockman	Watts (OK)
Sensenbrenner	Stump	Weldon (FL)
Shadegg	Talent	Weldon (PA)
Shaw	Tanner	Weller
Shays	Tate	White
Shuster	Tauzin	Whitfield
Sisisky	Taylor (MS)	Wicker
Skeen	Taylor (NC)	Wilson
Skelton	Thomas	Wolf
Smith (MI)	Thornberry	Young (AK)
Smith (NJ)	Tiahrt	Young (FL)
Smith (TX)	Torkildsen	Zeliff
Smith (WA)	Upton	Zimmer
Solomon	Vucanovich	
Souder	Waldholtz	

NOT VOTING—8

Andrews	Fattah	Meek
Barton	Gonzalez	Ortiz
Ehlers	McCarthy	

□ 1750

Messrs. STEARNS, SHADEGG, and GORDON changed their vote from ''aye'' to ''no.''

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and my colleagues, I rise in order that if the distinguished chairman would engage in a colloquy with me about definitions and applications of this legislation.

Mr. Chairman, I have an amendment that I was going to offer to exempt regulations of the Department of Agriculture for the moratorium. Although I support a moratorium on regulations, I have discussed the specific provisions of this bill with the Department and have concerns that the exceptions contains in the bill are too narrow to prevent disruptions of USDA programs and operations that benefit consumers, farmers, ranchers, agribusiness, and our Nation as a whole.

As you know, during the 103d Congress, the Committee on Agriculture led the way in reforming the bureaucracy by reorganizing the Department of Agriculture. The reorganization of the Department included the establishment of an Office of Risk Assessment and Cost-Benefit Analysis to review all major regulations of the Department affecting human health, human safety, or the environment.

This is the first such established in any major department of the Federal Government.

I look forward to seeing the regulations promulgated by all Federal agencies made subject to risk-assessment and cost-benefit analysis.

I would like to ask the distinguished gentleman if I am correct in stating that the regulatory moratorium contained in this bill is not intended to affect regulations implementing the provisions establishing the Office of Risk Assessment and the regulations undergoing such risk assessment and cost-benefit analysis.

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

Mr. DE LA GARZA. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I assure the gentleman that is absolutely correct.

Mr. DE LA GARZA. I thank the gentleman. I also thank the gentleman for the clarification and would like to include in the RECORD an analysis prepared by the Department of Agriculture listing the regulations that may be affected by the moratorium, and I will ask for such permission in the House.

I want to be sure that the Department will be able to continue to help farmers, ranchers, exporters, and the food service industry to supply agricultural products for our Nation's consumers and consumers around the world. I also want to be sure that the agency charged with implementing and enforcing animal and plant quarantine laws is able to carry out its charge to protect against long-term hazards associated with animal and plant diseases.

Finally, I want to be sure the Forest Service is able to manage our National Forest System lands for the benefit of recreational users, timber industry, ranchers, and the wildlife in our forests and rangelands.

I would also like to ask the gentleman if I am correct in stating the bill before us is not intended to affect regulations making routine adjustments to USDA activities or programs including the following: establishing industry self-help and promotion programs for port, beef, milk, fruit, vegetables, and specialty crops, commodity grading programs, animal-plant health programs, adjustments in agriculture under article 28 associated with GATT, timber-sale contracting, animal damage control programs, labeling of meat and poultry products, and internal USDA regulatory streamlining and reform.

I yield to the gentleman from Pennsylvania.

Mr. CLINGER. The gentleman is correct.

Mr. DE LA GARZA. I thank the gentleman for those clarifications.

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

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the distinguished gentleman from Texas for yielding, in that we have both worked on the gentleman's statement, and we have mutual concern and interest in making sure this bill in no way impedes the regular, normal business procedures and, yes, also regulations simply within the Department of Agriculture.

I think the colloquy is extremely important. I associate myself with the gentleman's remarks, and I think this should take care of many concerns that both of us share.

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

Mr. DE LA GARZA. I yield to the gentleman from Missouri.

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

As I have discussed earlier with the chairman, I am sure he knows my feelings that this colloquy really, in my opinion, does not solve the basic problem as to whether the law actually does these things or does not do it, and I know the intentions of the gentleman, and that is the word that is used, it is not intended to do these things. It was never stated in his colloquy it would not do these things. That gives me great concern.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, I have an amendment that I have printed in the RECORD and hope to offer at a later time, maybe tomorrow, that would exempt the wool and mohair promotion program.

□ 1800

That was a program that we enacted last year, as the chairman will remember, in response to the fact that we had done away, this House had done away with the wool and mohair program. This is one that does not cost the taxpayers money, it is just like the other programs that he has enumerated before, pork and beef and milk. This is one that is financed by the producers themselves. The regulations are now in process. If we do not exempt them, that means they are not going to have anything at the end of this year when the present program expires.

As a result, will the gentleman agree with me that the wool and mohair self-promotion program which we passed last year is not exempt from this bill?

Mr. DE LA GARZA. I yield to the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. I thank the gentleman for yielding. I ask the gentleman from Missouri to repeat his question.

Mr. VOLKMER. The present law that we passed last year for the wool and mohair promotion program, which is patterned after the dairy program, the beef, pork, and all the rest, is going through the regulatory process right now for the first time. This colloquy does not cover that? I have talked this over with my ranking member, and he agrees with me.

I just want to know if the gentleman from Kansas also agrees that it is not covered and that if we are going to exempt it, we would have to do so specifically.

Mr. ROBERTS. Mr. Chairman, normally I would be more than happy to agree with the gentleman from Missouri. But the key word is ''routine.'' The question is whether the Department of Agriculture counsel feels that

the regulations that are now being promulgated apply.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(On request of Mr. ROBERTS and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. I continue to yield to the chairman of the committee.

Mr. ROBERTS. I thank the gentleman for yielding further.

Mr. Chairman, I think this whole thing depends on whether the lawyer down at the Department of Agriculture believes that the regulations that are now being promulgated in regards to the wool and mohair program fall in the classification of routine. You can talk to John Golden down there; he is the attorney. He expressed some concerns not only in this regard but the whole laundry list of things that was listed here. In talking to Secretary Rominger last night, I know what the situation is here. We have many agencies under marching orders from the administration who express concern about this. We share that concern. I think it does fall under the category of routine.

We have made our best effort in this colloquy to make it very clear to the Department that it is routine and that this bill will not interfere with any regulations in regard to the self-help and promotion program for the hard-pressed wool grower.

So my answer to the gentleman from Missouri [Mr. VOLKMER] is, with all due respect, I think it is exempted. He has a different view. I think we can make sure. We have oversight responsibility to take care of it.

The information referred to follows:

FOREST SERVICE SUMMARY

[Cummulative List of Agency Rules and Policies for OMB Review, revised January 25, 1995. Those intended for publication between July 18, 1995 and June 15, 1995]

List	Title of regulation or policy; publication date	Reg action	FS recommendation	OMB recommendation	Staff
1	Rangeland Management, Livestock Use and Grazing Fees; April 28, 1994	Proposed Rule	Sig	Sig	RGE
1	Hells Canyon NRA—Private Lands; December 14, 1993	Proposed Rule	N-Sig	N-Sig	RHWR
1	Hells Canyon NRA—Public Lands; January 19, 1994	Proposed Rule	N-Sig	N-Sig	RHWR
1	National Forest Prohibitions; Law Enforcement Activities; February 16, 1994	Proposed Rule	N-Sig	Sig	LEI
1	Land Exchanges; March 8, 1994	Final Rule	N-Sig	N-Sig	L
1	Federal Cave Resources Protection; June 17, 1994	Final Rule	N-Sig	N-Sig	RHWR
*1	Land and Resource Management Planning—in clearance now	Proposed Rule	N-Sig	Sig	RN
*1	Group Uses of NFS Lands—in clearance now	Final Rule	N-Sig	Sig	RHWR
*1	Log Export & Substitution	Final Rule	N-Sig	Sig	TM
**1	Timber Sale Contracting: Cancellation of Timber Sale Contracts	Proposed Rule	N-Sig	Sig	TM
*1	Indian Allotments	Final Rule	N-Sig	N-Sig	L
1	Timber Sale Contracting: Financial Security of NF Timber Sale Contracts; February 2, 1994	Final Policy	N-Sig	N-Sig	TM
1	Timber Sale Contracting: Downpayment, Transfer or Retention; Speculative Bidding Criteria; Reduction of Performance Bond; February 2, 1994	Proposed Policy	N-Sig	N-Sig	TM
2	Small Tracts Act Revision	Proposed Rule	N-Sig	N-Sig	L
*2	Hydropower Applications	Proposed Policy	N-Sig	N-Sig	L
2	Recreation Residence Authorization Policy; June 2, 1994	Final Policy	N-Sig	N-Sig	RHWR
2	Use of Fixed Anchors for Rock Climbing in Wilderness	Proposed Rule	N-Sig	N-Sig	RHWR
2	Revise Land Status Regulations (technical amendment); January 20, 1994	Final Rule	N-Sig	N-Sig	L
2	Prohibition on Mechanical Transport and Other Activities in Wilderness	Proposed Rule	N-Sig	N-Sig	RHWR
*2	Mining Operations in the Smith River National Recreation Area Litigation: FS failure to adopt rules	Proposed Rule	N-Sig	N-Sig	M&GM
2	Use of Bait in Bear Hunting; March 14, 1994	Proposed Policy	N-Sig	N-Sig	WL&F
*2	Special-Use Applications and Administration of Special-Use Authorizations	Final Rule	N-Sig	N-Sig	RHWR
2	Species Surplus to Domestic Manufacturing Needs	Proposed Rule	N-Sig	N-Sig	TM
3	Below-Cost Timber Sale Program Policy and Guidelines	Final Rule	N-Sig	N-Sig	TM
**3	Timber Sale Contracting: Timber Sale Performance and Payment Bond Form Revision	Final Policy	N-Sig	Sig	TM
3	National Forest System Land and Resource Management Planning Manual (FSM 1920)	Proposed Policy	N-Sig	N-Sig	LMP
*3	State and Private Forestry Assistance Stewardship Incentive Program	Final Rule	N-Sig	Sig	S&PF
3	Locatable Minerals	Proposed Rule	N-Sig	N-Sig	M&GM
3	Change to Transaction Evidence Appraisal as Prime Method of Appraising FNS Timber	Proposed Rule	N-Sig	N-Sig	TM
3	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	Proposed Rule	N-Sig	N-Sig	RHWR
3	Timber Sale Contracting: Indices To Determine Market Related Term Additions	Proposed Policy	N-Sig	N-Sig	TM
3	Timber Sale Contracting: Market Related Term Additions	Proposed Rule	N-Sig	N-Sig	TM
3	Timber Sale Contracting: Pre-Award Information Requirements	Proposed Rule	N-Sig	N-Sig	TM
3	Solid Waste Disposal Policy	Proposed Policy	N-Sig	N-Sig	L
3	Hells Canyon NRA—Private Lands; June 13, 1994	Final Rule	N-Sig	N-Sig	RHWR
3	Hells Canyon NRA—Public Lands; July 19, 1994	Final Rule	N-Sig	N-Sig	RHWR
4	Private Sale of Golden Eagle Passports	Proposed Rule	N-Sig	N-Sig	RHWR
*4	Occupancy and Use of Developed Sites & Areas of Concentrated Public Use	Final Rule (no prior proposed rule) (considered minor but OMB says Sig.).	N-Sig	Sig	RHWR
4	Animal Damage Management; June 13, 1994	Proposed Policy	N-Sig	Sig	WL&F
5	Ski Area Fees	Proposed Policy	N-Sig	Sig	RHWR
**5	Timber Sale Contracting: Extension of Certain TS Contracts To Permit Urgent Removal of Timber From Other Lands (FSM proposed policy as appendix)	Proposed Rule and Proposed Policy	N-Sig	N-Sig	TM
*5	Special Uses Management—Outfitting and Guiding	Final Policy	N-Sig	N-Sig	RHWR
5	Appeal of Land Use Decisions Related to Small Business Program	Proposed Rule	N-Sig	N-Sig	L
6	National Forest Prohibitions; Law Enforcement Activities	Second Proposed Rule	Sig	Sig	LEI
6	Range Management. Grazing in the West; Qualification Criteria for Fee Discounts	Proposed Rule (action suspended Dec. 1994).	Sig	Sig	RGE
*6	Fee Schedules for Communications Uses on NFS Lands	Final Policy	N-Sig	Sig	RHWR
**7	Timber Sale Contract Revision	Proposed Policy	Sig		TM
8	Timber Sale Contracting: Elimination of Stumpage Rate Adjustment Procedure Contracts	Proposed Policy	N-Sig		TM
8	Rangeland Management. Grazing Fees	Final Rule (action suspended Dec. 1994).	Sig		RGE
*9	Use of Bait in Hunting	Final Policy	N-Sig		WL&F
*10	Animal Damage Management	Final Policy	N-Sig		WL&F
7	Grazing Administration (permit issuance, applications etc.)	Final Rule		Sig	RGE

Dates Lists of Significant Regulatory Actions submitted to OBPA: List 1, November 5, 1993; List 2, December 22, 1993; List 3, February 2, 1994; List 4, May 5, 1994; List 5, June 16, 1994; List 6, July 29, 1994; List 7, September 9, 1994; List 8, October 20, 1994; List 9, December 2, 1994; and List 10, January 13, 1995.

ISSUE: ENVIRONMENT

States affected: All.

Rule: Doc. No. 93–165–3, National Environmental Policy Act Implementing Procedures. Sets forth procedures APHIS will follow to comply with NEPA.

Beneficiaries: Consumers; environmental groups.

Impact: Many environmental groups have been lobbying APHIS for years to redesign and publish these procedures. They will see their withdrawal as backing away from commitment to environmental quality.

Date: Final rule published 2/1/95; effective 3/3/95.

States affected: All.

Rule: Doc. No. 93–026–2, Introduction of Nonindigenous Organisms That May Be Plant Pests. Would establish comprehensive regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms that may be plant pests. Responds to an Office of Technology Assessment report stating that harmful introductions cost an estimated $97 billion between 1906 and 1991, and that controls are urgently needed. The rule would clarify the current ''permit'' process, which can take a long time and which importers do not like.

Beneficiaries: American public; university and corporate researchers.

Impact: Failure to proceed would endanger agricultural production and the environment, alarm environmental groups, and frustrate researchers seeking permits under the outmoded current system.

Date: Proposal published 1/26/95.

ISSUE: INTERNATIONAL TRADE

States affected: All.

Rule: There are several important regulations pending. Some of these regulations directly affect our implementation of GATT. These regulations relate to requests from foreign countries or importers to remove or ease restrictions on importations of various commodities. One such regulation under development (Doc. No. 94–106–1) would revise

our animal import regulations to allow for importations from regions, rather than countries only, and to recognize levels of risk, rather than just diseased/disease-free areas. Another regulation that has generated considerable interest concerns the importation of logs, lumber and other unmanufactured wood (Doc. No. 91–074–1). Other examples include importation of animals and germ plasma from countries where scrapie exists (Doc. No. 94–085–1), importation of additional species of embryos from countries where foot-and-mouth disease exists (Doc. No. 94–006–1), removal of a staining requirement for imported seed (95–004–1), and a number of regulations allowing the importation of additional types of fruits and vegetables from various countries, including Mexico, Korea, and Chile. In addition, we routinely publish regulations to change the disease status of a country or area, based on changes in those conditions. Pending regulations include ones to declare Spain free of African horse sickness and swine vesicular disease, and to declare Switzerland free of foot-and-mouth disease and viscerotropic velogenic Newcastle disease. These changes would relieve certain restrictions on imports from those countries. Conversely, we sometimes need to publish a regulation to restrict imports when there is an outbreak of a pest or disease in a country or area.

Beneficiaries: The ability to improve the variety and supply of animals, plants, and their products benefits producers, importers, brokers, food distributors and processors, and consumers. Northwest lumber mills would benefit from the rule concerning wood imports.

Impact: When the scientific/biological data provides no indication of substantial pest or disease risk from the importation, failure to revise our regulations puts us in violation of GATT. There is considerable pressure on the United States to implement these many of the regulations listed above in response to GATT. Failure to finalize Doc. No. 94–106–1 could result in other countries putting additional restrictions on U.S. exports. While there is often opposition to regulations of this type, there is always some interest, usually for the purpose of improving bloodlines or stock, or establishing a supply to meet a new or growing market. Northwest lumber mills are eager for wood rule because they believe it will give them additional logs to cut, and some environmentalists prefer using imported to domestic logs. A number of mills have stated they will go out of business without a reliable source of imported logs.

SPECIFIC RULES WITH INTERNATIONAL TRADE IMPACTS

States affected: Cattle and swine producing States.

Rule: Doc. No. 94–106–1, Regionalization for Animal Imports. Would revise our animal import regulations to allow for importations from regions, rather than countries only, and to recognize levels of risk, rather than just diseased/disease-free areas.

Beneficiaries: Producers, importers, brokers, food distributors and processors, and consumers benefit from the ability to improve the variety and supply of animals, plants, and their products.

Impact: Failure to proceed would produce opposition from animal breeding industries and GATT partners.

Date: Proposal under development.

States affected: New Hampshire, New England States.

Rule: Doc. No. 94–080–2, Specifically Approved States Authorized to Receive Mares and Stallions Imported From CEM-Affected Countries. Allows horses imported from countries where contagious equine metritis exists to be treated and quarantined in NH.

States affected: NH and other New England States.

Beneficiaries: Horse industry in NH and elsewhere in New England. This rule gives New Hampshire an economic advantage for valuable import.

Impact: Withdrawal would cause objection from beneficiaries.

Date: Direct final rule effective 12/16/94.

States affected: All.

Rule: Doc. No. 93–096–3, Horses From Mexico; Quarantine Requirements. Removes restrictions that are no longer necessary on the importation of horses from Mexico. Restrictions were to prevent the introduction into the U.S. of Venezuelan equine enteritidis, which is no longer present in Mexico.

Beneficiaries: Importers of horses from Mexico.

Impact: Would negatively affect relations with Mexico and could cause repercussions in other animal or plant health areas if Mexico retaliates. Would be contrary to NAFTA and GATT.

Date: Final rule published 1/26/95; effective 2/16/95.

States affected: California.

Rule: Doc. No. 93–157–3, Mexican Fruit Fly Regulations; Removal of Regulated Area. Removes restrictions on movement of citrus and other regulated articles.

Beneficiaries: Growers, wholesalers, exporters.

Impact: California production would be negatively impacted by the failure to lift the quarantine. Fruit and vegetable producers and associations would be likely to complain about this action.

Date: Published 1/26/95; effective 2/27/95.

States affected: California.

Rule: Doc. No. 94–117–1, Oriental Fruit Fly; Quarantine Part of LA County, CA. Quarantines an area to prevent OFF spread and protect export markets.

Beneficiaries: Growers, wholesalers, exporters.

Impact: Withdrawal would allow OFF spread. If spread occurs, it would likely lead Japan and U.S. citrus States to reject CA citrus.

Date: Published 11/14/95; effective 11/7/95.

States Affected: Primarily CA, FL, and HI.

Rule: Doc. No. 93–147–2, Imported Palms. Allows certain palms to be imported from New Zealand and Australia. Beneficiaries: Supported by comercial ornamental plant growers. Hawaiian Representatives Patsy Mink and Neil Abercrombie supported this rule.

Impact: Withdrawing this rule would reduce the number of sources for Howea palms to one. Opposition from nurserymen in CA, FL, and HI.

Date: Final rule published and effective 1/24/95.

States affected: All.

Rule: Doc. No. 93–031–2, Inspection of Animals Exported to Canada and Mexico. Requires a final inspection before export of livestock, including horses, shipped by air to Canada or Mexico.

Beneficiaries: The American Horse Council supports this rule.

Impact: Failure to take this action could result in sick animals being exported to Canada and Mexico, and having to be returned to the U.S.

Date: Final rule published 1/24/95; effective 2/23/95.

States affected: CA, FL, all.

Rule: Doc. No. 89–154–2, Importation of Plants Established in Growing Media. Allows additional genera of plants in growing media (potted plants) to be imported into the United States.

Beneficiaries: Importers and brokers of imported products.

Impact: From the standpoint of GATT, there is no sound biological reason to continue to prohibit these imports, which would be the effect of a moratorium. California and Florida representatives are most likely to hear from their constituents, although other areas may be affected as well.

Date: Final rule published 1/13/95; effective 2/13/95.

States affected: All (GATT/NAFTA issue).

Rule: Doc. No. 89–117–4, Honeybees and Honeybee Semen From New Zealand. Allows imports.

Beneficiaries: Apiary industries.

Impact: If we withdraw the rule, we may be challenged under GATT conflict resolution procedures.

Date: Final rule published 2/1/95, effective 3/3/95.

States affected: California.

Rule: Doc. No. 94–042–2, True Potato Seed From Chile. Allows imports.

Beneficiaries: Plant breeders, potato producers.

Impact: California Department of Food and Agriculture supports this, and several California companies (especially Esca Genetics/TPS Products) have invested heavily in expectation of it. CA Rep. Anna G. Eshoo wrote in support of it.

Date: Final published 2/16/95, effective 3/20/95.

States affected: All.

Rule: Doc. No. 94–069–1, Tangerines From Cheju Island (Korea). Would allow imports.

Beneficiaries: Consumers; exporters seeking reciprocal arrangements.

Impact: GATT issue, we could be challenged if we withdraw it.

Date: Under development.

States affected: All.

Rule: Doc. No. 94–114–1, Imported Fruits & Vegetables; 6th Periodic Amendment. We do this kind of rule regularly to allow newly-requested frutis and vegetables to be imported.

Beneficiaries: Importers, wholesalers, consumers.

Impact: Delaying this rule would affect importers and distributors in most States, and reduce the variety of produce available to consumers.

Date: Proposal nearly ready to publish.

States affected: All.

Rule: Doc. No. 94–116–3, Fresh Hass Avocados From Mexico. Would allow imports of Hass avocados.

Beneficiaries: Importers, consumers.

Impact: Mexico has been seeking this change for years and will accuse the U.S. of violating NAFTA if we do not pursue the proposal. Domestic avocado producers would support the delay in this proposal.

Date: Under development.

ISSUE: ANIMAL AND PLANT HEALTH

States affected: All.

Rule: There are several important regulations pending. Some of these are necessary to prevent the spread of pests and diseases within the United States. These include additions to lists of noxious weeds (Doc. Nos. 93–126–3 and 94–050–1). Others are needed to protect U.S. livestock and poultry from additional sources of disease and to further the eradication of bovine tuberculosis. Examples include payment of indemnity for cervids destroyed because of tuberculosis (Doc. No. 94–133–1), payment of indemnity for cattle and bison destroyed following exposure to tuberculous cervids (Doc. No. 93–125–1), discontinuance of the in-bond program for cattle from Mexico (Doc. No. 94–-87–1), and a revision of domestic regulations pertaining to viscerotropic velogenic Newcastle disease (VVND) in birds and poultry (Doc. No. 87–090–2). In addition, APHIS routinely publishes rules related to changes in the disease or pest conditions in a State or area. When an

outbreak occurs, the Agency must move quickly to contain the outbreak, and keep the pest or disease from spreading. Examples include regulations quarantining areas because of fruit flies, pink bollworm, and pine shoot beetle, and regulations that change the disease status of a State or area because of new outbreaks of brucellosis or tuberculosis.

Beneficiaries: U.S. livestock and poultry producers, as well as fruit, vegetable, and grain producers, exporters, food distributors and processors, and consumers.

Impact: The spread of noxious weeds would result in a reduction in usable agricultural acreage, harming the cattle industry and other agricultural entities. Failure to finalize the tuberculosis regulations would impede efforts to eradicate the disease in the U.S., hurting the livestock industry and creating human health concerns. The revisions to the VVND regulations would, among other things, reduce the number of birds that would have to be destroyed if there is an outbreak of that disease in U.S. poultry flocks. Failure to take emergency actions could cause severe economic losses to U.S. agriculture.

SPECIFIC RULES WITH ANIMAL OR PLANT HEALTH IMPACTS

States affected: All.

Rule: Doc. No. 92–098–3, Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling. Prohibits certain repackaging of, and removal of labels on, veterinary biological products.

Beneficiaries: Consumers (primarily animal hobbyists and breeders).

Impact: Consumers (primarily animal hobbyists and breeders), will continue to suffer from the lack of dose instructions available to them when they purchase single doses of vaccines, etc. This has resulted in illness and death among animals. Failure to implement the regulations will allow this situation to continue. Biologics manufacturers will be happy because they do not want to comply with labeling requirements.

Date: Published 1/12/95; effective 8/19/95.

States affected: Illinois, Indiana, Michigan, Minnesota, Ohio, and Pennsylvania.

Rule: Doc. No. 92–139–8, Pine Shoot Beetle Quarantine Areas. Quarantines areas in States because of the pine shoot beetle.

Beneficiaries: The Christmas tree industry is most directly affected by the failure to quarantine to prevent the spread of the pest. This industry exists in Indiana and surrounding States.

Impact: States with PSB that lack a Federal quarantine will likely have to comply with commerce restrictions imposed by surrounding States. This is a routine action that could apply to other States as well in the next 6 months.

Date: Interim rule published 1/9/95; effective 12/29/94; more rules pending.

ISSUE: ANIMAL WELFARE

States affected: All.

Rule: Several are pending, including one concerning ''Swim With The Dolphins'' programs (Doc. No. 93–076–3), one that would remove a requirement for hot-iron face-branding of certain cattle (Doc. No. 95–006–2), and one that would allow certain diseased horses to be moved to slaughter without being permanently marked with a hot iron, chemical, or freeze brand or lip tatoo (Doc. No. 94–061–2).

Beneficiaries: Animal welfare issues have generated intense and widespread interest among animal rights organizations and the American public in general. The ''Swim With The Dolphins'' regulation is supported by the Humane Society of the United States, the Animal Welfare Institute, the American Zoo and Aquarium Assn., and the Alliance of Marine Mammal Parks and Aquariums. Animal Rights International and People for the Ethical Treatment of Animals have been lobbying hard for changes to our face-branding requirements.

Impact: The ''Swim With The Dolphins'' regulation is necessary to ensure facilities with these programs adhere to certain standards for care of the dolphins. Animal welfare activists, especially in Florida, would weigh in heavily if we do not take this action. An earlier (1994) rulemaking that removed face-branding requirements for certain imported cattle generated tremendous interest and support, including full-page ads in the Washington newspapers and New York Times.

SPECIFIC RULES WITH ANIMAL WELFARE IMPACTS

States affected: All.

Rule: Doc. No. 93–006–3, Identification of Certain Cattle Imported From Mexico. Allows cattle from Mexico to be permanently identified with a mark located high on the hip rather than be face-branded with a hot iron.

Beneficiaries: Generated tremendous interest and support, including full page ads placed in Washington newspapers and New York Times by Animal Rights International. PETA and other animal welfare groups also lobbied hard for this change.

Impact: Serious opposition from animal rights organizations. After many years and considerable effort, the United States is nearing eradication of tuberculosis. While we are moving to eradicate the last areas of infection in the United States, we must improve our level of protection against new introductions of the disease, which not only affects cattle, but can be transmitted to humans. In addition to being an animal health issue, this became an animal welfare issue. This issue was so important to the animal welfare community that it generated thousands of letters and resulted in full-page advertisements in national newspapers.

Date: Final rule published 12/22/94; effective 1/23/95.

ISSUE: DOMESTIC TRADE

States affected: All.

Rule: Several are pending, including one that would give accredited veterinarians additional time between inspection of animals and the issuance of a certificate for their movement (Doc. No. 94–027–1) and one that would provide an additional official test for pseudorabies in swine (Doc. No. 94–064–2). In addition, APHIS routinely publishes rules related to changes in improvements in disease or pest conditions in a State or area. When a pest or disease is eradicated, the Agency should relieve unnecessary restrictions on producers and others as rapidly as is practical. An example of this would be removing an area from quarantine for Mediterranean fruit fly, or raising the brucellosis status of a State to Class Free. These actions relieve restrictions on interstate movements and improve the marketability of previously restricted articles.

Beneficiaries: The rule concerning accredited veterinarians would primarily affect large swine producers in Iowa, Illinois, North Carolina, Nebraska, Minnesota, Indiana, Georgia, Kansas, Pennsylvania, Michigan, and South Dakota. The swine industry, especially in Illinois and Iowa, is very interested in the pseudorabies test docket because making the test available would allow thousands of herd owners to qualify their animals for interstate movement to new markets. Supporters of the pseudorabies test include vaccine producers Kline Beecham and IDEXX, State animal health officials, the American Association of Veterinary Laboratory Diagnosticians (AAVLD), and the United States Animal Health Association (USAHA). Other types of domestic trade actions pending would benefit the U.S. livestock in general, as well as fruit and vegetable producers, exporters, food distributors and processors, and consumers.

Impact: A moratorium would keep unnecessary restrictions on producers and others. Lack of the pseudorabies test rule, in addition to keeping many markets closed to many swine producers, would hinder Federal and State efforts to eradicate pseudorabies because swine producers are reluctant to vaccinate their animals if their markets for those swine would be restricted.

SPECIFIC RULES WITH DOMESTIC TRADE IMPACTS

States affected: Colorado.

Rule: Doc. No. 94–134–1, Brucellosis; CO From Class A to Class Free. This interim rule raised the brucellosis status of Colorado.

Beneficiaries: Livestock producers in CO.

Impact: Invalidating would place unnecessary restrictions on livestock moving from the State, and would hurt their marketability. This is a routine action that could apply to other States as well over the next 6 months.

Date: Published and effective 1/23/95.

States affected: all cattle producing States.

Rule: Doc. No. 94–093–2, Brucellosis in Cattle and Bison; Payment of Indemnity. Authorizes payment of indemnity for additional cases.

Beneficiaries: Herd owners affected by brucellosis.

Impact: Failure to finalize would hinder brucellosis eradication efforts. Members likely to hear from NCA, USAHA and other farm groups.

Date: Proposal published 1/31/95.

States affected: Hawaii primarily; also Alaska.

Rule: Doc. No. 93–088–2, Avocados From Hawaii. Allows avocados to move from Hawaii into Alaska without treatment.

Beneficiaries: Hawaiian avocado growers and related industries; consumers in Alaska.

Impact: HI has a strong interest in this rule. Hawaiian avocado growers would be negatively affected.

Date: Final rule published and effective 12/28/94.

States affected: All—national issue. Northeast, CA heavily affected.

Rule: Doc. No. 92–151–3, National Poultry Improvement Plan and Auxiliary Provisions. Revises Plan standards.

Beneficiaries: poultry producers, food safety interests.

Impact: This rule will implement recommendations made by industry groups; failure to finalize will negatively affect efforts to control disease and improve the health of poultry flocks.

Date: Final rule published and effective 11/18/94.

ORGANIZATIONS AND ASSOCIATIONS THAT ROUTINELY EXPRESS INTEREST IN ACCOMPLISHING APHIS RULES

American Association of Nurserymen, Animal Rights International/Coalition for Non-Violent Food, Humane Society of the U.S., American Veterinary Medical Association, National Cattlemens Association, U.S. Animal Health Association, California Department of Food and Agriculture, FDACS, PETA, American Horse Council, National Pork Producers, Doris Day Animal League, Animal Legal Defense Fund, Society for Animal Protective Legislation, Fund for Animals, National Milk Producers Federation, Texas & Southwestern Cattle Raiser's Assoc., State Agriculture Departments, State Cattle Feeder Associations, American

Farm Bureau Federation, Eastern Milk Producers, State Cattlemens Assocs, and State Animal Health Commissions.

ISSUE: NUTRITION LABELING OF MEAT AND POULTRY (USDA)

States affected: All

Rule: This rule amends current regulations to provide condified language for provisions that previously cross-referenced RDA regulations, make corrections to existing regulations, and minor technical changes. This rule streamlines and makes consistent an existing regulation.

Beneficiary of the Rule: Industry, consumers, health professionals, nutrition interests, laboratories, libraries—anyone who uses the Code of Federal Regulations.

Impact of H.R. 450: Would leave existing, more cumbersome regulation in force.

Date: Published January 3, 1995.

ISSUE: NUTRITION LABELING OF GROUND BEEF AND HAMBURGER (USDA)

States affected: All

Rule: This rule would permit the nutrition labeling of ground beef and hamburger to include ''___% lean'' ''___% fat.''

Beneficiary of the Rule: Consumers; truth-in-labeling issue, dieticians, nutritionists, industry; marketing advantage.

Impact of H.R. 450: Suspension of the rule will deny consumers information to help them make healthy dietary choices.

Date: Expected to publish in second quarter of FY 1995.

ISSUE: POULTRY PRODUCTS PRODUCED BY MECHANICAL SEPARATION AND PRODUCTS IN WHICH SUCH POULTRY PRODUCTS ARE USED (USDA)

States affected: All, primarily poultry producing states

Rule: Rule would require that mechanically separated poultry be identified in ingredients statements of hot dogs, bologna and other processed products as ''mechanically separated chicken or turkey'' instead of simply ''chicken'' or ''turkey.'' Because bones and carcass parts are ground and crushed to extract adhering meat fragments, mechanically separated product has a physical form and texture that differ from ordinary chicken or turkey meat.

Beneficiary of the Rule: Consumers; truth-in-labeling. The meat industry, whose mechanically separated and deboned products do not differ in texture from ordinary meat products, supports this rule because it would make a labeling distinction between the content of mechanically separated poultry and meat products.

Impact of H.R. 450: The suspension of this rule would leave current regulations in force, which allow mechanically separated poultry to be labeled ''chicken'' or ''turkey,'' but require mechanically separated or deboned meat to be labeled as such.

Date: Published December 6, 1994. Comment period closes March 6, 1995.

ISSUE: OPPORTUNITY TO PROMOTE AND STRATEGICALLY MARKET SHEEP PRODUCTS THROUGH PRODUCER SELF-HELP (USDA)

States affected: California, Colorado, Idaho, Indiana, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, and Wyoming.

Rule: USDA must publish rules to implement the newly enacted Sheep Research and Promotion Act passed by Congress. U.S. sheep producers have collectively voted to assess themselves and importers, to use the funds collected to conduct research and promotion activities to strategically market sheep and products.

Beneficiaries: U.S. sheep producers, and consumers of lamb and wool products.

Impact of H.R. 450: The Nation's sheep and wool producers will be unable to collectively come together, across a dozen states, to develop marketing strategies to expand markets for their products if H.R. 450 is implemented. In the meanwhile, foreign producers will be strategically targeting U.S. consumers as a growing niche market, and promoting their foreign-origin lamb at the expense of domestic producers.

ISSUE: COTTON CLASSING FEES (USDA)

States affected: California, Texas, Mississippi, Arkansas, Louisiana, Arizona, Tennessee, Georgia, Alabama, and Missouri

Rule: Annual determination of fees to be charged cotton producers who voluntarily request and obtain grading services to determine the quality of their cotton.

Beneficiaries: U.S. cotton producers, and wholesale and retail buyers of cotton and products made from cotton.

Impact of H.R. 450: USDA can reduce the fees charged to the Nation's cotton producers, saving them millions of dollars. Each year, based on expected crop size, USDA determines by formula the fee needed to cover cotton quality grading services (classing). The past season's cotton crop was record large, and since fees are partly determined by expected volumes, the large crop generated more revenue than needed. This year, USDA can reduce the fee charged to producers, and save U.S. cotton growers $3–4 million. In turn, such savings reduce costs to growers, which are passed on to consumers, both domestic and foreign. U.S. cotton exports are a fast-growing market, and U.S. cotton has become one of the most competitive fibers worldwide. Any opportunities to keep costs low, while maintaining the availability of quality assurance, would be lost if H.R. 450 is enacted.

ISSUE: PATHOGEN REDUCTION IN MEAT AND POULTRY PRODUCTS; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS (USDA)

States affected: All

Rule: The proposed rule is designed to eliminate a critical gap in the meat and poultry inspection program and reduce the incidence of foodborne illness caused by pathogenically contaminated meat and poultry products. Through mandatory HACCP, we will (1) target pathogens that cause foodborne illness; (2) strengthen industry responsibility to produce safe food; and (3) focus inspection and plant activities on prevention objectives.

Beneficiary of the Rule: Consumer interests, persons at greatest risk for foodborne illness: elderly, children, persons with compromised immune systems.

Impact of H.R. 450: According to the Centers for Disease Control, foodborne illness from all food sources range from 6.5 million to 81 million cases each year, and up to 9,000 deaths. Suspension of this rule would forego yearly public health benefits ranging from $990 million to $3.7 billion. These estimates include the cost of medical care and lost work time.

Date: Published February 3, 1995. Comment period ends June 5, 1995. USDA's goal is to publish a final rule by the end of the year.

ISSUE: USE OF TERM ''FRESH'' ON THE LABELING OF RAW POULTRY PRODUCTS (USDA)

States affected: Poultry producing states, particularly California, Arkansas, Georgia, and Minnesota

Rule: The proposed rule would amend the Poultry Products Inspection Act (PPIA) to prohibit the use of the term ''fresh'' on the labeling of raw poultry products whose internal temperature has ever been below 26°F. Raw poultry product whose internal temperature has ever been below 26°F, but above 0°F, may not be labeled as ''fresh'' and must be labeled as ''previously frozen.'' Raw poultry product whose internal temperature has ever been at or below O°F may not be labeled as ''fresh'' and must be labeled as ''frozen'' or ''previously frozen.''

Beneficiary of the Rule: Truth-in-labeling issue benefiting consumers, as well as regional poultry producers whose products compete in local markets with nationally distributed, previously frozen birds that can be thawed and labeled ''fresh'' under current regulations.

Impact of H.R. 450: Existing regulations allowing previously frozen poultry to be labeled as ''fresh'' would remain in force, causing continued confusion in the marketplace.

Date: Published January 17, 1995. Comment period closes March 20, 1995.

ISSUE: MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND MEAT RECOVERY SYSTEMS (USDA)

States affected: All, primarily states with large meat processing industries

Rule: Rule amends the federal regulations to allow meat produced by advanced meat and bone separation machinery to be labeled as ''beef'' or ''pork'' instead of ''mechanically separated beef or pork.'' This action was taken to update the definition of ''meat'' to acknowledge advances in meat separating technology that enable meat to be separated from the bones of livestock without grinding, crushing, or pulverizing bones to remove adhering skeletal tissue.

Beneficiary of the Rule: Truth-in-labeling issue that benefits consumers. Also, the meat industry benefits from a redefinition of meat that includes mechanically separated product.

Impact of H.R. 450: Suspending this regulation would meet with opposition from the meat industry which, for years, has claimed that poultry producers have a market advantage in that product they produce using mechanical separation can be labeled simply as ''chicken'' or ''turkey,'' while beef or pork produced through mechanical separation must be labeled as ''mechanically separated.'' The meat industry could be expected to point to this as another illustration of how unequal meat and poultry regulations result in preferential treatment of the poultry industry.

Date: Published December 6, 1994. Comment period closes March 6, 1995.

IMPACT OF A REGULATORY MORATORIUM ON INDUSTRIES SERVED BY THE AGRICULTURAL MARKETING SERVICE (AMS)

Marketing Orders and Agreements: Under a moratorium, these self-help programs will be useless as a viable tool for producers to use to help strategically market perishable commodities.

