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House of Representatives

The House met at 10 a.m.

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

When we contemplate our lives and all the events that mark our time and all the feelings that make us human and all the hopes that move us forward, we pray, almightly God, that we forget not that You are the Creator of all and the Author of the Book of Life. As we meditate on our lives with all the joys and sorrows and opportunities, allow us never to overlook that our blessings are from above and that we ought respond to those blessings with prayer, praise, and thanksgiving. Bless every person this day, O gracious One, that what we do and say and think will be to Your glory and of service to people whatever their need. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from North Carolina [Mr. JONES] will come forward and lead the House in the Pledge of Allegiance.

Mr. JONES 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. There will be fifteen 1-minutes on each side.

STOP SCARE TACTICS

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

Mr. CHABOT. Mr. Speaker, the Republican majority is working hard to do what is right for all Americans—save Medicare from bankruptcy. And let us get one issue straight right from the start—accusations by Democrats here in Congress that we are cutting Medicare are absolute nonsense—baloney—we are increasing spending per senior; from $4,800 to $6,700.

Republicans have come up with a plan to ensure Medicare's solvency through the next generation not just through the next election. Our plan will increase benefits offer more choice to seniors and attack the waste and fraud in the system. Our plan offers real solutions to the real problems facing Medicare today.

I urge my Democrat colleagues to stop the scare tactics, stop listening to the special interest groups, stop playing politics and do what you know is the responsible thing to do: Save Medicare now.

DEFEAT MEDICAID REFORM BILL

(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, to reform means to make things better. The Republicans Medicaid bill, under the guise of reform, is a hypocrisy that not only makes things worse, but violates many principles Republicans claim to represent.

Republicans claim they support children yet they voted to deny poor children guaranteed health services.

Republicans claim they protect unborn children yet they voted to revoke access to prenatal care for poor women. Even though, every dollar spent on prenatal care saves $3 in future health care costs.

Republicans claim they want to help people get off welfare, yet they voted to deny health care coverage to women and their children during their first year of work even though one of the main reasons women leave work and go back on welfare is the lack of health coverage for their sick children.

Under the guise of reform, Republicans are forcing women to choose between work and the health of their children, and they are unraveling the Nation's health safety net for the poor and the elderly.

We must defeat the so-called Medicaid reform bill.

MEDICARE PRESERVATION ACT PRESERVES MEDICARE

(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, there are currently a lot of scare tactics permeating the media regarding Medicare. To me, the most frightening scenario would be if Congress and the President do nothing, Medicare will go broke in 7 years. If the program becomes insolvent, the Government can not pay the health care bills of millions of retirees.

The standard bearers of the status quo are suggesting that Medicare be saved only for the next election not the next generation. They have placed politics ahead of sound policy and they clearly care more about voters than the current and future retirees. Their so-called plan was thrown together only after the media called their bluff and exposed their demagoguery.

Our plan, the Medicare Preservation Act, preserves traditional Medicare for any retiree who wants it. Let me say that another way. Anyone who prefers the current Medicare system may keep it. Others will have the right to choose

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health care plans the way everyone else does.

What can be wrong with that?

VOTE TO SAVE MEDICARE

(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, you just cannot run from the truth.

As the Republicans try to hide that they want to take health care from our seniors for a tax giveaway to the wealthy, their justifications are becoming laughable.

I think the silliest one is this:

This isn't a cut in Medicare. We are only slowing the growth.

Let me explain the Republican definition of slowing growth:

Say I own a cruise ship, and it seats 100 passengers. It only makes sense that I would have 100 life preservers.

Now, say I build a bigger boat. One that seats 150 people.

If I say to my passengers I am only going to have 125 life preservers, but don't worry—that's not a cut, I'm only slowing the growth of life preservers—I do not think that is going to help the 25 people who drown when my boat crashes.

Well, my friends, Medicare is a life preserver for our seniors.

One that protects them when they are sick, one that saves them when they are ill. One they have paid for and earned and deserve.

This week, we have a chance to keep all the life preservers on board.

Vote to save Medicare.

FACTS ABOUT MEDICARE REFORM

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

Mr. HAYWORTH. Mr. Speaker, we have heard a lot of wild accusations and some very interesting and creative, if not altogether truthful, analogies. My dear friend from Illinois brought up perhaps the strangest I have heard today.

Let us get away from this, and let us talk fact. Let us get away from the mythical mathematics of Washington, DC.

Fact No. 1: Medicare spending per beneficiary increases from $4,800 this year to $6,700 in the year 2002. That is an increase of almost $2,000. That is reality. That is real math.

Fact No. 2: We provide choice to seniors through Medicare Plus. Only the guardians of the old order who put their trust not on individual initiative but an overgrown, gigantic Federal bureaucracy dictating to the American people would say otherwise. The fact is we provide choice, even if seniors want to keep the program they have intact and make no change. That is why it is Medicare Plus. That is why it is good for the American Nation. That is why it will pass in this body later this week.

MEDICARE: DO NOT SURRENDER OUR COMMITMENT

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

Mr. GENE GREEN of Texas. Mr. Speaker, it is ironic I follow my colleague from Arizona.

I rise today to present 5,000 signatures from people in the congressional district that I represent and the surrounding community in Texas. On Monday I visited a senior citizens center and was presented these petitions and signatures from senior citizens and working families. They signed their names to these petitions because they are concerned about the broad cut and the extreme reversal of Medicare that is going to be voted on tomorrow in this House.

In the 30 years since enactment of Medicare, we transformed what it means to be old in this country. We have lifted our senior citizens out of poverty and restored their health and their dignity. Never again will seniors have to choose between food on the table and Medicare or health care, until tomorrow, because what we see today from the Speaker and the Republican majority is the surrender of that commitment between our Government and our seniors, because the majority feels it is so important to fulfill their campaign promise to provide a $245-billion tax cut and cut Medicare $270 billion.

These petitions are from 5,000 hard-working Texans, and I hope we remember that tomorrow.

SAVE MEDICARE FOR FUTURE GENERATIONS

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

Mr. JONES. Mr. Speaker, through the years, the cost to seniors has increased as the costs of the program has increased—but the Medicare benefit package still reflects 1965-style medicine. And seniors simply are not getting the options that other Americans are receiving. Seniors are now spending, on average, 21 percent of their annual income on health care-related expenses.

Our Medicare plan provides health security for today's and tomorrow's seniors. Medicare Plus will allow seniors to choose from several plans. Basically, seniors can stay in the traditional fee-for-service Medicare, or they can exercise the right to choose a plan that better serves their needs—everything from eyeglasses to dental care.

Each plan must offer as good a benefit package as Medicare currently offers. The proposal attacks waste and fraud through an incentive program for seniors. This plan is necessary.

We must do something to equate the system for seniors while ensuring its stability for future generations.