Regulations Affected by a Moratorium: Operating rules for marketing strategies, committee budgets and expenses, and industry assessments. For producers in 38 fruit and vegetable self-help programs, annual rules are needed to determine seasonal marketing strategies, set budgets and assessments, and notify industry members. For dairy producers in 37 milk order regions, periodic rules are used to invoke, suspend, or amend marketing order provisions to keep orders current with market conditions, and enable dairy producers to strategically market milk and dairy products.

There are approximately 75,000 small fruit and vegetable producers, and 92,000 small dairy producers, as well as U.S. consumers of higher quality, stable supplies of fruits, vegetables, milk and dairy products, that benefit from these self-help programs.

These small businesses have few opportunities to come together to collectively solve their marketing problems, earn fair and stable returns for their products, and compete in a tough global marketplace by promoting

quality, wholesome U.S. products. A moratorium will effectively render these programs useless as a viable marketing tool by producers.

DAIRY MILK MARKETING ORDERS—ACTIONS SINCE NOVEMBER 1994

Approximately 92,000 dairy farmers (about three-quarters of all dairy farmers) participate in 38 federal milk marketing orders. Their average herd size is 75 cows, and before expenses, dairymen average less than $150,000 in annual sales.

Federal marketing orders are initiated by producers; if a majority believes that the order no longer serves their interests, they are free to terminate the program. Moreover, in the case of any changes that would be considered substantive, the affected producers must vote to approve those changes. In other words, milk marketing orders, and the rules under which they operate, are truly in the hands of the producers, not a federal agency.

Since November 1994, revisions in 11 milk marketing orders have been initiated; these 11 orders represent over 34,500 milk producers. These actions are not regulatory burdens imposed on industry. Rather, the actions taken or proposed to be taken, by industry, help to keep marketing orders dynamic, so they reflect current market conditions facing dairy producers, with respect to adequate supplies of milk needed in a market, milk prices received by producers, and recordkeeping or other ''housekeeping'' or administrative procedures. Actions taken since November include the following:

Central Arizona Milk Order (135 producers covered)—Action to correct marketing inequities within the order. Rescinding the action means recalculating dairy farmers' milk checks, and some producers might have to refund income they have already received and used to cover expenses.

Central Arizona Milk Order—Action taken to propose, beginning March 1, 1995 and extending indefinitely, suspension of certain pooling provisions applied to producers' milk. Inability to suspend the pooling requirements could result in an imbalance of supplies to meet demand in fluid, soft, and hard products markets, with adverse consequences for producer prices and incomes.

Carolina and Tennessee Valley Orders (covering 3,100 producers)—Action to provide notice of a hearing, whose purpose is to correct pricing problems that exist in the orders. Failure to hold the hearing and correct the pricing problems will lead to imbalances in milk supplies relative to local demand, with negative consequences for incomes of some producers in the order areas.

Carolina Milk Order (1,550 producers covered in the Carolina Order alone)—action initiated to propose relaxing certain order provisions for the period January-February 1995, to correct pricing problems. Rescinding the action would result in loss of money for some handlers.

Georgia, et al. (covering 1,355 producers)—Initiation of a formal rulemaking process to consider proposals to merge a number of marketing areas in the Southeast under one order. Additional actions have been taken to accommodate the industry by providing time extensions to file exceptions to proposed amendments.

Additional actions have been taken to accommodate the industry by providing time extensions to file exceptions to proposed amendments.

Chicago Milk Order (covering approximately 18,000 producers)—Action taken to accommodate all interests in the order, by providing an extension of time for filing exceptions on proposed amendments to rule.

Southern Illinois-E. Missouri Milk (covers over 2,250 producers)—Action to relax certain provisions of the order, to enable better balancing of supplies. Without the action, excessive milk would be shipped for fluid use, unnecessarily depressing prices and resulting in inefficient allocations of supplies to meet local demand.

Southern Illinois Milk Order—Action to relax pooling regulation for producer milk that is supplied by 2,257 producers. Cooperatives will lose money without the suspension, because members' milk will be ineligible for pooling.

Central Illinois Milk Order—Action proposed to relax pooling requirements. Rescinding this action means that dairy farmers covered under this order would not be able to have their milk priced and pooled, and would lose income.

Southern Michigan Milk Order—Action taken at the request of the industry, to update the method of paying the 3,600 dairy farmers covered under this order for their milk.

Iowa Milk Order—Action taken to withdraw an earlier proceeding initiated to increase the pool supply of milk; supplies now appear to be adequate for meeting local needs. Over 3,400 producers are covered by this order.

Tennessee Valley Milk Order—Action taken to prevent the uneconomical shipment of milk and ensure that milk produced under the order during the fall will continue to be pooled.

Texas Milk Marketing Area—Action proposed to suspend certain provisions of the order from March 1, 1995 through July 31, 1995. Requested by a cooperative association representing a substantial number of the 2,400 producers covered by the order. Failure to suspend the provisions could result in uneconomical and inefficient movements of milk.

Other actions that would affect all dairy milk marketing orders, and must be approved by a majority of the affected producers:

Class II Milk Pricing: This decision changes the Class II pricing formula for soft dairy products (yogurt, cottage cheese, etc.) under Federal orders, and will mean more income for dairy farmers.

M–W Price Series: Decision to replace current outdated pricing series, will improve the accuracy of milk payments to dairy farmers in reflecting actual market conditions.

FRUITS AND VEGETABLES—MARKETING ORDERS—ACTIONS SINCE NOVEMBER 1994

Over 75,000 fruit and vegetable producers, farming an average of 54 acres, participate in 38 federal marketing orders that generate an average of $70,000 in gross sales to producers. Marketing orders are self-help programs that enable producers to develop marketing strategies to compete in a market where buyers have a much greater natural market advantage. Buyers tend to have a greater market advantage not just because there are fewer buyers than sellers, but because the products are highly perishable—producers have limited ability to use time to their advantage and hold commodities off the market until more favorable terms appear.

Federal marketing orders are initiated by producers; if a majority believes that the order no longer serves their interests, they are free to terminate the program. Moreover, in the case of any changes that would be considered substantive, the affected producers must vote to approve those changes. Fruit and vegetable marketing orders are truly in the hands of the producers, not a federal agency.

Actions initiated by industry, since November 1994, cover more than 63,000 fruit and vegetable producers operating under some 22 marketing orders. Actions since November include announcements of seasonal marketing strategies to improve or maintain returns, in the face of unexpected large crops, or measurable changes in crop quality, announcements of budgets, expenses, and assessments, for committees to administer the marketing orders locally.

Domestic Peanuts (covering 25,000 growers, with average sales of $36,000 per grower)—Actions taken to update marketing agreement provisions for the recent marketing season, and to assess non-signatory peanut handlers, which is mandated by law.

Far West Spearmint Oil (256 producers, with average annual sales of $100,000)—Action to announce salable quantities and allotment shares for ''Class 1'' and ''Class 3'' spearmint oil, to avoid extreme fluctuations in supplies and prices and thus help maintain stability in the Far West spearmint oil market.

Far West Spearmint Oil—Action to announce salable quantities and allotment shares for the 1995–96 marketing season. This rule needs to be effective during the June 1, 1995–May 31, 1996 marketing year. Without it, handlers will be unable to purchase or handle spearmint oil from the marketing order area, resulting in immediate farmer income loss.

Cranberries (1,046 growers in 10 states)—Action to impose financial responsibility on handlers by setting late payment charges. Late payments of assessments hinder the ability of the committee to carry out its financial obligations responsibility, such as prompt payment for services, salaries, and other current expenses.

California Almonds (7,000 producers, with average annual sales of $130,000)—Action to establish marketing strategy for the 1994/95 crop season, by announcing salable, reserve, and export market share recommendations for handler compliance. Inability to pursue the marketing strategy will lead to fluctuations in supplies in various markets and attendant price variability.

Kiwifruit (600 producers, with average annual sales of $27,000)—Action to change district boundaries, to accurately reflect distribution of growers in membership on administrative committee.

California Olives (covering 1,200 producers, with an average of $47,000 in sales per producer)—Action to establish and announce a marketing strategy for olive growers for the 1994–95 season.

California Olives—Action to announce expenses for administrative committee to run marketing order locally.

California Peaches and Nectarines (1,800 producers, with average annual sales of $57,000)—Producers voted in a referendum to terminate this order. This action would carry out that termination request by industry.

California Raisins (4,500 producers, with average annual sales of $80,000)—Action to announce expenses for administrative committee to run marketing order locally.

California Table Grapes—Action to pursue marketing strategy, by relaxing minimum quality requirements currently in effect for table grapes grown in southeastern California, and imported table grapes, to increase the marketing of grapes that would not otherwise meet the grade requirement. This action conforms to industry practice of allowing the marketing of good quality, but smaller bunches, of grapes. Rescinding or preventing the action would result in loss of income to some producers and handlers for these smaller size grapes.

California Walnuts (5,000 producers, with average annual sales of $73,000)—Action to announce expenses for administrative committee to run marketing order locally.

Colorado Irish potatoes (390 producers)—Action to announce expenses for administrative committee to run marketing order locally.

Colorado Irish Potatoes—Action to realign the representation of the administrative committee to more accurately represent the distribution of growers in the industry.

Florida Avocados (200 producers, with average annual sales of $18,000)—Action to increase expenses to provide funding for a research project to improve marketability of Florida avocados; without funding, the research project will be terminated.

Florida Celery—Action to notify the industry that the marketing order will be suspended after 60 days notification to Congress. The industry wants the order suspended at this time. Nullification of the Final Rule would delay suspension.

Florida Citrus (11,965 growers, with average sales of $22,546 each)—Marketing strategy based on a larger citrus crop, to raise minimum quality grade characteristics, to improve consumer appeal and keep producer returns from declining with excess supplies.

Florida Citrus—Action by the Florida citrus industry requesting that quality standards for grapefruit, oranges, tangelos, and tangerines be revised to more clearly reflect current cultural and marketing practices.

Florida and Imported Citrus—Action to relax the minimum size requirement for red seedless grapefruit, to expand the length of marketing season for Florida handlers and importers of red seedless grapefruit to permit them to continue to ship for the entire 1994–95 season.

Florida Limes (150 producers, with average sales of $39,000) and Avocados—Action to announce expenses for administrative committee to run marketing order locally.

Florida Tomatoes (250 producers)—Action to clarify ambiguities in certain rules and regulations of the marketing order, to improve compliance.

Florida Tomatoes—Action to announce expenses for administrative committee to run marketing order locally.

Florida Tomatoes—Action to assure that producer representation on the committee more closely reflects the distribution of growers in the industry.

Idaho Potatoes (1,846 producers, with average annual sales of $119,000)—This action is the second of a four-step formal rulemaking process to amend existing marketing order provisions to more appropriately reflect marketing conditions and strategies needed for Idaho potato growers.

Oregon and Washington filberts and hazelnuts (851 producers, with average annual sales of $28,000)—Action to establish a marketing strategy for the 1994–95 season, by setting recommended shares for domestic, export and other outlets. The percentages stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand and provide a reasonable return to producers.

Texas Grapefruit (1,000 producers, with average annual sales of $15,607)—Marketing strategy to raise quality and relax size requirements for the 1994–95 marketing season.

Texas Citrus—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue.

Texas Citrus—Action to revise container and container pack requirements, to facilitate marketing and business operations.

Texas Melons—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue.

South Texas Melons—Action to increase expenses for the Administrative Committee to fund an additional research project. Without these funds, the research project would have to be terminated.

Texas Onions—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue, and the committee will be unable to implement needed compliance activities and a planned market development program.

Walla Walla (Washington) Sweet Onions—Action is the second of a four-step formal rulemaking process to establish a new marketing order for Walla Walla onions in Washington, as requested by growers.

Research and Promotion Programs—Under a moratorium, sheep producers will not be able to implement the promotion program authorized by Congress to help promote sheep, wool, and lamb products.

An important upcoming issue is the opportunity for the Nation's sheep ranchers to promote and strategically market sheep products through this self-help mechanism. Producers in California, Colorado, Idaho, Indiana, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, and Wyoming recently received authorizing legislation to initiate this program through self-assessments. USDA must publish rules in order to implement the program. Producers collectively will vote on whether to assess themselves and importers, to use the funds collected to conduct research and promotion activities.

With a moratorium, sheep and wool producers will be unable to collectively come together, across a dozen states, to develop marketing strategies to expand markets for their products. In the meanwhile, foreign producers will be strategically targeting U.S. consumers as a growing niche market, and promoting their foreign-origin lamb at the expense of domestic producers.

Other R&P issues expected to surface in coming months include:

Soybeans—The Department is required to conduct a producer poll in a timely manner to determine if a refund referendum should be held. That poll is tentatively set for early summer, and procedures for its conduct must be finalized so that producers can receive adequate notice.

Watermelons—The industry will be unable to revise its program, for which it has already received authority to eliminate refunds and revise assessments.

INDUSTRY-FINANCED RESEARCH AND PROMOTION PROGRAMS

Various industry groups have petitioned for and received authorization to collectively assess themselves and use the funds to conduct research and fund promotional activities for their commodities. All of the 16 active R&P programs are totally self-supported. No taxpayer dollars are used. The cost of the Washington staff is reimbursed by the industries. As with other self-help marketing order and agreement programs, R&Ps are initiated by producers, and can be terminated by producers when the programs are no longer considered to be effective. The following actions have been initiated by industries since November:

Egg Research and Promotion Act—Producer Vote to Increase the Assessment Rate: The American Egg Board (AEB) would be unable to collect the 10 cents per 30-dozen case assessment beginning February 1, 1995, and the assessment would revert to 5 cents. AEB would have to develop a new budget and submit it to the Department for approval. Projects as outlined in AEB's 1995 budget are already in progress and would have to be scrapped. The 10 cent assessment was approved by the producers in a referendum held September-October 1994, and the increase was heavily publicized.

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order: This rule implemented the program. Termination of the program would result in a substantial widespread revenue loss to producers and shippers.

Honey Research, Promotion, and Consumer Information Order: Interim Final Rule was published May 2, 1994. This action clarifies and corrects the Order and rules and regulations which were amended in August 1991.

Lime Research, Promotion, and Consumer Information Order: This Final Rule implemented the changes to the Order which reflect amendments made by Congress in December 1993 to the authorizing legislation. Before the 1993 amendments the program was inactive. A moratorium would nullify this industry program.

Pork Research and Promotion; Increase in Assessment Rate: The increase in the overall assessment rate is needed to provide additional funding to enable the pork industry to better assist the movement of record supplies of pork to consumers at improved producer price levels. A portion of all funds collected are redistributed to states to facilitate state promotional activities for pork.

Potato Research and Promotion—Change in Size of Administrative Committee: This Final Rule adopts without change an Interim Final Rule published September 26, 1994. Not implementing this rule would prevent the committee from selecting members on a representative basis. The Final Rule does not change the Interim Final Rule which would remain the active regulation.

INDUSTRY FINANCED GRADING PROGRAMS

Under a moratorium, cotton growers will pay $3–4 million in higher grading fees that are not necessary, if USDA is prevented from reducing the fees through the regulatory process.

USDA can reduce the fees charges to the Nation's cotton producers, saving them millions of dollars. Each year, based on expected crop size, USDA determines by formula the fee needed to cover cotton quality grading services (classing). The past season's cotton crop was record large, and since fees are partly determined by expected volumes, the large crop generated more revenue than needed. This year, USDA can reduce the fee charged to producers, and save U.S. cotton growers $3–4 million. In turn, such savings reduce costs to growers, which are passed on to consumers, both domestic and foreign. U.S. cotton exports are a fast-growing market, and U.S. cotton has become one of the most competitive fibers worldwide.

Any opportunities to keep costs low, while maintaining the availability of quality assurance for growers that is recognized as the universal standard of quality, would be lost with a moratorium. Cotton producers in California, Texas, Mississippi, Arkansas, Louisiana, Arizona, Tennessee, Georgia, Alabama, and Missouri would pay more than needed for a service they value.

INDUSTRY-FINANCED QUALITY GRADING AND GRADE STANDARDS PROGRAMS

Quality grade standards, and the grading services provided by AMS, are wholly voluntary programs, financed through fees paid by industry for services on demand. These customers are the ''cash and carry'' customers who must be satisfied with AMS service, and believe in the value of the grading service, because they are under no obligation whatsoever to use the grading service. The application of grade standards facilitates trade, and the use of contracts in trade, over long distances where commodities cannot be inspected visually. Grading also increases buyer confidence, by providing up front assurances about the quality of the product before purchase. All of the actions below are

examples of actions initiated by industry, and AMS makes sure that there is industry consensus before the action becomes final:

Beef Grades: Proposal would revise the beef grade standards to assure that older cattle are not included in the U.S. Choice and U.S. Select grades, thereby improving the overall quality of beef in these grades. The action will improve both the consistency of and consumer satisfaction with beef grades.

Dairy Grading Standards: Changes in Anhydrous Milkfat and Butteroil Requirements: Changes were made in the USDA grade standards for anhydrous milkfat and butteroil, that more closely aligned U.S. requirements with international standards. Without the changes, domestic manufacturers of anhydrous milk and butteroil would not be able to compete on equal terms in international markets. As a result, Dairy Export Incentive Program contracts could not be filled, and the dairy industry could lose $1.3 million in annual sales.

Frozen Bean Standards: Proposal would revise quality standards for grades of frozen green and frozen wax beans. The proposed action will improve trade contracts between processors and buyers and improve the marketing of frozen green beans.

Onion Standards: A broad spectrum of growers and shippers of onions requested that the U.S. grade standards be revised to provide clear, objective interpretation and to bring the standards into conformity with current harvesting, handling and marketing practices.

Poulty Grade Standards: These changes update the voluntary poultry grade standards in response to advancement within the poultry industry and changes in consumer preferences.

Tobacco Standards: Action requested by the industry to improve the integrity of American burley tobacco. Industry has been trying for 2 years to get rule in place and it would have strong reaction to any more delay.

AGRICULTURAL MARKETING SERVICE

Implications for AMS Programs Should a Regulatory Moratorium Be Imposed

User fees

The Agricultural Marketing Service administers 50 laws which translates into an equal number of programs for the marketing sector of Agriculture. AMS is unique in that 76% of funding required to provide its services to the agriculture community is paid by numerous players throughout the agricultural marketing chain. Should a regulatory moratorium be imposed, AMS would be unable to promulgate adjustments of annual fees for the numerous inspection and grading activities offered by AMS as well as numerous self-help programs initiated by the various industries. For example:

Cotton classing

In the area of cotton, AMS classes 98% of the cotton crop. Annual fees, which are based on the size of the crop, are announced via Federal Register publication in early spring in order for AMS to assess a uniform fee to the industry when the classing season starts up on June 1. Given the size of the crop this year, AMS will actually be able to consider adjusting the annual fee downward. Without the ability to announce a fee that is in compliance with the formula prescribed in Sec. 3A of the Cotton Statistics and Estimates Act, the Department could actually be in a situation of charging a fee higher than is needed to provide the service to the industry. Although such savings may be a few cents per bale, that savings translates into the big dollar savings for America's producers when they are looking at a record crop which needs classing.

Marketing orders

Federal marketing orders for milk, fruits, vegetables and specialty crops are unique programs that are recommended by industry and approved by the Secretary. Unlike most regulations, these are requested by the industries that are being regulated. Growers and producers voluntarily initiate all marketing orders. A formal rulemaking process, including a hearing on grower/producer approval by a two-thirds or larger majority in referendum, is required before any program may be implemented.

Once operational, industry committees recommend changes in regulations that will assist the industry in addressing unique marketing challenges. The perishability of most of the commodities regulated under these programs makes rapid responses to changes in crop and market conditions essential. Under a regulatory moratorium, timely responses to changes in crop and market conditions will not be possible. Such delays are not only disconcerting to the industries, but result in loss of revenue without the necessary objectives being met.

Under the Federal Milk Order Program, it should be noted that regulatory actions sometimes occur during the course of the year that will in fact suspend certain provisions of that particular federal milk marketing order. For example, regulations are often utilized to suspend the requirements to pool plant qualification of a milk manufacturing plant operated by a cooperative. Milk orders utilize the opportunity to suspend regulations to avoid unnecessary milk movements. A regulatory moratorium would preclude suspending such requirements, thereby requiring unnecessary and uneconomic shipment of milk.

Organic standards

The Department received authority in the 1990 Farm Bill to establish an organic standards program. Over the period of the past five years, the Department has worked closely with the National Organic Standards Board and all segments of the organic community in developing standards by which the organic community can market its products in the mainstream of American Agriculture. The Department is proceeding to publish rulemaking that will provide the necessary standards for implementation of this program. A regulatory moratorium would further delay this effort to the disadvantage of organic producers.

Sheep Research and Promotion Program

The Department expects to promulgate regulations and implement this new program this year. The Department would be unable to implement this Act this year in event of the moratorium.

Watermelon Research and Promotion Program

The watermelon industry under a moratorium would be unable to revise its program for which it has already received statutory authority to eliminate refunds and revise its assessments. The industry is asking for a promulgation of a final rule by March 1 of this year.

Soybean Research and Promotion Program

The soybean legislation approved by Congress in the 1990 Farm Bill requires the Department to conduct a producer poll in a timely manner to determine if a refund referendum should be held. The poll is tentatively set for early summer. Procedures for its conduct must be finalized in time to adequately inform producers. A regulatory moratorium would obviate the Department's ability to meet the statutory requirement.

Pork Research and Promotion Program

The pork industry wishes to increase the rate of assessment from .35% to .45% of the market value of porcine animals. The overall assessment increase is needed by the pork industry to better assist their program efforts for the marketing of record supplies of pork to consumers at improved price levels. A regulatory moratorium would preclude this rulemaking from taking place.

ISSUE: STRATEGIC MARKETING OF FRUITS, VEGETABLES, AND DAIRY PRODUCTS THROUGH PRODUCER SELF-HELP PROGRAMS (USDA)

States Affected: For fruit/veg—mainly Southern and Western States; for dairy—nearly every State.

Rules: Self-Help Marketing Programs—Operating Rules for Marketing Strategies, Committee Budgets and Expenses, and Industry Assessments. For producers in 38 fruit/vegetable self-help programs, annual rules are needed to determine seasonal marketing strategies, set budgets and assessments, and notify industry members. For dairy producers in 37 milk order regions, periodic rules are used to invoke, suspend, or amend marketing order provisions to keep orders current with market conditions, and enable dairy producers to strategically market milk and dairy products.

Beneficiary: 75,000 small fruit and vegetable producers, and 92,000 small dairy producers, as well as U.S. consumers of higher quality, stable supplies of fruits, vegetables, milk, and dairy products.

Impact of H.R. 450: The average fruit and vegetable producer who participates in a self-help marketing order farms just 54 acres, and earns about $70,000 in annual sales, before expenses. The average dairy producer who participates in a marketing order has just 75 cows, with a total value of milk sales before operating expenses, of less than $150,000.

These small businesses have few opportunities to come together to collectively solve their marketing problems, earn fair and stable returns for their products, and compete in a tough global marketplace by promoting quality, wholesome U.S. products. H.R. 450 will effectively render these programs useless as a marketing tool.

H.R. 450 would also prevent the initiation of new self-help programs that have recently been enacted by Congress, to help producers promote horticultural products, sheep, wool, and lamb.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

I would like to enter into a similar colloquy with the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. Chairman, a recent tragedy in the Midwest, involving a regional airline brought to the public's attention that 2 different sets of safety standards exist for the airlines, one for the major airlines and one for the regional airlines.

It is my understanding Secretary Peña is looking into that and is expected in a short period of time to be releasing a new set of regulations bringing the regionals up to a par with the major airlines. That is something that is long overdue, since more and more cities are being served by regional airlines and fewer and fewer cities are having full jet service.

I hope it is the intention of the Chair to allow, within the discretion that he has for technical adjustments, when this bill is put into its final stage would somehow include some language so that it is very clear that when these

regulations come down, they will not be subject to the terms of this bill.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I would be happy to engage in colloquy with the chairman, and the answer is it is pretty clear to me that the circumstances we are talking about here, which is obviously the safety involved in regional aircraft, is a very, very critical one and one that clearly relates to safety of individuals and constituents a threat.

We have seen too many accidents, too many deaths resulting from this.

So that I think it is clearly exempt under the exemption we provided for imminent threat to health and safety. The language specifically says that substantial endangerment to private property during the period of the moratorium. So under either of those criteria, it would be covered.

I think we should also try to clarify that.

Mr. TAYLOR of Mississippi. Mr. Chairman, while we have the interested parties here, could I address the ranking minority member and ask if she would be in agreement to allow during the technical revisions at the end of the bill to allow the chairman, if need be, to include that language? It is a lot quicker than offering an amendment. Again, we all know regulations are coming that would otherwise be necessary. I would hate to see anyone hurt because this Congress failed to do its job.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentlewoman.

Mrs. COLLINS of Illinois. Mr. Chairman, I say to the gentleman, ''With all certainty.''

Mr. TAYLOR of Mississippi. I thank the gentlewoman.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words in order to enter into a colloquy with the gentleman from California [Mr. HORN].

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

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

Mr. HORN. I thank the gentleman for yielding.

Mr. Chairman, my question is this: Section 5 of the Regulatory Transition Act of 1995 provides for certain exceptions to the regulatory moratorium in the case of regulations which are necessary because of an imminent threat to health or safety. While I applaud this section, I am concerned that it might be construed to apply to regulations proposed under the National Flood Insurance Program.

I have been trying to work with the Federal Emergency Management Agency as that agency prepares to issue a final rule implementing amendments to the national flood insurance program. This amendment—which was passed as part of the 1992 housing reauthorization—addressed areas which once had adequate flood protection, but which had experienced a decertification of their flood control system. Importantly, these amendments only apply to areas which are in the process of recertifying a flood control project. Thus, these communities have the distinction of having once prepared for a flood and of having to do so once again. Certainly, this is not an instance of trying to get out of dealing with a flood threat.

Unfortunately, FEMA has not considered the legislative history of this issue, and is preparing to issue a final rule that will impose a requirement for local homeowners to buy flood insurance and for certain construction projects to be modified to reflect a possible flood.

This rule will cost homeowners several hundred million dollars per year, and even more in lost economic opportunity, as builders delay construction projects to avoid having to elevate structures that will only be at risk for a short period of time, until the flood control project is recertified. In sum, we are facing a multibillion dollar cost from this rule, while the cost to recertify the flood control project is only $300 million. Meanwhile, the risk of a flood is less than 1 percent in any given year.

In my mind, that small risk does not constitute an imminent threat to health and safety, as defined under this bill in section 5. Would you agree with this characterization?

Mr. MCINTOSH. Mr. Chairman, yes, I concur. Rulemaking by the Federal Emergency Management Agency which imposes flood insurance on a community cannot be construed as an imminent threat to health and safety, and thus would not be eligible for consideration under section 5 of the bill.

Mr. HORN. Mr. Chairman, I thank the author of the legislation, who knows it better than anyone.

Mr. MCINTOSH. I thank the gentleman.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. COLLINS of Illinois:

At the end of section 5 (pages , after line), add the following new subsection:

(c) COMMON SENSE REGULATORY IMPROVEMENTS.—Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) PERSONAL USE OF CAMPAIGN FUNDS.—A regulatory rulemaking action by the Federal Election Commission governing personal use of campaign funds, taken under the Federal Election Campaign Act of 1971 and with respect to which final rules were published on February 9, 1995 (60 Fed. Reg. 7862).

(2) IMMIGRANT ASYLUM REQUESTS.—A regulatory rulemaking action to improve procedures for disposing of requests for asylum under immigration laws, taken by the immigration and Naturalization Service and with respect to which final rules were published on December 5, 1994 (59 Fed. Reg. 62284).

(3) HUD REGULATORY IMPROVEMENTS.—A regulatory rulemaking action by the Department of Housing and Urban Development—

(A) to establish a preference for the elderly in the provision of section 8 housing assistance, taken under subtitle D of title VI of the Housing and Community Development Act of 1992 and with respect to which a final rule was published on December 21, 1994 (59 Fed. Reg. 65842);

(B) to eliminate drugs from federally assisted housing, as authorized by section 581 of the National Affordable Housing Act and section 161 of the Housing and Community Development Act of 1992 and with respect to which a final rule was published on January 26, 1995 (60 Fed. Reg. 5280); or

(C) to designate urban empowerment zones or enterprise communities, taken under subchapter C of part I of title XIII of the Omnibus Budget Reconciliation Act of 1993 and with respect to which a final rule was published on January 12, 1995 (60 Fed. Reg. 3034).

(4) COMPENSATION TO PERSIAN GULF WAR VETERANS.—A regulatory rulemaking action to provide compensation to Persian Gulf War veterans for disability from undiagnosed illnesses, taken under the Persian Gulf War Veterans' Benefits Act and with respect to which a final rule was published on February 3, 1995, (60 Fed. Reg. 6660).

(5) CHILD MOLESTER DATABASE.—A regulatory rulemaking action by the Department of Justice to require persons criminally convicted of a sexually violent offense against a minor to register with State law enforcement agencies so that such agencies can develop a database of the identities and residences of those offenders, taken under title XVII of the Violent Crime Control and Law Enforcement Act of 1994.

(6) MIGRATORY BIRD HUNTING.—A regulatory rulemaking action by the Department of the Interior that establishes the hunting season, hunting hours, hunting areas, and possession limits for migratory birds, and with respect to which final rules were published on November 21, 1995 (59 Fed. Reg. 59967 and 59 Fed. Reg. 60060).

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot during this debate about regulations that do not pass the commonsense test. A proposal considered by Federal agencies to require the manufacture of buckets that leak has often been cited as an example of what is wrong with Federal regulation.

What the proponents of this bill do not like to admit, however, is that some regulations actually do pass the commonsense test. It is important to

remember, therefore, that H.R. 450 does not just stop bad regulations—it stops virtually all regulations.

There is no exemption in this legislation for regulations that simply make good sense. As a result, the amendment I am offering would exempt several regulations that I believe most Members will agree make sense, and should not be subject to a moratorium.

Regulations that would be exempt from the moratorium under my amendment include: rules prohibiting the personal use of campaign funds; improved procedures to dispose of meritless petitions for asylum under immigration laws; rules to give preference to the elderly in public housing, to exclude drug addicts from public housing and to designate empowerment zones and enterprise communities; rules authorizing payment of benefits to Persian Gulf veterans; rules providing for the development of a data base for child molesters; and rules necessary to establish the hunting season for ducks and other waterfowl.

□ 1810

Let me speak first on the duck hunting issue.

My amendment would exempt from the moratorium the Interior Department's regulations establishing the hunting season, hunting hours, hunting areas, and bag limits for migratory birds. Without this exclusion, this year's hunting season for ducks and other waterfowl could be canceled, according to the Fish and Wildlife Service.

I am sure the bill's proponents did not have the Nation's hunters in their sights when they took aim at Federal regulation. However, without the exclusion contained in my amendment there will not only be disappointed hunters this hunting season, but there will also be reduced Federal and State revenues from the sale of licenses and duck stamps.

Why would we want the moratorium to stop the hunting season?

I would also caution my colleagues against relying on assurances from the bill's proponents that there is no need to worry, because this or that regulation can be excluded under the term of the bill.

There are no automatic exclusions under this bill. Furthermore, since the bill allows the courts to review an agency decision to exclude a matter, the agencies will be very reluctant to grant exclusions.

Let me give my colleagues a little background on some other rules, and I think it will be very clear why they should be excluded from the moratorium:

The Federal Elections Commission has recently completed a rulemaking clarifying its prohibition against the personal use of campaign funds.

The new FEC rule defines personal use to include expenses such as club memberships, clothing, tuition payments, and mortgage and rent payments on a candidate's personal residence. If the FEC's rule is not allowed to go into effect, there will be no definition of personal use, and the opportunity for intentional, or inadvertent violation of the law will increase.

It is my belief that the American people will hold each of us no less accountable than Members of past Congresses for excesses and abuses of our office.

Why then should we want H.R. 450 to stop the FEC from aggressively enforcing its ban on the personal use of campaign funds?

Similarly, the Department of Justice issued a final rule on December 5, 1994, which will make it easier to deport immigrant aliens who file meritless cases for asylum.

Under this rule, persons who are seeking asylum would not immediately become eligible to receive employment authorizations. Under the previous rule, asylum seekers were granted employment authorizations immediately upon filing for asylum. As a result, many fraudulent asylum petitions were filed in order to obtain much sought after employment authorizations.

We have had many examples of abuses of our asylum laws in recent years.

The Moslem religious leader who is accused of masterminding the bombings of the World Trade Center in New York City has remained in the United States, after filing a request for asylum. The sniper attack last year outside the Central Intelligence Agency was also perpetrated by an asylum applicant.

In both these cases, the individuals involved were able to extend their stay by filing appeals and exhausting their administrative remedies under the asylum regulations now in effect. Such tactics have meant that it now takes the Immigration and Naturalization Service [INS] up to 2 years to process an asylum application.

If we do not exempt this rule from the moratorium, we will be protecting those who do not have a legitimate claim for asylum in our country. According to the administration, and I quote,

> The effect of H.R. 450 would be an institutionalization of the prior, unworkable and inefficient asylum system.

I do not believe that is in the interest of the American people.

Neither do I believe it to be in the public interest to repeal HUD's designation of more than 100 empowerment zones and enterprise communities throughout the United States. I am happy to say that Chicago was designated one of the empowerment zones.

Under this program, cities would be given tax incentives, flexible block grants, waivers, and flexibility with existing Federal resources and priority consideration for discretionary Federal programs. In short, cities would get the kind of cooperation and flexibility from the Federal Government that they have been seeking for a long time.

Why would we want the moratorium to stop this regulation? Members of the majority have been advocating this approach for years.

I would remind the bill's proponents that when a question was raised about whether the moratorium would apply to bank and tax regulation, the response was to clearly exempt these matters in the provisions of the bill itself. I would ask for the same treatment for the rules contained in the amendment I am offering.

Let me conclude that my statement is a commonsense fix on this bill, yet if this amendment is defeated, I would be willing to grant that we are going to end up passing this in the new Corrections Day that the Speaker has promised us.

I believe the regulations my amendment would exempt do make good sense, and I would urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS], and I yield myself such time as I may consume.

Mr. Chairman, I do this reluctantly because I know that the minority has attempted to marshal the amendments into en bloc amendments. Unfortunately this amendment really is too en bloc. We have too many disparate elements included in this amendment, some of which may be meritorious, but others which I think are redundant or unnecessary. So, because it has a whole potpourri of various considerations, various exemptions included in this, I think it goes beyond, and it really would have the effect of gutting the intent of the bill, which we are trying to resist as many exemptions as possible here because we feel that the exemption provisions in the bill itself are very broad. They would allow amendments to go forward clearly for a variety of reasons, whether for to protect the health and safety, whether it is streamlining or removing regulations, reducing the regulatory burden on people and for normal, routine operations.

There are a number of exemptions in here, and to start down the slippery slope of identifying specific programs I think would be a mistake, and I would also submit, Mr. Chairman, a number of the provisions in the gentlewoman's amendment I think would be clearly covered by some of those exemptions that are applied in the bill. For example, the immigrant asylum provision would really be covered, I believe, under the streamlining exemption. It says that one is actually removing regulations that are imposed in this area, and it is making the system easier. So I think they would not be affected by or they would be exempt under this amendment. The child molester data base would be covered clearly, I think, under the criminal enforcement exemption. Again that is already in the bill, and to specifically list child molesting

might preclude the consideration of other vitally needed criminal regulations that should go forward.

So, there are a number of other items, as I have indicated, like the migratory bird hunting amendment. I would tell the membership we are going to deal where there is an amendment that will be forthcoming that I think addresses the migratory bird hunting problem with greater finesse. This would provide us an exemption, spell out an exemption, for migratory bird hunting. The amendment that will be considered in due course defines what the existing exemption would include within the existing exemption and make it clear that this was a sort of thing that we intended to be included within the existing exemption.

So, for those reasons I must oppose the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to modify or amend the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS] by taking the language that applies in the amendment that is in the amendment lines 2, 3, and 4, beginning with the word ''section'' and insert ''it also,'' and on page 3 between lines 14 and 15.

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

□ 1820

Mr. CLINGER. Mr. Chairman, reserving the right to object, I would have the gentleman repeat his request.

Mr. VOLKMER. If you take the language in the front of the amendment, line 2, section 6, et cetera down to ''thereto,'' take the same language and put it over on page 3, between lines 14 and 15; that is all it does.

Mr. CLINGER. Further reserving the right to object, what is the purpose of this amendment?

Mr. VOLKMER. It does not change the substance of the amendment at all.

Mr. CLINGER. Why are we moving it, if it does not change the substance? What is the effect of the change?

Mr. VOLKMER. The effect is the change will permit me to ask for a division or separate vote on that last part, on the migratory bird hunting.

Mr. CLINGER. Mr. Chairman, as I indicated earlier, we are going to deal with that matter in a subsequent amendment, and we feel that the amendment that will be offered later is a more artfully drafted amendment. So I would not want to muddy the water here, and I must maintain my objection.

The CHAIRMAN. Objection is heard.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentlewoman from Illinois for yielding, and also thank her for her leadership and allowing me to have input and assistance on this amendment.

In their haste to expedite the process, my colleagues on the other side of the aisle seem to have forgotten there are some helpful regulations needed by hunters, veterans, seniors, crime fighters, and even Members of Congress. The Collins-Stupak amendment would make some important needed corrections in this legislation.

H.R. 450, the regulatory moratorium, is for the birds, but, more specifically, it is for ducks, geese, doves, woodcocks, and pigeons. In fact, it really should be renamed the Migratory Bird Safe Passage Act of 1995, because one of the consequences of the legislation is that the U.S. Fish and Wildlife's Federal regulations would not be able to set up this year's migratory bird hunting season and bag limits. Under the provisions of the migratory bird treaty, the U.S. Fish and Wildlife allows waterfowl hunting between September 1 and March 9. Because of the moratorium that we have here today, the U.S. Fish and Wildlife would be hard-pressed to set the hunting season before September 1, 1995. Without this amendment, 3 million duck hunters can hang up their shotguns, States will forego $1 million in license revenue, and rural communities such as northern Michigan which depend on the hunting season will lose an aggregate total economic benefit of $3.6 billion. In Michigan's upper peninsula alone, over 5,000 duck hunters bring nearly $1 million to our economy.

Further, this amendment reminds us that we should reflect on our goal for veterans. Many of the young veterans from the gulf war are suffering from a mysterious delibitating disease. The Secretary of Veterans Affairs recently authorized benefits for soldiers and their families to help them cope with the gulf war syndrome. The authorization, aimed at providing relief, would be considered under this legislation a burdensome regulation. I find it unconscionable that now we put forth a moratorium and turn our back on our suffering veterans.

What about our seniors? HUD regulations, which will help keep drug and alcohol abusers out of senior housing complexes are now under assault. Every senior should be afforded the opportunity to live in comfort and safety in their home. The moratorium would halt this rule making process and would continue to put our Nation's seniors at risk.