MAKE MEDICARE THE GIFT THAT KEEPS ON GIVING

(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, I believe the Republican plan on Medicare goes too far. But I do not agree with the political strategy of the Democratic Party. I do not believe the Republicans are two-headed monsters that want to destroy Medicare.

Medicare is broken. It needs fixing. The sad fact is the Democrats, we the Democrats, had control, and we did not fix it.

Making NEWT GINGRICH and the Republican Party into Darth Vaders may be good Democrat strategy, but it is bad public policy for America. It is divisive. It is irresponsible in an America that is already divided.

Let us get beyond the spin to win. Let us fix Medicare so it, in fact, can be a gift that keeps on giving for our parents and grandparents, and let us get off the politics.

PRESIDENT THINKS TAXES WERE RAISED TOO MUCH

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

Mr. STEARNS. Mr. Speaker, yesterday the President said in Houston at a fundraiser that, ''A lot of people in the audience are still mad about my budget,'' that he pushed through in 1993, ''and they think I raised their taxes too much.''

Now, listen carefully to this: The President said, ''It might surprise you to know that I think I raised taxes too much,'' the President of the United States making an admission that he raised taxes too much.

Think about that, Democrats, those that voted for it. That is why we have a new Republican majority in Congress. That is why our new majority promised the American people that we would roll back some of these taxes, these huge tax increases that the President pushed in 1993 that he now thinks are a mistake.

This fall we will give every middle-class family a $500-per-child tax credit, provide tax relief for seniors and help create more jobs and more opportunity.

Mr. Speaker, the President may say his tax increases were a mistake. The Republican Congress is going to do something about it.

BACK DOOR DEALS ON MEDICARE

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

Ms. VELÁZQUEZ. Mr. Speaker, let me tell you how Republicans write Medicare legislation.

When wealthy doctors are dissatisfied with how the Medicare bill will affect them—they negotiate a back door deal with Republicans and suddenly—they get a deal worth millions and do not have to share the burden of the $270 billion cut with seniors.

When HMO's want to make more money—they make a back door deal with Republicans and suddenly Medicare legislation includes provisions that will force thousands of seniors into managed care plans.

Yet, when seniors wanted to come out in the open to discuss their concerns about Medicare—they got no back door deals, they got arrested.

Mr. Speaker, this is no way to write policies. Medicare reform should help people get better—not worse.

□ 1015

CONGRESS MUST TAKE ACTION TO PRESERVE MEDICARE

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

Mr. METCALF. Mr. Speaker, Medicare will be bankrupt by 2002. Faced with this crisis, of course, we will take action to protect and preserve Medicare. But keep in mind the far more serious problem. Unless we balance the budget, the United States will go bankrupt.

Look at the facts. We owe $5 trillion in debt. Interest will soon pass defense as the largest expenditure. It does not count hundreds of billions of dollars borrowed from Social Security. It does not count a couple of trillion more in liability from pensions and retirements.

The overspending of previous Congresses has been destroying the American dream for our children. If we really care for the future of our children, we will balance the budget now.

GET TOUGH ON MEDICARE FRAUD

(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, for those who would rip off the American taxpayer through Medicare fraud, the Republicans have an answer. The answer, through their pay more, get less plan, is an unusual solution: Let us get soft on fraud, unilaterally disarm law enforcement, and legalize conduct illegal today.

Mr. Speaker, Medicare fraud results not from old folks pretending to be sick, but from health care providers pretending to treat them. In this plan, instead of helping law enforcement, the Republicans actually change the law to make it more difficult to prove fraud. They not only cut Medicare by $270 billion, they proceed to cut the moneys that are dedicated to law enforcement. But for those who rely on kickbacks from unnecessary care, they say, well, we will change the law to make it easier to take a kickback.

Today, in the Washington Times, under an article entitled ''Republican Medicare bill seems to favor fraud,'' they point out that this change alone will cost the American taxpayers $1.1 billion in this Republican profraud, antisenior Medicare bill.

THE ST. LUCIE RIVER INITIATIVE

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

Mr. FOLEY. Mr. Speaker, today it is very prophetic that I rise to discuss the St. Lucie River Initiative that is occurring in one of our counties in Florida. We are being inundated by water due to many recent rainfalls. I would like Members, particularly those in the Florida delegation, to welcome the members of the St. Lucie River Initiative.

Mr. Speaker, we have one of the most beautiful, pristine waterways in Florida. The Army Corps of Engineers started in 1915, and completed in 1963, a series of canals that have changed the water flow patterns in our State. We have to save the Everglades and Florida Bay, but we must save the St. Lucie River and Indian River Lagoon for future generations.

There is a solution. It involves acquiring land, storing fresh valuable water on that land, and preventing the water from running to the tide and polluting these estuaries and the St. Lucie River. So I ask Members from Florida again to welcome the St. Lucie River Initiative group into their office. Listen to the facts they present, because I think we have a solution before us that can save our valuable resource, the Florida waterways.

DISCREPANCY IN MANDATORY MINIMUM SENTENCING

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

Mr. FLAKE. Mr. Speaker, this chamber is accustomed to numbers. We are told the numbers do not lie. Statistics are nonpartisan. Percentages are unbiased. Mr. Speaker, I rise this morning to bring you numbers that are biased—100 to 1. That is the discrepancy in mandatory minimum sentencing for crack cocaine to powder cocaine offenses. One hundred to one is an immense disparity. Worse, 100 to 1 is an unjustified disparity. And still worse, Mr. Speaker, 100 to 1 is a disparity that disproportionately targets the urban African-American community. This 100-to-1 discrepancy is discriminatory on its face.

The U.S. Sentencing Commission, along with Federal judges and civil rights groups, has recommended an elimination of the 100-to-1 disparity, but today this Chamber may choose to reject that recommendation. Why? Is powder cocaine one-hundredth less deadly than crack? Does powder cocaine cause one-hundredth the violence that crack does? Or perhaps, have the misperceptions surrounding the communities in which one finds these drugs, affected the fairness of our laws?

Drug trafficking is an abhorrent crime, Mr. Speaker, and should be dealt with harshly. But the numbers do not lie. One hundred to one is discriminatory. If we choose to mete out justice as a nation, Mr. Speaker, we must first ensure our laws are just.

VOTE AGAINST CROATIAN-AMERICAN ENTERPRISE FUND APPROPRIATIONS

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

Mr. WOLF. Mr. Speaker, the conference on foreign operations appropriations is scheduled for next week. One of the areas of discussion between the two bills is a $12 million appropriation for the Croatian-American Enterprise Fund.

Mr. Speaker, let me read you some excerpts from a recent human rights report by monitors from the European Union who investigated human rights atrocities in the Krajina region of Croatia, which was recently liberated from Serb occupation:

> After Operation Storm * * * the area was largely devastated. Killings and harassments of civilians have been observed. Looting of virtually all houses took place and houses were burnt to the ground long after fighting had stopped.
>
> On August 11, an ECMM team from Knin found the body of an old man, shot in the head and in the right side * * * as late as September 11, ECMM Knin found two elderly women recently shot through their head * * * Reports of killing are numerous * * * at some point newly killed Serbs were found at a rate of six per day. The most common murder method is shots in the back of the head or slit throat.