The Collins-Stupak amendment would allow duck hunters to hunt this year by exempting them from the rulemaking action of the Fish and Wildlife Service with regard to the migratory bird treaty. It provides for our veterans and it protects our seniors. I ask that my colleagues support this amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. STUMP], the chairman of the Committee on Veterans' Affairs.

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

Mr. Chairman, as chairman of the Committee on Veterans' Affairs, I can fully appreciate the intent of the gentlewoman's amendment to H.R. 450 regarding VA compensation. However, I believe the amendment is unnecessary because under section 6, veterans' benefits would be already exempt.

If you would allow me to paraphrase, I will read you under the definition of section 6 exclusions: The term ''regulatory rule making action'' does not include any action relating to statutes implementing benefits.

Our committee has asked the VA their opinion about this. They have no concern about this, since this clearly exempts them and they have no problem with it. So I urge my colleagues not to be concerned about the Persian Gulf compensation regulations. It would not affect them.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. STUMP. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman thinks it is clear, others do not. So if you support my amendment, then it would be clear and there would be no confusion about the issue.

Mr. STUMP. Mr. Chairman, reclaiming my time, I guess my objection to it would be that this may be used to enhance the passage of this amendment, and I object to the amendment for other purposes, too. I want to make it perfectly clear it does not affect compensation for Persian Gulf war veterans.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will yield further, it is the agency that has to make the determination. That is why I would like to have it in this bill, so the agency would be clear of the congressional intent.

Mr. STUMP. Mr. Chairman, reclaiming my time, I would repeat under the rule, exclusion section 6, it is not necessary and does not affect veterans.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER], a coauthor of the amendment.

Ms. SLAUGHTER. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, national statistics indicate that rapists are ten times more likely to repeat their crimes than other types of criminals. The American people are right to be outraged by the sensational cases where such sexual predators were released into our communities, and often neither the police nor the community knew they were there.

Polly Klaas in California and Megan Kanka in New Jersey are two recent examples of young children allegedly

abused and murdered by released sex offenders. In my home town of Rochester, NY, Arthur Shawcross went on a rampage of serial rape and murder while he was on parole for abusing and murdering two young children.

Communities across the Nation have similar horror stories to tell. And we here in Washington heard those stories, and vowed to take action. Last year, I introduced legislation expanding our national crime database to cover all sexual predators. A sexual predator database was included in last year's comprehensive crime legislation, with strong support from Republicans and Democrats alike.

By collecting this information nationally, and making it available by computer to every police department in the country, we can help prevent new tragedies from occurring.

Let me close with an example of a recent case in which the predators database could have made all the difference. Two years ago, Virginia authorities were puzzled by the crimes of the notorious ''maintenance man rapist,'' who attacked as many as 18 women by posing as a repairman to gain access to their homes and then brutally raping them.

Tragically, Eugene Dozier had already been convicted for a string of rapes in New York in which he used exactly the same predatory tactics. He was released from prison in New York and moved down the coast to northern Virginia. Information from a nationwide database would have led Virginia police right to his door. Instead, 18 women were needlessly brutalized before the maintenance man rapist was brought to justice.

I urge my colleagues to support the Collins amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the distinguished majority whip, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the Collins amendment.

Mr. Chairman, to paraphrase Abraham Lincoln, an amendment divided against itself cannot stand. And the Collins amendment has so many different divisions, it cannot stand the scrutiny of reason.

Look at what we have here. We have a giveaway to the FEC, a special break for HUD, a little something for the veterans, and how about something for duck hunters? We are going to have a duck hunting amendment that follows later on tonight. Taken alone, each one of these special exemptions may sound good. Taken together, this amendment quickly escapes reason.

Mr. Chairman, let us not lose sight of the real issue here. What we are trying to do is end the regulatory burden on our small businesses and the American family. What the opponents are trying to do is to keep these job-killing regulations flowing and going. Mr. Chairman, I urge my colleagues to vote against this amendment and support the underlying bill.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from Illinois.

□ 1830

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding to me.

The reason why I had to fashion my amendment in the way I did is because we had time limitations, and I wanted to make sure that these four particular parts of the amendment were being covered somehow. So all we could do is cluster the amendment, and that is why my amendment has four different categories in it.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I understand the ranking Member's problem and appreciate the problem, but the point still is the same. This is an amendment that is trying to undercut the bill and the intent of the bill.

The bill takes care of the problems, as we have said all day long, of many of the Members that want certain regulations to continue, safety and health, routine licensing, regulations that lift burdens on other regulations. The bill takes care of most of this.

I understand that the gentlewoman supports and that side of the aisle supports regulation, but what we are trying to do here is to put King's X on regulations until we are able to implement our regulatory reform package and, hopefully, see that the President signs them.

We could all play political games, some for political cover, but the real intent of these amendments is to destroy the underlying intent of the legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will continue to yield, let me say to the gentleman that it is not the intention to do any kind of political amendments. What it is the intention to do is to let American people know what is in this bill and what is not in this bill.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I understand, we all understand what is going on here. Those that want to protect the regulations want to do as much as they can.

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

I think that the only point I would like to stress again, I know that there are many in this Chamber, many in their offices who are concerned about an issue that has become very, very prominent in this debate. That is whether or not we would have a duck hunting season in this country this year. I want to assure those that might be inclined to vote for this amendment because of that concern that there will be a subsequent amendment that will deal, I think, more artfully with that problem and will make it very clear that the exemption that exists in the bill is meant to cover the very concern that people have had about having a duck hunting season.

I think it is better than the proposal in the gentlewoman's amendment, which would carve out a totally separate exemption and, therefore, I think open the door to massive other numbers of exemptions which we are trying to resist.

So I would encourage those who might be inclined to vote for this amendment because of the migratory bird provision not to do so. They will have that opportunity when the amendment, the next amendment, one of the amendments will be considered later.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the gentleman for clarifying that fact, because I understand there is no higher priority in this body than to make sure that we do have duck hunting season. We will take care of that.

But there are other amendments within this package of common sense amendments that we really need to take care of.

It is probably so that there are Members on this side of the aisle, the Democratic side, who really believe that whatever regulation the Federal Government issues, it is needed. It is important and they would not question it. There are obviously Members on the Republican side who seem to feel that any Federal regulation is wrong and should not have been issued.

I suspect, and I would suggest to the Members of this body, that the truth probably lies somewhere in between, that there are regulations that are just plain nutty and we have had those shared with us today and will tomorrow as well.

There are regulations that in their implementation they are excessive. They are implemented in a cookie cutter approach, when the intent is good but the result is not what this legislative body intended. Then there are other regulations that are absolutely essential and necessary, and we would really not object to those, if we had an opportunity to fully consider them.

That is, it is those regulations that we are considering in this amendment. This amendment was put together under the guise of common sense.

When we talk about the asylum issue, for example, OMB has told us that under H.R. 450, they would not be able to issue those INS regulations.

Now, we have been working with INS for years. It does not make sense to have 450,000 political asylum cases in limbo, waiting to be processed. It increases by 100,000 a year. There is nothing to do with the political situation in other countries. It is because people have figured out how to use this loophole.

You have got people in other countries that consider themselves immigration consultants, and they tell people that ''you get on the plane, you

flush your papers down the toilet en route. You get over there and you say you are claiming political asylum. It will take 2 years before they process and by then they will never find you.'' That is what happened with Mir Amal Kansi who killed two people outside the CIA. He was on political asylum. The people that bombed the World Trade Center, political asylum. We have got thousands of people that have no business being in this United States.

So we finally got a regulation that the INS issued that will make sure that they all get processed in 6 months instead of 2 years.

That is a regulation that OMB tells us they will not be able to implement this year if H.R. 450 passes as is.

It needs to be changed. Other amendments that have been included in this package need to be changed. I would hope that we would do so.

Mr. Chairman, this amendment gets to the heart of the problem with the Regulatory Moratorium Act.

This legislation assumes that all regulations are bad and that Government only works to impose new and unnecessary burdens on businesses and citizens. By arbitrarily reaching back to November 1994, this legislation attempts to impugn the motives of any regulation not implemented with the advise and consent of the new Republican revolutionaries. This is fine as political rhetoric, but it is shortsighted and destructive as public policy.

My concerns focus on an individual case in point. On December 5, 1994, regulations were published in the Federal Register that provide desperately needed reforms of our political asylum process. This reform is important because the number of political asylum cases has exploded. In 1983, there were fewer than 5,000. This grew to 56,000 in 1991 and more than 150,000 last year. The backlog of unprocessed asylum cases has grown to more than 425,000 cases by the end of last year and is rising at the rate of 100,000 each year.

This increase in political asylum cases is not driven by a rise in legitimate refugees seeking protection from the United States, but rather by an increased awareness of the loophole overseas. What is happening is that aliens and immigrants are coming to this country, flushing their papers down the toilet on their flight over and claiming political asylum once they land at JFK or Dulles International Airport. They are learning how to do this through conmen and immigration consultants overseas.

The reason aliens are claiming political asylum, in such large numbers, is that they know they can use the process to get into the United States with little or no problem or governmental control. INS officials cannot summarily dismiss these complaints and send the aliens back home. Instead the aliens are given work permits and temporary visas while the INS reviews their claim. With a backlog of 425,000 claims, this initial review can be up to 24 months away. Even after the INS reviews the claim and rejects it, the alien simply appeals the decision and continues to live and work in the United States. More often than not we are finding that aliens are using this delay to simply disappear into the vast underground of immigrants in New York, Los Angeles, or even Arlington, VA.

This system is being seriously abused. Sheik Omar Abdel Rahman and his gang, who tried to blow up the World Trade Center, had political asylum cases pending. Mir Amal Kansi, the Pakistani who 2 years ago murdered two people outside the CIA headquarters building in northern Virginia, came to the United States on a visa and then applied for asylum.

Last year, the Clinton administration and the INS began the process of reforming our asylum laws and closing this loophole. The December 5 regulations will help the INS fully process applications within 180 days. The INS will focus on the new asylum claims and prevent aliens from melting into our society. In addition, asylum applicants will not be given work permits until after 180 days. The regulations will significantly improve our asylum process.

But now, we are willing to throw out those regulations simply because they were implemented after the November elections. We are reopening a huge loophole in our immigration policies and telling potential immigrants to come on in.

This is simply inexcusable. We must not overturn legitimate and necessary government policies simply to score political gains.

The Collins-Moran amendment corrects this flaw by excluding the INS regulations from the scope of the legislation.

I urge all of my colleagues to vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 242, not voting 11, as follows:

[Roll No. 164]

AYES—181

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—242

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm

Stockman	Torkildsen	Weller
Stump	Upton	White
Talent	Vucanovich	Whitfield
Tanner	Waldholtz	Wicker
Tate	Walker	Wolf
Tauzin	Walsh	Young (AK)
Taylor (NC)	Wamp	Young (FL)
Thomas	Watts (OK)	Zeliff
Thornberry	Weldon (FL)	Zimmer
Tiahrt	Weldon (PA)	

NOT VOTING—11

Andrews	Fattah	Meek
Bartlett	Gibbons	Ortiz
Barton	Gonzalez	Torres
Ehlers	McCarthy	

□ 1853

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. Barton of Texas against.

Ms. JACKSON-LEE and Mr. DOOLEY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. NORTON: At the end of section 5 (page , after line); add the following new subsection:

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status.

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield myself such time as I say consume.

Mr. Chairman, the only difficulty this amendment presents for me, and I believe for most of the Members, is that it is not already in the bill. Had I not had a conflict that prevented me from being at the committee for part of the time, I have every reason to believe that the bill would have come to the floor with this amendment in it.

The proof is that the language I now propose has already been adopted by this House in the unfunded mandate bill. I would simply exempt, to use the language of that bill, ''regulatory rulemaking action to establish or enforce any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status.''

If this language was appropriate for the Unfunded Mandate Reform Act of 1995, it is more so for the Regulatory Transition Act now before us. Unfunded mandates seldom sound in equal rights terms. Regulations do far more often.

For example, as we speak, administrative action is under way to conform the time limits for filing civil actions under the Age Discrimination Act to those of the Civil Rights Act we passed in 1991. This is an action of particular importance. Several years ago, hundreds of middle-aged and elderly workers lost their rights under the age discrimination statute because of differences in time limits for filing. This body had to pass a special bill to reinstate those actions. Now administrative action is pending that would safeguard these rights and promote efficiency by eliminating inconsistencies in time limits allowed for people to go to court. There should not be one time limit for filing based on gender or race, for example, and another time limit for those who claim discrimination because of age.

Another pending example would conform the Rehabilitation Act to the Americans With Disabilities Act. The Rehabilitation Act is the Disabilities Act as applied to Federal employees.

The regulatory moratorium bill was not drawn with regulatory actions of this kind in mind, Mr. Chairman. This body's action that exempted civil rights matters from similar and prior legislation this very month shows a bipartisan intent to leave matters of equality untouched by legislation designed to attack other problems.

The last thing the country needs is a notion that the House regards the right to be free of discrimination not as a right at all, but as an unfunded mandate or a paperwork problem.

□ 1900

In fact, that is not the view of this body, to its credit. We have said so once and we should say so now.

These have not been the best of times for equal rights. There is polarization where there should be reconciliation. We need a more problem-solving, sober leadership on equal rights on this delicate yet volatile issue than it sometimes attracts.

My aim is designed to bring us together where we ought to be on equal rights. We will not be able to be there all of the time. It should not be difficult to be together on this amendment at this time.

I ask for and urge Members' support.

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

AMENDMENT OFFERED BY MR. MC INTOSH TO THE AMENDMENT OFFERED BY MS. NORTON

Mr. MCINTOSH. Mr. Chairman, I rise in technical opposition to the amendment and I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCINTOSH to the amendment offered by Ms. NORTON: Before the period at the end of the amendment insert '', except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status''.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 10 minutes.

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

Mr. Chairman, the purpose of my amendment is to clarify that any regulation that would go forward to protect civil rights would not create a quota or a preference. We have seen time and time again instances where people implementing the Civil Rights Act were overzealous in the application of the civil rights laws, which has led to the unintended or perhaps intended consequence that regulations have created a preference where individuals would be hired, fired, otherwise subject to employment decisions that were in fact based on suspect criteria, such as race, gender or national origin.

Our goal here is to make it very clear that those regulations could not go forward during the moratorium period, and I think it will send a strong message to the country that we want to have racial equality and do so in a way that is truly without regard to race, gender, national origin, handicap, or disability status.

I urge a yes vote on the amendment, and then would be delighted to support the amendment of the gentlewoman from the District of Columbia [Ms. NORTON].

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

Mr. Chairman, I appreciate the gentleman's amendment and the work he has put into it. I certainly do not mean to create the impression that anything in my amendment does anything but conform to existing law. So I take the use of the words ''quota'' and ''preference'' to be interchangeable because otherwise the one word is so wide open and does not have a fixed meaning in law, and on that basis I would accept the gentleman's secondary amendment.

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

Mr. Chairman, the reason for the choice of the word ''preference'' was that some people attempted to create quotas and call them preferences, so I am delighted the gentlewoman is accepting the amendment.

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

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

Again, Mr. Chairman, let me just indicate that the Civil Rights Act most recently passed by this body in 1991 bars quotas, and I certainly mean to conform to that act, and I believe the gentleman is entirely in good faith in his use of the language to conform to that act, and certainly I do not mean any quotas, and the use of preference in this context interchangeable with quotas is satisfactory to me.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the full committee.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in support of the gentlewoman's amendment that would exclude civil rights regulations from the moratorium.

Mr. Chairman, I express my support for the Norton amendment that would exclude civil rights regulations from the moratorium.

The enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Americans With Disabilities Act, and the Age Discrimination in Employment Act represent significant triumphs in an ongoing struggle to ensure that all Americans are treated fairly. These laws, among many other civil rights protections, ensure equality of opportunity, and equality of access for all.

Although this bill does not purport to impact these laws, its practical effect is to seriously undermine their potency. For example, agencies would be prevented from promulgating regulations to ensure safety for the handicapped or disabled, and to ensure that these individuals have the same physical access to facilities as the rest of the population. In addition, agencies would be prohibited from undertaking investigations pursuant to allegations of discrimination.

I truly wish that many of these regulations were not necessary to protect the rights of our citizens. However, all we need to do is take a page from the history books to illustrate the unfortunate disregard that we have shown for our fellow citizens' rights in the past.

I believe that if we do not exclude these regulations, then we seriously compromise one of the most fundamental premises of our democracy * * * the equality of all citizens.

I also believe that we would be sending the wrong signal to the American people, that the protection of their civil rights is not important. I do not believe that this is the signal that any of us would want to send. I would therefore ask my colleagues to support this amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] seek time?

Mr. CLINGER. Mr. Chairman, yes, I do.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. CLINGER] reclaims the time of the gentleman from Indiana [Mr. MCINTOSH].

There was no objection.

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

Mr. Chairman, I just want to say I am delighted that the gentlewoman from the District of Columbia and the gentleman from Indiana have been able to come together in a cooperative fashion to come up with an amendment which I think accomplishes what he wants to accomplish. As the gentlewoman from the District of Columbia said, this was language that was included in the unfunded mandates provision. It makes it very clear that these were to be not on the table in terms this kind of thing.

So I think it is an important addition to the bill and I am happy to support her amendment as amended by the gentleman from Indiana.

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

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

Mr. Chairman, I thank the gentleman for his support. The fact is that the word quotas has become quite a dirty word in the language and I did not want to add any dirty words to this bill, and I think what we do by adopting this amendment is to take that word off the table, to indicate that we certainly do not mean quotas, and thereby make this bill that every Member can support.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. MCINTOSH] to the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON], as amended.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 0, answered ''present'' 14, not voting 15, as follows:

[Roll No. 165]

AYES—405

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller

White	Wise	Yates
Whitfield	Wolf	Young (AK)
Wicker	Woolsey	Young (FL)
Williams	Wyden	Zeliff
Wilson	Wynn	Zimmer

ANSWERED ''PRESENT''—14

Becerra	Hilliard	Payne (NJ)
Brown (FL)	Johnson, E. B.	Rangel
Collins (IL)	Lofgren	Souder
Dellums	McKinney	Waters
Hastings (FL)	Owens	

NOT VOTING—15

Andrews	Furse	Kaptur
Barton	Gibbons	McCarthy
Boehlert	Gonzalez	Meek
Ehlers	Hoke	Ortiz
Fattah	Johnson (SD)	Torres

□ 1927

Messrs. DELLUMS, RANGEL, PAYNE of New Jersey, and HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. MCKINNEY changed their vote from ''aye'' to ''present.''

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

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

Mr. Chairman, I do so to announce that in a moment I will move that the Committee do rise for the purpose of a unanimous-consent request, which would provide for the House to sit tomorrow morning starting at 9 o'clock.

Thereafter, I would advise the membership we would go back into the Committee, we will dispose of one additional amendment this evening, and there will be one additional vote anticipated, but we should be completed with all business in Committee by 8 clock.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GUNDERSON) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, had come to no resolution thereon.

HOUR OF MEETING ON TOMORROW

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

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

Mr. WISE. Mr. Speaker, reserving the right to object, this has been cleared by the leadership on the Democratic side.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

□ 1930

REGULATORY TRANSITION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 93 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 450.

□ 1930

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON] as amended had been disposed of.

For what purpose does the gentleman from Indiana [Mr. MCINTOSH] rise?

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

Mr. Chairman, I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Indiana [Mr. MCINTOSH] for yielding to me for the purpose of a colloquy, and I would like to ask the chairman of the subcommittee three questions, if I could. The first question is this: In December 1994, the INS promulgated comprehensive regulations to streamline the asylum process and prevent abuse of the asylum system. Is it your understanding that these regulations would be excluded under section 6(3)(B)(i) as being ''limited to streamlining a rule, regulation, or administrative process?''

Mr. MCINTOSH. Yes, that is my understanding of the effect of section 6(3)(B)(i) with respect to streamlining INS regulations of this type.

Mr. SMITH of Texas. In 1994, the Violent Crime Control and Law Enforcement Act and the Immigration and Nationality Technical Corrections Act established a process to expeditiously remove from the United States criminal aliens. Is it your understanding that these regulations will be excluded from the moratorium because they fit within the streamlining exception under section 6(3)(B)(i)?

Mr. MCINTOSH. Yes, that is my understanding.

Mr. SMITH of Texas. And last, I appreciate the gentleman's patience, the third question is: It is my understanding the INS also plans to issue regulations to streamline the rules and procedures for certain types of nonimmigrant visas, in part to prevent the abuse of such visas. Is it your understanding such reforms to the visa process fall under the streamlining exclusion under section 6(3)(B)(i)?

Mr. MCINTOSH. Yes, that is my understanding.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Indiana [Mr. MCINTOSH].

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

AMENDMENT OFFERED BY MR. HAYES

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

The Clerk read as follows:

Amendment offered by Mr. HAYES: In section 6(4), in the last sentence, after ''restriction'' insert the following new clarifying clause: ''(including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action)''.

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

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

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of today the gentleman from Louisiana [Mr. HAYES] and a Member opposed each will control 10 minutes.

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

Mr. HAYES. Mr. Chairman, I rise in support of an amendment that while styled as such because of the procedural rules of the House is actually a clarification language of section 64.

As background it should be noted that the reason that we are here this evening is because we have had so many regulatory actions, they have trampled on so many individuals' rights, and we have had so many instances in which we were unable to redress the complaints made by those whom we represent that it boiled over to the point where finally there is a regulatory reaction. I say to my colleagues, incredibly enough the kinds of things that were happening to folks at home that led to this sort of concern are the kinds of things they complain to and to you about when you return there. They walk up and they say, ''Look, my son is owning a piece of property that has some water on it. There's no means by which I can tell what it is, and unless I apply for a permit to do something, the Corps of Engineers won't tell me what it is, but the minute I decide to put some kind of crawfish pond there I find out the entire Federal bureaucracy not only wants to tell me what it is, but what to do with it.''

Mr. Chairman, we have regulatory overreach that has caused us in representing those half million-plus people who call us Congressmen to come here this evening.

I say to my colleagues, incredibly enough, with the efforts that deserve

applause from Mr. MCINTOSH, Mr. PETERSON, Mr. CONDIT, when those efforts are made, the same agencies do exactly the same thing, only they don't highlight what it is they did to trample rights. They turn around and say, ''We will construe this to mean we're going to do more things to you. We're going to construe your action to mean we're not going to have a duck season. We're going to construe your action to mean we're not protecting health.'' They're in the habit of taking the act, taking the regs, and doing harm to individuals, and they just can't break that habit.

For that reason we are often clarifying language, Mr. Chairman.

I do not believe that either the intent, nor actually the text of this bill, requires that this be done, but I do believe that sending a strong message to those who believe regulations equates arrogance, to those who believe regulation means power, to those who believe regulation means enforcement without any glimpse of humanity; that is why the clarifying language is offered.

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana for his comments.

Mr. BAKER of Louisiana. Mr. Chairman, I compliment the gentleman on his fine statement and agree with this state of frustration about our growing regulatory process.

In working with the gentleman on this amendment, Mr. Chairman, I think it should be made clear that the action we are about to take is in relation to the Migratory Bird Act. For those who are not familiar with it, having been passed in 1918, it sets a framework in place which prohibits the taking of birds or migratory fowl that are protected by Federal law, and each year the Department of the Interior issues a waiver allowing all States to promulgate their own rules and regulations for the taking of migratory fowl.

Stated in another way, Mr. Chairman, duck or geese hunting.

It is now apparent that unless some action is taken by legislative remedy that this year's season for many avid hunters may be placed in jeopardy. In fact, we received a communication from the Secretary of the Interior indicating that they would be unable to promulgate timely, necessary rules to allow the season to go forward as is customary. For those reasons the gentleman's amendment, as I understand it, allows a provision which says, if the agency does not take action that hunting and fishing seasons would, and their conduct would, not be impaired by the failure of the agency to act timely.

This is an appropriate response and one which the gentleman correctly describes as definitional, only it is not clearly the intention of the authors of the legislation to create this difficulty, and perhaps it does not. But due to the confusion from the secretary's letter which was created we have now consulted with Ducks Unlimited, a number of other organizations who have great interest in this matter, and they have all indicated their strong support for this amendment.

Mr. Chairman, I am happy to rise in support of the gentleman's amendment and commend him for his leadership in this matter.

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

Mr. HAYES. I yield to the gentleman from Missouri.

Mr. VOLKMER. As I understand it, the gentleman's amendment does not specifically exempt the provisions for water fowl or migratory bird hunting season, but merely puts a provision in it to waive; is that correct, the requirement?

Mr. HAYES. Mr. Chairman, what it does is it takes the definitional section of the word ''rule'' which is in section 64 of the act, and the language which is included says that the agency action which establishes, modifies or conducts a regulatory program for recreational or subsistence activity, including, but not limited to, hunting, fishing and camping. I believe that it would indeed cover those activities to such an extent that it would not be justified for a Federal agency to say that with the passage of this act they are not empowered to go forward with their regulatory duty in establishing those seasons.

Mr. VOLKMER. In other words, Mr. Chairman, the gentleman is saying that now under this act with his amendment they will be able to provide the proper regulations for those activities?

Mr. HAYES. Yes, sir, with one minor exception. The gentleman from Louisiana [Mr. BAKER] and I decided that the majority leader, the gentleman from Texas [Mr. ARMEY], should not be allowed to fish in Louisiana, so with that one exception it will allow everyone else in America to go forward.

□ 1940

Mr. VOLKMER. Mr. Chairman, I just want to say one other thing: I beg to differ just a wee bit with the gentleman from Louisiana as far as the intent and the purpose of the legislation that is now before us, the act itself. I am sorry, but I personally would have to agree with the Secretary as to the effect of that legislation without the amendment. I am sorry to differ. I do not think it is just for that purpose.

Mr. HAYES. Reclaiming my time, I would simply make this observation as a Democrat who has been here for 8 years. The first chair of the committee that has allowed me to offer an amendment to change language has been this Republican chair, and if I am going to base it upon his actions, then I must interpret his actions in so doing as a good faith effort to accommodate this concern, which would lead me to believe that the language could not have been intentionally crafted, or else he would have refused to do this.

I know that language is quite often a problem, especially when we have elephants and donkeys. We allow language sometimes to take precedence over substance. In this instance, I can only say that the working relationship has not only been fair, but cordial. Like anything, it may be tedious and it may not be easy, but it certainly has been productive, because I think this amendment is about to pass, to the benefit of people across the country.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, I support the amendment.

Mr. Chairman, Louisiana is known as the Sportsman's Paradise. Recreational activities on our bayous, marshes, rivers, and the Gulf of Mexico and in our vast wilderness and wildlife refuge areas are a part of our very way of life. There are over 66,000 duck hunters and over 500 hunting camps for which the annual multiplier effect on Louisiana's economy is $57 million annually. Hunting in general provides over $630 million annually to our State. These figures, Mr. Chairman, are conservative.

The amendment that we are offering today is a bipartisan proposal, which is intended to address potential unintended consequences of H.R. 450 that would result in the cancellation or delay of the upcoming duck season and other important hunting and fishing opportunities. As you may know, under the provisions of the Migratory Bird Treaty Act, unless as permitted by a regulatory action of the Department of Interior, it is unlawful to pursue, hunt, take, capture, kill, et cetera, migratory birds. These prohibitions are included as part of treaties between the United States and Great Britain, the United States and Mexico, and the United States and Japan, all of which are for the protection of migratory birds. Section 704 of Title 16 U.S.C. Annotated then summarizes the regulatory process that the Department of Interior must follow to enable migratory bird seasons to go forward.

Our amendment would refine section 6 of the bill to exclude from the definition of regulatory rule making—therefore, from coverage under the moratorium—agency actions in the management of regulatory programs for recreational or subsistence activities including but not limited to hunting, fishing, and camping, if the applicable statute prohibits such activities in the absence of this agency action.

Our amendment would also answer the concerns of my friend from Alaska, Mr. YOUNG, with respect to the prohibitions of subsistence hunting and fishing, which are critical to survival of many of his constituents. Finally, the Department of Interior would also be able to move ahead with plans to open wildlife refuges in Louisiana and California to hunting and fishing.

The Baker-Hayes-Young amendment is consistent with the intent of H.R. 450 to allow agencies to promulgate nonburdensome, common sense directives like the regulatory framework that the Department of Interior, through the U.S. Fish and Wildlife Service, has set up for duck season since the 1950's. The onerous rules that H.R. 450 was proposed to stop are rules which impose needless or wasteful costs on the American economy, whereas, if we fail to clarify this language, recreational endeavors that in fact enhance our economy will be curtailed. We cannot let this happen.

Ducks Unlimited, which represents close to 20,000 conservationists in Louisiana and 550,000 nationwide, in Canada, and Mexico, has indicated to me that our amendment will fix this problem. The DU mission statement to ''fulfill the life cycle needs of North American waterfowl'' suggests why we must not stand by and presume that the duck season will go ahead without this clarifying amendment. These regulations are crucial to gather the scientific data necessary to ensure the responsible conservation of waterfowl.

Therefore, I urge you to vote for the Baker-Hayes-Young amendment.

Mr. Chairman, is there time for an opponent to the amendment under the provision?

The CHAIRMAN. There is 10 minutes on each side. The gentleman from Louisiana [Mr. HAYES] the proponent, has 10 minutes. There is also 10 minutes for an opponent.

Mr. VOLKMER. Mr. Chairman, I would ask that that 10 minutes be allocated to the gentlewoman from Illinois [Mrs. COLLINS], not that she is opposed to the amendment, because I know she supports it, but just in fairness to give her an opportunity to speak.

The CHAIRMAN. Does the gentlewoman from Illinois seek time in opposition?

Mrs. COLLINS of Illinois. I do, Mr. Chairman.

Mr. HAYES. Mr. Chairman, how much time is remaining for me?

The CHAIRMAN. The gentleman from Louisiana [Mr. HAYES] has 3 minutes remaining, and the gentlewoman from Illinois [Mrs. COLLINS] has 10 minutes remaining.

Mr. HAYES. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. PETERSON].

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

Mr. Chairman, I am one of those that happens to think we do not need this amendment. I think that duck hunting was exempt under what we put together in the committee. But I think that this amendment will reassure any of those that are concerned, and I support the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise tonight to just seek some clarification. I listened to the author try to explain it, but it was not really clear to me. I have here a Republican handout from one of the previous amendments, and in part it says let us not exempt this bill to death, and as I understand the amendment, what we are doing is being very specific that there is an exemption as it relates to the hunting season for ducks. I think that is pretty important stuff, but I do not know if we should exempt the bill to death.

I recall a previous amendment dealing with a very serious water problem in the Milwaukee area in the State of Wisconsin, and that was the cryptosporidium problem. We tried to exempt the clean water regulations in this bill and we were turned down in large part by the Republicans, but now we can exempt the bill to death by providing an exemption for ducks.

The problem I have with that is I think clean water and cryptosporidium problems are more important than the duck season. I think it is a sad day in the House of Representatives when we put ducks above water safety in this country, clean water regulations. But so be it, that is the new regime we are working under.

I want to respond to the author of the amendment. I do object to one of the statements made when he indicates that if this was last year the Democrats would not let him offer this amendment, now he has free rein to offer it. My Lord, I would be shocked if we let him offer such nonsense to this bill, especially when we turn down water safety, meeting specs, things of that nature, which on a priority scale, my friends, I would think is a smidgen higher than the all important duck season in this country.

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

Mr. Chairman, I would like to respond to that in the words of Sixty Rayburn, the legendary legislator from the State of Louisiana. Sixty once looked at a Federal legislator and said, ''Son, I can explain it to you, but I can't understand it for you.''

What I would say to the gentleman is that my observation was that I have been afforded an opportunity to offer an amendment. That amendment is relevant, it is pertinent, and it covers far more items than simply a migratory waterfowl season.

But I would also say that in parishes, counties I represent, 30 percent of Vermilion Parish, 35 percent of Cameron Parish is on tourism-related to hunting. So for a party that cares about the heart and soul of people, one out of three ought to be enough to care about that live in a parish to do something for them. And I would say that this kind of attitude is why I stay in the Democratic Party, waiting for some more Democrats to get there and join me.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I say to my friend, the gentleman from Louisiana [Mr. HAYES], I understand how seriously he feels about this issue. I respect him for bringing it to the floor. But I think a fair point has been made. As he cares passionately about the rights of his constituents to hunt, the economic interests of his State, some of us have felt passionately after years of work about the ability to protect children from the problem of E. coli bacteria, with 4,000 deaths a year; with the problem that our water supplies are being contaminated by bacteria.

The gentleman deserves to have his amendment voted upon. Indeed, he may deserve to have it passed. But a fair point has been made. It cannot escape the attention of the American people that the interests of children, the interests of our citizens and the safety of their homes and restaurants came to this floor. After years of fighting to get Federal regulations to protect them, those regulations are in jeopardy. The comparison was a fair one. I thank the gentleman for raising it.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, I understand my colleague's interest in his district and ducks. Now my question is, if the duck lands on water in Wisconsin that is contaminated with cryptosporidium, does the extension of the exception to the duck allow a procedure to protect other ducks from this infection?

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

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

Mr. BAKER of Louisiana. Mr. Chairman, I think the whole point of this amendment has been missed. If ducks were present tonight, they would not be for this amendment. This allows a hunting season.

Mr. KANJORSKI. Mr. Chairman, the gentleman's point is well taken. What happens if the hunter is successful and he ingests the duck and he suffers from cryptosporidium? Has it become more important that we protect the ducks and offer the protection to the ducks, or does it become more important to protect people.

□ 1950

Mrs. COLLINS of Illinois. Mr. Chairman, it is very interesting, it seems that this body is about to vote for this duck hunting amendment. And as has been said before, there have been other amendments which I think were just really great amendments. They dealt with the American people.

This body has voted against allowing the FEC rules on personal use of campaign funds to proceed. They have voted against allowing expedited consideration of meritless asylum requests. They have voted against rules and regulations that would allow new HUD rules giving preference to elderly in section 8 housing, rules pertaining to elimination of drug use in Federal housing, designations of empowerment zones that allows datebase for child molesters. They have voted against, if Members will, child molesters, children, by saying we cannot have any datebase for child molesters as required in last year's crime bill. And yet they are willing to vote for duck hunting.

Mr. Chairman, this amendment is not the most wonderful amendment I have ever seen in my life. Somebody said, if it looks like a duck, sounds like a duck, quacks like a duck, it is a duck.

Mr. SCHUMER. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I would just say on an amendment like this, with the National Rifle Association and CHARLES SCHUMER in agreement, how can we turn it down?

Mrs. LINCOLN. Mr. Chairman, it appears that duck hunting season has gotten caught in the crossfire as Republicans continue to move at a breakneck speed to pass the Contract With America.

Hunting is one of the simple pleasures for many of us in Arkansas. But continued Federal attempts to dicker with hunting regulations have turned hunting into a complex legal battle.

The U.S. Fish and wildlife Service has said that today's proposal to place a retroactive moratorium on Federal regulations would cancel next year's waterfowl season

Each year Fish and Wildlife must issue regulations setting the hunting season and bag limits for migratory waterfowl including ducks, geese, and doves. Their decision is based on a long and complex process of public hearings and meetings, which end shortly before hunting season opens October 1.

As this bill is written, those meetings could not take place because Fish and Wildlife has interpreted hunting season meetings to be outside the realm of routine administrative regulations.

In defense of hunting season, I sent a letter last week to Mr. CLINGER, chairman of the Government Reform and Oversight Committee, asking that waterfowl hunting season regulations be exempt from this bill.

Therefore, I am extremely pleased to see this amendment offered and urge my colleagues to support its passage.

Let me assure the American people that I wholeheartedly support efforts to free them from burdensome and unnecessary Federal regulations. But I fear the unintended consequences of Republicans' efforts to push reforms so quickly.

As a hunter myself and representing approximately 60,000 Arkansas migratory bird hunters, I must be emphatic that canceling the 1995–96 waterfowl season would not be acceptable.

Migratory bird hunters spend $3.6 billion annually nationwide. In Arkansas, migratory bird hunting brings $1.5 million to the State and $31 million in retail sales.

This revenue, in addition to the family traditions that have been built around hunting season, should not be denied by Congress.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the Hayes amendment and in support of H.R. 450.

There has been a lot of talk about which regulations will and will not be affected by the moratorium. Frankly, I have had enough. It's no secret, the administration has identified, in an effort to kill the bill, a select few routine regulations which they say will not continue if this bill is signed into law. Two of those examples are the migratory bird hunting regulations and subsistence hunting regulations in Alaska.

Frankly, I am of the opinion that these activities are permitted—they are routine administrative functions.

However, this amendment is intended to clarify for the Department of the Interior, who apparently cannot read the law, so they can issue regulations for recreational or subsistence hunting, fishing, and camping for the 1995–96 seasons.

I urge my colleagues' support of this amendment which is offered for the benefit of Alaska Natives and the sports men and women of America.

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

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 383, noes 34, answered ''present'' 4, not voting 13, as follows:

[Roll No 166]

AYES—383

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—34

Beilenson
Clayton
Collins (IL)
Collins (MI)
Conyers
Dellums
Doyle
Flake
Foglietta
Gutierrez
Hastings (FL)
Jacobs
Johnston
Kanjorski
Kleczka
Lewis (GA)
Lowey
McHale
McKinney
Moran
Nadler
Owens
Payne (NJ)
Roybal-Allard
Rush
Serrano
Thompson
Torres
Towns
Tucker
Velazquez
Waters
Watt (NC)
Woolsey

ANSWERED ''PRESENT''—4

Brown (FL)
Rangel
Slaughter
Souder

NOT VOTING—13

Andrews
Barton
Becerra
Ehlers
Fattah
Gibbons
Gonzalez
Linder
McCarthy
Meek
Ortiz
Stark
Yates

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

Messrs. CASTLE, CHRISTENSEN, WHITE, and DAVIS changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LARGENT) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 450) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, had come to no resolution thereon.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, FRIDAY, FEBRUARY 24, 1995, DURING 5-MINUTE RULE

Mr. HORN. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Banking and Financial Services; the Committee on Commerce; the Committee on International Relations; the Committee on the Judiciary; the Committee on Transportation and Infrastructure; and the Committee on Veterans' Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. WISE. Mr. Speaker, reserving the right to object, the Democratic minority has been consulted, and has no objection to that request. The agreement is made though, with the understanding that it has also been agreed that there would be 10 one-minute speeches per side when the House convenes in the morning. Is that the gentleman's understanding?

Mr. HORN. Mr. Speaker, if the gentleman will yield, that is our understanding.

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

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

There was no objection.

NOTICE OF HEARING ON CAPITAL BUDGETING ON THURSDAY, MARCH 2, 1995

Mr. HORN. Mr. Speaker, I rise to announce that the Subcommittee on Government Management, Information and Technology will be holding a hearing on capital budgeting on Thursday, March 2, 1995, in room 2154 Rayburn House Office Building at 2 p.m. The purpose of this hearing will be to examine the policy aspects of a capital budget.

PERMISSION TO INSERT PROGRAM AND REMARKS OF MEMBERS REPRESENTING THE HOUSE AT GEORGE WASHINGTON'S BIRTHDAY CEREMONIES

Mr. HORN. Mr. Speaker, I ask unanimous consent that the program and the remarks of the gentleman from California [Mr. HORN] and the gentleman from New Mexico [Mr. RICHARDSON], the two Members representing the House of Representatives at the wreath-laying ceremony at the Washington Monument for the observance of George Washington's birthday on Wednesday, February 22, 1995, be inserted in today's CONGRESSIONAL RECORD.

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

There was no objection.

REMARKS OF THE HONORABLE STEPHEN HORN

GEORGE WASHINGTON: A WISE LEADER FOR AN EMERGING NATION

I congratulate the members of the National Park Service, not only on what you have done to preserve history in the nation's capital, but what you have done throughout the nation to give our fellow citizens, young and old, and visitors to our shores a view of the past and to convey the ideals of this nation which has given hope to those less fortunate. You do a great job, and all Americans appreciate it.

When we think of George Washington we think of a person of great character and presence. He was also a good listener, but when he spoke, other people immediately stopped to listen to what he had to say. He was a person of common sense. He was a wise leader.

He also had a sense of humor. Today in the United States Senate, Senator Craig Thomas of Wyoming will read the Farewell Address of President Washington. That tradition of the Senate reminds me that when Thomas Jefferson, who was not at the Constitutional Convention, came back from France, he visited his fellow Virginian and friend, George Washington, at Mount Vernon. He said, ''George, you were President of the Constitutional Convention, why did you ever create the Senate of the United States?'' Washington looked at Jefferson and said ''Tom, why are you pouring your tea into a saucer?'' Jefferson answered, ''To cool it.'' ''Thus so,'' smiled Washington, ''that is why we created the Senate.''

Washington was an outstanding executive, both military and civilian. He set the precedents for the office of the Presidency. When you think of his cabinet, you see four men of great talent: Thomas Jefferson, Secretary of State; Alexander Hamilton, Secretary of the Treasury; General Henry Knox, Secretary of War; and Edmund Randolph, Attorney General. Few cabinets have had such overall distinction. Some might equal it, but it would take ten or twelve people to equal those four.

In his wise and visionary Farewell Address to the nation, which I mentioned earlier, Washington influenced the policy of political parties in this country for over 150 years, when he cautioned against permanent entangling alliances with foreign nations.

It was Washington's wisdom, his thoughtfulness, his presence and character that set the foundation for a nation that would expand from 13 small colonies, newly states, westward across a continent. He had vision, and the characteristics of great leaders. We honor him, with good reason, on this day.

REMARKS OF THE HONORABLE BILL RICHARDSON

I am honored to join my colleague, the Honorable Stephen Horn, Councilman Jack Evans, the Park Service and other distinguished guests as we gather at the foot of this imposing monument to honor our nation's first President.

While local residents may grow accustomed to this huge monument, those of us who come here from a far are awestruck by it. We are taken back by its size and shape, its power and the unbelievable view or vision it offers for those who travel to its top. In fact, its size, its power and its vision are very much like the man it recognizes and the man we are honoring today.

George Washington was so admired and revered that no man challenged him for the office of the Presidency—Washington is the only person to seek the office without opposition. His two terms were a great success. He governed with dignity as well as restraint. He provided stability and authority which our young nation so sorely needed. He understood the need to compromise and reach agreement with men of opposing views.

One could easily argue that George Washington understood the Presidency because as Chairman of the Constitutional Convention he helped design our democracy. But, planning for a democracy and instituting a democracy were two very different tasks. Thankfully, George Washington was heroic at both missions.

In fact, George Washington was exceptional at many endeavors. Long before his rise to military leader of the War for Independence, he was a farm boy who had to grow up fast after his father died when he was just 11 years old. He taught himself surveying. Upon the death of his half-brother, he became a land owner of Mount Vernon at age 20. He was an active member of his community and his church. The rest, as they say, is history.

When compared to George Washington's 263rd birthday, we in New Mexico are quite young. Our state is only celebrating our 83rd birthday this year. Even though we may be a bit younger than our nation's founding father, we join our fellow states and countrymen with great enthusiasm and praise in honoring President Washington on this anniversary of his birth.

PRESIDENT GEORGE WASHINGTON, 263D BIRTHDAY OBSERVANCE, FEBRUARY 22, 1995, WASHINGTON MONUMENT, WASHINGTON, DC

PROGRAM

Opening: Arnold Goldstein, Superintendent, National Capital Parks-Central, National Park Service.

Presentation of the Colors: Joint Armed Services Color Guard.

To the Colors: Old Guard Fife and Drum Corps; Drum Major Anthony Hoxworth.

Welcome: Superintendent Goldstein.

Musical Selection: Old Guard Fife and Drum Corps.

Remarks: Russell Train, First Vice President, Washington National Monument Society; John Reynolds, Deputy Director, National Park Service; The Honorable Jack Evans, Councilmember Ward 2, Council of the District of Columbia; The Honorable Stephen Horn, U.S. House of Representatives, 38th District, California; and The Honorable Bill Richardson, U.S. House of Representatives, 3rd District, New Mexico.

The Wreath of the House of Representatives: Honorable Bill Richardson and Honorable Stephen Horn.

The Wreath of the Washington National Monument Society: Russell Train and Councilmember Jack Evans.

The Wreath of the National Park Service: John Reynolds and Terry Carlstrom.

The Wreath of the Naval Lodge No. 4, Masons of the District of Columbia: John Davis, Worshipful Master.

Taps and Retiring of the Colors: Old Guard Fife and Drum Corps and Joint Armed Services Color Guard.

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DOWNSIZING GOVERNMENT

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the Committee on Appropriations has completed nine of the ten subcommittee mark ups for our fiscal year 1995 supplemental appropriations and downsizing rescissions bills. Only the Legislative Branch Subcommittee remains to be marked up tomorrow. The results so far are that the various subcommittees have recommended more than $17 billion in rescissions of previously appropriated funding. If you add to this the $3.2 billion of rescissions included in the defense supplemental that the House passed on Wednesday, the Committee on Appropriations is developing bills that include over $20 billion in rescissions.

That is why tonight I take this opportunity to thank my subcommittee chairmen and the members of the Committee on Appropriations, both Republican and Democrat, and all our staff for their serious and fruitful efforts. Through hard work we are making big change, and most importantly, keeping promises to the American people.

ORDER OF BUSINESS

Mr. TORKILDSEN. Mr. Speaker, I ask unanimous consent that the special order requested by the gentleman from New York [Mr. SOLOMON] immediately follow the special order requested by the gentleman from Mississippi [Mr. MONTGOMERY], and that the special order requested by the gentleman from Arizona [Mr. STUMP] immediately follow the special order requested by the gentleman from Pennsylvania [Mr. MURTHA].

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

There was no objection.

REFORM WELFARE, BUT NOT AT THE EXPENSE OF CHILDREN

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GENE GREEN of Texas. Mr. Speaker, Members, in response to the last 1 minute, let me talk about what the school lunch and breakfast program really does. We heard, and we are in markup in the Committee on Education and Economic Opportunity, we heard there are not cuts. Let me tell you what I have from the State of Texas Department of Education agency, but also from Houston Independent School District. That shows that the Republican majority is cutting the school lunch and breakfast program.

The President is right and we need to be honest with the American people. We need to reform welfare, but we do not need to take it out of the mouths of the children and their breakfast or lunch program.

The Republican majority here in the House and the talking heads I see on TV say they are actually providing more funds. But in the State of Texas we would see a 4-percent cut in the school lunch and breakfast program, and that is one we grow every year. So we are cutting 4 percent right now.

Again, we should reform welfare, but not out of the mouths of our children and not out of America's future.

TEXAS EDUCATION AGENCY

Proposed impact of school-based nutrition block grant amendment on Texas' Child Nutrition Program Fiscal Year 1996

Projected by 1996 national funding for school-based child Nutrition Programs (per USDA)	$6,897,000,000
Proposed funding under block grant amendment	$6,626,000,000
Difference*	$271,000,000
Percent decreases	<3.9%>
Impact on Texas	
Projected FY 1996 school-based child nutrition funding	$561,000,000
Percent decrease (3.9%)	<21,879,000>
Balance available	$539,121,000

"The difference may be attributable to the inclusion of other programs (Child and Adult Care Food Program and the Summer Food Services Programs) in the determination of the funding levels. Information on these programs may be obtained from the Texas Department of Human Services.

Note: The balance available for FY 1996 is approximately equal to the amount we estimate to disburse in FY 1995. The result, in effect, is to allow for no growth from FY 1995 to FY 1996. In Texas the reimbursement for these programs have increased approximately 8 percent per year for the past five years. The proposed increases in the amendment of approximately 4.6 percent per year would not allow for the current level of growth in these programs.

Proposed impact of school-based nutrition block grant amendment on Houston ISD (HISD) Child Nutrition Program Fiscal Year 1996

Impact on Houston ISD:	
Projected fiscal year 1996 School-based child nutrition funding	$43,000,000
Proposed decrease (3.9%)	<1,677,000>
Balanced available	$41,323,000

Note: The balance available for FY 1996 is approximately equal to the amount estimated for FY 1995. The result, in effect is to allow for no growth in FY 1996. In the Houston ISD reimbursements for these programs have increased approximately 3 percent per year over the past five years. The proposed increases in the amendment are approximately 4.6 percent per year and would allow for the current level of growth in these programs.

Impact of the proposed school-based nutrition block grant amendment on Houston ISD (HISD) 1995–96 school year

Child nutrition funding:	*Millions*
Current Projected funding (using 3% growth)	4.27
Funding based on proposal (1.7% assuming an equal distribution of the states reduction in growth)	42.2
Projected loss in Child Nutrition funding	.5
State foundation program funding:	
Current Projected funding	215.9
Funding based on proposal	214.0
Projected loss in Foundation Program funding	1.9
Total projected loss for 1995–96	2.4

Note: Assuming the state's required increase is 8% (based on the past 5 year history), an amendment to allow only 4.6% would require a 47% reduction in the projected growth to all state programs including the Houston Independent School District (HISD). The projected increase in students qualifying for free and reduced priced meals of 6,528 would have to be limited to 3,721 students. Limiting the number of qualifying students effects the allocation for the Child Nutrition program as well as the State Foundation Program funding for HISD shown above.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

REMEMBERING IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I'm here today to talk about a simple tribute paid by an ordinary man to one of the greatest battles and some of the greatest heroes in American history.

Mr. Speaker, today this Chamber is mostly silent, and our attention is focused on the issues of the day.

But 50 years ago this week, the eyes of this House—and indeed all of America—were focused on a small, sulfuric island in the South Pacific, and a group of brave young men who helped save the world.

For 4 years, World War II had raged.

Europe lay in ruins, millions had perished in the death camps, and much of the world was pitched in darkness.

In the South Pacific, most of Japan was out of the reach of United States planes.

But Franklin Roosevelt believed that if United States troops could gain a foothold in the South Pacific, and if our planes had a place nearby to land, then the enemy might soon be vanquished and the war might soon be over.

Fifty years ago this week, that task fell to a group of young marines, in a mission called "Operation Detachment," at a place called Iwo Jima.

The battle was expected to take 14 days. It took 36.

The enemy was so dug in that they were nearly invisible.

Fighting was so fierce that one marine remarked that "you could've held up a cigarette and lit it" with all the fire flying by.

But with a strength of spirit forged in the hometown churches, and neighborhood ballfields, and the schoolrooms of America, these young men who had been eating Coney dogs, dancing to Glenn Miller, and rooting for Joe Dimaggio just a short time before helped turn back one of the greatest evils this world has ever known.

There were 81 Congressional Medals of Honor awarded in all of World War II.

Twenty-seven were awarded for Iwo Jima alone.

But it was on the 5th day of fighting—50 years ago today—that Iwo Jima was burned into our memory.

Because on that day a young combat photographer named Joe Rosenthall took one of the most inspiring photographs in the history of America.

I'm talking, of course, about this famous photo of five marines and one Navy corpsman raising a triumphant American flag on Mount Suribachi above the sands of Iwo Jima.

For 50 years, this photo and the great bronze memorial made in its image have served as a lasting tribute to the courage and bravery of young Americans who served this country well, and who triumphed under conditions most of us could hardly imagine.

But of all the great tributes paid to the men of Iwo Jima the past week none is more inspiring—and I believe none speaks more to the heart of what it means to be an American—than the simple tribute paid by a sheet metal mechanic from Connecticut earlier today.

There, in the small town of Danielson, CT—population 16,000—Rick Orzulak finally lived out a tribute that was 3 years in the making.

Three years ago, Mr. Orzulak—who is a former marine himself—decided to pay a special tribute to the soldiers who fought at Iwo Jima.

He decided that with the help of the members of the local Paul C. Houghton detachment of the Marine Corps League—of which he is a member—they would recreate the flag raising in the small town of Danielson.

In order to do so, he decided, each person needed to be dressed exactly like the soldiers in the photograph—in uniforms and gear actually issued during World War II.

So, 3 years ago, with the help of his wife Beverly, Mr. Orzulak started making phone calls.

Using his own money, he tracked down frogskin pattern helmet covers from California and Montana.

He found herringbone trousers in Virginia and Mississippi.

He found K-bar knives in Massachusetts.

And crossflap canteen covers in Texas.

Until finally, one by one, each uniform was complete.

He even tracked down a U.S. flag with 48 stars.

And finally, in Danielson this morning, as the Star Spangled Banner and then the Marine Corps hymn played, five former marines and one former Navy corpsman—Mr. Orzulak, Arthur Blackmore, Dennis O'Connell, Richard Bugan, Louis Verrette, and Francis Stevens—raised the flag in tribute to the men of Iwo Jima.

If you ask them why they did it, they'll say ''we did it for one simple reason:''

To say ''thank you'' to the men who fought at Iwo Jima.

And ''Semper Fi'' to the heroes who never came home.

Mr. Speaker, today as we join Richard Orzulak and Americans everywhere in remembering the sacrifices made at Iwo Jima, let us be strengthened by their courage, heartened by their valor, and let us continue to stand up for the ideals for which they lived and died.

Let us resolve that the men who served our country will never be forgotten.

Because in the end, that's the highest tribute we can pay.

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The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

[Mr. SCARBOROUGH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COMMEMORATING THE 50TH ANNIVERSARY OF THE MARINE LANDING ON IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, there are a number of Members gathered on the floor tonight to speak of an important event which took place 50 years ago. The United States was at war with Japan, and the main target in February 1945 of our forces was Iwo Jima.

This past Sunday, Mr. Speaker, we commemorated the 50th anniversary of the Marine landing on Iwo Jima at the Marine Corps War Memorial across the Potomac. I had the privilege of being there at this ceremony, and it was very well done, and the Commandant of the Marine Corps, General Mundy, told us 50 years ago at that date, at 9 o'clock in the morning, the 3d Marine Division went ashore at Iwo Jima.

While the battle was still raging, Admiral Nimitz saluted the warriors with words that are now carved at the statue base, and it says this: ''Uncommon valor was a common virtue.'' He said this without knowing that 27 of those who served on Iwo Jima would later be awarded the Medal of Honor. As mentioned here tonight, over half of the 27 had been killed on the island, and their families received and accepted the Medal of Honor.

One of the most remarkable things about the battle is how well both sides were prepared. The island was part of Japan's inner vital defense zone. Its commander was a general, and he had been on the island for many months, and he had designed textbook defensive positions. His men were disciplined, and resigned to the fact that they were unlikely to leave the island alive.

In the end, 90 percent of the Japanese defenders perished, but they exacted a high toll of American lives as well.

The Japanese knew exactly on the island where the Marines were coming in to land, and they had trained their big guns on that position. The American invasion force was battle-tested. Mr. Speaker, it was a good force, and had the largest number of Marines ever engaged in a single action.

The 4th Marine Division had conducted successful amphibious operations in the Marshall and Marianas Islands. The 3d Marine Division fought in the Solomons and on Guam.

Among the invaders were two marines who had been awarded the Congressional Medal of Honor who participated on that day. In addition to a veteran landing force, the Marines had strong support from our American battleships, and the big guns were firing on the island as well as the Marine, Navy, and Army Air Force planes.

The initial bombardment knocked out many of the Japanese shore defenses, but well-protected Japanese guns, as I understand it, on the northern part of the island fired killing salvos on the marines gathered on the beachhead. One marine said and described Japanese shelling as one of the worst bloodlettings of the war. They rolled their artillery barrages up and down the beach, he said. ''I really don't see how anybody could live through the heavy fire barrages.'' Many of the Japanese fortifications were not affected by American artillery or by our air bombardment, so that the only way to advance had to be a frontal attack that the American Marines made.

I can think of very few occasions since the American Revolution where American forces were required to attack such heavily fortified positions. In this single action, we took more casualties than in any other battle that our country has ever fought another enemy. Only one other battle in the history of the world has had more casualties than we took at Iwo Jima. That was where the British lost 60,000 soldiers in a frontal trench attack in World War I.

Mount Suribachi fell on this day that we are celebrating 50 years ago, Mr. Speaker, and all the American forces who saw the now immortal flag-raising cheered this tactical victory. Unfortunately, the main battle was still ahead, and it took the Marines over a month to overcome the well-entrenched Japanese in the 4 miles of terrain north of Suribachi.

Three of the six who raised the flag were killed several days later.

Every marine knows the translation of the Marine Corps motto ''Always Faithful.'' Roughly one out of every three marines who landed at Iwo Jima was a casualty, either killed or wounded. Twenty thousand Japanese were killed, and over 6,000 American personnel lost their lives in the face of some of the fiercest defenses ever encountered by an attacking force.

The marines were faithful to their fellow marines, to their commanding officers, and to the American ideals which are symbolized so well by the image of the flag raising over Suribachi.

The flag symbolizes the idea of democracy and freedom, and we still enjoy that democracy and freedom. Freedom from oppression, freedom to choose, and freedom to speak your beliefs. But the price of those freedoms has always been dear. Three of the men pictured in the famous photograph and in the bronze statue by Felix de Weldon died on Iwo Jima. The uncommon valor which was so common on the beaches and rocks of Iwo Jima must always be remembered.

In closing, I want to express my appreciation for the work of the Marine Corps Historical Center here in Washington, Dan Crawford, a historian at the Center, has been very helpful in getting us the facts about this important battle. In addition, this pamphlet written by Col. Joseph Alexander, USMC (Ret.) entitled ''Closing In: Marines in the Seizure of Iwo Jima,'' was the source of much of the information which we used tonight. It is available from the Marine Corps Historical foundation in Quantico, VA. The toll-free telephone number is 1–800–336–0291, Extension 60.

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IN HONOR OF THOSE SERVICEMEN WHO FOUGHT AND WON THE BATTLE OF IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I certainly thank the Speaker, and I thank the former speaker in the well, the gentleman from Mississippi [SONNY MONTGOMERY]. He is certainly one of the strongest supporters of our veterans in this Nation, and I take my hat off to him.

Mr. Speaker, having had the privilege of serving in the U.S. Marine Corps, I'm especially pleased to participate in this special order tonight to honor those courageous servicemen who fought and won the epic battle of Iwo Jima during World War Two. The men faced death against great odds and many, in fact, lost their lives on this island halfway around the world. The significance of their efforts is timeless and worthy of continued attention. In fact, if not for the efforts of these selfless patriots, we almost certainly would not be the leader of the free world, a position we have retained ever since their victory. In that respect, Mr. Speaker, each and every citizen in this country, of all ages, owe an extreme debt of gratitude to these defenders of freedom.

Mr. Speaker, words cannot possibly do justice to the horrific events and extraordinary feats of valor that comprised this bloodiest of battles in Marine Corps history. However, in an attempt to demonstrate the burdens under which these brave soldiers performed, it is necessary to review what was at stake as they approached the beaches of Iwo Jima that February morning in 1945. When we begin to acknowledge the extent of their sacrifice, it will become clear that this battle was not only momentous and a turning point then, but has implications even today.

Strategically, this 8-square mile hunk of rock (known as the island of Iwo Jima) was as crucial to ending the war with Japan as attacks on their mainland. The reason being, even our superior B–29 bombers couldn't effectively raid the Japanese mainland, because accompanying fighter planes couldn't make the long trip from United States bases on the Mariana Islands to the mainland. Without these fighter escorts, the bombers were subject to Japanese attacks, because radar gave the Japanese 2-hour advance notice of the bombers' arrival. As a result, Mr. Speaker, Iwo Jima, which lay exactly between the Mariana Islands and Japan, became a necessity, if we were to break the Japanese will and end the war.

The troops going in that day clearly understood the significance, as it was the largest Marine force ever deployed for one mission, and these patriotic souls were prepared to sacrifice their lives to attain this island. It was a battle of will on will, Mr. Speaker, a strict frontal assault on a position defended to the maximum extent, yet they refused to yield.

In the end, one third of all marines killed in World War Two died on this uninhabited Pacific island. However, they died of single task and single mind, seizing this island in the spirit of democracy and liberty over imperialism and oppression. I'd like to share a quote of Maj. Gen. Graves B. Erskine, who commanded the 3d Marine Division in this battle. It sums up the commitment of these men to overcoming such unparalleled burdens.

> Victory was never in doubt. Its cost was. What was in doubt (in all our minds) was whether there would be any of us left . . . at the end, or whether the last Marine would die knocking out the last Japanese gun and gunner.

It's hard to imagine the adversity each and every man storming this island was faced with. However, Mr. Speaker, this battle not only represented the costliest in terms of casualties that the Marine Corps ever experienced in its almost 200-year history but it also produced the most Congressional Medals of Honor in the war. Confronting death against great odds, these men responded above and beyond the call of duty. Pitting their will against that of the Japanese, Mr. Speaker, made it no contest in the eyes of these honorable Americans. After all, they had the will of free people throughout the world on their side.

To that end, Mr. Speaker, I'd like to share with you the extraordinary feats of one such Congressional Medal of Honor winner from my home State of New York, Pfc. Douglas Thomas Jacobson of Rochester, NY. As a member of the 4th Marine Division on February 26, 1945, Jacobson waged a battle to penetrate the Japanese cross-island defense. Private Jacobson, just 19 years of age, singlehandedly destroyed 16 enemy positions allowing his unit to gain the strong ground and breach the defense of the enemy. Mr. Speaker, the spirit and valor of this man went undaunted in the face of an established and fortified enemy. All of us could only hope we could respond as selflessly and honorably as Douglas Jacobson. Appropriately, he was honored again this past week at the 50th anniversary of the onset of the battle by President Clinton.

The actions of people like Pfc. Douglas Jacobson was of immediate significance. Seizing the island of Iwo Jima allowed fighters to escort the bombers on their missions over Japan, but of equal importance, it provided a secure airfield for emergency landings when returning from these air raids. According to the Navy Office of Information, by wars end, 2,400 bombers with 27,000 crewmen made emergency landings on Iwo Jima airfields.

However, Mr. Speaker, the significance goes beyond even that, if you can imagine. This was a fight that took place half way around the world yet reeked of American spirit and democratic consequences. It marked the beginning of our realization that this Nation must carry the torch for freedom against imperialist domination and tyranny. Mr. Speaker, this victory and the victory in World War Two geared us for our fight against Communist oppression which made its face known shortly thereafter. Now, communism has been dealt a major blow yet it lingers on in places like Cuba and China where people are subject to repugnant human rights violations and denial of basic dignity. Even more nations are ruled by harsh dictators without respect for individual freedoms, and who are content to jeopardize the very existence of their people in order to sustain their elitist inner circle.

The lessons of Iwo Jima and events in World War Two, prove that we need to maintain preparedness in order to overcome such imperialism. Furthermore, it is an insult to freedom fighters such as those who lost their lives in Iwo Jima when we constantly yield privileges such as equal trade status to empires like China, an empire that

speaks of taking over the independent province of Taiwan and continues to enslave the people of Tibet. Mr. Speaker, it remains imperative that we maintain our military presence and preparedness to instill confidence in our many democratic allies, while providing a beacon for those who suffer under the oppression occurring everyday. We simply cannot ignore these threats from the outside world. Mr. Speaker, I quote then Vice-President Richard Nixon upon the dedication of the Iwo Jima memorial in 1954:

> This statue symbolizes the hopes and dreams of America and the real purposes of our foreign policy. We realize that to retain freedom for ourselves, we must be concerned when people in other parts of the world may lose theirs.

Mr. Speaker, this rings true today as it did then. May we never forget the sacrifices of these men on behalf of this maxim. Indeed, there is no greater representation, here or in the world, of the advance of democracy over imperialism, than the statue in Arlington Cemetery which depicts victorious ambassadors of freedom raising the American flag over this outpost of imperialism. Mr. Speaker, may we continue to learn from their sacrifice and contain those bent on denying freedom and destroying democracy.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania, [Mr. MURTHA] is recognized for 5 minutes.

[Mr. MURTHA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

NEVER FORGET THE SACRIFICES OF THE MEN WHO FOUGHT ON IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. STUMP] is recognized for 5 minutes.

Mr. STUMP. Mr. Speaker, I first would like to pay honor to the gentleman, my colleague, SONNY MONTGOMERY. Probably no one in recent history has done more for the veterans of this country than SONNY and I want to commend him for bringing about this special order tonight.

Mr. Speaker, 50 years ago I had the honor of being a young sailor and participating in the battle of Iwo Jima. Our role was from a small escort air carrier delivering napalm bombs and rockets to the island and supporting our troops. Fifty years ago today plus four was the day we raised the flag on Mount Suribachi. One of the men that participated in that was an Indian from my state of Arizona by the name of Ira Hayes, a Marine.

Mr. Speaker, I think that too often we take these things too lightly, and I just hope that we do not forget this. May we never forget the sacrifices of all those people that participated, that paid with their lives. May that flag always wave over this country. Mr. Speaker, we pray this will never happen again.

I would like top read a quote by a captain, a Marine, on the island at that time, to his parents. He said, ''Only those who fought on Iwo will ever know how tremendous a job was done. It is now sacred ground to us because certainly many of us came so close to eternity that we will never be worldly again.'' Capt. William Ryan wrote this to his parents in March 1945 from Iwo Jima.

Mr. Speaker, at this time I would be happy to yield to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I rise to associate myself with the remarks of my colleagues and fellow Marines as we celebrate the 50th anniversary of Iwo Jima. I want to associate myself with the remarks of the gentleman from Arizona and give special thanks to Gen. SONNY MONTGOMERY. A finer friend of the military and our veterans our Nation has never seen.

My father, Wes Roberts, who was a Marine Corps major, who lied about his age at 42 to join the Corps and at age 43 was on Iwo Jima, took part in the 36-day assault on this very key island. Fifteen years later, Lieutenant PAT ROBERTS, yours truly, went back to Iwo Jima with Lieutenant General Worsham and a contingent of survivors and veterans, and we toured the island. We not only toured Mount Suribachi and the caves and the end of the island, but also the Japanese cemetery to pay homage to those brave veterans as well.

□ 2040

And we were standing on top of Mount Suribachi. I will never forget this. All of the veterans of the people who were there at that particular time during the assault looked down at where we had cliffs and then Mount Suribachi and then knee-deep ashes on the beach. And the gentleman turned to me, tears streaming down his face and he said, it is a wonder that anybody ever really made it. It is a wonder anybody was really alive.

We toured the island, and we toured those caves where still the dead Japanese are there. And it was an amazing feat in terms of a military victory. Somehow, by persevering, somehow, by uncommon valor and at great cost both to Americans and Japanese, we saved lives and the end result by bringing this war to its proper conclusion.

I would like to say, as a former Marine, Semper fi, Dad. Semper fi, Marine Corps. Semper fi, America. God bless the United States Marine Corps.

Mr. STUMP. Mr. Speaker, I yield to the gentleman from Indiana [Mr. JACOBS].

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

There is an old saying, abandon all hope, ye who enter here. And Bill Mauldin, in World War II, had a cartoon where one GI said to the other, in combat, I feel like a fugitive from the law of averages. And such an attitude is necessary when you face enemy fire. You must forget about the good life. You must forget about everything. You must consider yourself already dead.

The philosopher tells us, civilization progresses because young men die for their country and old men plant trees under which they will never sit. And Henry V, he exhorts his troops at St. Crispin's battle, in peace nothing so becomes a man as stillness and humility. But in war, imitate the action of a tiger. Stiffen the sinews, summon up the blood, exchange for fair nature hard-favored rage.

To die for one's country is love than which there can be no greater.

Mr. Speaker, on February 16, 1945, the Americans initiated a pre-invasion naval bombardment lasting three days. Task Force 58, the most powerful carrier force ever assembled, struck the Japanese mainland to prevent enemy support. The Iwo Jima operation, codenamed Detachment, included 1,800 carrier-based and 7th Air Force planes; a quarter-million seamen on nearly 800 ships; and 75,000 GI's of the ''V Amphibious Corps.'' The main assault units included the 3rd, 4th and 5th Marine Divisions, and various other forces of army and navy construction battalions.

On Monday, February 19, 1945 at 9:00 a.m., the 4th and 5th Marine Divisions landed on the southeastern shore of Iwo Jima. Within 20 minutes, the marines were 250 yards inland. At that point, the Japanese opened up with all they had.

Three days later, on February 23, (50 years ago today) a 40 man patrol of the 5th Division's 2nd battalion, 28 Marines, cleared the 550 foot summit, of Mt. Suribachi. That morning, photographer Joe Rosenthal took the famous photograph of the raising of the American Flag overlooking the island. Secretary of the Navy, James V. Forrestal, a witness to the flag raising, commented that: ''the raising of that flag means a Marine Corps for another 500 years.''

By the time it was over in mid-summer, 22 Marines and five Navy men earned the Congressional Medal of Honor. This was the greatest number of Medal of Honor recipients for any single engagement of World War II. Half of the awards issued were posthumous, and Iwo Jima represented more than one-fourth of all Medals of Honor awarded Marines during the entire war.

Total American casualties were 28,686. The Japanese sacrificed 23,300 lives and 1,083 of them ultimately surrendered.

By the end of the war, 2,251 B–29's landed at Iwo Jima. Of that number, more than 800 made emergency landings. Without Iwo Jima, many of the 9,000 American crew men would most likely have been lost.

ON THE 50TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Illinois [Mr. EVANS] is recognized for 5 minutes.

Mr. EVANS. Mr. Speaker, I take great pride in joining my fellow colleagues and Marines in honoring the

sacrifices of those who fought and served 50 years ago at Iowa Jima.

The battle for Iowa Jima holds a special place in the history of the Marine Corps. In many ways, it established the Corps firmly in the American consciousness. The picture of six Marines raising the American flag on Mount Suribachi is perhaps the most memorable image from World War II to most Americans. Yet, it is only a symbol of the immense sacrifice it took to wrest the island from Japanese control.

Iwo Jima was one of the bloodiest battles of the entire war. Some 6,800 American men died in the struggle for the Island, another 18,000 wounded. Roughly one out of every three marines who landed on the island became a casualty.

I think the engraved words on the face of the Iowa Jima monument tell the story of the battle best, quoting Admiral Nimitz when he said: ''Among the Americans who served on Iwo Jima, uncommon valor was a common virtue.''

It is a testament to that valor that more Marines were awarded the Congressional Medal of Honor at Iowa Jima than in any other single battle in the history of the Corps. One of the 22 recipients, Captain Robert Dunlap, is a constituent. He was born in the town of Abingdon and now resides in Monmouth, Illinois.

Let me quote to you from the citation given to Captain Dunlap when he was awarded our Nation's highest military honor.

Defying uninterrupted blasts of Japanese artillery, mortar, rifle and machine gun fire, Capt. Dunlap led his troops in a determined advance from low ground uphill toward the steep cliffs from which the enemy poured a devastating rain of shrapnel and bullets, steadily inching forward until the tremendous volume of enemy fire from the caves located high to his front temporarily halted his progress. Determined not to yield, he crawled alone approximately 200 yards forward of his front lines, took observation at the base of the cliff 50 yards from Japanese lines, located the enemy positions and returned to his own lines where he relayed the vital information to supporting artillery and naval gunfire units.

Persistently disregarding his own personal safety, he then placed himself in an exposed vantage point to direct more accurately the supporting fire working without respite for 2 days and 2 nights under constant enemy fire, skillfully directed a smashing bombardment against the almost impregnable Japanese positions despite numerous obstacles and heavy Marine casualties. A brilliant leader, Capt. Dunlap inspired his men to heroic efforts during this critical phase of the battle and by his decision, indomitable fighting spirit and daring tactics in the face of fanatic opposition, greatly accelerated the final decisive defeat of Japanese countermeasures in his sector and materially furthered continued advance of his company. His great personal valor and gallant spirit of self sacrifice throughout the bitter hostilities reflect highest credit upon Capt. Dunlap and the U.S. Naval Service.

Mr. Speaker, the heroism of Captain Dunlap and the rest of the veterans of that conflict helped bring the end of the war closer. The capture of the island brought our strategic bombers within effective range of the Japanese mainland. It also saved lives. Over 2,000 B–29's used Iwo Jima as an emergency landing strip after the invasion.

As a former marine, I salute Capt. Dunlap and all of the other veterans of the battle whose selfless service and sacrifice secured our freedoms, including my own cousin Jack * * * born in Rock Island, IL, and now living in Davenport Iowa, who served valiantly with the other marines in that conflict.

I am so pleased and honored to have had this opportunity to join my fellow Veterans' Committee colleagues and former marines in this special order.

Semper Fi to each and every one of you.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

[Mr. MICA addressed the House. His remarks will appear hereinafter in the Extensions of Remarks.]

ON IWO JIMA

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Texas [Mr. TEJEDA] is recognized for 5 minutes.

Mr. TEJEDA. Mr. Speaker, first let me say that I am honored to speak in this special order tonight and I thank Congressman MONTGOMERY for organizing the special order. During the past several days, this Congress and this Nation have paused to reflect on the Battle for Iwo Jima, which was engaged 50 years ago this past Sunday. I read with interest the dialogue which took place in the other body last Wednesday, and I hope my colleagues will take the time to read the CONGRESSIONAL RECORD account of that discussion in addition to this special order.

Last Friday at Fort Sam Houston in San Antonio Marines past and present and other veterans gathered at a luncheon honoring this Iwo Jima campaign and those who fought there. Preparing for this speech gave me an opportunity to reflect on the significance of this historic battle: Both to the Marines of 1945 and to the Marines of today and tomorrow. Since my colleagues have already discussed the battle itself, I will try to focus on the present and the future.

As this Nation honors those who served 50 years ago, we cannot escape the fact that their numbers are decreasing. Their dedication, bravery, and devotion to fellow man and country and Corps are left for future generations to honor.

I wore the Marine Corps uniform for a different generation, a different war. Yet I cannot and will not forgo the obligation, the responsibility, of honoring the legacy of those who served before me. Set the example.

We honor them in many ways: By awarding medals, building monuments, lending their names to streets, schools, and bases just to name a few. But those of us who serve in Congress have an extra responsibility to these men. We must ensure that the blood, sweat, and tears which they shed in wartime will not be forgotten during this or any other prolonged period of peace.

Gen. Holland Smith said that the battle of Iwo Jima would assure the internal existence of the Marine Corps. This may be true, but in what form? The debate still rages in the halls of Congress.

Today's Marine Corps is in a precarious position. Nobody will dare question the quality of the men and women currently serving in uniform. The problem is: Do we have enough of them in uniform to meet our national security needs and are we able to take care of them adequately?

General Mundy, during his testimony in support of the FY 96 budget request, stated that the proposed force level of 174,000 active and 42,000 selected marine reservists is, the absolute minimum force level to enable the corps to meet today's requirements.

In addition to the budget debate in Congress, there is a roles and missions debate ongoing in the Pentagon. The recommendations from an independent panel will be released shortly. In this context, I offer a small comparison between the battle for Iwo Jima and the Persian Gulf war.

I recall nearly 5 years ago that many people called for a comprehensive, sustained air campaign against Iraq's forces in hopes that ground troops would not be needed. Many feared that the price of military victory in human lives would be too high.

After 38 days of aerial bombardment, which President Bush called, ''* * * the most effective, yet humane, in the history of warfare,'' ground forces were ordered into Kuwait to achieve the military objective.

Looking back at Iwo Jima, we must not forget that the island and its defenders were subjected to 6 months of constant aerial bombardment before the marines landed. In the past 50 years of technological advances, it is still the grunts on the ground who will be called upon in the future to fight and win our Nation's battles.

Even during my service, Mr. Speaker, every Quonset hut, every barracks that you went into, you would see a motto, a quote there that said, ''The more we sweat in peacetime, the less we bleed in war.'' Today's Marines are ready and prepared.

Mr. Speaker, the survivors of Iwo Jima do not seek any personal glory. They served because their Nation called. It is only fitting for my generation and those after me to recognize, honor, and commemorate these valiant Marines.

However, I believe the most appropriate tribute we can pay is to forever uphold the values which they exhibited

as Marines. Although words alone cannot describe the totality of their experience at Iwo Jima, Adm. Chester Nimitz came closest: ''Uncommon valor was a common virtue.''

There are two ways to pay this ultimate tribute. The first is to educate our colleagues, since more and more enter this body without any military service, our children, and all future generations so that the battle for Iwo Jima and the valor and discipline of Marines is always remembered.

The second is to ensure that the Marines of today and tomorrow will have the arms, equipment and materiel to live up to the high standards set by those who served on Iwo Jima.

The Marines of Iwo Jima have left their legacy. Let us work to make this legacy an enduring one.

GEORGE PEABODY—AMERICA'S FIRST PHILANTHROPIST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. TORKILDSEN] is recognized for 5 minutes.

Mr. TORKILDSEN. Mr. Speaker, I too join with my colleagues in paying tribute to the courage and the valor of the Marines at Iwo Jima and every soldier and sailor who fought in that battle and especially those who made the supreme sacrifice. Tonight I would like to speak about another great American.

Mr. Speaker, February 18, 1995, marked the 200th anniversary of the birth of George Peabody—the famous American merchant, financier, and America's first philanthropist.

George Peabody represents the classic example of what we would now call the American Dream. He was born to a family of modest means in the southern part of Danvers, MA. That portion of Danvers has since been renamed Peabody in his honor. At the age of 11 he began working as a grocer's apprentice in Danvers. Even though George Peabody had no further formal education after this point in his life, he went on to open a wholesale goods company here in Washington, DC.

In 1812, this establishment expanded to open branches in Baltimore, New York, Philadelphia, and London—where George Peabody went in 1827 in search of merchandise to sell.

While in London, Peabody eventually became very active in securities trade and international banking which made him—in many ways—a de facto ambassador to England for America and American business.

But George Peabody was much more than just a list of successful business deals, contracts, and agreements.

Throughout his life, George Peabody remembered from whence he came, and helped those who had helped him achieve financial success beyond the wildest definition of financial success.

In 1835, Peabody negotiated an $8,000,000 loan to the State of MD, which was on the brink of bankruptcy. While he would have been entitled to a $60,000 commission, Peabody refused any and all payment. This would be just the first of many great acts he would perform on behalf of the public.

The list of those he helped is impressive and the extent to which he helped would be extraordinary even by today's standards.