These reports came in weeks after the fighting has stopped. Many Serbs fled the Krajina but those that remained were for the most part elderly.

On September 30, the Washington Post reported:

> That evening [August 25] human rights officials returned to Grubrori and found the bodies of two elderly men. One was on the floor of his bedroom in his pajamas with a bullet in the back of the head * * * the other was discovered in a field with his throat slashed. The next day, monitors found the body of a 90-year-old women who had been burned alive in her house.

Mr. Speaker, these kinds of atrocities could not have occurred without some kind of tacit approval from some elements of the government of Zagreb. I am not saying the orders came from Zagreb, but the Croatian Government should have known these kinds of things

were going to take place and taken steps to prevent them.

As Congress is asked to make tough choices about development assistance and funding for the poorest of the poor, is it right for Congress to appropriate $12 million for the Croatian-American Enterprise Fund in light of these recent atrocities.

The answer is no. Congress would not only be turning our backs on genocide, we would be approving it.

SENIORS SHOULD BE HEARD, NOT ARRESTED

(Ms. BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, here I have hundreds of questionnaires that my constituents signed opposing drastic Medicare cuts. Oh, did I say cut? I meant gut. The Republican plan will actually gut the Medicare Program.

And now, to make matters worse, Republicans are trying to gag America's seniors. When a small group of senior citizens protested the Commerce Committee voting on a Medicare bill without having one hearing on it, they were arrested.

I do not believe that these seniors should be gagged. Shame on my Republican colleagues for shutting out seniors from Congress—the People's House. As a Democrat who believes in the Democratic process, I believe those seniors deserve to be heard from, and not arrested.

Thousands of my constituents have told me that they are outraged at the Republicans' reverse Robin Hood tactics, stealing from the working people and giving tax breaks to the wealthy.

WHITE HOUSE WEATHER VANE CHANGES DIRECTION

(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, ''Oh, ain't it funky now.'' Those immortal and prophetic words are written and sung by that Godfather of Soul, James Brown, from his classic hit, ''Ain't It Funky, Part 2.'' Surely these words must have been the inspiration of the Clinton reelection theme when they came up with the motto ''Get the Funk Out of America.'' And I never knew funk was a big problem out there. It has not shown up in any of my polling data.

But we always knew that the Clinton administration marches to the beat of a different drummer. And, as SONNY BONO might say, last night the beat goes on, because, in an apparent complete reversal, Mr. Clinton said at a Democrat fundraiser, of all places, that there are a lot of people still mad about his huge, largest tax increase in the history of America. He said, ''It might surprise you to know that I think I raised taxes too much too.''

So now, Mr. Speaker, we have the President once again noticing that the White House weather vane has changed directions, and he is going to get behind the middle class tax cut. Hallelujah, another campaign promise he is going to be forced to keep.

Mr. Speaker, I welcome the President in supporting the middle class tax cut.

MEDICARE POLITICS

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

Mr. KLINK. Mr. Speaker, 1 week has passed since 15 senior citizens were hauled out of the Committee on Commerce for daring to ask how the 30-year-old promise of Medicare was going to be kept. The reason for their question was in view of the Republican attempt to rape, ravage, and pillage that system to the tune of $270 billion to offset tax cuts for the wealthy, and they were upset about the fact that the legislation before us had had no hearings.

Still, the image of those wheelchair-bound individuals being handcuffed and loaded into paddy wagons and police cars will long linger with those of us who were there. Some of them were veterans who had fought for our rights to be heard. They were being told ''You are too old; get out of here.'' Others were mothers and grandmothers. They were being told ''You are too old; get out of here. You are not important anymore.''

Let us get the facts straight. In 1965, 93 percent of the Republicans voted against Medicare. In 1993, not one Republican put up a vote for COBRA 93 which propped up Medicare and cut the deficit by 40 percent. Now, in 1995, we are arresting our seniors for being concerned about that promise made 30 years ago.

REFORMING MEDICARE

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

Mr. GILCHREST. Mr. Speaker, I would like to make a comment about Medicare and the proposal that are going to be up this week for a vote on the House floor. After reading the material and understanding that the long-term sustainability of Medicare as it stands right now is not in good condition, what we need to do to protect seniors right now and protect those people that will move into that category in the very near future is to reform Medicare so it is sustainable over the long haul.

In order to do that, we have to reduce the amount of cost to each senior citizen. We have to slow down the rate of growth for Medicare from about 10 percent to about 5 percent. We have to protect Medicare part A. These reforms do that. We have to protect Medicare part B. These reforms do that. We have to give seniors more options, more health care, and better quality health care. These reforms do that.

Mr. Speaker, I urge my colleagues, when the vote comes up on Thursday to vote for the reforms.

CONGRATULATIONS TO THE CLEVELAND INDIANS, 1995 AMERICAN LEAGUE CHAMPIONS

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

Mr. STOKES. Mr. Speaker, I rise today to offer my congratulations to the greatest baseball team in America, the Cleveland Indians. Last night, the Indians captured the American League Pennant with a 4-to-0 victory over the Seattle Mariners. Armed with the best record in the major leagues, the Indians now march boldly forward to the World Series.

On behalf of the residents of the greatest city in America, I take pride in expressing our congratulations to the Cleveland Indians, including Mike Hargrove and his excellent coaching staff, the team's general manager, John Hart, and team owner, Dick Jacobs. We also extend congratulations to the Cleveland Indians spectacular pitching staff including Dennis Martinez, and the series most valuable player, pitcher Orel Hershiser. The Cleveland Indians have demonstrated an excellence in teamwork and determination to make the dream of a world championship a reality.

When the World Series opens in Atlanta on Saturday, the Cleveland Indians will be making their first appearance since 1954, a period of 41 years. Our hearts are with the team and we will be cheering them on to victory over another great team, the Atlanta Braves.

THE REAL DEAL ON MEDICARE

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

Mr. WYNN. Mr. Speaker, this week we will have on the floor of the House so-called Medicare reform. All the American people are basically asking for is straight talk, true numbers, and the real deal.

The real deal is this: According to the Medicare trustees, we do need to make some adjustments in Medicare. How much? We need to make about $90 billion in adjustments so that we can ensure the solvency of the trust fund for about 10 years, for the next 10 years.

The Democrats say well, that will only cost $90 billion. So why do the Republicans say that costs $270 billion? Why are they taking $270 billion out of the Medicare program? They do not get any greater solvency. According to the CBO, they will only assure solvency for

another 10 years, just as we do. So what happens to the rest of that money? It does not go into the Medicare trust fund. Instead, it goes to pay for tax breaks for the very wealthy.