George Peabody donated the funds to create or greatly assist the following institutions and universities:

The Peabody Institute of Johns Hopkins University in Baltimore, MD; the Peabody Institute Libraries of Danvers, Peabody, Newburyport, and Georgetown MA, Thetford, VT, and Georgetown in the District of Columbia; the Peabody Museum at Harvard University; the Peabody Museum of Natural History at Yale University; the Peabody Essex Museum of Salem, MA; the Peabody Trust of London, England, which created low income housing for the poor of London; Washington and Lee University; Kenyon College in Ohio; and the Peabody Education Fund distributed substantial contributions to the following colleges and universities, to help them educate their citizens after the Civil War, including the Peabody Teachers College at Vanderbilt University and many universities throughout the South.

Peabody's commitment to education is apparent. The Peabody Education Fund, the first of its kind in the country, was created with $2 million in 1867, and distributed $6 million until its assets were donated to southern universities in 1914. Peabody referred to education as ''a debt from present to future generations.''

Mr. Speaker, George Peabody's legacy of generosity and compassion is one which should serve as an example to all Americans. What makes America a great nation does originate here in Washington. Government simply does not have all the answers. Much of what makes our country a great country happens in our communities, our civic organizations, our places of worship, and always by our people.

Solutions often come in the form of selfless acts by dedicated individuals like Mr. George Peabody.

In the city of Peabody, the town of Danvers, and other communities throughout the Nation and throughout the world, there will be celebrations of the life and generosity of George Peabody. By celebrating the greatness of one man, we are celebrating the power of an individual to make the world a better place. This George Peabody did, and for this, we say thank you.

COMMEMORATING 50TH ANNIVERSARY OF THE BATTLE FOR IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. MCHALE] is recognized for 5 minutes.

Mr. MCHALE. The Medal of Honor.

Joseph Jeremiah McCarthy. Captain, United States Marine Corps Reserve, Second Battalion, 24th Marines, 4th Marine Division. Iwo Jima. 21 February 1945.

Citation.

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as commanding officer of a rifle company attached to the 2d Battalion, 24th Marines, 4th Marine Division, in action against enemy Japanese forces during the seizure of Iwo Jima, Volcano Islands, on 21 February 1945. Determined to break through the enemy's cross-island defenses, Capt. McCarthy acted on his own initiative when his company advance was held up by uninterrupted Japanese rifle, machinegun, and high-velocity 47-mm. fire during the approach to Motoyama Airfield No. 2. Quickly organizing a demolitions and flamethrower team to accompany his picked rifle squad, he fearlessly led the way across 75 yards of fire-swept ground, charged a heavily fortified pillbox on the ridge of the front and, personally hurling handgrenades into the emplacement as he directed the combined operations of his small assault group, completely destroyed the hostile installation. Spotting 2 Japanese soldiers attempting an escape from the shattered pillbox, he boldly stood upright in full view of the enemy and dispatched both troops before advancing to a second emplacement under greatly intensified fire and then blasted the strong fortifications with a well-planned demolitions attack. Subsequently entering the ruins, he found a Japanese taking aim at 1 of our men and, with alert presence of mind, jumped the enemy, disarmed and shot him with his own weapon. Then, intent on smashing through the narrow breach, he rallied the remainder of his company and pressed a full attack with furious aggressiveness until he had neutralized all resistance and captured the ridge. An inspiring leader and indomitable fighter, Capt. McCarthy consistently disregarded all personal danger during the fierce conflict and, by his brilliant professional skill, daring tactics, and tenacious perseverance in the face of overwhelming odds, contributed materially to the success of his division's operations against this savagely defended outpost of the Japanese Empire. His cool decision and outstanding valor reflect the highest credit upon Capt. McCarthy and enhance the finest traditions of the U.S. Naval Service.

Mr. Speaker, in a different circumstance, the then-Commandant of the Marine Corps said, ''Oh, Lord, where do we find men such as these?'' Since November 10, 1775, we have found them in the U.S. Marine Corps.

Mr. Speaker, the finest book that I have ever read on the battle for Iwo Jima I am now holding in my hand. The title of the book is ''Iwo Jima: Legacy of Valor,'' and the author was Bill D. Ross, a combat correspondent who landed with the Marines on that fateful island.

What I would like to do, Mr. Speaker, is read one passage from this superb book in tribute to those Marines and in tribute to Mr. Ross himself who recently died, capturing the sacrifice and the courage of those very brave men.

D plus 23, March 14, 1945.

This, too, was the day the cemeteries were dedicated.

Marines had been coming down from the high ground in the north since early morning, not because of the flag-raising ceremonies but to seek out graves of fallen comrades. The burial grounds by now had the appearance of hallowed dignity, and what was spoken at the ceremonies added to the aura.

''No words of mine can properly express the homage due these heroes,'' General Cates said of the Fourth Division dead, ''but I can assure them and their loved ones that we will carry their banner forward. They truly died that we might live, and we will not forget. May their souls rest in peace.''

Navy Lieutenant Roland B. Gittelsohn, a Jewish chaplain, delivered the eulogy for the Fifth Division in words that I think were prophetic: Here lie officers and men, Negroes and whites, rich men and poor—together. ''Here are Protestants, Catholics, and Jews—together. Here no man prefers another because of his faith or despises him because of his color. Here there are no quotas of how many from each group are admitted or allowed. Among these men there is no discrimination. No prejudices. No hatred. Theirs is the highest and purest democracy.''

Virginia General Erskine commanding general, was visibly moved, his frame ramrod straight as his tearful gaze swept the rows of markers in the Third Division resting place. ''There is nothing I can say which is wholly adequate to this occasion,'' he began. ''Only the accumulated praise of time will pay proper tribute to our valiant dead. Long after those who lament their immediate loss are themselves dead, these men will be mourned by the nation. For they are the nation's loss.''

''Let the world count our crosses. Let them count them over and over. Let us do away with names, with ranks and rates and unit designations, here. Do away with the terms—regular, reserve.''

The general paused. ''Here lie only,'' another pause, ''only Marines.''

□ 2100

In closing, Mr. Speaker, and very briefly, let me assure the American people and affirm for my fellow Marines the spirit of these Iwo Jima veterans is burned deep in the soul of every Marine serving today. Semper fidelis to Corp and to country, semper fidelis.

NEUTRAL COST RECOVERY

The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I entered earlier today into the extension of remarks a tribute to one of Michigan's heroes in Iwo Jima.

I rise on this 5-minute special order to remind my colleagues of the economic danger that faces our country if we do not take some action to encourage capital investment in America.

Expensing and neutral cost recovery is the only proposal in the Contract With America that specifically encourages businesses to purchase machinery and equipment and facilities. The problem that was brought to my attention today is an article in the National Review dated February 20. I hope my colleagues will take time to read the article entitled: Missing the Point. In summation, I read from the article. It says: ''Living standards of American workers rise or fall with the amount of capital their employers are able to invest in them.'' In 1990, the average American manufacturing worker was supported by $98,598 worth of machinery, structures and other capital, according to the Department of Commerce.

Service industries invested just $21,495 per worker. Recent research traces the stagnation in real wages to slower growth in capital investment per worker, and the danger of what is happening in this country is that the rest of the world is acting very aggressively to do everything they can to attract our capital investment. They are changing their tax laws, they are taxing their businesses less.

Over the long haul, worker productivity, GDP per worker, is vital because it determines growth in the wages and living standards. Let me give a little historical outlook on this. From 1950 to the early 1970's average annual productivity growth of 2.3 percent per year helped America advance and raised our standard of living above everybody else in the world, but since 1975 we have slowed to a crawl, 0.8 percent per annum, while worker productivity in Europe and Japan has expanded more than twice the rate of what we have expanded in the United States. If we compare the United States with the rest of the world, we save less of our take-home dollar, we invest less per worker in machinery and equipment and, not surprisingly, our increase in productivity is also at the bottom of the list of the industrialized world.

Neutral cost recovery, indexes depreciation schedules for inflation. Under our tax code businesses have to wait 5, 10, 15, 20 years before they are allowed to deduct from their income those investments in machinery and equipment. We make them depreciate it over that period of time while inflation eats up the value of that depreciation.

I sponsored the neutral cost recovery bill last year with 90 bipartisan cosponsors. This year I reintroduced the bill, H.R. 199, and this proposal has been endorsed by leading business organizations, the U.S. Chamber of Commerce, the National Federation of Independent Businesses, National Business Owners Association, and others because they appreciate the fact that capital formation is the key to economic success and maintaining and improving our standard of living in this country.

Under this neutral cost recovery bill, businesses would be allowed to expense or deduct in the first year of purchase, $25,000. Neutral cost recovery or indexing the outyear depreciation for inflation in the time value of money would be applied to those outyears in the depreciation schedule.

I conclude, Mr. Speaker, by suggesting that we need not put our businesses at an economic disadvantage with the rest of the world. We need to change our tax laws, we need to encourage capital formation and the investment in machinery and equipment that increase the efficiency, and ultimately the productivity, and finally the competitive position of this country.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

RESOLUTION PROVIDING INFORMATION ON MEXICAN LOAN GUARANTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I am pleased to announce to my colleagues today that the House Committee on Banking and Financial Services, under the able leadership of our Chairman, JIM LEACH of Iowa, today passed House Resolution 80. This was originally filed by the gentlewoman from Ohio [Ms. KAPTUR] with substitute language of the gentleman from New York [Mr. KING]. This will give Congress the ability to have the background information on the $20 billion Mexican loan bailout or guarantee as it may be called. The bill specifically asks the President for any documents that relate to the condition of the Mexican economy; any consultations between the Government of Mexico and the Secretary of the Treasury; a description of the activities of the central bank of Mexico; information regarding the implementation and extent of wage, price and credit controls in the Mexican economy; a complete documentation of Mexican tax policy; a description of all financial transactions both inside and outside of Mexico directly involving funds disbursed from the exchange stabilization fund; any documents concerning any legal analysis with regard to the authority of the President or the Secretary of Treasury to use that stabilization fund; and any documents concerning the value of any of the oil, the proceeds from the sale of which are pledged to the repayments of any financial assistance provided by the United States to Mexico.

I bring this to the attention of my colleagues, Mr. Speaker, because Congress and the American people are rightfully concerned whether the President has exceeded his powers in effectuating the $20 billion loan guarantees. Congress is also concerned about illegal drug trafficking and what Mexico is doing about it, and also illegal immigration and what Mexico is doing about it, and further if the collateral pledged by Mexico is sufficient to protect the interests of the United States.

I will work with my colleagues for final passage of this legislation so we can get the answers from the White

House and the President in order to help protect the interests of the American people in my district and all 435 districts to make sure we protect the people in this House.

□ 2110

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

[Mr. BRYANT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

[Mr. BECERRA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THANK YOU TO THOSE WHO SACRIFICED 50 YEARS AGO AT IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Georgia [Mr. BARR] is recognized for 5 minutes.

Mr. BARR. Mr. Speaker, when I entered these hallways just a short time ago to deliver a speech on something that I thought was mighty important and, indeed, it is, I sat here for a few moments and listened to the words of my colleagues on both sides of the aisle harken me and those of us here and those of us in the listening audience back 50 years, and suddenly the matter of loans and loan guarantees to Mexico, as important as they are, and suddenly, as important as the work that I had the honor of performing today in the Committee on the Judiciary on tort reform, as important as that work is, suddenly paled in comparison when I listened to the words of the brave men here this evening talk about what happened on a sandy, salty, bloody beach 50 years ago.

And as I sat here in this great Chamber, I could almost smell the diesel fuel from the landing craft, smell the salty air, feel the crunch of the sand under my feet and hear the cries of the brave men who landed on Iwo Jima that day and who fought inch by inch, foot by foot, yard by yard up through to Mount Suribachi.

And I think, Mr. Speaker, how important it really is that we not forget those lessons, that we not forget those accounts, that we not forget the great history of the U.S. Marine Corps and what those men fought for, and I think, Mr. Speaker, that it is extremely important that through their words such as those we heard here this evening, through their eloquence such as we heard here this evening, through their loyalty, we must be ever mindful of the real purposes that we serve here, and that is to protect freedom in all its forms for all Americans, because if we do not and if we lose sight of that great ideal, then they will, indeed, have died in vain, they will, indeed, have suffered in vain, and if we do that, if we fail to remember that legacy, those values, those ideals, that when I travel back to my home State of Georgia and I see such tremendous patriots as Gen. Raymond Davis, a Marine, ever and always a Marine, who won the U.S. Medal of Honor, when I see good friends of mine back in Georgia like Clark Steel, a Marine, always a Marine, and when I sit here right now and I look in the eyes of ROBERT DORNAN, such a tremendous patriot and fighter for this country, I could not continue to do that if I were not reminded and if I did not continue, as I do now, to feel in my heart and my mind the tremendous admiration for those men, those Marines, those Americans who fought on those bloody beaches and those rocky slopes 50 years ago.

To them I say, ''Thank you, thank you, and we will carry on in these halls so that we never have to go through what you went through for us 50 years ago.''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PETE GEREN] is recognized for 5 minutes.

[Mr. PETE GEREN of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes.

[Mr. LIVINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TRIBUTE TO THE CENTRAL INTERCOLLEGIATE ATHLETIC ASSOCIATION BASKETBALL TOURNAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. SCOTT] is recognized for 5 minutes.

Mr. SCOTT. Mr. Speaker, I rise today to call the attention of the House to this year's Central Intercollegiate Athletic Association [CIAA] basketball tournament. As we commemorate Black History Month, it is fitting to recognize and to celebrate this exciting event. We are all familiar with the Negro Baseball league and basketball greats such as Wilt chamberlain and Michael Jordan. However, when we talk about athletics and history, we cannot forget the CIAA.

This year the CIAA, its players, its coaches, its supporters, and fans are celebrating its 50th anniversary. Beginning in 1946 with 16 teams, the CIAA has become one of the Nation's largest and most celebrated collegiate athletic conferences.

In 1946 the CIAA tournament kicked off long traditions of both rivalry and sportsmanship. It was that year that Virginia Union and North Carolina Central University, then known as North Carolina College, came head to head in the tournament's championship game. It was that tournament and that championship game that started a legacy of comradery and competition that live on among players and fans today.

But, Mr. Speaker, recognizing the CIAA tournament is not merely recognizing athletics, it is recognizing the importance of education. The CIAA represents a commitment to providing resources and education to athletes and other students.

It is important for us to salute the 14 participating institutions, including the five from Virginia: Hampton University, Virginia State University, Norfolk State University, Virginia Union University, and St. Paul's College. These institutions, like many other historically black colleges and universities, not only offer athletics but most importantly, they provide top-notch, world-class educations.

With that in mind, I salute the coaches, past and present, who have developed high-caliber players and students. Coaches like Talmadge ''Marse'' Hill of Morgan State, Harry R. ''Big Jeff'' Jefferson of Virginia State, and Chet Smith of St. Paul's College who worked together to bring us the first CIAA and the 50 exciting years of play-by-play action that has followed.

We also cannot forget Clarence ''Bighouse'' Gaines, an assistant coach at the 1946 conference, who has gone down in history as the head coach of Winston-Salem State University and as the coach with the most wins in the CIAA.

It goes without saying that the student athletes are what make the CIAA so great. Bob Dandridge and Earl Monroe were outstanding CIAA players before they joined the ranks of the NBA. In 1946, players like Rubert ''Rupe'' Johnson, Howard Bessett, Elmer ''Big Daddy Mac'' McDougal, Robert ''Skull'' Hering, Thornton Williams, and Jim Dilworth, who was named the 1946 MVP, ignited the heart stopping, hoop-to-hoop action that lives on today.

If you have ever had the pleasure of attending a CIAA tournament, you know that the fans, friends, and supporters of the tournament and the league are dedicated and committed to CIAA basketball. These are the kinds of fans who not only cheer on players and students; they bring an arena alive.

While a tournament is not complete without its cheerleading and entertaining antics, CIAA supporters and fans have helped expand the CIAA from its meager $500 starting budget to a tournament that today generates approximately $7.5 million for the host city's economy. They, along with the coaches and players, make the CIAA the hottest—sold out—ticket in town.

Mr. Speaker, I, along with the many alumni, fans, and supporters, look forward to this year's 50th anniversary CIAA tournament in Winston-Salem, NC, taking place this week and to many successful years to come.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

[Mr. MILLER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

FEDERAL FOOD ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I just wanted to join my colleague, the gentleman from Virginia [Mr. SCOTT], in recognizing the CIAA tournament. We both will be in attendance, and we both have schools in that that will be participating and, indeed, it is commendable that he has brought to the attention of the Nation that this tournament has been in operation for 50 years.

Mr. Speaker, H.R. 4, the Personal Responsibility Act of 1995 is irresponsible. Federal nutrition programs for children and families will not be the same if this bill passes. School lunches and breakfasts will be slashed. Thousands of women, infants, and children will be removed from the WIC Program. National nutrition standards will be eliminated. And States will be able to transfer as much as 24 percent of nutrition funds for nonnutrition uses.

But, the impact of this proposed change goes even deeper. Retail food sales will decline by ten billion dollars, farm income will be reduced by as much as $4 billion and unemployment will increase by as many as 138,000. The security of America's economy is at stake. From the grocery stores, large and small, to the farmer and food service worker—everyone will suffer. Most States will lose money. That is why, if I may borrow a quote, I will resist the change, ''with every fiber of my being.'' Some want capital gains cuts. Some of us want an increase in the minimum wage. Others want block grants. We want healthy Americans.

Some want a full plate for the upper crust and crumbs for the rest of us. We want, and we will restore Federal food assistance programs. It is irresponsible to do otherwise. Nutrition of our citizens should not be left to chance. We have a choice. During the second half of the 100-day push under the Contract With America, we will vote on the Personal Responsibility Act of 1995. Title 5 of that act proposes to consolidate all Federal food assistance programs and convert them into a block grant program.

I intend to offer an amendment in the Agriculture Committee and on the House floor should my effort in committee prove unsuccessful. My amendment would restore these vital nutrition programs. Most are working and working well. If the block grant program is passed, children and seniors will face immediate, unnecessary nutrition and health risks. There will be instantaneous cuts in Federal food assistance programs. National nutrition standards will be eliminated. And, money designated for nutrition programs will be transferred to nonnutrition programs, thus further reducing available resources.

It is also important to note that there is no real accountability in the block grant proposal, there is no contingency plan in the event of economic downturns and, the proposal does not streamline or eliminate bureaucracy as promised. School-based nutrition programs, such as school lunches and breakfasts, have been particularly successful. Even the proponents of H.R. 4, I believe, will concede this point. According to the U.S. Department of Agriculture, if the block grant program is put in place, in fiscal year 1996, funding for school-based programs would be $309 million less than the current policy.

And, such funding would be over $2 billion less over the 5-year period between 1996 and 2000. In fiscal year 1996, as much as $1.3 billion could be transferred for nonfood programs. Such a transfer would mean as much as 24 percent less than the fiscal year 1996 level. Additionally, for more than 50 years, America has maintained a set of national standards that have guided school-based nutrition programs. All school meals must meet certain minimum vitamin, mineral and calorie contents. Those national standards are regularly updated, based upon the latest research and scientific information.

Those national standards would give way to State by State standards—standards which could be as many and varied as there are States. Those varied standards run a greater risk of being compromised by tight budgets and different perspectives. Family nutrition programs face a similar fate if they are converted into a block grant program. Spending for these programs would be $943 million less in fiscal year 1996, and $5.3 billion less over the 5-year period from 1996 to the year 2000, under the block grant program. Incredibly, up to $900 million could be transferred by the States under the block grant program.

Mr. Speaker, change for the sake of improvement is good. Change for the sake of change is not. Something different does not necessarily create something better. The nutrition programs do not need the kind of sweeping change as proposed by the proponents of H.R. 4.

□ 2120

TRIBUTE TO THOSE WHO FOUGHT THE BATTLE OF IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I understand that my colleague, Mr. DORNAN, from California, is going to be addressing the House a little bit later this evening on the subject of Iwo Jima. In advance of his presentation, I want to take a few minutes to address the House to talk about what a great day this is.

Fifty years ago today, the flag was raised proudly atop Mount Suribachi during the Battle of Iwo Jima. It is a great day for World War II veterans. it is now 50 years ago that we were winding down World War II. This was one of the last major battles that was fought. But it was also a great day for Marine veterans and those Marines, sailors, who were involved in that battle.

But there is one aspect of the flag raising that I would like to call some attention to. Specifically, we are all familiar with the famous photograph that was taken by Joe Rosenthal of the Associated Press and what a great landmark photograph that that was, probably one of the most famous combat photographs ever taken, certainly in world history one of the most familiar ever taken.

But that was the second photograph of a flag raising. I want to devote a minute to talk about the photographer of the first flag raising on Mount Suribachi, a Marine Corps staff sergeant by the name of Lou Lowery.

Lou was a Marine Corps combat correspondent. Many who maybe have not had experience in the military might not understand the important role that combat correspondents, both photographers and journalists, play. Literally in every action in which American servicemen and women are involved, combat photographers and journalists follow.

Lou Lowery, as a staff sergeant, was with the first patrol that raised the first flag. The photograph that was taken wasn't as dramatic as the one that was taken by Mr. Rosenthal, but yet it was just as significant, because it symbolized the triumph over extreme odds of a determined group of Marines and sailors who were determined to fight and achieve victory for this great country.

But it was also an important photograph in the sense that Lou may not have ever received the credit that Mr. Rosenthal did. But in many ways his photograph and his memory is as fitting a tribute to World War II veterans

as Mr. Rosethal's. Because there were millions of men and women, not just in World War II, but in every action we have been engaged in, who, without a whole lot of credit, did their duty, performed their service, achieved great victories for this country against all odds, but yet never quite received the credit that others might have received.

So on this great day, the 50th anniversary of the flag raising on Iwo Jima, I certainly am proud to stand here, not only as a reserve lieutenant colonel in the Marine Corps Reserve, but also as an American, to salute those men and women who have served in our Armed Services, who were involved in World War II, and the veterans of that great conflict, and in particular the veterans of Iwo Jima, one of the bloodiest battles in American history, and certainly a battle that is well worth our remembering on this important day.

AFFIRMATIVE ACTION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 60 minutes as the designee of the minority leader.

Mr. CLYBURN. Mr. Speaker, let me begin by paying homage and respect to those who give their lives and sacrifice also at Iwo Jima 50 years ago. We all owe them a great deal of debt and gratitude. Of course, as I think about all of the sacrifices that were made at Iwo Jima, I think that this was four years before the Executive Order, 5 years before the Executive Order by President Truman that made it possible for many of the men who made sacrifices at Iwo Jima to get some semblance of the recognition that they were due.

□ 2130

Because it was by Executive order of President Harry Truman that the Armed Forces were integrated and that men of color were then able to take their rightful places in the overall defense of our Nation. And we have come a long way from that, all the way up to having recently celebrated a person of color to hold the highest military office in our land. And we all join tonight with those who have gone before us this evening to celebrate those sacrifices.

Of course, that brings me to the issue that we are here to discuss tonight, an issue that we are hearing a lot about today, the issue of affirmative action. I am pleased to be joined tonight for this special order by my good friend, the Representative from Mississippi, Mr. THOMPSON, BENNIE THOMPSON, and my good friend, the gentleman from Alabama, who is Representative EARL HILLIARD.

The three of us tonight are going to spend just a little time, hopefully trying to shed some light on a subject that has been the object of a lot of heat in the last few days.

Let me begin by stating what I think is the obvious for all of the people of goodwill in our great Nation. And that is the goal that we all strive for, and that is a goal of a color-blind society. That is what our goal is. I would suspect that that is the goal of most honest, right-thinking, reasonable people in America.

The question becomes, how do we get there? I do not believe that anybody would read the recent census figures that arrived in my office today over exactly where all of the segments of our society stand; that is, where they stand as relates to equality of pay, the relative pay of one group as opposed to the other. We all understand that that is something that needs to be addressed.

One of our Supreme Court justices said a few years ago that in order to get beyond color in our society, we must first take color into account.

Let me share, Mr. Speaker, with the listeners tonight something that I think makes that point very, very vividly. I hold in my hand an article from a newspaper in my State, published on February 6. It is interesting. This article says that of the 119 occupied seats on boards and commissions in a particular county, 77 percent are filled by men and 95 percent are filled by whites.

Now, the interesting thing about this is that the gentleman in charge of all of this had this to say, and I quote: ''I do not think anybody has ever really paid any attention to it. Women can do the job as well as men. But I don't know if we have ever taken a look at it. Maybe we should.''

Then one of the elected officials from that same county had this to say about this: ''The racial and gender makeup of commissions is something I had really not thought about. Maybe we should commission a study of the issue.''

Now, Mr. Speaker, what we want to talk about here tonight is exactly this. This is something that people just do not seem to think about, because it is taken for granted. For some reason people just feel that things, we have been doing it this way, so there is nothing wrong with continuing to do it that way. But the fact of the matter is, for us to reach a color-blind society, we must first take color into account. And so tonight I am pleased to be joined first by my friend, the gentleman from Alabama, Mr. HILLIARD, who I am going to refer to at this time, for him to sort of set the stage for us as we try to discuss this issue to the point that maybe we can get some good, high-level intelligent discussion of this rather than all the heat that we have had in the last days.

Mr. Speaker, I yield to the gentleman from Alabama [Mr. HILLIARD].

Mr. HILLIARD. Mr. Speaker, I thank the gentleman for yielding to me. I would like to say, first of all, that I think perhaps we may want to give some type of quick historical analysis of why affirmative action, because that is the subject we want to talk about tonight.

Soon after the Civil War, we had a period in our history that we called Reconstruction. And during that period, there were those who wanted to make sure that former slaves could participate in the political process in every respect and participate fully as Americans in our society.

So we had a great deal of bureaus that were established to do just that. They had certain objectives. And, of course, you know that was about very close to 150 years ago. And during that time, the Reconstruction period, the State of Alabama was represented by three different congresspersons who were all black Republicans and they were, so to speak, my predecessors.

After reconstruction, it took about 117 years before Alabama, once again, had an African-American to represent the State of Alabama in Congress.

Well, it is interesting to note that during the period of Reconstruction, there were a large number of affirmative action policies and, in fact, affirmative action laws. And those laws were passed by various State legislatures and by the U.S. Congress itself.

But by 1895, and very close to 1900, none of those laws existed, because of all types of problems that occurred from the majority to deny participation fully in the American society. Blacks did not and were not able to participate in the laws, lawmaking bodies of the State of Alabama or any of the former Southern States. And they were not allowed to hold Government jobs. They were not allowed to do other things that the average citizens took for granted, the average white citizen.

Of course, this went on until about 1954 or earlier, maybe a few years earlier in some of the States. But between the period of 1865 and 1954, about an entire century, there were those that rode the curve, so to speak.

□ 2140

There were periods of times in several States where blacks were able to perform according to their capacity, their ability. They received certain preferences, and this was for only a short period of time during Reconstruction. Then the curve dropped back to where it was before the Civil War. All of the programs that had been put in place to protect them, to make sure that they were able to participate in the American Government society, were terminated.

During this void from Reconstruction up until 1954, some States realized that African-Americans should be able to participate in the electoral process, should be able to participate in certain governmental activities, so there were a few laws made that were not affirmative in nature, but they did state affirmatively that segregation or discrimination would not exist in certain areas of our society, or in certain industries, or with certain Government

jobs. Of course, the real breakthrough was with Harry Truman, when he gave that Executive order that in essence was to begin what we know as affirmative action, when he gave that directive of the Armed Forces to start making changes.

Many of those soldiers had participated in World War II. They later participated in the Korean Conflict, and in other conflicts since that time. When they came back after fighting for freedom for other countries and for this country, many of those soldiers realized that they were not yet free, that they still were denied opportunities. So they went to the streets. As a result of their activities, Congress decided to make changes. Instead of saying that segregation and discrimination were wrong, they decided to state in affirmative terms certain things that would take place and that would make a difference. They stated it not in the negative sense but in the affirmative sense. So affirmative action really became a concept, or a tool, that could be used to sort of integrate African-Americans into the political process or into the work force. It was made to, I would say, level the playing field, because there had been a series of laws, we called them down South Jim Crow laws, that had been put in place that tilted the playing field in our American society in favor of white males. They were the privileged class. Everything possible, every opportunity, every rule and every regulation was made to give them an opportunity to maintain their privileged status from 1872, after the period of Reconstruction, up until that directive that President Truman gave.

Affirmative action is a concept or a tool that would not tilt the field in terms of giving preferences to African-Americans but would give preferences only for the purposes of making that playing field level.

I submit that although some of those laws have been on the books for perhaps as long as 40 years, the playing field is still not level.

Mr. CLYBURN. I thank the gentleman very much. Let me say before I go to our friend the gentleman from Mississippi [Mr. THOMPSON], I am glad you pointed out the affirmative nature of the Executive order of President Truman as it relates to the Armed Forces. It may be good for people to know that in 1961, I think March of that year, President Kennedy issued an Executive Order No. 10–924. In that Executive order he said something very interesting, that it is the plain and positive obligation of the U.S. Government to promote and ensure equal opportunity for all qualified persons.

The question, the two operative words there are to promote and to ensure. It did not say to make a statement, but to actively promote, to actively go about doing something; and to ensure the equal opportunity.

I want to point that out, because the Executive order that a lot of us talk about that came along later under President Johnson who reissued this Executive order but also issued in addition to it 11–246, and that is when we first heard the terms being used affirmative action, because that Executive order called upon the Government to take affirmative steps to ensure, not just to say we will not discriminate, that is a passive thing, but to be active and say we are going to go out and we are going to recruit where we did not recruit before.

I remember when I was a student at South Carolina State University, I graduated from there back in 1962, when minority people went out recruiting people to work in the various industries around the State of South Carolina, nobody ever came to South Carolina State University. I do not know if they came to Tougaloo. But nobody ever came to South Carolina State. I never knew where the jobs were. Nobody in my class knew where the jobs were. Nobody ever said that this place is open for you and you should feel free to come and apply for one of the jobs here that you are qualified for. So like everybody else, we felt obliged to go and teach school, or some of my friends later on went to law school. But I went out and I taught school until such time as things opened up and I could go and apply for one of those jobs.

I am going to yield now to our good friend the gentleman from Mississippi [Mr. THOMPSON]. Maybe he can shed some additional light on this subject.

Mr. THOMPSON. I thank the gentleman from South Carolina [Mr. CLYBURN], and I applaud him for reserving this time to talk about what probably will be the most explosive issue debated during the 104th Congress.

What I would like to do is, believe it or not, to quote a Republican on the affirmative action issue before I start. Last Sunday in a ''Meet the Press'' program, Jack Kemp said that affirmative action is a dagger pointed straight at the heart of America.

Basically what he is saying is, if this country plays the race card, in effect, we are going to split this country right down the middle.

I submit that we can do better. This is the greatest country in the world. We have risen to the occasion in times of adversity in the past, and I think before we succumb to what is called the angry white male syndrome, we need to take a deep breath and look.

While we will do that, Mr. Speaker, let me just say that sometimes, being from the State of Mississippi, I am convinced that many of the affirmative action and civil rights laws that we have on the books came because my State did not treat African-Americans properly. Our history is a history that is laden with bodies, it is laden with blood, it is laden with a lot of things we are embarrassed about.

Just to give a few indications, my State is one of a few that is yet to adopt equal opportunity in employment and other things as a law of the land. You, yourself, directed for a number of years the South Carolina Human Affairs Commission. We tried unsuccessfully for about 10 years to get our State to adopt it. The only recourse we had was to go to the Federal laws through EEOC and others to get employers and other people to do the right thing.

Clearly there is a need for affirmative action. But taking it along with what the gentleman from Alabama [Mr. HILLIARD] said earlier, the history of it from the standpoint on education and any other prerequisite you can look at, all of us went to school systems that operated under the dual system, supposedly separate and equal, but, as we know, they were separate and unequal. Much of the education and experience we received was inadequate. Nonetheless, some of us survived. But the point to be made is that if we had not had affirmative action, many of the schools that are now integrated would not be there.

□ 2100

For myself, I wanted to be a lawyer. Unlike Mr. HILLIARD and most of the other Members here, law school was not an option for me in my State, but nonetheless some other people went. My State went so far as to say we will send you to any school out of State you want to go to as long as you do not want to go to a white school. That was unfortunate. They paid 3 times the money to send me out of State to school than to let me go to a school in that State.

So there are a number of things that we have to understand. But I think we cannot let this color-blind notion fool us. If we think America is a color-blind society, we are fooling ourselves. It is a good code word but it does not work. It does not work simply because all of the Presidents since that initial Executive Order that you referred to earlier, every President since Kennedy has renewed that Executive Order.

So, up until now we are operating under executive orders that talk about affirmative action being the law of the land. As we go into this discussion we will quote some statistics to the people listening to show that even with the laws on the books we still have a long way to go.

So what I would like to do is reserve the balance of the time for the colloquy that we will enter into to just discuss the whole notion of affirmative action and make sure there is some understanding.

But the last point is, without moving it too far, you really have to have been a victim of what we are talking about to really understand it. For most of us who are over 45, we never had new textbooks in our community, we never had the opportunity to play in a public playground or swim in a public swimming pool, and so some of us take very

seriously the notion of affirmative action because this was the only opportunity that many of us ever received. Many of our relatives left our communities because they had no opportunity, they had to go north, they had to go west, so affirmative action programs allowed me to stay in Mississippi and pursue a career and ultimately end up in Congress. But had we not had those programs that allowed that opportunity to exist, many of those individuals who are here today would not be here because there was no cover or no support for that effort.

So I look forward to the debate and the discussion on this, and there are some very startling statistics from the employment standpoint and other things that will highlight what we are talking about.

Mr. CLYBURN. I thank the gentleman very much.

Let me see if I may set the stage here a little bit. When we talk about affirmative action it is kind of interesting we hear so many people discussing it who seem not to really know what it means.

As a concept, affirmative action is just a program or policy that is in place in order to remove the current and lingering effects of past discrimination. That is all it is.

There are many ways to do that. We look at it in various fields. We just had a discussion earlier this week over what we need to do to affirmatively make programs possible for people of color, minorities, if you please, in this instance blacks and Hispanics, to own radio stations. Here we are at the time the policy which we just voted to eliminate was put in place, one-half of one percent of all of the radio stations in this country were licensed to minorities. Now that is blacks who, according to the census I just received, constitute about 13 percent of our population, Hispanics somewhere around 9 percent, 10 percent, or 11 percent, depending upon how you categorize it, but fully 25 percent of our citizens owning one-half of one percent of the radio stations. So how do you do about rectifying that?

We put in place a rule, not a law but a rule, FCC rule, and what we said in that rule was that anybody who would agree, nobody is going to make you do it, but if you say you will sell your cable or whatever your media may be, radio station, to a minority you get a tax credit for doing it. And so here we are putting the program in place, a program which quadrupled, better than quadrupled that. Today that number went to 3 percent.

So we know that it worked, and so here we are going backwards on that, and then the question then becomes why is it that we do not keep the program in place to see can we get in the next few years to 10, or 12 percent or something approximating these people's presence in our population.

Mr. HILLIARD. Mr. Speaker, will the gentleman yield? It is interesting that the gentleman stated that no one made anyone do anything. It was not a mandate, it was not a preference. The only thing it was was an incentive.

Mr. CLYBURN. Absolutely.

Mr. HILLIARD. That is one thing about most of the affirmative action programs and policies. The language is used to ensure that there is no such thing as a mandate or as a preference. Most of the time those programs or the language that is used talks of goals, talks of incentives, and most of the time the words that are used are words that we hear every day, words that today encourage, words that say to the extent practicable. It does not say absolutely, it does not say it has to be, it does not mandate and it does not grant. It only gives in many instances just incentives.

Mr. CLYBURN. Absolutely.

Mr. THOMPSON. If the gentleman will yield on that point, I served on the board of supervisors in the largest county in the State of Mississippi, and one of the notions we looked at was inclusion. When we looked at employment, when we looked at contracts, when we looked at the whole county government, we saw a void of minorities, both women and people of color. We devised a minority preference program, we created an affirmative action program for employment, and I am happy to report that over a period of 6 years to 7 years we increased our contracting from less than 1 percent with minorities to over 25 percent. We had very little opposition to it.

We presented this as the right thing to do, that you cannot expect people who are taxpayers, who make up a significant portion of a community, to just be totally ignored. To ignore it would be in effect illegal in my estimation, especially when you know it is wrong, and you have to plan the corrective action. We did it, it worked, and I am happy to report, as I said to the gentleman, that our county now leads the State in contracting as well as employment.

So, it works if you are committed to it. But if you are not committed to making it work, it will not work.

Mr. HILLIARD. the gentleman is absolutely correct, and there has to be a commitment, and in many instances that commitment must be stated in terms of some positive manner in which the commitment could be carried out, such as a particular program in order to achieve a desired objective.

□ 2200

You know, I recall a program that was set out, one they said was an affirmative action program, and it would benefit minorities, benefit blacks, and, in fact, it benefits more whites than blacks, and I speak particularly about a program that was designed so that the first person in a family can go to college if no one else in his family has ever attended college or ever graduated from college, and that sounded like a very good concept. It is a beautiful objective for this country. We want to make sure that everyone receives as much education as possible in this country, and we want to encourage families to educate members of their families.

And in situations where you have a family where no one has ever been to college, you want to give some type of encouragement or you want to create some type of positive effort so that those persons will want to go out, so they set up what is called the TRIO program.

The TRIO program was going to be for those persons who in their family no one had ever attended college, and it was set up, and most of the poor people who participate in TRIO programs across America happen to be white, and it is still a good program, but this is an affirmative program. It is set up to achieve a desired result, and we should continue to promote programs like that, because it helped diversify America. It helped educate America, and it helped open America up to everyone so that they could participate.

Let me say the reason why I pointed this out is because today Speaker GINGRICH stated that he would be in favor of an affirmative action policy that promoted people based upon their status or whether they are poor, whether they are in poverty, and so forth, and he wanted to erase certain categories like gender and race and other things.

Well, all well and good. I think that perhaps that would be a good category. I do not have any problems with it. I think we want to get people out of poverty.

So I suggest that, and I submit that, if he proposed a bill that would promote people out of poverty, that would give poor people an opportunity to participate fully in American society, I would cosponsor that bill with him.

Mr. CLYBURN. Let us yield just a moment, if we might; we have been joined by the gentleman from Louisiana [Mr. FIELDS], and I want to go to him in just a minute, because you just talked about the TRIO program.

It was my great honor 2 weeks ago to meet with all of the southeastern participants of TRIO, that is, Outward Bound and Talent Search. It was my great honor to direct the Talent Search program some 25 years ago.

Of course, I know that the gentleman from Louisiana [Mr. FIELDS] was one of those TRIO students, and is a great success story as to how that all works.

I was looking up some statistics trying to figure out, not an affirmative action program, but it was put in place for the express purpose of doing affirmative things: 42 percent of all the students in the TRIO program are white students, 42 percent. Thirty-four percent are black, and the rest are basically Hispanic.

So my point is you can in fact devise a program that will reach out.

Mr. HILLIARD. Yes, an affirmative action program.

Mr. CLYBURN. Affirmative action program, yes, and will use race as just one indicator, because now we must remember that no one was denied access to public accommodations on the basis of their status economically. You were denied access to public accommodations based upon color. There was not a water fountain that says ''For lower-income'' and ''Upper income.'' It says ''For white'' and ''Colored.''

So let us not lose sight on that.

With that, let me yield to our good friend, the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. I thank the gentleman from South Carolina for yielding.