Mr. Speaker, those are the fact. We need to make an adjustment. An adjustment costs about $90 billion. The Democrats are willing to make that $90 billion adjustment. Why do we need to rest of the money? It does not go to the Medicare trust fund; it goes to the very wealthy.

THE COST OF SAVING MEDICARE

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

Mr. NADLER. Mr. Speaker, the basic lack of reality of what the Republicans are saying was addressed by my colleague a moment ago. The trustees tell us that $90 billion is what is necessary to fix the Medicare trust fund for long-term solvency. The Republicans take $270 billion, and they claim this is offered to save Medicare. If they were really honest about this, they would say, OK, we will reduce our tax cut from $245 to $155 billion and take that $90 billion and give it to the Medicare trust fund.

But they are not honest about it. When the gentleman from New York [Mr. RANGEL] offered that amendment in the Committee on Ways and Means, he was ruled out of order. We have already been told it will be ruled out of order if we were to offer it on the House floor tomorrow, because the Republicans are afraid to confront the reality and to let us show the American people what they really are talking about. They want the entire money for a tax cut for the rich and they do not dare say let us cut the tax cut and give $90 billion to Medicare.

□ 1030

MEDICARE ONLY NEEDS A $90 BILLION CUT

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

Mr. MILLER of California. Mr. Speaker, as the House gets ready to vote on the Medicare proposals coming from the Republicans and the Committee on Ways and Means, it has become crystal clear what exactly is taking place now. It has become very clear you do not need to cut $270 billion from Medicare to preserve it to the year 2006. We now see that that can be done for somewhere in the range of $90 billion.

So what is it that is happening to the other $170 billion that the Republicans are taking out of Medicare? What has become clear is this is the means by which they can provide the tax cut, the predominant benefits of which go to the wealthiest people in this country, and still balance the budget. They cannot afford a tax cut. This country cannot afford a tax cut. We can only make room for that tax cut if we take an additional $170 billion out of Medicare. That is unconscionable and it is wrong and it should be rejected.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTES RULE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that the following committees and their 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 Commerce, the Committee on Economic and Educational Opportunities, the Committee on Government Reform and Oversight, the Committee on International Relations, the Committee on the Judiciary, the Committee on National Security, the Committee on Resources, the Committee on Science, the Committee on Transportation and Infrastructure, the Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

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

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

There was no objection.

FISHERY CONSERVATION AND MANAGEMENT AMENDMENTS OF 1995

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to the order of the House of Monday, September 18, 1995, 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. 39.

□ 1033

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. 39) to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management with Mr. BUNNING (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, September 18, 1995, all time for general debate had expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by sections and pursuant to the order of the House of Monday, September 18, 1995, each section shall be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

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 ''Fishery Conservation and Management Amendments of 1995''.

Mr. YOUNG of Alaska. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. AMENDMENT OF THE MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 3. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is amended—

(1) in paragraph (2)—

(A) by striking ''and (B)'' and inserting ''(B)''; and

(B) by inserting before the period at the end the following: '', and (C) losses of essential fishery habitat can diminish the ability of stocks of fish to survive'';

(2) in paragraph (6) by inserting after ''to insure conservation,'' the following: ''to provide long-term conservation of essential fishery habitat,''; and

(3) by adding at the end the following:

''(9) Continuing loss of essential fishery habitat poses a long-term threat to the viability of commercial and recreational fisheries of the United States. To conserve and manage the fishery resources of the United States, increased attention must be given to the protection of this habitat.''.

(b) PURPOSES.—Section 2(b) (16 U.S.C. 1801(b)) is amended—

(1) by striking ''and'' after the semicolon at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following:

''(7) to promote the conservation of essential fishery habitat in the review of projects that affect essential fishery habitat; and

''(8) to ensure that conservation and management decisions with respect to the Nation's fishery resources are made in a fair and equitable manner.''.

(c) POLICY.—Section 2(c)(3) (16 U.S.C. 1801(c)(3)) is amended by inserting after ''practical measures that'' the following: ''minimize bycatch and''.

SEC. 4. DEFINITIONS.

(a) EXECUTION OF PRIOR AMENDMENTS TO DEFINITIONS.—Notwithstanding section 308 of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'', approved March 9, 1992 (Public Law 102–251; 106 Stat. 66), section 301(b) of that Act (adding a definition of the term ''special areas'') shall take effect on the date of the enactment of this Act.

(b) NEW AMENDMENTS.—Section 3 (16 U.S.C. 1802) is amended—

(1) in paragraph (4)—

(A) by striking ''COLENTERATA'' from the heading of the list of corals and inserting ''CNIDARIA''; and

(B) in the list appearing under the heading ''CRUSTACEA'', by striking ''Deep-sea Red Crab—Geryon quinquedens'' and inserting ''Deep-sea Red Crab—Chaceon quinquedens'';

(2) in paragraph (16) by striking ''of one and one-half miles'' and inserting ''of two and one-half kilometers'';

(3) in paragraph (17) by striking ''Pacific Marine Fisheries Commission'' and inserting ''Pacific States Marine Fisheries Commission'';

(4) by amending paragraph (21) to read as follows:

''(21) The term 'optimum', with respect to yield from a fishery, means the amount of fish—

''(A) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

''(B)(i) which, subject to clause (ii), is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, or ecological factor; or

''(ii) which, in the case of a fishery which has been classified by the Secretary as overfished, is prescribed as such on the basis of the maximum sustainable yield as reduced to allow for the rebuilding of the fishery to a level consistent with producing maximum sustainable yield on a continuing basis.'';

(5) in paragraph (31) (as redesignated by the amendments made effective by subsection (a) of this section) by striking ''for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented'' and inserting ''regulated under this Act''; and

(6) by adding at the end the following:

''(34) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including economic discards and regulatory discards.

''(35) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by the fishing vessel which harvested them because they are of an undesirable size, sex, or quality, or for other economic reasons.

''(36) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.

''(37) The term 'essential fishery habitat' means those waters necessary to fish for spawning, breeding, or growth to maturity.

''(38) The term 'overfishing' means a level or rate of fishing mortality that jeopardizes the ability of a stock of fish to produce maximum sustainable yield on a continuing basis.

''(39) The term 'rebuilding program' means those conservation and management measures necessary to restore the ability of a stock of fish to produce maximum sustainable yield on a continuing basis.

''(40) The term 'total allowable catch' means the total amount of fish in a fishery that may be harvested in a fishing season, as established in accordance with a fishery management plan for the fishery.''.

SEC. 5. FOREIGN FISHING.

(a) TRANSSHIPMENT PERMITS.—

(1) AUTHORITY TO OPERATE UNDER TRANSSHIPMENT PERMITS.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)) is amended to read as follows:

''(1) is authorized under subsection (b) or (c) or under a permit issued under section 204(d);''.

(2) AUTHORITY TO ISSUE TRANSSHIPMENT PERMITS.—Section 204 (16 U.S.C. 1824) is amended by adding at the end the following:

''(d) TRANSSHIPMENT PERMITS.—

''(1) AUTHORITY TO ISSUE PERMITS.—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish products at sea from a point within the boundaries of any State or the exclusive economic zone to a point outside the United States to any person who—

''(A) submits an application which is approved by the Secretary under paragraph (3); and

''(B) pays a fee imposed under paragraph (7).

''(2) TRANSMITTAL.—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any interested State.

''(3) APPROVAL OF APPLICATION.—The Secretary may approve an application for a permit under this section if the Secretary determines that—

''(A) the transportation of fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

''(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

''(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

''(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

''(4) WHOLE OR PARTIAL APPROVAL.—The Secretary may approve all or any portion of an application under paragraph (3).

''(5) FAILURE TO APPROVE APPLICATION.—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

''(6) CONDITIONS AND RESTRICTIONS.—The Secretary shall establish and include in each permit under this subsection conditions and restrictions which shall be complied with by the owner and operator of the vessel for which the permit is issued. The conditions and restrictions shall include the requirements, regulations, and restrictions set forth in subsection (b)(7).

''(7) FEES.—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit.''.

(b) FOREIGN FISHING FOR ATLANTIC MACKEREL AND ATLANTIC HERRING.—

(1) RESTRICTION ON ALLOCATIONS.—Section 201(e)(1)(A) (16 U.S.C. 1821(e)(1)(A)) is amended by adding at the end the following new sentence: ''No allocation may be made for a fishery that is not subject to a fishery management plan prepared under section 303.''.

(2) COUNCIL RECOMMENDATION REQUIRED TO APPROVE APPLICATION.—Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(A) in subparagraph (A) by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following new subparagraph:

''(C)(i) The Secretary may not approve an application which proposes harvest of Atlantic mackerel or Atlantic herring by one or more foreign fishing vessels unless the appropriate Council has recommended that the Secretary approve the portion of the application making that proposal and the Secretary includes the appropriate conditions and restrictions recommended by the Council.

''(ii) For purposes of this subparagraph, the term 'appropriate Council' means the Mid-Atlantic Fishery Management Council with respect to Atlantic mackerel and the New England Fishery Management Council with respect to Atlantic herring.''.

(c) PERIOD FOR CONGRESSIONAL REVIEW OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—Section 203 (16 U.S.C. 1823) is amended—

(1) in subsection (a) by striking ''60 calendar days of continuous session of the Congress'' and inserting ''120 calendar days (excluding any days in a period for which the Congress is adjourned sine die)'';

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

(d) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 201(e)(1)(E)(iv) (16 U.S.C. 1821(e)(1)(E)(iv)) is amended by inserting ''or special areas'' after ''the exclusive economic zone''.

(2) APPLICATION.—The amendment made by paragraph (1) shall take effect on the date it would take effect if it were enacted by section 301(d)(2) of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'', approved March 9, 1992 (Public Law 102–251; 106 Stat. 63).

SEC. 6. LARGE-SCALE DRIFT NET FISHING.

Section 206(e) (16 U.S.C. 1826(e)) is amended to read as follows:

''(e) REPORT.—Not later than March 17th of each year, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a list of those nations whose nationals or vessels conduct, and of those nations that authorize their nationals to conduct, large-scale drift net fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of, or is inconsistent with, any international agreement governing large-scale drift net fishing to which the United States is a party or otherwise subscribes.''.

SEC. 7. NATIONAL STANDARD FOR FISHERY CONSERVATION AND MANAGEMENT TO MINIMIZE BYCATCH.

Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end the following:

''(8) Conservation and management measures shall, to the maximum extent practicable, minimize bycatch.''.

SEC. 8. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) MEMBERSHIP OF NORTH CAROLINA ON MID-ATLANTIC FISHERY MANAGEMENT COUNCIL.—Section 302(a)(2) (16 U.S.C. 1852(a)(2)) is amended—

(1) by striking ''and Virginia'' and inserting ''Virginia, and North Carolina'';

(2) by striking ''19'' and inserting ''21''; and

(3) by striking ''12'' and inserting ''13''.

(b) VOTING MEMBERS, GENERALLY.—Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) in paragraph (2)(B) in the first sentence by inserting before the period the following: '', and of other individuals selected for their fisheries expertise as demonstrated by their academic training, marine conservation advocacy, consumer advocacy, or other affiliation with nonuser groups''; and

(2) by adding at the end the following new paragraph:

''(6) The Secretary shall remove any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the member violates section 307(1)(O).''.

(c) COMPENSATION.—

(1) AMENDMENT.—Section 302(d) (16 U.S.C. 1852(d)) is amended in the first sentence—

(A) by striking ''each Council,'' and inserting ''each Council who are required to be appointed by the Secretary and''; and

(B) by striking ''shall, until January 1, 1992,'' and all that follows through ''GS–16'' and inserting the following: ''shall receive compensation at a daily rate equivalent to the lowest rate of pay payable for GS–15,''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(B) shall take effect on January 1, 1996.

(d) TRANSACTION OF BUSINESS.—Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

''(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes required under subsection (j)(2)(E) and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.''.

(e) COMMUNICATIONS WITH FEDERAL AGENCIES REGARDING ESSENTIAL AND OTHER FISHERY HABITAT.—Section 302(i) (16 U.S.C. 1852(i)) is amended—

(1) in paragraph (1), by striking ''and'' after the semicolon at the end of subparagraph (A) and striking the period at the end of subparagraph (B) and inserting ''; and'';

(2) by adding at the end of paragraph (1) the following:

''(C) shall notify the Secretary regarding, and may comment on and make recommendations to any State or Federal agency concerning, any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may have a detrimental effect on the essential fishery habitat of a fishery under the authority of the Council.''; and

(3) by amending paragraph (2) to read as follows:

''(2) Within 15 days after receiving a comment or recommendation under paragraph (1) from a Council regarding the effects of an activity on essential fishery habitat, a Federal agency shall provide to the Council a detailed response in writing. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Council, the Federal agency shall explain its reasons for not following the recommendations.''.

(h) PROCEDURAL MATTERS.—Section 302(j)(2) (16 U.S.C. 1852(j)(2)) is amended—

(1) by striking ''guidelines'' in the matter preceding subparagraph (A) and inserting ''shall'';

(2) in subparagraph (C), by inserting after ''fishery)'' the following: ''sufficiently in advance of the meeting to allow meaningful public participation in the meeting,'';

(3) by adding at the end of subparagraph (D) the following: ''The written statement or oral testimony shall include a brief description of the background and interests of the person on the subject of the written statement or oral testimony.'';

(4) by amending subparagraph (E) to read as follows:

''(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.''; and

(5) by adding at the end the following:

''(G) A Council member may add an item to the agenda of a meeting of a Council or of a committee or advisory panel of a Council by presenting to the Chairman of the Council, committee, or panel, at least 21 days before the date of the meeting, a written description of the item signed by 2 or more voting members of the Council.''.