Let me also thank the gentlemen for carrying on this conversation tonight. I was sitting in my office, and I saw the gentlemen on the floor and decided to come over to just speak to one or two subjects.

First of all, let me speak to the subject of the TRIO program. The gentleman from Alabama stated the need for the TRIO program.

I stand, Mr. Speaker, tonight as a product of the TRIO program, and but for the TRIO program, I probably would not be standing here as a Member of this institution, and to have programs such as the TRIO program under attack today certainly is not only unacceptable but is unconscionable and certainly does not warrant merit to have those kinds of programs under attack.

I thank the gentlemen for talking about the TRIO programs, because there are thousands of young people all across the country who need a program like this TRIO program. They are not black students, they are not white students, they are not Democratic students, they are not Republican students, they are just students who need help and students who need assistance. They are students who come from single-parent households like I was. I was a student who came from a single-parent household. I was a student who came from a family of 10. I was a student, and the reason why my family was a single-parent household was simply because my father died when I was 4 years old, and a program like the TRIO program basically just took me in and took other students like me all across Louisiana and all across this Nation and gave us hope and told us just because we came up by way of the rough side of the mountain did not mean we could not reach the top and told us just because we started the race late did not mean we could not finish our course, because the race was not always won by the swift, but sometimes by he who could endure the longest.

It was the TRIO program, Mr. Speaker, when classes and teachers and institutions all across Louisiana called students like me disadvantaged and at risk and underprivileged, it was the TRIO program that said when they call you disadvantaged and at risk, underprivileged, they are talking about your income. You cannot let your income determine your outcome, because your mind is not disadvantaged. Your mind is not at risk. Your mind is not underprivileged.

I challenge my colleagues today to keep programs like the TRIO program.

Lastly, the gentleman from South Carolina, when I was watching him in my office he was talking about the issue of affirmative action and the gentleman from Mississippi stated that the issue of affirmative action is going to be a very heated debate this session of Congress.

Let me, with the remaining seconds that I have, talk a little bit about affirmative action and put it in its proper context, because I get sick and tired of people talking about affirmative action and making people who benefit from any affirmative action or any set-aside program in America feel illegitimate for some reason or another. As long as people look at affirmative action as two parallel lines, then you are not really looking at affirmative action in the truest sense, because affirmative action is not two parallel lines where you take one person who is less qualified than the other and take the person who is less qualified and bring him to the status of a person who is more qualified simply because of the law called affirmative action.

The better way to state affirmative action, Mr. Speaker, is a big circle where everybody in the circle are qualified, equally qualified, as a matter of fact, but the problem is many people do not get a chance to participate and be a part of that circle. The only way many people in this country get a chance to be a part of that circle and get included inside of that circle is through the actions of affirmative action.

No person should even have a thought tonight that affirmative action takes people who are less qualified and elevates them to the status of people who are more qualified.

The last point I want to make on the issue of affirmative action, even those who talk about affirmative action today, many of them would think the 1965 Voting Rights Act is an affirmative action bill, and the Voting Rights Act was an act that when there were people in this country who worked hard every day, who believed in this country, who went to war and fought for this country, but did not have the right to vote; in many States in this country, they gave them the right to vote, but they had all kinds of impediments so they would not be able to vote.

I recall my own State of Louisiana when a professor who graduated, who got a Ph.D. Degree, who wanted to pass the literacy test in Louisiana, he could state the Preamble to the Constitution, he knew all the facets of the inclusions and the exclusions of the due process clause and the 14th amendment of the Constitution, but a registrar of voters still had the audacity, tenacity, and gall to ask him how many bubbles are in a bar of soap. That was an exam that he could not pass.

I guess many people today even think that that civil rights legislation was affirmative action, just to give a person the right to vote is affirmative action.

And I submit to you today, Mr. Speaker, that that is not affirmative action, and if it is, there is nothing wrong with it. There is nothing wrong with giving people the opportunity to register to vote and participate in democracy, and I say to my colleagues from South Carolina and Mississippi and Alabama, this is going to be a very, very heated session, because the last thing I want to do as a person who believes in fairness, a person who believes in equality, the last thing I would want to do is to disadvantage any individual in this country to the advantage of another individual in this country.

□ 2210

Mr. HILLIARD. Mr. Speaker, I just want to interject something for a minute, and it is a quote that appeared today in the Washington Post. It was a quote by Speaker GINGRICH. His answer was no to a question that was asked, and the question that was asked was does he believe that affirmative action programs discriminate against white males. And he said no.

So there is no need for any of us to have any problems with affirmative action programs, because everyone realizes and recognizes the fact that these programs are formative in nature. They are not exclusive. They do not exclude anyone, but they just promote and encourage.

Mr. FIELDS of Louisiana. Let me say there is not a person in America who received a job because of affirmative action. People in America receive jobs because they are qualified. There is not a person in this Congress who is in this Congress because of some affirmative action program. You are in Congress because people went to the polls and voted for you. There is not a person in this country who benefited from any affirmative action program simply because they were less qualified. They were as qualified as anybody else.

Let me say this. I wish we would get to the day in this country when we need not have affirmative action. I wish one day I could stand up in this hall, I wish I could stand up at this very microphone, and say there is absolutely, positively no need for any law that even resembles affirmative action.

But until we get to the day of fairness, where people are treated because of their content, and not because of their color, and not because of the accent of their language, then we are not at that point that we ought not have programs that simply give people an opportunity not because they are less qualified, but give them the opportunity because they may be Hispanic,

or they may be black, or they may be a woman, and that is what this program that we call affirmative action is all about. Not to give a person a job because they are less qualified; just give them an opportunity to compete.

I want to commend the gentleman from each State for talking about the need to have programs of fairness, and one day we can all walk into this Chamber and say there is no need any longer for any affirmative action program because the CEO's in America, they are going to treat people fair, they are going to hire women, they are going to hire Hispanics, they are going to hire blacks. There is a need for affirmative action in the area of voting, because people are going to treat people fair. Anyone who wants to register to vote can in fact register to vote. There is no need for affirmative action in the area of scholarship, because presidents of institutions across America are going to grant scholarships to students who deserve them, irregardless of their color.

Mr. CLYBURN. I thank the gentleman for his remarks. Before I go to my good friend Mr. THOMPSON from Mississippi, I want to say I notice that Mr. HILLARD brought up the Washington Post of today. There is another very interesting article in today's Washington Post on the subject of affirmative action. You may recall one of the leading contenders for the Presidential nomination from the other party requested some information from the Congressional Research Department on the question of affirmative action. He has received that. I am pleased to have a copy of that.

The Washington Post did an article today on that, and it is kind of interesting. The subheading indicated that affirmative action as practiced by our Government does not mean quotas.

But that is not the first study to do that. I remember, I think his name was Dr. Leonard, I can't remember his first name at the moment, did a study for President Ronald Reagan, a learned professor from California

Mr. HILLIARD. The ultra conservative Dr. Leonard.

Mr. CLYBURN. Absolutely, His conclusion, affirmative action works. It does not mean quotas. It works. He went on to say something else, it works for nonblack people as well. And there was even a second study done under the Reagan administration by OFCCP, I don't recall the man's name now that did the study, but Ellen Schlam was the director of OFCCP at the time. The study was done at her direction. That study concluded that affirmative action worked and it did not work to the disadvantage of white males.

So what has happened here is that there has been a concerted effort on the part of those people in our society who would like to see equality of opportunity denied to people who have sort of conjured up all kinds of fears, and they have appealed to the worst in many of our citizens, and they have turned people against certain segments of our society on this question. But every time it is studied, as was recently done and published today in the Washington Post, they find out that it does not mean what people say it means.

Now let me, before going to Mr. THOMPSON, say this: It is kind of interesting. You know, if we had a container here with a cross-bones on the bottle, nobody would want to touch it because they would say there is poison in there. Well, the fact of the matter is, no matter what is on the label, we have to examine the contents to know what is there.

So the point is there are a lot of programs that have had the affirmative action label put on them which were in fact not affirmative action, and the courts have made that very clear to us.

I yield to my good friend from Mississippi.

Mr. THOMPSON. I am glad you made that point, Mr. CLYBURN. I think the point we have tried to make so far is that affirmative action recognizes that this country in its history has not been fair to everybody. And what we have done by those various laws is to enact opportunities for the affected class so that they can in effect compete. But if you look at the statistics, as you talked about the studies, we see that of all the physicians in this country, only 2 percent are minority. Of all the engineers in this country, only 3 percent are minorities. But as you move forward and look into the professional schools, if you look at the law schools in terms of the ABA-sanctioned law schools and approved, the majority of them have only one African-American faculty member, and a substantial number have zero.

So what we have to do in this country is encourage diversity, we have to encourage inclusion. But for the most part we still have a long way to go. And in this entire discussion of affirmative action, nobody has talked about a remedy to replace it. They are just saying that in effect we have to do away with it.

I submit to you that if we do away with it, and again another quote that came up over the weekend says that as we move toward a color-blind society, which we do not have, the shock therapy of eliminating all preference will defy and destroy our society.

It is wrong. Another Republican made that statement.

They recognize that this is political dynamite that you are playing with, because all the people that most of us know feel very dear about that. You know it is being debated in California. Some of us are prepared from a remedy standpoint to encourage our friends and associates to look at doing like we did in the State of Arizona. Perhaps if they had gone so far as to deny minorities opportunities or to take affirmative action laws off the books, then we should perhaps look toward going elsewhere and spending our dollars. And that is one of the responses to this madness over affirmative action that I think you will see more of.

But clearly we cannot allow in the freest country in the world people to start moving backward, taking freedoms and opportunities away from many of the people who built this country by the sweat of their brow, for slave wages, even though most of us were slaves at the time. And we cannot continue to let this go.

So I submit to you the statistics bear out that there is still a need for affirmative action. The statistics bear out the fact that even though there are a lot of laws and orders on the book, that we still need to work at it. And now is not the time to take those laws off the book. Because indeed if we do, we would in fact inflict such a wound on this country that I am not sure that it would ever heal.

□ 2220

Mr. CLYBURN. Thank you very much, Mr. THOMPSON. I do not know how many minutes we have left, but let me go to Mr. HILLIARD for his closing remarks and hopefully he will save a couple of minutes for me to close.

Mr. HILLIARD. Mr. Speaker, let me again thank the gentleman from South Carolina [Mr. CLYBURN] for putting this program together. I wanted to say that Monday night I understand that we will have an opportunity to talk to the American people about affirmative action as a policy, as a national policy, and we want to talk about the objectives that we hope to achieve. Because we want people to understand and to realize that we desire, like everyone else in America, to have a color-blind society. And hopefully we will be able to reach that status sometime in the 21st century. But as it is now, we do not live in a color-blind society. And for us to ignore it or to not believe it means that we wish to remain blind to racial problems in our society and that we wish to accept things as they are instead of making positive or making affirmative changes.

I am glad that the Speaker recognized and said to the American public that affirmative action does not discriminate against white males. In fact, it does not discriminate against anyone. There is no discrimination with affirmative action programs, no quotas, no mandates, no preferences. The only thing we have are goals and incentives, opportunities. All of this is just set up as an attempt to make the playing field level.

It is still tilted because of centuries and decades of laws that mandated discrimination in this country. And it is going to take us some time to get away from that.

I want to help America move away from that, but I know that you cannot have a situation, a fair situation, with the field tilted away from the players unless it is tilted in a direction where all the players are. But if the field is

tilted and some of the players are on one side of the field and some of the players are on the other side of the field, then the field is not level, the game would not be fair. I do not see any reason why we should continue to let Americans say and think that the field is level when, in fact, it actually is not.

Finally, let me say that I wish and I want America to understand that whereas we have been talking about affirmative actions giving incentives and opportunities for us and for other African-Americans, the fact is that most of the people who have profited from affirmative action programs have been white females as well as children, the handicapped, Indians, Hispanics, Asian-Americans, and other minorities in this country. So when you hear affirmative action, you think of something in terms of an objective to be achieved that is set up in a program that would benefit the least of those in our society.

I guess the best ways of closing is for me to say that last night I spoke about a man by the name of Booker T. Washington. I talked about his goals and what he wanted to do in terms of education for America and how he achieved that by establishing Tuskegee University. But I ended with a quote that he made. I wish to make that quote now, because it really fits this conversation.

He stated, ''There are two ways of asserting one's strength. One is pushing down and the other is pulling up.''

I just wish to say that affirmative action is just pulling up, pulling up everyone.

Mr. Speaker, I thank the gentleman from South Carolina [Mr. CLYBURN]. And I thank the gentleman from Mississippi [Mr. THOMPSON] for his participation.

Mr. CLYBURN. Mr. Speaker, let me just close this special order tonight by thanking the two of you for participating and to say that affirmative action is, in fact, an experiment. We are experimenting with ways to try to level the playing field, ways to try and bring people into the mainstream of our society. But America is an experiment. We are experimenting with something we call democracy. There is no religion that can be called American. There is no culture that can be called American. America is just a place where many cultures, many religions are all here trying to work together, trying to find common ground and in all of that, hopefully, doing so while recognizing and respecting the diversity that exists in all of us.

On March 17, when I get up in the morning, I am going to put on something green, a tie or jacket or something, because I want to join with my Irish American friends in celebrating St. Patrick's Day. It does not take anything away from me to do that. In fact, I feel bigger and better when I do that. And I would hope that the day will soon come when all others can join me in celebrating those things about my culture that I hold near and dear.

When we can do that, I believe we will have reached that goal that all of us would like to have achieved, that is, a color-blind society.

TORT REFORM

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, tonight, along with the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Omaha, NE [Mr. CHRISTENSEN], we are going to engage in a special order that is going to focus primarily on tort reform and what the need is for that reform, what the Republican conference is going to do about that, how that fits into the Contract With America, and what the American public can expect to see on the floor of Congress in the next 2 to 6 weeks with respect to that.

But before we start talking about tort reform and the need for it, I want to just take a couple of minutes to review what we have done here in the first 50 days, because we are really at the halfway point. I think it is not improper or incorrect to take some time, take a deep breath. We could call this half time. Normally at half time what we get to do is we get to go into the other room and pop open a beer or a soda and take a little time. Because we are on such a fast track here, we really do not have much time.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. I am not sure what kind of sports you have played where at half time you pop a can of beer open, but——

Mr. HOKE. This would be the sport of couch potato watching football.

Normally you get a little breather. Well, we are not going to get much of a breather here, but we would like to take just a moment to celebrate what has been absolutely the most productive 50 days in the entire history of the U.S. Congress.

□ 2230

What have we done exactly? First of all, America faces a brighter future today than it did 50 days ago. Because we took an important step forward, toward ending the immoral practice of piling up debt for future generations by doing two things.

First of all, we passed the balanced budget amendment and we passed the line-item veto. Right now it is up to the Senate, where I understand we have got two more that are going to be on our team, and we are within one vote, maybe we are at that vote even now as we speak, to pass the balanced budget amendment there.

Once again, we are earning America's trust. We have more than doubled the approval rating of the Congress. We are no longer down in the dumps with lawyers. I happen to be a lawyer, along with my two colleagues tonight. We are no longer rated below used car salesmen. Actually we have crossed the 50 percent threshold if you can imagine that in terms of an approval rating overall.

Before we can go forward with the reforms that we want to change in America, we have to reform the way this place works, change Congress itself, and that is exactly what we did on our opening day with the opening day reforms. We cut committees, we cut committee staffs by one-third, and we actually cut two standing committees in this House. It had not been done since World War II. In addition, we cut about 20-plus standing subcommittees. Most importantly, Congress is now required to live under the same civil rights and employee protection laws as everyone else is.

We have made Washington a more accountable place than it was 50 days ago. The Federal Government can no longer pass legislation, however worthy it might be, that sticks States and communities with the tab. We have restricted the Federal Government's ability to do that. That is the unfunded mandates reform. We are listening a lot more today than we were 50 days ago.

What we are doing in the way of personal security is that we have said we do not know best in terms of crime control. We believe that the local communities do. We have made a block grant approach to this in the Committee on the Judiciary that has been passed on the floor where we are saying that one-size-fits-all government is not the way to go. We want to give our local communities, the police chiefs, the mayors, and citizens boards the opportunity to make their own decisions about how best to combat crime.

The Federal Government had failed to make families safe and more secure, and these new crime measures are fixing that by giving communities the tools that they need.

Finally, we are restoring common sense to Washington with respect to a more rational national security strategy, making it harder for the President to send U.S. troops off on U.N. missions, and we have created a commission to ensure that America's most important national security resources, the men and women in uniform, are going to be able to do the jobs that we ask of them.

There is a lot more work to be done, welfare reform, regulatory and legal reform, Congress' first-ever vote on term limits, something that I strongly support, family tax relief, economic growth tax measures and the spending restraints that are required to pay for all of this.

While the agenda is very daunting, American families have placed a tremendous amount of trust in the 104th Congress. We met the challenge of the

first 50 days, and we are going to meet the challenge of the second 50 days as well.

One of the areas in which we need to meet that challenge is clearly in the area of becoming more accountable and bringing some common sense and sanity to our legal system.

I wonder if I might ask the gentleman from Nebraska [Mr. CHRISTENSEN] to talk about where we are in terms of the legal system today and what we need to do, what kind of a challenge we face in reforming that.

Mr. CHRISTENSEN. Mr. Speaker, I believe that the debate we will soon have over our legal system is among the most important national discussions we can have. Our laws, after all, are what define us as a society. When there is something awry with our legal system, then we should view it as a threat to our Nation.

I am proud of my colleagues for helping to make legal reform one of the priorities in the Contract With America. As we all know, the impact of frivolous lawsuits is felt far beyond the courtrooms and the law offices. Over the last 25 years or so, we have developed a system in which any American who has been wronged, no matter who he or she is, no matter how much he or she earns, can seek justice in an impartial court. That is a tremendous achievement, rare in the annals of human history. There are other western countries that even today do not have legal systems as open and as accessible as ours. Yet during the same past 25 years, our legal system has gone astray.

The bill in the Contract With America is called the Common Sense Legal Reform Act, because most Americans believe our legal system defies common sense, and they are right. The system is an affront to common sense. Only the organized trial lawyers and their lobbyists do not recognize it.

What has happened to bring us to this condition? Our legal system, once the envy of the world, is now the object of parody on late-night television.

Mr. HOKE. Would the gentleman yield for a comment?

Mr. CHRISTENSEN. Yes.

Mr. HOKE. As I understand it, you are an attorney.

Mr. CHRISTENSEN. Yes, I am.

Mr. HOKE. And you practiced law in Nebraska?

Mr. CHRISTENSEN. I have never practiced, but I am licensed to. I have been in the business world.

Mr. HOKE. Ah. And my colleague from Tennessee is also an attorney?

Mr. BRYANT of Tennessee. That is right.

Mr. HOKE. Do you say that with pride, because it sounds like there is an awful lot of criticism of the legal system going on here.

Mr. BRYANT of Tennessee. I do. I think it is time some people do stand up for the legal profession, as I tried to do on the campaign trail. There are an awful lot of good lawyers out there. Like again in any job or profession, there are a few that I think stretch the system somewhat and maybe cause us all to have a bad reputation. I have practiced a number of years both as a Federal prosecutor but more often as a defense attorney in civil litigation, and this subject of a reasonable, commonsense tort reform is something that is very near and dear to me.

Mr. HOKE. I think just in the interest of full disclosure, the Speaker probably would be interested in knowing that I am both a businessperson as well as having practiced law for the better part of a decade. The gentleman from Nebraska [Mr. CHRISTENSEN] has a law degree but did not practice, and was in the private sector, and the gentleman from Tennessee [Mr. BRYANT] has the greatest problem on this because he apparently has done only law both as a U.S. attorney in a distinguished capacity and also in the private sector. We are clearly all three lawyers but we see real problems with the legal system.

Mr. CHRISTENSEN. If the gentleman would yield back, please, the real problem with this system, I believe, lies with fault. I think that we have got a system to where everyone thinks it is someone's fault and they ought to have a right to sue. Fault once used to be the bedrock of our legal system. The tort system was designed to find who was at fault and who was wronged. The tort system helped define responsibility and make the proper redress to the injured party.

Today, however, fault rarely enters into the equation. If an individual acts carelessly, he can still use the tort system to get compensation. If an individual intentionally breaks a contract, he can still seek payment through the tort system, and if an individual behaves foolishly, he can still blame others for his injuries and get a handsome reward through the courts.

Tort law was once about right and wrong, blame and responsibility. But today trial lawyers have twisted that original meaning and turned tort law into some form of social insurance. That is where the Contract With America comes into play.

What we are talking about is restoring some common sense back to our legal system. If something goes wrong in today's society regardless of who is at fault, they hire a lawyer. Their message is always the same. You can be compensated.

I have seen so many TV commercials and we have all seen the advertisements.

''If you've got a phone, you've got a lawyer.''

''Have you been injured in an accident lately? Call me, because we're on your side.''

The trial lawyers make out very well in this no-fault system. They always collect their fee, but the rest of the American people are paying for it. We are paying for it in our cities because, little to the public's knowledge, there have been times where little league has had to be canceled because of the high insurance cost. We are paying for it when law-abiding companies have to pay tens of thousands of dollars simply to dismiss a nuisance lawsuit. We are paying for it in medical devices which are kept off the market and innocent lives are lost. We are paying for it when legitimate grievances cannot be resolved because our courts are clogged with million-dollar suits, where the defendants have only a distant and indirect relationship to the injury that occurred.

Restoring a sense of fault to the entire system is the only way we can restore the sense of right and wrong. That is exactly what our Contract With America, the Common Sense Legal Reform Act, does. It restores some balance to the system.

For 14 years, they have had it their way. For 14 years, we have been trying to address this issue. Now finally we have started the process forward.

□ 2240

You know, if we can continue to process and continue to expand this tort reform not just to include product liability but all civil tort reform, we will have made a good first step.

I yield.

Mr. BRYANT of Tennessee. The gentleman from Ohio and myself both have the extremely high privilege and honor to serve on the House Committee on the Judiciary, the committee that has been primarily responsible for the taking of testimony and conducting the hearings, marking up the bill and reporting it out to the floor, which we anticipate it will arrive in the House within the next few days for full consideration. Over that period of time, we heard testimony from a number of witnesses and conducted hearings that I understand have been built in the past on past hearings. And I think we have a very good bill. I always am a proponent of balance. I talked so much about this when we talked about the crime bill and how I felt on the crime side the pendulum had swung too far in favor of the criminal, and now I think we see it coming back more into proper balance with society and victims. I think the same can be said about the civil side, the Tort Liability Act we are talking about now, and I think it is important we bring that back into a more common sense environment. I think the bills we will be reporting out to the floor bring that, particularly in the area of product liability and punitive damages. Certainly a former businessman, and the gentleman from Nebraska has alluded already how in many cases the fear of lawsuits and large lawsuits hamper, stifle growth, development of products. We have talked about not-for-profit organizations like Little League Baseball, churches, anytime you have an activity where somebody could possibly be injured and sometimes they are put on by not-for-profit organizations that have to go out and take insurance for fear of somebody

getting hurt and large lawsuits being filed and punitive damages being awarded, and something is out of kilter there.

I am all for, as I think we all are keeping the courthouse doors open for those good lawsuits, those fair lawsuits, the ones where people are indeed injured and deserve a hearing and a consideration for consultation.

Mr. HOKE. Would you yield for a thought? I do not think anybody, I do not hear anybody talking about trying to in any way foreclose a person's right to access to the court, to justice in America. But there is an overwhelming sense, there is a very strong sense, a visceral sense that we have gone too far in a way that does not protect individuals, in a way that they are getting redress for grievances for real damages, but in fact people who are not at fault are being victimized themselves by a legal system run amok. And I have to tell the gentleman I was astounded when the executive director of the Girl Scouts of America for Washington, DC, who was participating in a meeting about a week and one-half ago I was at, and I believe the gentleman was there also, 87,000 boxes of cookies is the answer, 87,000 boxes of Girl Scout cookies is the answer. The question is how many Girl Scout cookies do the girls in the Washington, DC area of the Girl Scouts of America have to sell just to pay their annual liability insurance premium: 87,000 boxes. That is stunning. And she went on to say that they do not allow the Scouts to ride horses anymore, they will not allow the girls to ride in cars that have been rented. They have changed the way that they do business as a result of this liability problem.

So tell me what are we going to do? What is the direction here we are going in to try to get a handle on that?

Mr. BRYANT of Tennessee. I think we started out with the idea of bringing forth a good, fair product liability act, one that would apply across the country. You know so many of our products, probably all of the products travel interstate. Rarely would you find something that stays within one State, and I think we all see a Federal involvement, a need for a Federal role in regulating product liability to that extent, and what we have come forth with is a bill that does set some clear standards for products in terms of what you can do. It limits liability to sellers who often times are brought in along with the manufacturers of the products just because they are in the chain.

Mr. HOKE. What is the distinction there?

Mr. BRYANT of Tennessee. Of course people that have been in small business know that when you go into the stores most of the time you do not buy your product directly from the manufacturer, you go through a retailer. When there is an allegation that a product is defective and a lawsuit filed, it is not uncommon that what I call the shotgun approach is taken and everybody out there that possibly could be sued is brought into the lawsuit, and that normally not only involves the manufacturer of the alleged defective product but the people in the chain that bring it to the store even. And what we do is we now require there actually be some actual negligence on the part of the seller before they can remain in a lawsuit.

Mr. HOKE. You mean you could buy perhaps a lantern at a hardware store, a lantern that has been manufactured in a defective way, but say that the manufacturer is in another State or hard to find or something like that?

Mr. CHRISTENSEN. Would the gentleman yield? Here is a perfect example I ran into earlier today, and we all heard about McDonalds because of the patron who ordered the cup of coffee and she spilled it, and it caused injury to her and she sued. But there is another McDonalds story that I think people that are watching tonight should be aware of and it is very interesting because it causes very much a concern with where we are headed with this litigious society. There was an individual who pulled up to a McDonalds drive-thru outlet and ordered some chocolate shakes and some fries. He put the chocolate shake between his legs, drove off, reached over to grab something on the other side of his car. The chocolate shake spilled over his legs and caused him to hit the car in front of him. But what did the plaintiff's lawyers do when they got ahold of this little case? Not only did they sue the car in front of him, but they sued McDonalds because they said the McDonalds restaurant should have had a sign that said, ''Do not eat and drive.''

Now, fortunately for McDonalds, they won this case. But the example here is that they had to pick up the fees for defending themselves from a frivolous lawsuit, and there are a lot of examples out there like this that we all know about that we are trying to get corrected through this common sense legal reform act.

Mr. HOKE. I thank the gentleman.

Mr. BRYANT of Tennessee. That is a great example and of course there are many more. But again we are talking about trying to bring some common sense to this ground. We set forth a reasonable standard also in terms of the length of time that a product manufacturer can be sued, what is called a statute of repose for 15 years. We set out a distinction for removal of what is called joint and several liability.

Mr. HOKE. Maybe we can talk about what that statute of repose means because the first time I heard that I had no idea what it meant.

Mr. BRYANT of Tennessee. In most lawsuits already there is separate from that a statute of limitation in which a person has some years from when they are injured in which to file a lawsuit, but particularly in the area of product liability, since machinery and products have a lifetime of X number of years or whatever, it has generally grown over the years in a lot of the States that already have these laws this statute of repose, which simply means that at some point in time, and in this case 15 years, I think it is 18 years in the General Aviation Act, that a product manufacturer cannot be sued after that period of time, after 15 years, now this product bill for 18 years, just as a matter of public policy and so forth.

Mr. HOKE. In other words, if something is wrong with this piece of equipment that was manufactured 15 years ago, we would have found out about it in that period of time? It would have become obvious.

Mr. BRYANT of Tennessee. Right, the defect would have become obvious.

Mr. HOKE. The defect would have become obvious and either there would have been a lawsuit over it or corrections made to it, but after a 15-year period, absent an updating or change or some sort of a design change in it, there will not be any lawsuits allowed alleging a defect in the manufacturing of that product; is that correct?

Mr. BRYANT of Tennessee. That is the gist of it. And I think, too, probably the biggest thing we bring in through this commonsense bill is the limitation, so-called cap on punitive damages.

□ 2250

And that is probably the most, I guess, controversial aspect of this. I know we have got an outpouring of information from both sides, I guess, or all sides on whether they are for or against this cap.

In essence, what that simply does is in the area of punitive damages, and we talked about this the other night, and I do not intend to go into great detail, but there are generally two types of damages that are available to an injured plaintiff. One is compensatory damages where they are simply paid, fairly compensated, for their injuries, loss of wages, future earning capacity, medical bills, funeral bills if they are killed, pain and suffering, those types of things. Those are compensatory damages, and what, again in a real injury case, someone is fairly entitled to receive.

The other angle to damages, the second part of it, punitive damages, that is simply the way that society has created to send a message to potential defendants, whether they are product manufacturers or individuals like you or I; we can also be sued for punitive damages if our conduct reaches a certain level of misbehavior, and that message is if you do this, you could get stuck with punitive damages. We are going to punish you. We are going to try to deter you. But there is no limit in the law on these.

It is like committing a crime almost, but not having any limit on what you can be sentenced to.

Mr. CHRISTENSEN. In the past what you are saying is you could have had a judgment against someone, say, for

$100,000, but then they could get slapped with a $5 million punitive fine, and one of the things that the jury will always be hearing from the lawyer is, ''We are trying to send a message. We are trying to send a message that this will not happen again.'' But that message has gotten very, very clouded, because that $5 million, and I am not sure that they could not have received a message for say $500,000, and that is what this commonsense reform is going to do is going to reform that area.

Mr. BRYANT of Tennessee. That is exactly right. It is a situation where society is trying to tell somebody and deter by this potential for a judgment. What we have done, perhaps the purest view of this would be to take this type of punitive damage and not give it to the plaintiff, the victim, because again they have already been fairly compensated, but, rather, take this money and, you know, we have talked about some things in our Judiciary Committee about sending it to the Federal Government to reduce the national debt or to a third party not-for-profit corporation. Little League, Girl Scouts or something to help them out, a city, or a county, or whatever, society, if you will. But we have taken a more of a middle ground at this point and just simply put a cap on it, set out the maximum punishment, if you will, and in essence what that is is three times the compensatory damages or $250,000, which ever figure is greater so that money under our bill still goes to the injured plaintiff, but it does begin to set some reasonable limits on that so that you can forecast and make some reasonable valuation.

When I was a trial attorney, we used to get into these kinds of cases. I could usually evaluate, which helps us and helps the judicial system, because we can evaluate the case early. We can make somewhat overtures and perhaps avoid a trial. I could always do that on compensatory damages, because I could look at the amount of money they lost from work, the type of injuries they had, the type of permanent disability and give a reasonable ballpark figure on what I thought the case was worth.

But where I had no clue as to how to evaluate a case was this issue of punitive damages, because that is again there is no measure, there is no standard out there, a lot of times there is no rationality between compensatory damages and the punitive damages. It is an emotional issue. That particular day the jury gets fired up by some good lawyering and gives a huge verdict, a pie in the sky is what I call it, and there is no way I can evaluate that which actually deterred me from settling some cases that probably could have been settled had it not been for that.

Mr. HOKE. Is not this whole notion of the doctrine of punitive damages a relatively modern doctrine, a relatively new doctrine in our legal history, and does not that probably just on its own cry out for at least relooking at its until we get it right? I would, as you know, because we have worked very late last night and then we came back early this morning to finish marking this bill up in the Judiciary Committee, and there will be a bill or an amendment that I am pretty confident is going to pass that will in fact award 75 percent of the punitive damage award to the State in which the case was heard and 25 percent of it to the plaintiff, but we have to remember that the idea of this is to punish the wrongdoing of a tort feasor, of a defendant, who is then going to be himself or herself or itself deterred in the future.

But more importantly, it sets an example for society, and the one part of this that I get confused about, and I would particularly like the insight of a U.S. attorney who has prosecuted criminal cases. I know you did not do a lot of criminal work, but who has done criminal cases, you know, normally we think of punishment as being within the realm, within the purview of the criminal code, not the civil code, and yet we have gone, with respect to punitive damages, to a system where we are supplanting and substituting punitive damages for criminal prosecution. And I would be very interested in knowing your insights on this, because it seems to me that you have probably given a lot of thought to that.

Mr. BRYANT of Tennessee. Well, of course, the concept of punitive damages, I am not sure of the historical background on that.

But I think it has become even more important, as I am sure the gentleman can attest to, over the last years because the judgments have, I think, been so numerous and in large amounts.

I say this as a general rule, whenever you are reading your morning newspaper and you see this article about this case over in some other State that has given this huge verdict, multimillion-dollar verdict, you can just about guarantee that most of that is composed of punitive damages. I think the McDonald's coffee case was one. I do not know the exact figures. Another problem there is you get up to that level, I think in the McDonald's case, for example, it was over a $3 million verdict, even when the judge revisits that and reduces that award, and a judge can come in behind a jury verdict and say that is just outrageous, they still do not reduce it down to a level perhaps it ought to be. I think perhaps in that case it ended up still being in excess of a million dollars for spilled coffee.

Perhaps we overstate the McDonald's case. There are many, many other illustrative cases out there, but I certainly think it is, and I know our committee thought it was. I know a number of people who testified in our hearings thought it was time to come back and look at this issue of punitive damages and bring some, as the gentleman says, some common sense to this.

Again, we are not eliminating punitive damages. We are not encouraging misconduct by individuals or companies. We are simply trying to bring some reasonableness to this system of justice which we think has gotten out of hand.

Mr. CHRISTENSEN. There are States that are already way ahead of us on this issue. I have to brag on Nebraska for a second, because Nebraska does not have punitive damages. It is a very friendly environment to do business in.

We also capped medical malpractice at $1,250,000, so when we are looking at what we are doing at the Federal level, it is just a start. I mean, there are already a lot of States out there that are way ahead of us in reform and are a friendly environment for those pro groups, those businesses that want to buy a product.

Mr. HOKE. Could I ask you a question? What is the unemployment rate in Nebraska?

Mr. CHRISTENSEN. Two percent; 2 percent.

Mr. HOKE. What is the bottom line? Who is most served by all of this?

Mr. CHRISTENSEN. It is the taxpayer, the Nebraska taxpayer. We have a great environment, a great quality of life, less than 2 percent unemployment. People are coming to town. We are extracting businesses. It is definitely a very vibrant economy.

Mr. HOKE. It means there are jobs there for people who want to work, and it means that everyone, everyone in the entire society has a shot, has the opportunity to do what we all want to do, which is have a decent job.

Mr. CHRISTENSEN. One of the largest chip makers in the country, Micron Industries, is right now seriously looking at Omaha, NE, because of the things that we offer, quality of life, the threat to the business as far as protection from liability, punitive damages. There are so many things that we have, but we are just starting as a Federal Government to get to where Nebraska is. So it is exciting to see us moving in that direction.

And we have had a lot of grassroots support. There are a lot of people out there that are behind us. The American people want commonsense legal reform.

□ 2300

The want to end the frivolous lawsuits. We need the help of the American people. We need the help of that business owner out there that needs to let his Congressperson know how he feels about reform, to let us know about certain cases that have affected the people personally. Because this is a team atmosphere, just like here tonight. We need to have the American people enjoined in this fight, because it is a fight that the American people can and will win.

Mr. HOKE. You are absolutely right. We do need a team approach, and we

need people to let the folks here in the Congress know what they want. And we need working men and women to phone in and let their Congressperson know that it means their job, that that is what we are talking about, and that we have got to have a reform, so that one of the things that is going to happen is everybody, when we finally get this done and get it right with respect to tort liability reform, common sense legal reform, we are going to find a dramatic reduction in, for example, automobile insurance. We are going to find a dramatic reduction in health insurance. We are going to find that these costs that are so significantly borne right now by working men and women are going to go down, and to everyone's benefit.

I have to say there is one group that might not benefit by this kind of reform, and since we are all members of that profession, I think it is fair to say that this is probably not great for some aspects of the legal profession. But, you know, at the same time we have created a system where we have got more lawyers per capita than any other developed nation on Earth.

I think of the numbers with respect to Japan, and I will probably get this wrong, but I think we have got something like 100 times the number of lawyers per capita here in the United States than in Japan.

Mr. CHRISTENSEN. Here in Washington, DC, I believe there are over 30,000 lawyers, just here in Washington, DC. Over 30,000 lawyers. Goodness knows why we have all the problems in Congress. Sixty percent of the elected Members are lawyers. Finally there has been a reform group that has come, that even though some of us have law degrees, we have not allowed that to be a stumbling block.

Mr. BRYANT of Tennessee. I have to step in here before JON defeats us all here. I was joking, I think I said this last time I was up here, about during the course of the campaign people always wanted to know what you did for a living. I always mumbled that I was a lawyer, but I was looking forward to doing something better and going into politics.

Let me say this much: As good as this tort reform legislation is, it is not the silver bullet by itself. It is a very important piece of a puzzle I think that fits in in solving America's woes, America's problems, as is this Contract with America.

I think if we get this common sense tort reform-legal reform done, combine that with real serious tax reform, capital gains tax cuts that we talk about in our Contract with America, stir up the economy, get more money into the system creating more private sector jobs, and then concurrent with all this, again as part of our Contract with America, reform our welfare system and quit paying people more not to work than we pay them to work, that we create these jobs out there, that the people on welfare can move into and begin to get that type of self-esteem and the type of lifestyle that they deserve, like everyone else, and they can meet the American dream, and not have a career of drawing welfare.

That is what we are shooting for, and that is why I am so pleased to be able to come in here and talk about how we are performing, how we are honoring our promises, our commitments we made during the campaign. We are fulfilling the Contract With America. Martin, as you said earlier, we are halfway through this. And we have made tremendous progress. We have almost gotten lost, some of our accomplishments have been lost in this shuffle.

The balanced budget amendment, that is incredible in and of itself. But again, unfunded mandates taken away from the counties and cities and states, a line item veto, effective crime legislation. You know, I campaigned on limiting death row inmate appeals. We have done that. I campaigned on modifying the exclusionary rule. We have done that. I campaigned that the real bad guys, the violent criminals, ought to be locked up in jail for at least 85 percent of their sentence. We have done all we can to encourage the states to do that.

They are getting lost. And not that we are up here begging for proper credit. I think the proof will be in the pudding over the next few years as to what we have done. But we have accomplished a lot. We have got a lot of work to do. We have got the tough bills to go, term limits, welfare reform, tax reform, this bill on tort reform. But I am just excited to be up here and share being a part of Congress with folks like you who are just as committed.

Mr. CHRISTENSEN. I was wondering if you would take a moment today, since you came out of the Judiciary, and the last amendment that came through, and explain to everybody that the joint and several liability aspect of H.R. 956.

Mr. BRYANT of Tennessee. That is an aspect of the law that I have always thought was unfair. I know in Tennessee we recently had a change a couple of years ago that was not by the legislature, but rather by the courts. In essence, what this joint and several liability means is that again using the shotgun approach, which is often used in these kinds of cases, you have a number of defendants out there. And over the course of a trial, the jury eventually reaches a verdict that some of these folks are maybe liable more than other folks. Usually there is one defendant that is most liable and others that are less liable. Under the concept of joint and several liability, regardless of the percentage of the liability, regardless of whether it is small or large, if you have the deep pockets, and usually some of these defendants are people that don't have deep pockets, the one that has the deep pockets has to pay the whole judgment. They have a right to go back and collect against the codefendants, but in reality there is nothing there.

Mr. CHRISTENSEN. What you are saying is someone is 1 percent, 2 percent, 5 percent at fault, he could get stuck or she could get stuck—

Mr. BRYANT of Tennessee. With 100 percent of the judgment. Their only relief is to go back against folks that don't have any money to begin with.

What this does is simply bring back common sense, what the average personal might think about, why not just pay in proportion to what you are liable for. That is what we tried to do here. I think we have done an effective job in that.

Mr. HOKE. You know, I love the Florida case against Disney World, I think you heard it in the committee the other day. This is a great case. The plaintiff is with her husband on dodgin' cars, and something happens and she is injured. She is found by the trier of fact, that means the court, I know you guys know that, but she is found by the trier of fact to be 85 percent responsible for the injuries she received as a result of this dodgin' car accident. Her husband is found to be 14 percent liable, or responsible, and Disney World is found to be 1 percent responsible. She cannot collect from her husband because he is her husband. Under Florida law, she obviously doesn't collect from herself, because she is the injured party, and Disney World, with 1 percent of the liability, was given 100 percent of the damages.

Now, that just flies in the face of anybody's sense of what is fair. And what happens in these cases is them that has got the deep pockets ends up paying the piper many, many times more than what would pass a fairness test.

Mr. CHRISTENSEN. Also, a good example of the frivolousness of lawsuits is all the lawsuits that come right out of our prisons. I mean, you might have had some experience with this in Tennessee, where there are prisoners that have the opportunity to file endless lawsuits and endless appeals and the processes have just become rampant. I had a staff member out of my staff today tell me that he represented a convicted felon because he was asked by the court to represent this convicted felon who is serving time in the Nebraska State Prison. The man sued the State of Nebraska, demanding that the State pay him to have a plastic surgery, to have plastic surgery on his nose. He claimed it was cruel and unusual punishment for him to have to go through life with less than a perfect nose.

Eventually the court dismissed this case, but not until after thousands of dollars in legal fees had been expended, tax dollars, our money going out the window for frivolous lawsuits, and there are thousands of them all across the country through the prison system.

Mr. HOKE. Well, Jon, I want to thank you for bringing us together this evening. Ed, I want to thank you for

participating and look forward to working a lot more with you on the Committee on the Judiciary.

I know we have not used all our time, but I see our good friend from California with a lot of great props. Bob, those are wonderful props, and we are looking forward to seeing them. I know there is not a lot of time left this evening, so I want to give you your opportunity.

Anything else that anybody wants to add?

Mr. CHRISTENSEN. I appreciate the time that the gentleman from Ohio has given us tonight, and look forward to working with you on this legal reform and bringing common sense to the civil justice system.

Mr. HOKE. I yield the balance of the time.

□ 2310

MORE ON IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. DORNAN] is recognized for 50 minutes.

Mr. DORNAN. Mr. Speaker, it is awfully difficult to capture in a few minutes the essence of the history of the United States through its United States Marine Corps on such a day as this 23d of February 1995. I consider this day a second birthday for me.

Before my colleagues leave the floor, I will show them why.

I will address it directly to you, Mr. Speaker, because I believe you are a role model for young people around this country as are the four gentlemen that spoke a little while ago, African Americans, all proud citizens, South Carolina, Mississippi, Louisiana and Alabama, discussing things from their hearts as they see it. And my second term colleague, the gentleman from Ohio [Mr. HOKE] and the two other freshman Members, the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Nebraska [Mr. CHRISTENSEN], who spoke, also role models.

But the reason today is special for me and why I began on the 15th anniversary of Iwo Jima to begin to research it is on February 23, 1960, I was ferrying, as a National Guard pilot, my 6 years of active duty were behind me, an Air Force F–86 Sabrejet to be retired to the boneyard in Davis-Mothon in Arizona. So I had no water survival equipment. The plane flamed out over the San Fernando Valley. I took it out over the water to try and air-start, got it started and it flamed out again. And then I wanted to punch off these long-range refueling tanks that were to get me to Arizona.

When I punched them off, only one came off so I had a 200-gallon tank at 6½ pounds each gallon. That was a 1300-pound anvil under one wing. I tried to get in Point Magu. And in those days, you were supposed to punch off your canopy. Now you keep it on for a helicopter to foam you in case of fire. I punched off the canopy. I had not flown in 73 days. The plane had not flown in 5 months. It was the hangar queen, last one off the field.

I was available, because I was what was called a ''Guard bum'' going from job to job, dreaming about going to Congress, dreaming about doing lots of things in life and doing lots of different jobs with 4 kids and hopefully more to come.

And I saw that field. And as the dirt and dust came up off the floor of the aircraft when the canopy went off and a pop stickle went flying by. Both my eyes were closed from grit. I got one open and I could see the headline: ''Pilot on Last Flight Dies with Last Jet out of San Francisco-Van Nuys.'' So I turned out toward the water. I was going to punch out along the beach. I decided the plane would jerk from the ejection and of course go inland and hit an orphanage and kill children and nuns. So I turned it out to sea. I intended still to come down in the surf, and I landed 6 miles out in the ocean. No Mae West, no raft, no survival equipment, and began to instantly drown.

I did not get this helmet off. I had scratches on my face trying to unsnap a simple snap that comes off that easily tonight. But I could not get the helmet off. Got my gloves, jacket off. That was it. Could not get my boots off and began to roll under the water every time I tried to get my knotted laces off. And I had called on Guard emergency channel communication with no Navy or Air Force at Oxnard Air Force Base. And the helicopter was scrambled that had been assigned to duty that very morning for the first time in history, 1 hour before my ejection. It is still there today, 35 years later on the 23rd of February. And the helicopter came out, coldest day of the year, wind, high waves, whitecaps everywhere. And he saw this 2-inch white stripe on this red helmet, a whitecap that would not go away. And he told the one enlisted man in the back, keep your eye on it. Circling down, this little 2-man helicopter, and this ensign saw the whitecap disappear. That was me drowning.

I slipped below the water. And all of my colleagues here tonight are Christian gentleman and they will understand that I am not being corny. This is true.

I said goodbye to my wife and four kids. I prepared to meet God. I was so nervous and embarrassed that I was flippant, because I literally said in my mind, Jesus, here I come, ready or not, and slipped beneath the water. I remembered a story I had read on drowning on someone that had been plunked out of the bottom of a pool. I said, the water is warmer than I am. I am taking in gulps. It is painless, and I thought about my wife hanging up the laundry. Again, corny but true, that is just what she was doing because that is what she did that time in the morning in the backyard. I pictured her being alone with four kids, and I said, I cannot give up. I have to try one more time.

It seemed hopeless, but I kicked to the surface and I came up. Here was this Navy helicopter, and he dropped a harness.

I was begging the guy, yelling, I could taste blood from scratching my throat to jump in. I put my arm in the harness, and he jerked me about 10 feet up in the air, and I fell back under the water down, 5, 6, 8 feet. I figured I was gone again.

I came up and I said, well, this is ridiculous. I grabbed the harness, pushed it away from me and told him to level off, waited a few moments. And then I put my two arms into it and he, never having rescued anybody, immediately took off for the base and went up to 1,500 feet, traffic pattern altitude. Of course, that is the World Trade Tower, the Empire State Building is only 1250. And I cannot even feel my muscles. I am in early hyperthermia holding it just against me like this.

I did not want to go under the water and come up and hang on the harness.

Slowly he brings me up inside. And when this enlisted man grabbed my arm, I begged him not to touch me until he closed this little trap door in the belly of the helicopter. When we got back to the base, he said, corny but true, that I was being circled by two or three huge sharks. They had lost four men to sharks in a Navy boat the week before.

That is one of the reasons they put the helicopter on rescue duty. ''I didn't think we would beat the sharks to you.''

February 23 became my birthday. It was the 15th anniversary of Iwo Jima, and I went to the history book to see what happened on that day. It is interesting how God lets history be attracted to some days.

And this is the day the siege began at the Alamo. I like that. It was the day that Zachary Taylor, to be President someday, although very briefly, died in office at the beginning of his second year, defeated General Santa Ana at the battle of Buena Vista in Mexico. That was 11 years after Santa Ana had tortured and killed every survivor at the Alamo, including men who served in this Chamber like Davy Crockett.

And then I saw that it was the day that President-elect Lincoln snuck into town because he had secretly avoided an assassination plot that had been foiled in Baltimore by Pinkerton Guards. He was getting ready to be sworn in. It was March 5 in those days, right up till Roosevelt's third term.

Then I saw that it was the date that the Japanese shelled the oil refineries in Santa Barbara, 1942, three years before Iwo Jima. And how my mother had panicked in Manhattan and called her sister and my uncle, the Tinman on the Wizard of Oz, because all L.A. was

under a big alert from the Japanese attacking us. How things changed in two years.

And then I saw Iwo Jima. And it jumped at me, and I began to research this battle and the death toll for the United States Marine Corps, their worst battle ever.

The Marine Corps had a little reception down in the bottom of the Rayburn Building. They give us these little cups. It will be in my Bronco for a long time with that ''Semper Fi'' staring at me.

The Marine Corps is one of our beloved, the smallest of our services, but a beloved service because they have had some of our toughest conflicts.

What is not known is that next month in Okinawa, where more Marines died but basically in an Army battle, we lost more men than we lost in Iwo Jima.

Mr. Speaker, I yield to the gentleman from St. Louis, MO [Mr. TALENT].

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

I have always been fascinated by the story, and really, the hair on the back of my neck went up when you told that story. I am certainly very glad, and I think the country has been very well-served, that a sovereign who has always guided this Nation's fortunes chose to pull you out of that water at that point.

The gentleman said something. I have been listening to the whole story. I just had to ask the gentleman, did you say that your uncle was the Tinman on the Wizard of Oz?

Mr. DORNAN. Born and bred in Roxsbury, Massachusetts, Boston Democrat, who in the 1940's, with George Murphy and Ronald Reagan, changed his loyalty to the Republican Party and died in 1979 in St. John's Hospital, same floor as John Wayne, who died 4 days later. They were good Republicans, you bet.

□ 2320

Mr. TALENT. I thank the gentleman, for that is one of my favorite movies from certainly my favorite year of motion pictures.

Mr. DORNAN. It was the best year.

Mr. TALENT. It really was. I do not mean to interrupt the gentleman's story, but I really had to ask. I thank the gentleman for yielding.

Mr. DORNAN. He told me a story about how the Japanese this night 53 years ago shelled those oil refineries in Santa Barbara, how they hid under the dining room table in their house on Roxbury Drive in Beverly Hills and how it really was a massive alert and a lot of people were hurt, I think a couple killed, by falling anti-aircraft fire because there were no Japanese planes over Los Angeles.

Mr. TALENT. I was not aware that the Japanese had ever shelled the mainland.

Mr. DORNAN. They had. They had struck our mainland on this very day 53 years ago. And Jack Haley like his friend Fred Allen who I used to call ''Uncle'' until I found out later there was no blood, but all of that show business community then all started to go overseas. My uncle went to Italy and North Africa. Bob Hope, Bing Crosby, I grew up with their children. They served in their 30's and 40's. After all, Ronald Reagan was 31 years of age with two children and very bad eyesight, he turned 31 a month after Pearl Harbor. Well, February 6, two months.

We still hear him attacked, and I remember Clinton in speaking to the American Legion said that Ronald Reagan spent more time making ''Hellcats of the Navy'' than he had served in the military. No, he wore the uniform before the war for two years as a cavalry officer in the California Guard, transferred to the Army Air Corps, then the Army Air Force, and served throughout the war in his mid 30's as did John Wayne making either training films or motivational films like in Wayne's case, the ''Sands of Iwo Jima,'' as Sergeant Striker. That is probably his best known role.

Yes, it is fun to have an uncle who has become a legend.

Mr. TALENT. I thank the gentleman for yielding.

Mr. DORNAN. The Marine Corps picture at Iwo Jima has also become a legend. It is an icon for the Corps.

I am going to see in just a few brief short minutes for those people, Mr. Speaker, who are channel surfing tonight, sometimes we say 1,300,000 watching, but after an excellent discussion on tort reform and it was fascinating, but you have to pay attention, because we are changing history here these first 50 some days of 100, and before that, a discussion that had its points on affirmative action and level playing field, but good men of conscience and women of different conscience coming to different solutions.

This is something that I do because President Reagan ordered me to do it, personally, on several occasions, once when I was in a room with him, alone with Nancy and Ronald Reagan when he was declared the winner in the New Hampshire primary. I was the only one there with the Reagans. I thought, what a moment of history, flashing, I think it was ABC, Ronald Reagan the winner. He had beaten a terrific World War II hero, boby mangled 50 years ago on April 14 of this year, Bob Dole, and it was in that race he had beaten, really George Bush was the finalist going into New Hampshire, he had beaten Ronald Reagan big time in Ohio with the help of a state coordinator friend of mine Floyd Brown.

I looked at President Reagan, he said, I can't believe this, it's like a dream, that I'm going to maybe go on to win and be part of American history. In Reagan's good-bye speech on January 11, and I meant to have that here and put it in the RECORD, his verbatim words, he said words to the effect in his good-bye 9 days before George Bush was inaugurated, our 40th President said, in sort of putting down his text, although it was the way he was using the teleprompters, he said, I want to talk to the children of America. I want you to study the history of this country. And he mentioned D-Day. I believe, I am not sure, he mentioned Iwo Jima. He mentioned a World War I battle. He mentioned battles in our revolutionary period.

I just visited Lexington Green on the 19th of this month, a few days ago, a stirring place. I was shocked to see that an African-American, Crispus Attucks, who died on Lexington Green, the 9th, killed in action, this man is not on the memorial with the other great names, John Brown and Robert Monroe. I remember Reagan saying in his good-buy speech, ''Young people, if your parents at the kitchen table don't teach you about those who have gone before you and gave their blood to build this great country of ours, I give you permission to get angry at your parents.'' And by extension I am sure he meant the teachers. We are not teaching the history of this Nation.

And how many college campuses today? This is a school day, spring semester. How many high school campuses in America? How many grade schools? This happened when I was in the seventh grade, and we were hungry to get the news reports to learn about young men just a few years older then us dying, and not just men. At this reception tonight where I got this cup and this beautiful calendar, two-sided poster, Paul McHale, a Desert Storm marine veteran, one of our colleagues, had brought in the best film, black and white and color I had ever seen, on Iwo Jima, and here were nurses on the bloody beaches, Yellow Beach, Red Beach, Green Beach, on the beaches holding these dying men in their arms. They had been flown in from Guam on C–47 ''Cooney Birds'' and were flying these terribly wounded men on a long plane flight back to Guam for hours. Many of the men died on planes or died in the hospitals in Guam, and here is this nurse on film saying that she never felt an affection for these young men, like they were her children, or young brothers, until she had children of her own. I found out tonight we lost 93 doctors. Doctors. That is how many doctors. Imagine how many we must have had mixed among the men to have 23 killed. We lost over 100, I think 127 paramedics. I did not learn that until this evening, at this Marine reception in the Rayburn Building. In every category, the death toll was tremendous. It said that most of the people died a violent death.

I asked my West Pointer, Bill Fallon, who is my legislative assistant for defense affairs, I said, Bill, for obvious reasons, get me someone from Arkansas who won the Medal of Honor on that sulfuric, death-smelling, cordite-smelling hell on earth, and he picks one out from Arkansas, representative of all the other 27, 14 of the 27 Medal of Honor winners died. One of them was

sitting up in that gallery who was only 17 years and 6 days when he threw himself on a grenade and pulled another one under him on February 20, day 2. The flag went on up day 5 of a 36-day battle and all the records that I am reading say they expected it to be a cakewalk and over in 4 days. But not General ''Howlin'' Smith. He said this is going to be the worst battle in Marine Corps history, and he was right. ''Howlin'' Smith.

Here is Wilson D. Watson, Wilson Douglas Watson. Private. Just a private. But 24 years old. And these men looked like they were 30 at 24, in every theater of the world, because they were men in those days at 18 and 19.

Here I recall Clinton on Ted Koppel on Lincoln's birthday 1992 telling Koppel, I was only a boy of 23 when I was in London trying to avoid serving. A boy at 23? How come Lucas up there was a man 6 days past his 17th birthday?

But here is what Wilson Watson did. Joined in Arkansas, born 18 February 1921. Actually he was born, I see here, in Tuscumbia, Alabama. For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as an automatic rifleman, serving with the Second Battalion, 9th Marines, and this stunned me when I read this sitting here because I went out in the field for 3 days with the Marine Corps in Vietnam, May 20 through 23, 1966, with the Second Battalion of the 9th Marines, Echo Company, I recall.

It does not say his company here. And the young commander that allowed me to go in on a Sparrow Hawk designed by a colleague of ours who I served with here for 8 years. He is watching. I called him in Virginia and told him to watch, Ben Blaz, one of the most distinguished people I have ever served with in this Chamber. Brigadier General Benjamin Blaz was the commander of the 9th Marines and we did not discover that until we were sitting back here about 3 rows talking one day and I told him about my days of combat with the Marines as a volunteer reporter from a small Santa Monica newspaper, and he said, Bob, in that distinguished way of his, I was the commander of the 9th Marines. This young Medal of Honor winner was with the 9th Marines in a different time.

By the way, Mr. Speaker, sometimes the reach of this House is amazing. The young captain who took me out with his unit and let me on that H–34 Sparrow Hawk helicopter to go into a village that was surrounded, designed, I repeat, by Ben Blaz, his name was something like Jerry Horrick, Horricks, he lost his legs. Two months later, by chance, I saw it in the Saturday Evening Post, and I asked him, because I saw his wings, or we got to talking about his flying, what was an F–8 Crusader pilot doing as a ground Marine company commander?

And he said, ''I want to be Commandant someday and I want to go all the way in my career.'' He said, ''Flying is important, giving air cover to these kids is important, but I figured if you're going to make it to the top, you better be a ground Marine and see what the gunfire's like at the grass level.''

□ 2330

There he was, and 2 months later he lost his legs. I believe he was from Glendale. If anybody, Mr. Speaker, knows Jerry Horrick, something like that, please write me. I would love to see how he is doing.

Anyway, young Wilson Watson, second battalion 9th Marines, 3d Marine Division, the same division in Vietnam, during action against the enemy forces on Iwo Jima. By the way, all of those islands are volcanic islands. For action over 2 days, the 26th and 27th of February 1945.

With his squad abruptly halted by intense fire from enemy fortifications in the high rocky ridges and crags commanding the line of advance, Pvt. Watson boldly rushed 1 pillbox and fired into the embrasure with his weapon, keeping the enemy pinned down singlehandedly until he was in a position to hurl in a grenade, and then running to the rear of the emplacement to destroy the retreating Japanese and enable his platoon to take its objective. Again pinned down at the foot of a small hill, he dauntlessly scaled the jagged incline under fierce mortar and machinegun barrages and, with his assistant BAR man, charged the crest of the hill, firing from his hip.

This is where John Wayne learned his style.

Fighting ferociously against Japanese troops attacking with grenades and knee mortars from the reverse slope, he stood fearlessly erect in his exposed position to cover the hostile entrenchments and held the hill under savage fire for 15 minutes, killing 60 Japanese before his ammunition was exhausted and his platoon was able to join him. His courageous initiative and valiant fighting spirit against devastating odds were directly responsible for the continued advance of his platoon, and his inspiring leadership throughout this bitterly fought action reflects the highest credit upon Pvt. Watson and the U.S. Naval Service.

I do not know who wrote this, Mr. Speaker, but I believe it should say the U.S. Navy and the U.S. Marine Corps. Naval services does not sound impactful enough at the end.

Wilson Watson lived. I do not know if he is still alive 50 years later. Someone will probably write and tell me.

This seems so far way, 50 years, and yet it is not, Mr. Speaker. Last year I met Joe Rosenthal, the only survivor of the scene that day who took that picture. He was in the Rayburn Building in room 2117, the anteroom of the Armed Services room, and I called the photographer over and any Member lucky enough to be passing through the anteroom at that moment got a picture with Joe Rosenthal against a big, beautiful oil painting that is the prominent feature, along with the capstand taken up from the harbor of Havana that literally came off of the U.S.S. *Maine* that was sunk in that harbor in 1898, those are the two main objects of yes, military art, and posed with Joe. He is healthy, and all of the other six men at that second flag-raising, because there was a smaller flag raised first. What a touch in history to hold Joe's hand in front of that magnificent picture. As some of my colleagues on the other side of the aisle when SONNY MONTGOMERY began a series of very touching 5-minute speeches pointed out, if you want to go to your library, this book, ''Iwo Jima: Legacy of Valor,'' by Bill Ross, who I learned tonight passed on, which was published in 1983, and this is a dog-eared copy from one of our majors in the liaison office. This book I hope he will let me use when I fly to Iwo Jima at the end of next month for the commemorative of this 6-day battle. I flew around this island in an old seaplane flying to Vietnam, I have looked at it from the air at high altitude, and I do not believe we should have ever given it back to the Japanese. It is not used for anything now. It is 8-1/2 square miles of junk real estate is the way one hero described it.

I would like to read, Mr. Speaker, a letter written by a veteran just a few years ago in 1987 sitting on top of the edge of Mount Suribachi, writing it to a friend. And it is Col. John W. Ripley, one of the young officers in that horrendous battle, and he made his way back, his solo pilgrimage to this bloody site of so much American heroism, and he writes to his friend, Ross McKenzie, I repeat, from the top of Mount Suribachi, 556-foot mountain, the only high ground really on this volcanic rock. This is an actual extinct volcano, and all of the lava from centuries of erupting that poured in a northwesterly direction giving it a big pork chop shape, and as I said, 8½ miles.

Colonel Ripley says:

Dear Ross, From this most unlikely spot I am inspired to write you for reasons I can't fully explain. Certainly you have received no other letters from here I would wager, and you may find this interesting. It's the middle of the night—cold, windy, uncomfortable & profoundly moving.

He is writing by flashlight. ''I'm looking down on a tiny island 3 miles wide and 5 miles long. Down there, and here where I'm writing by flashlight,'' a lot of these figures are a little off, so I corrected them, and I hope he does not mind if he is listening, where 5,951 marines died. There were another 870-some Navy men, Air Force men, air crews, 220-some men died on the U.S.S. *Bismark Sea* which was sunk by a Japanese kamikaze, Coast Guard men bringing the landing craft in earlier, Navy men of all types. Six thousand eight hundred twenty-one is the precise figure of everyone.

The mountain is Suribachi, the island, Iwo Jima. Of the hundreds of thousands of words written about this place, nothing comes close to describing its starkness, its inestimable cost and now, sadly, the poverty of its abandonment.

The entire island is a shrine, mostly Japanese, but a few American—only a few. Americans don't seem to care about such things when, as is the case here, it's inconvenient.

And yet this island, its name and most especially this very spot where I sit—where the flag was raised—is immortalized in our national consciousness for as long as there is an America.

''The debris and detritus of war remain even after nearly 43 years. Rusty vehicle hulks, wrecked boats, sunken ships, canteens, mess kits, thousands of rounds of corroded ammunition, blockhouses, pillboxes, trenches, abandoned airfields, large naval shore guns, artillery, etc. And beneath my feet remains of—'' he says 22. It is actually 19,000 dead Japanese. We did take 1,083 POW's out of a garrison of over 20. He says, ''We hated them then. There is more respect now, defenders, brave men who die at their post.

''Rupert Brooke,'' an English poet, ''said it perfectly; ''Here, in some small corner of a forgotten field, will be forever England.'' And this brutally stinking sulfuric rock depressing to see, demoralizing as it has lost its once vital importance and our nation's once great concern, will be forever America. It will be forever in the memory of those 75,000 Marines who fought here.''

I learned yesterday from Commandant Mundy, addressing at the beginning of the year, as is the tradition in the Armed Services Committee where he said that of the 27 Marine battalion commanders, and we only have 24 now, Mr. Speaker, 24 in the whole Marine Corps battalions, 27 fought in combat there, and 18 of those battalion commanders fell. Some of them did survive, but were taken off the island badly wounded, and more than a third died.

He said:

Of the 75,000 Marines who fought here suffered wounds here and the 5800 who gave their blood and lives to its black soil. Again Rupert Brooke. ''In that rich earth, a richer dust concealed. Their hopes, their happiness, their dreams ended here. And if we fail to honor them in our memory and our prayers, we should be damned to hell for such failure.''

□ 2340

'''I brought a small team here, Ross, to survey the island for future exercise use. The Japanese would prefer that we did not exercise here, but that will be over my dead body.'' I do not know, Mr. Speaker, who won this debate 7 years ago.

I find it hard to believe and impossible to accept that our Government gave this island back to the Japanese. It is as if we gave them Gettysburg or Arlington National Cemetery. Americans died here in such numbers that in 9½ months the toll here would have equaled, if it had lasted 9½ months, would have equaled the entire 10–11 years of the Vietnam struggle. The Marine Corps should never lose its right to exercise here, and I am proud of having something to do with assuring that it will be so. Yours, I, John, John Ripley, Colonel, U.S. Marine Corps, Retired.

Mr. Speaker, it is amazing how we will pass people on the street and not know what they have done for their country, just a senior gentleman or lady walking by, we say hello or nod. We do not know that they laid their life on the altar of liberty, of freedom, sometimes in foreign countries far away, and went on with their lives with the memories of all the friends of their youth who did not make it.

Gene Rider in Navy Times wrote a column a few days ago, well, actually it is dated a few days from now, February 27, so it is the current Navy Times, and I think it sums it up better than anything I have read. I would like to read a few paragraphs from it, Mr. Speaker. This is Gene Ryder. I hope he is listening.

He is a CBS Radio correspondent who lives in San Diego, and if he has a friend listening, call Gene to hear his words going out to Guam where our day begins, Alaska, and the Virgin Islands and all 50 States, thanks to the wonder of C–SPAN.

He writes:

Iwo Jima, valor, death, and a raised flag. The high command expected Iwo Jima to be a 4-day piece of cake for the 42,000 Marines of the 4th and 5th Divisions. But Lieutenant General Howland M. ''Howling Mad'' Smith warned it would be the most grueling battle in the Corps' history. He was the senior Marine officer in the entire Pacific, but he was outranked. In the first 18 hours alone, 2,312 men had fallen.

That is double D-Day, Mr. Speaker. ''The 3d Division, brought along as a floating reserve,'' that is our division that fought for a decade in Vietnam in the I Corps around Da Nang, ''wasn't expected to be needed. It was committed February 20, day 2,'' and the first unit landed on day 3, the 21st. ''As planned, 30,000 men landed on day 1. Most massed on the beachhead area.'' I do look forward to walking these beaches next month, Mr. Speaker.

''Defense perimeters had not been fully formed, because the tanks lost traction in the volcanic ash. Heavy artillery landing was delayed by heavy surf.'' I witnessed that surf in these films this evening, Mr. Speaker, waves coming over giant Amtraks and landing vehicles, and they completely disappeared under as heavy a surf as I have ever seen along the California coast.

He said, ''The congestion on the beach had grown into a monumental snarl of damaged tanks, landing crafts, smashed equipment. The Japanese are holding their fire. They had their fields of fire perfectly worked out.'' One of our Marine colonels told me tonight they had drilled holes in the volcanic rock where they inserted mortar tubes so you could come along and drop a tube, and it was perfectly positioned to pick out certain people on the beach. You could move on after you dropped the mortar shell into its barrel.

He said;

Things started to improve on the beach, false feeling of security. The heavy artillery landed. Twenty-five miles offshore, 60 Japanese kamikaze planes in several waves swooped in to hit the smaller escort carriers. Detected early on, many were shot down. Two slammed into one of our big supercarriers, the *Saratoga* that had been battling since 1942 all across the Pacific, killing 128 on the *Saratoga*, wounding another almost 200. Another kamikaze crashed midship on the *Bismarck Sea*. Bombs went off, and engulfed in great flames, the carrier sank quickly, 812 sailors into the icy water, 218 dying.

Iwo Jima, ''Sulfur Island,'' gateway to Japan, populated by 21,000 subterranean troops, and I saw an eyewitness soldier tonight who said they were not on the island, they were in the island.

There were caves all the way through and tunnels. ''The almost invisible smog of smoky drizzle that smelled of cordite and death and sulfur; the Japanese commander, Lt. Tadamichi Kuribayashi, he knew he could not win, but he and his troops were dedicated to death.''

Mr. Speaker, think, as I read these words, of this inane, stupid argument of how we were going to present the B-29 fuselage of the *Enola Gay* that dropped the first atom bomb on August 6 at though we were in some kind of racist crusade against the Japanese islands. This battle, and the battle 50 years ago next month in Okinawa, just give a tiny feeling of the major death toll that we would have suffered.

I learned last week that we are awarding Purple Hearts today in Somalia, Grenada, Panama, Purple Hearts have gone to several men putting their lives on the line in Haiti to restore order to the pathetic little island, and these Purple Hearts were struck in 1945, this year 50 years ago, and we are still drawing from that supply, because these were from a lot ordered in thousands that we thought we would be giving out in the invasion of Japan and the major islands, and the death toll and wounding toll that we would take there. It is one of the amazing pieces of small information about current Purple Hearts and how many are still stored away.

General Kuribayashi, graduated from their military college, their West Point, in 1914, and he knew that his victory would be in showing Marines what lay in store for them when they invaded Japan and in denying them the emergency airfield they needed for crippled B–29 bombers at the halfway point of the Guam-Saipan to Tokyo air express.

At this point, let me add something, Mr. Speaker. There should have been somebody here tonight whose life was saved by these sacrifices, a chairman, a brand-new chairman, after being here over 22 years, BEN GILMAN of New York, who was a B–29 crewman, told me that his life was saved after Japanese fighters shot up his B–29 over the mainland of Honshu Island. He could not make it back to his base further south, Saipan, Tinian, or Guam. He recovered on Iwo Jima. He would have gone in the water like so many crewmen from his bomb wing there that died at sea, shark attacks, some of the worst shark-infested waters in the world.

Witness what happened to the crew of the *Indianapolis* that delivered the first

atom bomb to Tinian. They sunk. They were not accounted for for 3 days, a terrible military ''Snafu'', and 500 of the 800 or 900 that died in the water were torn apart by sharks.

BEN GILMAN told me he owes his life to taking Iwo Jima, which makes a good point. Did we have to take Iwo Jima? Would the Japanese or Germans, if their roles had been reversed, have taken Iwo Jima? They might not have. They would have told their pilots, ''Press on. If you do not make it, that is OK, we have got teenagers to take your place.''

These thousands, these 6,821 marines and sailors and Army Air force men, Coast Guardsmen who died, they gave their lives in a direct trade at about four or five to one for the 27,000 men in the air crews and fighters and mostly B–29's that made it back to Iwo Jima, coming back shot up from all of those raids in March and April and May and June and July and through August 15, 1945 when the cessation of shooting came about looking forward to the treaty of surrender on the deck of the *Missouri* on September 2.

So BEN GILMAN is a living testament of somebody who would not be in this House if it had not been for this sacrifice and the atom bombs would not have brought an end to this horrible death toll on both sides. A million Japanese survived the war to have children and grandchildren that are alive in a dynamic nation and its economy today because we dropped those two bombs.

I am happy to say, under the lead of JOE MCDADE from Pennsylvania here, and my hero in this House, our Gary Cooper, SAM JOHNSON of Texas, who I watched take on the head of the Smithsonian Air and Space Museum and say, ''Would you have dropped the bomb, Doctor?'' And he says, ''I would have obeyed orders.'' He said, ''No; would you have dropped the bomb if you were Harry Truman?'' ''No; I would not.'' SAM held up that hand that has seen so much torture in Vietnam, he holds up the hand and looks at him and says, ''That is the difference between you and me. I would have dropped the bomb.''

□ 1150

That is our Texan, SAM JOHNSON of Dallas. We won that battle. I continue reading from Gene Rider's Navy Times story.

Big guns silent, tanks mired in mud, no spotting airplanes on day four, but it seemed eerily quiet. Perfect day for infantry. Leaning into near gale force gusts and driving sheets of rain, Marines begin probing the steep bouldered slopes of Suribachi, flame throwers, demolition charges, grenades, and men winning the Medal of Honor, destroyed pill boxes and bunkers as our patrols drove upward. There were sporadic nasty skirmishes and casualties. By nightfall it was apparent that only a few of the 2,000 Japanese packed into the caves on that mountain on the southwest corner of the island in all those labyrinths at several levels, they remained alive in there.

The weather on day 5, different. Greatly improved. Lt. Colonel Chandler Johnson, I don't know if he is still alive, commander of the Second Battalion, 28th Regiment, had seen the totals through day three. 4,574 of his men killed or wounded. In the 5th Division, 2,057 men killed or wounded. A great many were from his own battalion. He decided they needed a topping out party, a flag on top of Suribachi. He called together Lt. Harold Schrier, a route to follow up the steep slopes he said. Take this folded flag, a smaller one, and put this on top of the hill.

See how men will die for a flag? And we debated all night a few years ago in this well, DUNCAN HUNTER led the debate, all night long to pass a simple law that you cannot burn Old Glory in front of veterans like these, some of them in wheelchairs. And we lost that debate. When we are through with our 100 days, maybe, just maybe, we will revisit whether or not you have a right to burn a flag in front of courageous men and those Army nurses and Marine nurses and Navy nurses, excuse me, that went in to help the Marine Corps.

So he says put this flag, his simple order, put this on top of the hill. Preceded by a patrol that met no opposition, E Platoon, 40 men plus litter bearers, notice everywhere they went, they have litter bearers or doctors with them. I repeat, 820-some paramedics died with all the Marines fighting. How many times must the word ''medic'' have pierced the din of artillery and machine gun and flame thrower fire there.

He said with their litter bearers they go up. Slowly they make it up single file the steep slope to the crest. Rifles and grenades ready. Some of the men scour the crater's debris, and there is a huge crater there. They found a pipe. They lashed the colors to it, and at 10:31 a.m. the Stars and Stripes went up and whipped in the blustery wind.

Sergeant Lou Lowery took pictures for ''Leatherneck,'' a great magazine 50 years later. And a Japanese suddenly leapt up from a cave, fired, and just barely missed Low Lowery. A Marine gunned him down.

Marines handily won a skirmish that developed using rifles and grenades. It wasn't planned. James Forrestal, the Secretary of the Navy, and what a handsome guy, he turned out to be 2 years later our first Secretary of Defense. I thought looking at the film today, they had pictures of him on the deck of the command ship, the El Dorado, but he was actually on the beach already, on Green Beach, and he is standing beside Gen. Howling Smith, where 23 Marines were killed right in that area within that very hour, and they watched that flag unfurl. It was a very emotional moment. Our Marines that were in our liaison department particularly asked me to point out what James V. Forrestal said. He set that handsome square jaw of his and he said ''General Howling,'' pointing up to the flag on Suribachi, the earlier smaller flag, ''this means a Marine Corps for 500 years.'' Howling Mad then choked up.

They soon returned to the El Dorado command ship two miles offshore. CBS asked for recorded interviews. And General Smith ordered Sgt. Ernest Thomas, one of the flag raisers, to come on board for the interview. He was the very senior sergeant. Afterwards Thomas had one of the thrills of his life. A hot bath, his first in days, and a hot meal, and he couldn't wait yet to get back to his outfit.

A few days later he died on Iwo Jima. He gave up his life. That was his last hot shower, his last hot meal. The banner atop Suribachi was a lift for the Marines in the foxholes down in all the lower part of the island. The sailors on the beach and on the ships, they saw it.

This is captured on film, I just saw it a few hours ago, Mr. Speaker, exuberant yells, ships blasting whistles, ships' bells ringing, horns rang out. Lt. Col. Chandler Johnson was jubilant. He had to have that flag as a souvenir for his battalion which had paid such a price for its role in taking the mountain. He sent a runner to scrounge up another flag.

The officer on one of the landing ship tanks at the beach broke out the ship's ceremonial flag. It was twice as large and delivered to the summit about an hour later. About then, a five foot five bespectacled 33-year-old civilian in Marine dungarees reached the top with a pack full of photographic gear.

He was joined by two Marine combat photographers. They were feeling put out by having missed the flag raising. Of course, that five foot five, 33-year-old, now 83, was none other than Joe Rosenthal, San Francisco Associated Press.

He saw the just delivered 4 by 8, a pretty big flag, that is the size I think I will replace my 5 by 7 with in front of my house here in Virginia, and that is what I will use in my house in Garden Grove. I am going to like that size the rest of my life, 4 by 8. He saw them tying the banner's lanyards around a long pipe about to be positioned for hoisting.

Joe told me he had his back turned at this moment. He and sergeant Bill Genaust scurried 25 feet up. He is just loading, and just then six Marines struggled the unwieldy pipe upward, with that big flag starting to whip out in the stiff breeze. Joe told me he whipped around. Gene Rider has it here that he clicked his speedgraphic loaded with black and white film at the midpoint just at the right millisecond for this incredible, now an icon, historic photograph.

Then Bob Campbell, another Marine photographer, shooting from a different angle, and in these wonderful commemorative books that the Marine Corps published, you see Bob Campbell's picture capturing the original

smaller flag being brought down by Marines, still ducking from sniper fire, and the big one going up. What an incredible moment that symbolizes to all the soldiers, sailors, Marines and airmen fighting all around the world. What a tribute to our beautiful Old Glory.

The Marines stood under the flag, looked across Iwo Jima, the view from 556 feet was much different from that scene from the foxholes and the caves and the Marines below. Keep in mind, there is 31 days of hellish fighting to continue. Five days of carnage and they owned a third of this 8½ square miles of junk.

Rosenthal came down slowly from the top, made the rounds of the command posts and aid stations, and caught a ride on a press boat back out to the El Dorado. He wrote captions for his day's pictures and made sure they were in the press pouch for the courier seaplane, probably a Catalina, back to Guam. There they would be developed, checked by censors, radioed stateside by CINCPAC's high powered transmitters. He wasn't sure of what he made up there at the top, he didn't even get to see his work, and a day or so later the Associated Press radioed congratulations. And that turned out to be the defining event of his life.

Casualties mounted as the carnage erupted into a new fury, and as the 4th division on the eastern front, 3d division in the center and 5th division on the west hammered ahead with tanks, flame throwers, mortars, rockets, each day was heartbreak and it went on for 31 more days.

I ask permission to put the rest of this in the RECORD and close with this in the final minute or so, Mr. Speaker.

This battle is not over, keeping our country strong. And here is another article after Gene Rider's in the same Navy Times, if it had to be done all over again, how future Marines would take Iwo Jima in another way. They project their thinking, Chris Lawson, the Times staff writer, to 2010, and the star of this event is none other than the V–22 ''Osprey.'' On the ground it is the advanced armored amphibious vehicle, AAAU. These two systems are in doubt whether or not we are going to fully develop them for our great Corps. And it shows how this 36-day battle would have been shortened by vertical envelopment and putting our troops behind all of the Japanese forces and how much loss of life could have been prevented in this terrible conflict.

□ 0000

I would like to submit this for the RECORD and close again with those words that have been said 10 times at least tonight, that uncommon valor was a common virtue that day, 27 Medals of Honor and the debt that Americans born ever since, were too young to serve, will never, ever be able to repay except by studying this history and passing it onto the young men and women of our country, as Ronald Reagan requested.