(i) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) in the heading by inserting ''AND RECUSAL'' before the period;

(2) in paragraph (1)—

(A) in subparagraph (A) by inserting ''or'' after the semicolon at the end;

(B) in subparagraph (B) by striking ''; or'' at the end and inserting a period; and

(C) by striking subparagraph (C);

(3) in paragraph (3)(B) by striking ''or (C)'';

(4) in paragraph (5)—

(A) in subparagraph (A) by striking ''and'' at the end;

(B) in subparagraph (B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) be kept on file by the Secretary for use in reviewing Council actions and made available by the Secretary for public inspection at reasonable hours.'';

(5) in paragraph (6) by striking ''or (C)'';

(6) in paragraph (7) by striking ''or (C)''; and

(7) by adding at the end the following:

''(8) The Secretary, in consultation with the Councils, and by not later than 1 year after the date of the enactment of the Fishery Conservation and Management Amendments of 1995, shall establish rules which prohibit an affected individual from voting on a matter in which the individual or any other person described in paragraph (2) with respect to the individual has an interest that would be significantly affected. The rules may include provisions which take into account the differences in fisheries.

''(9) A voting member of a Council shall recuse himself or herself from voting if—

''(A) voting by the member would violate the rules established under paragraph (8); or

''(B) the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under paragraph (10)(C)(ii)) determines under paragraph (10) that voting by the member would violate the rules established under paragraph (8).

''(10)(A) Before any vote held by a Council on any matter, a voting member of the Council may, at a meeting of the Council, request the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under subparagraph (C)(ii)) to determine whether voting on the matter by the member, or by any other member of the Council, would violate the rules established under paragraph (8).

''(B) Upon a request under subparagraph (A) regarding voting on a matter by a member—

''(i) the General Counsel of the National Oceanic and Atmospheric Administration (or a designee of the General Counsel under subparagraph (C)(ii)) shall determine and state whether the voting would violate the rules established under paragraph (8), at the meeting at which the request is made; and

''(ii) no vote on the matter may be held by the Council before the determination and statement are made.

''(C) The General Counsel of the National Oceanic and Atmospheric Administration shall—

''(i) attend each meeting of a Council; or

''(ii) designate an individual to attend each meeting of a Council for purposes of this paragraph.

''(11) For the purposes of this subsection, the term 'an interest that would be significantly affected' means a personal financial interest which would be augmented by voting on the matter and which would only be shared by a minority of other persons within the same industry sector or gear group whose activity would be directly affected by a Council's action.''.

(j) CONFORMING AMENDMENT.—Section 302(k)(1)(A) (16 U.S.C. 1852(k)(1)(A)) is amended to read as follows:

''(A) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2) or is designated by the Governor of a State under subsection (b)(1)(A) and is not an employee of the State; or''.

SEC. 9. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) REQUIRED PROVISIONS.—

(1) NEW REQUIREMENTS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(A) in paragraph (5) by striking ''and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors,'' and inserting the following: ''the amount and species of bycatch taken on board a fishing vessel based on a standardized reporting methodology established by the Council for that fishery, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;'';

(B) by amending paragraph (7) to read as follows:

''(7) include a description of essential fishery habitat for a fishery based on the guidelines established by the Secretary under section 304(h)(1);'';

(C) in paragraph (8) by striking ''and'' after the semicolon at the end;

(D) in paragraph (9) by striking the period at the end and inserting a semicolon; and

(E) by adding at the end the following:

''(10) include a measurable and objective determination of what constitutes overfishing in that fishery, and a rebuilding program in the case of a plan for any fishery which the Council or the Secretary has determined is overfished;

''(11) include conservation and management measures necessary to minimize bycatch to the maximum extent practicable;

''(12) to the extent practicable, minimize mortality caused by economic discards and regulatory discards in the fishery;

''(13) take into account the safety of human life at sea; and

''(14) in the case of any plan which under subsection (b)(8) requires that observers be carried on board vessels—

''(A) be fair and equitable to all fishing vessels and fish processing vessels, that are vessels of the United States and participate in fisheries covered by the plan;

''(B) be consistent with other applicable laws;

''(C) take into consideration the operating requirements of the fishery and the safety of observers and fishermen; and

''(D) establish a system of fees to pay the costs of the observer program.''.

(2) AMENDMENT OF PLANS.—Not later than 18 months after the date of enactment of this Act, each Regional Fishery Management Council established under the Magnuson Fishery Conservation and Management Act shall submit to the Secretary of Commerce an amendment to each fishery management plan in effect under that Act to comply with the amendments made by paragraph (1).

(3) FISH WEIGHING.—By January 1, 1997, the North Pacific Fishery Management Council shall require all fish processors that process fish species under the management of the Council to weigh those fish to ensure an accurate measurement of the total harvest of each species.

(b) AMENDMENTS RELATING TO DISCRETIONARY PROVISIONS, GENERALLY.—Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) in paragraph (8) in the matter preceding the first semicolon, by striking ''require that observers'' and inserting ''require that one or more observers'';

(2) in paragraph (9) by striking ''and'' after the semicolon;

(3) by redesignating paragraph (10) as paragraph (15); and

(4) by inserting after paragraph (9) the following:

''(10) assess and specify the effect which conservation and management measures of the plan will have on stocks of fish in the ecosystem of the fishery which are not part of the fishery;

''(11) include incentives and harvest preferences within fishing gear groups to promote the avoidance of bycatch;

''(12) specify gear types allowed to be used in the fishery and establish a process for evaluating new gear technology that is proposed to be used in the fishery;

''(13) reserve a portion of the allowable biological catch of the fishery for use for scientific research purposes;

''(14) establish conservation and management measures necessary to minimize, to the extent practicable, adverse impacts on essential fishery habitat described in the plan under subsection (a)(7) caused by fishing; and''.

(c) REQUIREMENT TO SUBMIT FISHERY IMPACT STATEMENTS TO AFFECTED STATES AND THE CONGRESS.—Section 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853), as amended by section 16(b), is further amended by adding at the end the following new subsection:

''(h) SUBMISSION OF FISHERY IMPACT STATEMENTS TO INTERESTED STATES AND THE CONGRESS.—Not later than the date a fishery management plan prepared by a Council or the Secretary takes effect under section 304, the Council or the Secretary, respectively, shall submit the fishery impact statement required in the plan under subsection (a)(9) to—

''(1) the Governor of each State that might be affected by the plan, who may use information in the statement to assist persons in applying for loans and grants for economic relief; and

''(2) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.''.

SEC. 10. AMENDMENTS RELATING TO MISCELLANEOUS DUTIES OF SECRETARY.