[From the Navy Times, February 27, 1995]

IWO JIMA: VALOR, DEATH AND A RAISED FLAG

(By Gene Rider)

The high command expected Iwo Jima to be a four-day piece of cake for the 42,000 Marines of the 4th and 5th divisions. But Lt. Gen. Holland M. ''Howling Mad'' Smith warned it would be the most grueling battle in the Corps' history. He was the senior Marine officer in the Pacific, but was outranked.

In the first 18 hours, 2,312 men had fallen. The 3rd division, brought along as floating reserve, wasn't expected to be needed. It was committed on Feb. 20 and first unit landed on Day Three, Feb. 21.

As planned, 30,000 men landed on Day One, most massed in the beachhead area. Defense perimeters had not been fully formed because tanks lost traction in volcanic ash. The heavy artillery landing was delayed by a high surf and beach congestion, which had grown into a monumental snarl, of damaged tanks, landing craft and smashed equipment.

Much of the enemy's firepower came from caves and labyrinths of Mount Suribachi, the 556-foot-high dead volcano overlooking our beachhead at the island's southern tip. Much of our bombardment and air strikes were concentrated on Suribachi and by Day Three it had been jolted to its core.

Things were improving on the beach. Heavy artillery landed. But 25 miles offshore, 60 planes in several waves of a kamikaze mission swooped in to attack our escort carriers. Detected early on, many were shot down. Two slammed into the carrier Saratoga, killing 128 and wounding 192. Another crashed amidship on the Bismarck Sea. Engulfed by great flames, the carrier sank quickly and 812 sailors took to the icy waters, 218 dying.

Iwo Jima—Sulphur Island—gateway to Japan, populated by 21,000 subterranean troops, was almost invisible in a smog of smoky drizzle that smelled of death, sulphur and cordite. The Japanese commander, Lt. Gen. Tadamichi Kuribayashi, knew he couldn't win. But he and his troops were dedicated to death. Their victory would be in showing Marines what lay in store when they invaded Japan and in denying them the emergency airfield they needed for crippled B–29 bombers at the halfway point of the Guam-Saipan-to-Tokyo air expressway.

Big guns silent, tanks mired in mud, no spotting planes, dawn on Day Four seemed eerily quiet. It was a perfect day for infantry. Leaning into near-gale-force gusts that drove sheets of rain, Marines began probing the steep, bouldered slopes of Suribachi. Flame throwers, demolition charges and grenades destroyed pill boxes and bunkers as our patrols drove upward. There were sporadic nasty skirmishes and casualties. By nightfall, it was apparent that only a few of the 2,000 Japanese packed into caves and labyrinths at several levels remained.

The weather on Day Five was greatly improved. Lt. Col. Chandler Johnson, commander of the 2d Battalion, 28th Regiment, had seen the totals through Day Three—4,574 men killed or wounded. Of the 2,057 5th Division men killed or wounded, a great many were from his battalion.

A 'TOPPING-OUT' PARTY

Johnson thought it was time for a ''topping-out'' party. After giving Lt. Harold Schrier a route to follow up the steep slopes, he handed him a folded flag and said: ''Put this on the top of the hill.''

Preceded by a patrol that met no opposition, E platoon—40 men plus litter bearers—slowly made its way in single file up the steep slopes to the crest. Rifles and grenades ready, some of the men scouted the crater's debris and found a pipe, lashed the colors to it and at 10:31 a.m. the Stars and Stripes whipped in the blustery wind.

Sgt. Lou Lowrey took pictures for *Leatherneck* magazine until a Japanese leaped up from a cave, fired and missed Lowery. A Marine gunned down the Japanese. Marines handily won a skirmish with rifles and grenades.

It wasn't planned. James Forrestal, the secretary of the Navy, who had boarded the command ship Eldorado at Guam with Gen. Smith beside him, stood on Green Beach, where 23 Marines had been killed within the hour, and watched the flag unfurled.

It was an emotional moment. Forrestal said, ''Holland, this means a Marine Corps for 500 years.'' ''Howling Mad'' choked up. They soon returned to the Eldorado two miles offshore, where SBC recorded interviews for later broadcast. Smith ordered Sgt. Ernest Thomas, one of the flag raisers, to come for an interview. Afterward, Thomas had a bath and a hot meal and couldn't wait to get back to his outfit. He gave his life a few days later.

The banner atop Suribachi was a lift for Marines in foxholes, and sailors on the beach and on ships. Exuberant yells, whistles, ships' bells and horns rang out.

Lt. Col. Johnson was jubilant. He had to have that flag as a souvenir for his battalion, which had paid such a price for its role in taking Suribachi. He sent a runner to scrounge for another flag. An officer on the tank landing ship at the beach broke out the ship's ceremonial flag. It was twice as large and was delivered to the summit about an hour later.

About then, a 5-foot-5 bespectacled 33-year-old civilian in Marine dungarees reached the top with a full pack of photo gear. He was joined by two Marine combat photographers. They were feeling put out by having missed the flag raising. Joe Rosenthal, Associated Press out of San Francisco, saw the just-delivered 4x8 banner's lanyards being put around a long pipe about to be positioned for hoisting.

He and Sgt. Bill Genault scurried out 25 feet just as six Marines struggled the unwieldy pipe upward with the big flag whipping in the stiff breeze. Joe clicked his Speed Graphic loaded with black and white film at just the right millisecond for an historic picture. Genault shot the same scene in color movies until his film ran out. Pvt. Bob Campbell, the other Marine photographer, was shooting from another location and got a shot of the small flag being lowered with the new flag going up.

Marines stood under the flag and looked across Iwo Jima. The view from 556 feet was much different from that seen from foxholes, caves and ravines below. After five days of carnage, they owned one-third of this 8½ square miles of junk real estate and had yet to reach Day One's objective.

Rosenthal came down slowly from the top, made the rounds of command posts and aid stations and caught a ride on a press boat to the Eldorado. He wrote captions for his day's pictures and made sure they were in the press pouch for the courier seaplane to Guam, where they'd be developed, checked by censors and radioed stateside by CincPac's high-power transmitters. He wasn't sure of what he'd made at the top. A day or so later the Association Press radioed congratulations.

THE ADVANCE

Casualties mounted as the carnage erupted into new fury as the 4th Division on the eastern front, 3rd Division in the center and 5th Division on the west hammered ahead with

tanks, flame throwers, heavy artillery and offshore mortar and rocket boats. Each yard was heartbreak.

By Day 14, the battle line was at Day Two's objective.

That day, crippled over Tokyo, the B–29 Dinah Might, was the first Superfort bomber to land on Iwo Jima while trying to return to Guam. With the short, shell-shocked runway under sporadic fire, the 65-ton bomber flopped down for a wild but safe landing.

A Doberman pinscher war dog led his handler's patrol to a huge cave on the eastern coast where scores of Japanese had lain dead for days in an overpowering stench. Seven Japanese came out of a catacomb and surrendered.

Day 24, March 14 at 9:30 a.m., as CincPac ordered, there was a short ceremony near the base of Suribachi. Gen. Smith's personnel officer, Col. David Stafford, read a proclamation issued by Adm. Chester Nimitz from headquarters on Guam that officially claimed victory and proclaimed Iwo Jima a U.S. territory. A bugler sounded colors, our flag was hoisted, and a color guard, Adm. Richmond K. Turner and Gen. Smith joined each division commander—Maj. Gens. Graves B. Erskine, Clifton B. Cates and Keller E. Rockey of the 3rd, 4th and 5th divisions, respectively—in salutes.

Dedications of three separate cemeteries followed. Bill Ross, Marine correspondent wrote that as Rockey spoke at the 5th's cemetery, a bulldozer dug more burial trenches for poncho-shrouded Marines laid out in long lines awaiting burial and that a jeep drove up with several more bodies.

Gen. Erskine spoke at the 3rd's cemetery. ''Victory was never in doubt. Its cost was. What was in doubt was whether there would be any of us left to dedicate our cemetery . . . let the world count our crosses, over and over . . . let us do away with ranks and ratings and designations . . . old timers . . . replacements—here lie only Marines.''

(In the mid-1950s the bodies of all Marines buried on Iwo Jima were exhumed and returned to American soil.)

Day 35, March 25, remnants of regiments 26, 27 and 28 wearily and warily slogged into Bloody Gorge on the northwest tip of Iwo Jima. There was no resistance: There were no more Japanese.

Official figures are testimony to the valor of Americans who served in the Iwo Jima battle. Total casualties 28,686. Of the 6,821 dead or missing, 5,931 were Marines, 195 were Navy corpsmen attached to Marine units. Of the 27 Medals of Honor awarded to Marines and corpsmen for valor at Iwo, more than half were awarded posthumously.

An estimate of Japanese killed: 20,000. Just 1,083 were taken prisoner—many from the Korean labor battalion.

On March 14, Adm. Nimitz issued a press release that ended with ''Among the Americans who served at Iwo Jima, uncommon valor was a common virtue.''

The same day, Gen. Cates, dedicating his 4th Division's cemetery, said, ''No words of mine can express the homage due these fallen heroes. But I can assure you, and also their loved ones, that we will carry their banner forward.''

[From the Navy Times, February 27, 1995]

IF IT HAD TO BE DONE ALL OVER AGAIN—FUTURE MARINES WOULD TAKE IWO IN ANOTHER WAY

(By Chris Lawson)

WASHINGTON.—If the Marines were tasked with taking Iwo Jima island tomorrow, chances are the assault would look pretty much the same as 50 years ago. It would be a massive amphibious landing.

But in 2010, if all goes as planned, the Corps will have the tools in hand to tackle the mission in an entirely new way. From the V–22 Osprey troop carrier to the high-speed advanced amphibious assault vehicle the Corps will be generations ahead of the technology available both in 1945 and today. Indeed, its arsenal might even include robot-controlled vehicles.

While today's Marines are highly skilled at fighting in the desert and other open terrain with fast-moving tanks and light armored vehicles—as well as fixed- and rotary-wing aircraft not available in 1945—experts say modern Marines would face many of the same difficulties the 75,000 others did when they came ashore Feb. 19, 1945, and faced down a well-dug-in enemy force of 20,000 Japanese defenders.

TOUGH ROW TO HOE

Some examples:

The current amphibious tractor travels only 5 mph, a mere 2 mph advantage over World War II models.

Helicopters would be rendered ineffective because nearly every square inch of the small island would be covered with defensive fire.

Troop mobility would not be significantly improved, since most of today's radios and other equipment are the same size and weight as they were in Vietnam.

Fancy technology, like global positioning systems, would not have much value on an island with a total area of just eight square miles.

But today's Marines would have one distinct advantage. They would likely fight at night. ''We could fight in the dark pretty well, but to take a place like Iwo, we'd do it pretty much the same way,'' said Col. Gary Anderson, the director of the Corps' Experimental Unit, a futuristic warfighting think tank at Quantico, Va.

''It would probably still take individual Marines to root the enemy out. I don't think that today we have got the capability to force them up out of their [fighting] holes.''

A DIFFERENT FUTURE

But in 2010, if the Marines get the weapons platforms they're currently vying for and take advantage of burgeoning commercial technologies, bloody Iwo might not be so bloody.

The best part: America might not even have to take such an island—just simply go around it.

But if they did need to seize Iwo, future Marines would have several distinct advantages.

For starters, the attack could come from over-the-horizon at breakneck speeds and top maneuverability. The V–22 Osprey people mover could help ferry Marines inland to high ground and Iwo airstrips, instead of simply dropping them at the soggy, ash-sand beaches and forcing Marines to slog their way ashore.

The AAAV could maneuver around any mines in the off-shore waters, and roar from ship to shore at speeds of more than 30 mph, thereby reducing their vulnerability to enemy fire.

Thank again to the legs and speed of the V–22, the logistics trains would likely be based at sea—not on the beach, where in World War II it fell victim to a continuous bombardment by enemy forces.

The Marines would also have the capability to land infestation teams on the critical high ground and take that advantage away from the enemy. Marines would likely land atop Mount Suribachi and fight their way down to the bottom, instead of working their way up under deadly attack.

ROBOTS TOO

Anderson said robotic technology could have a dramatic effect as well, and possible save the lives of thousands of Marines. Remote-controlled AAAVs, for example, could roar ashore and act as a magnet for enemy fire. Sophisticated sensing systems could then acquire the targets.

''You shoot at us, you die,'' Anderson said. ''Every time they fire, they would become a target.''

The best part: advanced Marine weaponry will likely allow shooters to engage their targets from the line of sight.

''If you can get eyes on target, you can kill them,'' Anderson said. ''You wouldn't do away totally with rifle-to-rifle and hand-to-hand combat, but you'd cut it way down. In 1945, 85 percent of the fighting was done that way. We think we could get that down to 20 percent.''

SOFTENING THE TARGET

The Marines, Navy and Air Force would also pound the daylights out of the islands with bomb after sophisticated bomb in an effort to prep the battlefield for maximum effectiveness.

Here again, robots could play a vital role. But just how vital will be determined as much by culture as technology.

''Would you see a robot platoon raise the flag on Mount Suribachi? I don't think so,'' Anderson said with a laugh. ''But one of the raisers might be a robot.''

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ORTIZ (at the request of Mr. GEPHARDT) for after 4:30 p.m. on Thursday and the balance of the week, on account of official business.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for after 1 p.m. on Thursday and the balance of the week, on account of official business.

Mr. EHLERS (at the request of Mr. ARMEY), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCHALE) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. MURTHA, for 5 minutes, today.

Mr. EVANS, for 5 minutes, today.

Mr. TEJEDA, for 5 minutes, today.

Mr. MCHALE, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. SCOTT, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

(The following Members (at the request of Mr. TORKILDSEN) to revise and extend their remarks and include extraneous material:)

Mr. BRYANT of Tennessee, for 5 minutes, today.

Mr. GOSS, for 5 minutes, on February 24.

Mr. BARR, for 5 minutes, today.
Mr. STUMP, for 5 minutes, today.
Mr. SOLOMON, for 5 minutes, today.
Mr. LIVINGSTON, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. LONGLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mrs. COLLINS of Illinois, and to include extraneous material, during debate on H.R. 450 in the Committee of the Whole today.)

(The following Members (at the request of Mr. MCHALE) and to include extraneous matter:)
Mr. SCHUMER.
Ms. LOFGREN.
Mr. VISCLOSKY.
Mr. DELLUMS.
Mr. HILLIARD.
Ms. MCCARTHY.
Mr. FRANK of Massachusetts.
Mr. OBEY.
Mr. NEAL of Massachusetts.
Mr. DIXON.
Ms. ESHOO.
Mr. MENENDEZ in two instances.
Mr. BERMAN.
Mr. MARKEY.
Mr. PAYNE of New Jersey.
Mr. SERRANO.
Mrs. COLLINS of Illinois in two instances.

(The following Members (at the request of Mr. TORKILDSEN) and to include extraneous matter:)
Mr. SKEEN.
Mr. BEREUTER.
Mr. BURTON of Indiana.
Mr. SPENCE.
Mr. WALKER.
Mrs. ROUKEMA.
Mr. NEY.
Mr. SMITH of Michigan.
Mr. LINDER.
Mr. PACKARD.
Mr. BAKER of California.
Mr. SOLOMON.
Mr. HOSTETTLER.
Mr. YOUNG of Florida.
Mr. RADANOVICH.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)
Mr. ENGEL.
Mr. PASTOR.
Mr. ROEMER.
Mrs. KENNELLY.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. DORNAN.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), under its previous order, the House adjourned until Friday, February 24, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

388. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting notification that the Department's Defense Manpower Requirements Report for fiscal year 1996, will be delayed, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on National Security.

389. A letter from the Deputy Secretary of Defense, transmitting a report pursuant to section 314 of the National Defense Authorization Act for fiscal year 1995; to the Committee on National Security.

390. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the termination of the designation as a danger pay location for all areas in Peru, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

391. A letter from the Chairman, International Trade Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

392. A letter from the Administrator, Small Business Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

393. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 1994, through December 30, 1994, pursuant to 2 U.S.C. 104a (H. Doc. No. 104–41); to the Committee on House Oversight and ordered to be printed.

394. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on administrative costs of protecting Supreme Court officials, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

395. A letter from the Chairman, Administrative Conference of the United States, transmitting the report on agency activity under the Equal Access to Justice Act for the period October 1, 1992, through September 30, 1993, pursuant to 5 U.S.C. 504(e); to the Committee on the Judiciary.

396. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting their fifth annual report; jointly, to the Committees on National Security and Commerce.

397. A letter from the Secretary of Energy, transmitting notification that DOE would need an additional 45 days to respond to the Defense Nuclear Facilities Safety Board Recommendation 94–2; jointly, to the Committees on National Security and Commerce.

398. A letter from the Chairman, The Board of Governors of the Federal Reserve System, transmitting its Monetary Policy Report for 1995, pursuant to 12 U.S.C. 225a; jointly, to the Committee on Banking and Financial Services and Economic and Educational Opportunities.

399. A letter from the Secretary of Defense, transmitting the first fiscal year 1995 DOD report on proposed obligations for facilitating weapons destruction and nonproliferation in the former Soviet Union, pursuant to 22 U.S.C. 5955; jointly, to the Committee on National Security, International Relations, and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows.

Mr. CANADY: Committee on the Judiciary, H.R. 925. A bill to compensate owners of private property for the effect of certain regulatory restrictions; with an amendment (Rept. 104–46). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 716. A bill to amend the Fishermen's Protective Act (Rept. 104–47). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 926. A bill to promote regulatory flexibility and enhance public participation in Federal agency rulemaking and for other purposes; with an amendment (Rept. 104–48). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MEYERS: Committee on Small Business. H.R. 937. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; with amendments (Rept. 104–49 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. COLLINS of Georgia, Mr. CANADY, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, Mr. SHAW, Mr. SAM JOHNSON, Mr. SAXTON, Mr. HOLDEN, Mr. DOOLITTLE, Mr. PACKARD, Mr. DREIER, Mr. RIGGS, Mr. HERGER, Mr. BAKER of California, Mr. POMBO, Mr. RADANOVICH, Mrs. SEASTRAND, Mr. LEWIS of California, Mr. BONO, Mr. DORNAN, Mrs. MEYERS of Kansas, Mr. BEREUTER, Mr. COX, Mr. HORN, Mr. ROYCE, and Mr. THOMAS):

H.R. 1018. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document used by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Banking and Financial Services, Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. COLLINS of Illinois:

H.R. 1019. A bill to assist in the development of microenterprises and microenterprise lending; to the Committee on Ways and Means, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. UPTON (for himself, Mr. TOWNS, Mr. BILIRAKIS, Mr. MANTON,

Mr. STEARNS, Mr. HALL of Texas, Mr. NORWOOD, Mr. GORDON, Mr. BURR, Mrs. THURMAN, Mr. HASTERT, Mr. GILLMOR, Mr. MOORHEAD, Mr. GRAHAM, and Mr. FRANKS of Connecticut):

H.R. 1020. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Commerce, and in addition to the Committees on Resources, Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as full within the jurisdiction of the committee concerned.

By Mr. GOSS (for himself, Mr. QUILLEN, Mr. ENGEL, Mrs. MEEK of Florida, Mr. STEARNS, Mr. HILLIARD, Mr. ENGLISH of Pennsylvania, Mr. GEJDENSON, Mr. CALVERT, Mr. MARKEY, Ms. FURSE, Mr. BARTLETT of Maryland, Mrs. FOWLER, and Mr. NADLER):

H.R. 1021. A bill to require the Secretary of Health and Human Services to increase the voting consumer representation of the Blood Products Advisory Committee of the Food and Drug Administration, and for other purposes; to the Committee on Commerce.

By Mr. WALKER (for himself and Mr. BLILEY):

H.R. 1022. A bill to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes; to the Committee on Science, and in addition to the Committees on Commerce, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS (for himself, Mr. QUILLEN, Mr. ENGEL, Mr. MILLER of Florida, Mrs. MEEK of Florida, Mr. TRAFICANT, Mr. STEARNS, Mr. ENGLISH of Pennsylvania, Mr. DEUTSCH, Mr. GEJDENSON, Mr. CALVERT, Ms. FURSE, Mr. BARTLETT of Maryland, Mr. STUDDS, Mrs. FOWLER, Mr. RAHALL, Mr. HASTINGS of Florida, Mr. NADLER, Mr. SHAYS, Mr. BECERRA, Mrs. SEASTRAND, and Mr. MCHALE):

H.R. 1023. A bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products; to the Committee on the Judiciary.

By Ms. DUNN of Washington (for herself, Mr. COLLINS of Georgia, Mr. KLUG, Mr. BALLENGER, Mr. CHRISTENSEN, Mr. CUNNINGHAM, Mr. DORNAN, Mr. GUTKNECHT, Mr. HANCOCK, Mr. HASTINGS of Washington, Mr. HERGER, Mr. INGLIS of South Carolina, Mr. KNOLLENBERG, Mr. METCALF, Mr. MILLER of Florida, Ms. MOLINARI, Mr. NETHERCUTT, Mr. NEY, Mr. NORWOOD, Mr. PAXON, Mr. POSHARD, Mr. QUINN, Mrs. SMITH of Washington, Mr. TALENT, Mr. TATE, Mrs. WALDHOLTZ, Mr. WELLER, and Mr. WHITE):

H.R. 1024. A bill to improve the dissemination of information and printing procedures of the Government; to the Committee on House Oversight.

By Mr. BILBRAY (for himself, Mr. KIM, Mr. MOORHEAD, Mr. OREIER, Mr. CUNNINGHAM, Mr. PACKARD, Mr. COX, Mr. ROHRABACHER, Mr. DORNAN, Mr. ROYCE, Mr. MCKEON, Mr. THOMAS, Mr. BAKER of California, Mr. DOOLITTLE, Mr. HERGER, Mr. RADANOVICH, Mr. BONO, Mr. RIGGS, Mr. GALLEGLY, Mr. CALVERT, Mrs. SEASTRAND, Mr. HORN, Mr. POMBO, Mr. LEWIS of California, and Mr. HUNTER):

H.R. 1025. A bill to recind the Federal implementation plan promulgated by the Administrator of the Environmental Protection Agency for the South Coast, Ventura, and Sacramento areas of California; to the Committee on Commerce.

By Mr. HEFLEY:

H.R. 1026. A bill to designate the U.S. Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, CO, as the ''Winfield Scott Stratton Post Office''; to the Committee on Government Reform and Oversight.

By Mrs. KENNELLY (for herself, Mr. OLVER, Mr. RAHALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. TORRES, Mr. FROST, Mr. ANDREWS, Ms. LOFGREN, Mr. EVANS, Mr. ACKERMAN, Ms. PELOSI, Mr. STUPAK, Mr. MARTINEZ, and Mr. SAXTON):

H.R. 1027. A bill to amend the Internal Revenue Code of 1986 to repeal the provision which includes unemployment compensation in income subject to tax; to the Committee on Ways and Means.

By Mr. REGULA (for himself, Mr. SHAYS, Mr. ROHRABACHER, Mr. PACKARD, Mr. HANSEN, Mr. BEREUTER, Mr. WELLER, Mr. HANCOCK, and Mr. BALLENGER):

H.R. 1028. A bill to provide for the retrocession of the District of Columbia to the State of Maryland, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TORKILDSEN (for himself, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. EMERSON, Mr. FRANK of Massachusetts, Mr. OLVER, Mr. MARKEY, Mr. BILIRAKIS, Mr. KING, Mr. BLUTE, Mr. SHAYS, Mrs. MORELLA, Ms. PRYCE, Mr. KENNEDY of Massachusetts, and Mr. JACOBS):

H.R. 1029. A bill to improve the enforcement of child support obligations in both intrastate and interstate cases by requiring the imposition and execution of liens against the property of persons who owe overdue support; to the Committee on Ways and Means.

By Mr. GUTKNECHT (for himself, Mr. RAMSTAD, and Mr. SENSENBRENNER):

H.R. 1032. A bill to reaffirm the Federal Government's commitment to electric consumers and environmental protection by reaffirming the requirement of the Nuclear Waste Policy Act of 1982 that the Secretary of Energy provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998, and for other purposes; to the Committee on Commerce.

By Mr. KING (for himself, Mr. ENGEL, and Mr. NEY):

H.R. 1033. A bill to impose comprehensive economic sanctions against Iran; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MEYERS of Kansas:

H.R. 1034. A bill to amend the Internal Revenue Code of 1986 to increase the health insurance tax deduction for self-employed individuals; to the Committee on Ways and Means.

H.R. 1035. A bill to amend the Internal Revenue Code of 1986 to encourage multiple employer arrangements to provide basic health benefits through eliminating commonality of interest or geographic location requirement for tax exempt trust status; to the Committee on Ways and Means.

By Mr. ROEMER (for himself, Mr. MINGE, Ms. HARMAN, Mr. PETE GEREN of Texas, Mr. MCHALE, Mr. STENHOLM, Mr. CONDIT, Mr. DEAL of Georgia, Mr. TANNER, Mr. TAYLOR of Mississippi, Mr. GIBBONS, Mr. BROWDER, Mr. DOOLEY, Mr. JACOBS, Mr. BAESLER, Mr. FARR, Mr. PETERSON of Minnesota, Mr. MONTGOMERY, Mr. POSHARD, and Mrs. THURMAN):

H. Res. 94. Resolution expressing the sense of the House of Representatives that reduction of the Federal deficit should be a very high budgetary priority of the Government and that savings from the enactment of spending-reduction legislation should be applied primarily to deficit reduction; to the Committee on Government Reform and Oversight.

By Mr. WELDON of Pennsylvania (for himself and Mr. ANDREWS):

H. Res. 95. Resolution amending the Rules of the House of Representatives to establish a Citizens' Commission on Congressional Ethics, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII:

17. The SPEAKER presented a memorial of the House of Representatives of the State of Georgia, relative to travel expenses and per diem of State legislators; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CALVERT:

H.R. 1030. A bill for the relief of John M. Ragsdale; to the Committee on the Judiciary.

By Mr. RAMSTAD:

H.R. 1031. A bill for the relief of Oscar Salas-Velazquez; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. BAKER of California and Ms. DUNN of Washington.

H.R. 47: Mr. BARTLETT of Maryland and Mr. BAKER of Louisiana.

H.R. 62: Mr. BAKER of Louisiana.

H.R. 104: Mr. SMITH of New Jersey.

H.R. 200: Mr. PICKETT, Mr. MCHUGH, Mr. TAYLOR of North Carolina, and Mr. COMBEST.

H.R. 236: Mr. MARTINI.

H.R. 240: Mr. SOLOMON.

H.R. 328: Mr. ENGLISH of Pennsylvania.

H.R. 359: Mr. HOLDEN and Mr. WAMP.

H.R. 394: Mr. BAKER of Louisiana, Mr. ORTON, Mr. MCKEON, Mr. FIELDS of Texas, Ms. DUNN of Washington, and Mr. WELLER.

H.R. 450: Mr. ENSIGN and Mr. BACHUS.

H.R. 485: Mr. BERMAN.

H.R. 563: Mr. COOLEY and Mr. BARTLETT of Maryland.

H.R. 574: Mr. GONZALEZ, Mr. CHAPMAN, Mr. TEJEDA, Mr. FROST, and Mr. WILSON.

H.R. 582: Mr. SKEEN and Ms. LOFGREN.

H.R. 588: Mr. ROMERO-BARCELÓ.

H.R. 658: Mr. WAXMAN and Mr. DELLUMS.

H.R. 662: Mr. BOUCHER, Mr. STUMP, Mr. SAXTON, Mr. MANTON, Mr. BLUTE, Ms. MOLINARI, and Mrs. MORELLA.

H.R. 682: Mr. GALLEGLY, Mr. ROBERTS, Mr. COBLE, Mr. HANCOCK, and Mr. ENGLISH of Pennsylvania.

H.R. 698: Mr. DORNAN, Mr. MOLLOHAN, and Mr. RAHALL.

H.R. 699: Mr. GENE GREEN of Texas and Mr. FROST.

H.R. 700: Mr. BARTLETT of Maryland, Ms. MOLINARI, Mr. HASTINGS of Washington, Mr. ENSIGN, Mr. HANCOCK, Mr. MCINNIS, Mr. HOEKSTRA, Mr. ROYCE, Mr. METCALF, Mr. NORWOOD, Mr. LIGHTFOOT, Mr. KIM, Mr. WELLER, Mr. SAM JOHNSON, Mr. FOLEY, Mr. TALENT, Mr. BALLENGER, Mr. BROWDER, Mr. DEAL of Georgia, Mr. CHABOT, and Mr. PORTMAN.

H.R. 714: Mr. FAWELL, Mr. COSTELLO, Mr. YATES, Mr. LIPINSKI, Mr. EVANS, Mr. HASTERT, Mr. LAHOOD, Mr. PORTER, Mr. HYDE, Mr. RUSH, Mr. MANZULLO, and Mr. DURBIN.

H.R. 721: Mr. STUDDS, Mr. BARRETT of Wisconsin, Mr. FATTAH, Mr. KENNEDY of Rhode Island, Mr. BEILENSON, Mr. WAXMAN, Ms. RIVERS, Ms. FURSE, Mr. SCHUMER, Mr. BROWN of California, Mr. OLVER, Ms. ESHOO, Ms. LOFGREN, Mr. ANDREWS, Mr. LEWIS of Georgia, Mr. REED, Mrs. LOWEY, and Mr. EVANS.

H.R. 739: Mr. SAXTON and Mr. GILCHREST.

H.R. 759: Mr. UPTON and Mr. BAKER of California.

H.R. 810: Mr. SMITH of New Jersey.

H.R. 842: Mr. YOUNG of Alaska, Mr. LIPINSKI, Mr. CLINGER, Mr. WISE, Mr. BATEMAN, Mr. TRAFICANT, Mr. EMERSON, Mr. DEFAZIO, Mr. COBLE, Mr. HAYES, Ms. MOLINARI, Mr. CLEMENT, Mr. ZELIFF, Mr. COSTELLO, Mr. EWING, Mr. PARKER, Mr. GILCHREST, Mr. LAUGHLIN, Mr. HUTCHINSON, Mr. CRAMER, Mr. BAKER of California, Miss COLLINS of Michigan, Mr. KIM, Ms. DANNER, Mr. HORN, Mr. CLYBURN, Mr. FRANKS of New Jersey, Ms. BROWN of Florida, Mr. BLUTE, Mr. BARCIA of Michigan, Mr. MICA, Mr. FILNER, Mr. QUINN, Mr. TUCKER, Mrs. FOWLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. EHLERS, Mr. BREWSTER, Mr. BACHUS, Mr. WELLER, Mr. WAMP, Mr. LATHAM, Mr. LATOURETTE, Mrs. SEASTRAND, Mr. TATE, Mrs. KELLY, Mr. LAHOOD, Mr. MARTINI, Mr. MCKEON, Mr. ENGLISH of Pennsylvania, Mr. FOX, Mr. TALENT, Mr. PETE GEREN of Texas, Mr. COYNE, Mr. QUILLEN, Mr. GENE GREEN of Texas, Mr. SHAW, Mr. POMEROY, Mr. FROST, Mr. WELDON of Florida, Mr. COLLINS of Gerogia, Mr. PAYNE of Virginia, Mr. BAKER of Louisiana, Mr. BRYANT of Tennessee, Mr. THORNTON, Mr. BALDACCI, Mr. KLECZKA, Mr. TORRICELLI, Mr. ORTIZ, Mr. HOLDEN, Mr. MARTINEZ, Mr. GEKAS, Mr. EHRLICH, Mr. ABERCROMBIE, Mr. MASCARA, Mr. WARD, Mr. ROHRABACHER, Mr. WILSON, Mr. EVANS, and Mr. GORDON.

H.R. 860: Mr. LARGENT and Mr. FIELDS of Texas.

H.R. 861: Mr. FILNER.

H.R. 881: Mr. ORTON, Mrs. LOWEY, Ms. DUNN of Washington, and Mr. SHAYS.

H.R. 882: Mr. STEARNS, Ms. MOLINARI, Mr. MASCARA, Mr. PETRI, Mr. GENE GREEN of Texas, Mr. ENGLISH of Pennsylvania, Mr. BENTSEN, Mr. KING, Mr. BLUTE, Mr. FOX, Mrs. SEASTRAND, and Mr. HUTCHINSON.

H.R. 884: Mr. DELLUMS.

H.R. 911: Mr. BAKER of Louisiana and Mr. MARTINI.

H.R. 959: Ms. DUNN of Washington and Mr. EVANS.

H.R. 969: Mr. BORSKI.

H.R. 1005: Mr. STOCKMAN and Mr. ROHRABACHER.

H.J. Res. 27: Mr. PETE GEREN of Texas.

H. Con. Res. 12: Mr. SPENCE and Mr. SOUDER.

H. Con. Res. 21: Mr. ACKERMAN, Mr. BERMAN, Mr. DELLUMS, Mr. EVANS, Mr. HINCHEY, Mr. JEFFERSON, Mr. LANTOS, Mr. MCNULTY, Mrs. MINK of Hawaii, Mr. RICHARDSON, Mr. SCHUMER, and Mr. OBERSTAR.

H. Con. Res. 23: Mr. YATES, Ms. DELAURO, Mr. ORTON, Mr. GUNDERSON, Mr. FIELDS of Louisiana, Mr. EDWARDS, Mr. BAKER of Louisiana, Mr. OLVER, Mr. KILDEE, Mr. WARD, Mr. BARRETT of Nebraska, Mr. WAXMAN, Mr. DIXON, Mr. MORAN, Mrs. MORELLA, Mr. BREWSTER, and Mr. MARTINI.

H. Con. Res. 28: Mr. BONILLA, Mr. KOLBE, Mr. PASTOR, Mr. NETHERCUTT, and Ms. DUNN of Washington.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 607: Mr. QUINN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 450

OFFERED BY: MR. ABERCROMBIE

AMENDMENT NO. 40: At the end of section 5 (page 5, after line 7), add the following new subsection:

''(c) MINERALS PRODUCTION IMPROVEMENTS.—Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) COAL REMINING.—Any regulatory rulemaking action by the Office of Surface Mining of the Department of the Interior to encourage remining of previously mined and inadequately reclaimed coal mine operations.

(2) VALUATION OF GAS PRODUCTION ON FEDERAL LANDS.—Any regulatory rulemaking action by the Minerals Management Service of the Department of the Interior to streamline and improve the methods used to assign a value to gas for royalty purposes.

(3) UNAUTHORIZED USE AND OCCUPANCY OF MINING CLAIMS.—Any regulatory rulemaking action by the Bureau of Land Management of the Department of the Interior to prohibit the illegal use of mining claims for residential, recreational, or other non-mining related uses.''

H.R. 450

OFFERED BY: MR. COOLEY

AMENDMENT NO. 41: In the proposed section 6(2)(B), strike the period at the end and insert a semicolon, and after and immediately below clause (ii) insert the following:

except that in the case of a regulatory rulemaking action under any Federal law for which appropriations are not specifically and explicitly authorized for the fiscal year in which the action is taken, the term means the period beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out that Federal law or the date that is 5 years after the date of the enactment of this Act.

H.R. 450

OFFERED BY: MR. HANSEN

AMENDMENT NO. 42: At the end of section 5, add the following new subsection:

(c) EXCEPTION FOR REGULATIONS PROHIBITING SMOKING OR PURCHASE OF TOBACCO PRODUCTS.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action authorized by any other law to prohibit smoking in public places or to regulate tobacco products.

H.R. 450

OFFERED BY: MR. MFUME

AMENDMENT NO. 43: At the end of the bill add the following new section:

SEC. . REGULATIONS RELATED TO LIMITATIONS ON BENEFITS WITH RESPECT TO DRUG ADDICTION OR ALCOHOLISM.

Section 3(a) or 4(a), or both, shall not apply to any regulatory rulemaking action (or any such action relating thereto) by the Social Security Administration under provisions of the Social Security Independence Program Improvements Act of 1994 (Public Law 103–296) affecting the payment of benefits to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability, with respect to which interim Rules were published February 10, 1995 (60 Fed. Reg. 8140).

H.R. 450

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 44: In section 6(3)(B), strike ''or'' at the end of clause (iv), strike the period at the end of clause (v) and insert ''; or'', and insert after clause (v) the following:

''(vi) any agency action that is taken by an agency to meet the negotiated rulemaking requirements of Pub. L. No. 103–413, the Indian Self-Determination Act Amendments of 1994.''

H.R. 450

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 45: At the end of the bill add the following new section:

SEC. . RULES OF FEDERAL LAND MANAGEMENT AGENCIES NOT AFFECTED.

Nothing in this Act shall affect the ability of the Federal land management agencies (including the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, and the National Park Service) to promulgate and implement rules affecting use of or action on Federal lands within the boundaries of authorized units of the national conservation system.

H.R. 450

OFFERED BY: MR. SCHIFF

AMENDMENT NO. 46: In section 6(3)(B), strike ''or'' after the semicolon at the end of clause (iv), strike the period at the end of clause (v) and insert ''; or'', and at the end add the following new clause:

(vi) any action by a Federal agency with respect to a redesignation request submitted by a municipality under the Clean Air Act.

H.R. 450

OFFERED BY: MR. TATE

AMENDMENT NO. 47: At the end of the bill add the following new section:

SEC. . DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

(a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this Act, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term ''small business'' means any business with 100 or fewer employees.

H.R. 450

OFFERED BY: MR. TOWNS

AMENDMENT NO. 48: At the end of section 6(4) (page , line), before the period insert the following: ''or to increase consumer market access, information, or choice''.

H.R. 450

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 49: At the end of the bill add the following new section:

SEC. . TRADE SANCTIONS NOT PROHIBITED.

Nothing in this Act shall be construed to prohibit the imposition of trade sanctions against any country that engages in illegal trade activities against the United States that are injurious to American technology, jobs, pensions, or general economic well-being.

H.R. 450

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 50: At the end of the bill add the following new section:

SEC. . RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as limiting the promulgation of rules that ensure the collection of taxes from, or limits tax loopholes of, foreign subsidiaries doing business in the United States.

H.R. 1022

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 1: Amend the heading of section 301 (page 31, line 2) to read as follows:

SEC. 301. PEER REVIEW PROGRAM AND PROHIBITION OF CONFLICTS OF INTEREST.

Strike paragraph (3) of section 301(a) (page 31, line 23 through page 32, line 5) and insert the following:

(3) shall exclude peer reviewers who have a potential financial interest in the outcome;

H.R. 1022

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 2: At the end of the bill (page 37, after line 13), add the following new title:

TITLE VII—SUNSET

SEC. 701.

This Act shall cease to be in effect on January 3, 2000.

H.R. 1022

OFFERED BY: MR. ROEMER

AMENDMENT NO. 3: Strike section 401 (page , lines , through) and insert the following:

SEC. 401. JUDICIAL REVIEW.

Nothing in this Act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action, but statements and information prepared pursuant to this title which are otherwise part of the record may be considered as part of the record for the judicial or administrative review conducted under such other provision of law.

Strike section 202(b)(2) (page , lines through) relating to substantial evidence and strike ''(1) IN GENERAL.—'' in section 202(b) (page , line).