(a) SAFETY AT SEA.—Section 304(a)(2)(C) (16 U.S.C. 1854(a)(2)(C)) is amended by striking ''to fishery access'' and all that follows through the period and inserting ''with respect to the provisions of sections 303(a)(6) and (13).''.

(b) HIGHLY MIGRATORY SPECIES.—Section 304(f) (16 U.S.C. 1854(f)) is amended—

(1) by striking the subsection heading and inserting the following: ''FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—'';

(2) in paragraph (3)(C)(ii) by inserting before the semicolon the following: ''and the plan development team established under paragraph (4)'';

(3) in paragraph (3)(E), strike ''allocation or quota'' each place it appears and insert ''allocation, quota, or fishing mortality level'';

(4) in paragraph (3)(F)(ii) by inserting ''and the plan development team established under paragraph (4)'' before the semicolon;

(5) by adding at the end the following:

''(4)(A) The Secretary shall establish a plan development team for each highly migratory species fishery over which the Secretary has authority under paragraph (3)(A), to advise the Secretary on and participate in the development of each fishery management plan or amendment to a plan for the fishery under this subsection.

''(B) The plan development team shall—

''(i) consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and from other interested persons;

''(ii) be balanced in its representation of commercial, recreational, and other interests; and

''(iii) participate in all aspects of the development of the plan or amendment.

''(C) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any plan development team established under this paragraph.''; and

(6) in paragraph (3)(D) by striking clauses (ii) and (iii) and inserting the following:

''(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose;

''(iii) promote international conservation;

''(iv) minimize the establishment of regulations that require the discarding of Atlantic highly migratory species which cannot be returned to the sea alive; and

''(v) promote the implementation of scientific research programs that include to the extent practicable, the tag, and release of Atlantic highly migratory species.''.

(c) LIMITED ACCESS.—Section 304(c)(3) (16 U.S.C. 1854(c)(3)) is amended by inserting ''or advisory committee appointed under laws implementing relevant international fishery agreements to which the United States is a party'' before the period at the end.

(d) INCIDENTAL HARVEST RESEARCH.—Section 304(g) (16 U.S.C. 1854(g)) is amended—

(1) in paragraph (1) by striking ''3-year'';

(2) by striking paragraph (4) and inserting the following:

''(4) No later than 12 months after the enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall, in cooperation with affected interests and based upon the best scientific information available, complete a program to—

''(A) develop technological devices and other changes in fishing operations to minimize the incidental mortality of nontargeted fishery resources in the course of shrimp trawl activity to the extent practicable from the level of mortality at the date of enactment of the Fishery Conservation and Management Amendments of 1990;

''(B) evaluate the ecological impacts and the benefits and costs of such devices and changes in fishing operations; and

''(C) assess whether it is practicable to utilize those nontargeted fishery resources which are not avoidable.'';

(3) in paragraph (6)(B) by striking ''April 1, 1994'' and inserting ''the submission under paragraph (5) of the detailed report on the program described in paragraph (4)''; and

(4) by adding at the end the following new paragraph:

''(7) Any measure implemented under this Act to reduce the incidental mortality of nontargeted fishery resources in the course of shrimp trawl fishing shall apply to such fishing throughout the range of the nontargeted fishery resource concerned.''.

(e) ESSENTIAL FISHERY HABITAT; OVERFISHING.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

''(h) ACTIONS BY THE SECRETARY ON ESSENTIAL FISHERY HABITAT.—(1) Within one year after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall—

''(A) establish guidelines to assist the Councils in the description of essential fishery habitat in fishery management plans; and

''(B) establish a schedule for the amendment of fishery management plans to describe essential fish habitats.

''(2) The Secretary, in cooperation with the Secretary of the Interior, shall identify the essential fishery habitat for each fishery for which a fishery management plan is in effect. The identification shall be based on the description of essential fishery habitat contained in the plan.

''(3) Each Federal agency shall consult with the Secretary with respect to any action proposed to be authorized, funded, or carried out by such agency that the head of the agency has reason to believe, or the Secretary believes, may result in the destruction or adverse modification of any essential fishery habitat identified by the Secretary under paragraph (2). If the Secretary finds that the proposed action would result in destruction or adverse modifications of such essential fishery habitat, the Secretary shall comment on and make recommendations to the agency concerning that action.

''(4) Within 15 days after receiving recommendations from the Secretary under paragraph (3) with respect to a proposed action, the head of a Federal agency shall provide a detailed, written response to the Secretary which describes the measures proposed by the agency to avoid, mitigate, or offset the adverse impact of the proposed action on the essential fishery habitat. In the case of a response that is inconsistent with the recommendation of the Secretary, the agency shall explain its reasons for not following the recommendations.

''(5) The Secretary shall review programs administered by the Department of Commerce to ensure that any relevant programs further the conservation and enhancement of essential fishery habitat identified by the Secretary under paragraph (2). The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fishery habitat identified by the Secretary under paragraph (2).

''(6) Nothing in this subsection shall have the effect of amending or repealing any other law or regulation or modifying any other responsibility of a Federal agency with respect to fisheries habitat.

''(i) ACTION BY THE SECRETARY ON OVERFISHING.—(1) In addition to the authority granted to the Secretary under subsection (c), if the Secretary finds at any time that overfishing is occurring or has occurred in any fishery, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to establish a rebuilding program for the fishery. The Secretary shall publish each notice under this paragraph in the Federal Register.

''(2) If the Council does not submit to the Secretary before the end of the 1-year period beginning on the date of notification under paragraph (1) a fishery management plan, or an amendment to the appropriate existing fishery management plan, which is intended to address overfishing in the fishery and to establish any necessary rebuilding program, then the Secretary shall within 9 months after the end of that period prepare under subsection (c) a fishery management plan, or an amendment to an existing management plan, to end overfishing in the fishery and to establish any necessary rebuilding program.

''(3) If the Secretary finds that overfishing is occurring in any fishery for which a fishery management plan prepared by the Secretary is in effect, the Secretary shall—

''(A) within 1 year act under subsection (c) to amend the plan to end overfishing in the fishery and to establish any necessary rebuilding program; and

''(B) in the case of a highly migratory species fishery, pursue international rebuilding programs.

''(4) Any rebuilding program under this subsection shall specify the time period within which the fishery is expected to be rebuilt. The time period shall be as short as possible, taking into account the biology and natural variability of the stock of fish, other environmental factors or conditions which would affect the rebuilding program, and the needs of the fishing industry. The time period may not exceed 10 years, except in cases where the biology of the stock of fish or other environmental factors dictates otherwise.

''(5) If the Secretary finds that the action of any Federal agency has caused or contributed to the decline of a fishery below maximum sustainable yield, the Secretary shall notify the agency of the Secretary's finding and recommend steps that can be taken by the agency to reverse that decline.

''(6)(A) The Secretary shall review the progress of any rebuilding program required under this subsection beginning in the third year in which the plan is in effect, and annually thereafter.

''(B) If the Secretary finds as a result of the review that the rebuilding program is not meeting its specified goals due to reasons related to the reproductive capacity, productivity, life span, or natural variability of the fish species concerned or other environmental conditions or factors beyond the control of the rebuilding program, the Secretary shall—

''(i) reassess the goals of the program;

''(ii) determine, based on the best available scientific information, whether revision to the program is needed; and

''(iii) if the Secretary determines under clause (ii) that such revisions are needed, direct the Council that established the program to make revisions to the program, or in the case of a program established by the Secretary, make such revisions.

''(C) If the Secretary finds as a result of the review that the rebuilding program is not meeting its specified goals for reasons other than those described in subparagraph (B), the Secretary shall direct the Council that established the program to make revisions to the program, or in the case of a program established by the Secretary, make such revisions.

''(7)(A) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographic area of authority and identify those fisheries that are approaching a condition of being overfished.

''(B) For each fishery that is subject to a fishery management plan, the status of the fishery shall be determined for purposes of subparagraph (A) in accordance with the determination of what constitutes overfishing in the fishery included in the plan under section 303(a)(10).

''(C) The Secretary shall identify a fishery under subparagraph (A) as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary determines that the fishery is likely to become overfished within 2 years.

''(D) For any fishery that the Secretary identifies under subparagraph (A) as approaching the condition of being overfished, the report shall—

''(i) estimate the time frame within which the fishery will reach that condition; and

''(ii) make specific recommendations to the appropriate Council regarding actions that should be taken to prevent that condition from being reached.''.

(f) ACTION ON CERTAIN IMPLEMENTING REGULATIONS PROPOSED BY COUNCILS.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

''(j) ACTION ON COVERED IMPLEMENTING REGULATIONS PROPOSED BY A COUNCIL.—(1) After the receipt date of a covered implementing regulation submitted by a Council, the Secretary shall—

''(A) immediately commence a review of the covered implementing regulation to determine whether it is consistent with the fishery management plan it would implement, the national standards, the other provisions of this Act, and any other applicable law; and

''(B) immediately publish the covered implementing regulation in the Federal Register and provide a period of not less than 15 days and not more than 45 days for the submission of comments by the public.

''(2) Not later than 75 days after the receipt date of a covered implementing regulation submitted by a Council, the Secretary shall—

''(A) publish a final regulation on the subject matter of the covered implementing regulation; or

''(B) decline to publish a final regulation.

The Secretary shall provide to the Council in writing an explanation of the reasons for the Secretary's action.

''(3) For the purposes of this subsection, the term—

''(A) 'receipt date' means the 5th day after the day on which a Council submits to the Secretary a covered implementing regulation that the Council characterizes as a final covered implementing regulation; and

''(B) 'covered implementing regulation'—

''(i) means a proposed amendment to existing regulations implementing a fishery management plan in effect under this Act, which does not have the effect of amending the plan; and

''(ii) does not include any proposed regulation submitted with a plan or amendment to a plan under section 303(c).''.

(g) PACIFIC REGION STOCK ASSESSMENT.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

''(k) PACIFIC REGION STOCK ASSESSMENT.—(1) Not later than 120 days after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall, in consultation with the Pacific Fishery Management Council and the States of California, Oregon, and Washington, establish a Pacific Region Scientific Review Group (in this subsection referred to as the 'Group') consisting of representatives of the National Marine Fisheries Service, each of the States of California, Oregon, and Washington, universities located in those States, commercial and recreational fishermen and shore-based processors located in those States, and environmental organizations. Individuals appointed to serve on the Group shall be selected from among individuals who are knowledgeable or experienced in the harvesting, processing, biology, or ecology of the fish stocks of fish that are managed under the Pacific Fisheries Management Council Pacific Coast Groundfish Plan (in this subsection referred to as the 'covered Pacific stocks').

''(2) Not later than 180 days after the date of establishment of the Group, the Group shall transmit to the Secretary a research plan of at least 3 years duration to assess the status of the covered Pacific stocks, including the abundance, location, and species, age, and gender composition of those stocks. The plan shall provide for the use of private vessels to conduct stock surveys.

''(3) Immediately upon receiving the plan transmitted under paragraph (2), the Secretary shall take action necessary to carry out the plan, including, subject to the availability of appropriations, chartering private vessels, arranging for the deployment of scientists on those vessels (including the payment of increased insurance costs to vessel owners), and obtaining the assistance of shore-based fish processors.

''(4) The Secretary may offset the cost of carrying out the plan by entering into agreements with vessel owners or shore-based fish processors to provide vessel owners or shore-based fish processors with a portion of the total allowable catch reserved for research purposes under section 303(b).''.

SEC. 11. EMERGENCY ACTIONS.

Section 305(c) (16 U.S.C. 1855(c)) is amended—

(1) in paragraph (2)(A), by inserting ''under section 302(b)(1)(A) and (C)'' after ''voting members'';

(2) by amending paragraph (3)(B) to read as follows:

''(B) shall remain in effect for not more than 180 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council and after notice and an opportunity for submission of comments by the public, be effective for 1 additional period of not more than 180 days; and'';

and

(3) by adding at the end the following:

''(4) The Secretary may promulgate emergency regulations under this subsection to protect the public health. Notwithstanding paragraph (3), regulations promulgated under this paragraph shall remain in effect until withdrawn by the Secretary. The Secretary shall promptly withdraw regulations under this paragraph when the circumstances requiring the regulations no longer exist. The Secretary shall provide an opportunity for submission of comments by the public after regulations are promulgated under this paragraph.

''(5) An emergency regulation promulgated under this subsection that closes an area to fishing shall not remain in effect for an additional period under paragraph (3)(B) unless before the beginning of the additional period the Council having jurisdiction over the area, in conjunction with the Secretary, publishes a report on the status of the fishery in the area that includes an analysis of the costs and benefits of the closure.''.

SEC. 12. STATE JURISDICTION.

(a) REPORTS.—Section 306(c)(1) (16 U.S.C. 1856(c)(1)) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(3) by adding at the end the following:

''(C) the owner or operator of the vessel submits to the appropriate Council and the Secretary, in a manner prescribed by the Secretary, periodic reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested.''.

(b) STATE AUTHORITY.—Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

''(3) For any fishery occurring off the coasts of Alaska for which there is no Federal fishery management plan approved and implemented pursuant to this Act, or pursuant to delegation to a State in a fishery management plan, a State may enforce its laws or regulations pertaining to the taking of fish in the exclusive economic zone off that State or the landing of fish caught in the exclusive economic zone providing there is a legitimate State interest in the conservation and management of that fishery, until a Federal fishery management plan is implemented. Fisheries currently managed pursuant to a Federal fishery management plan shall not be removed from Federal management and placed under State authority without the unanimous consent (except for the Regional Director of the National Marine Fisheries Service) of the Council which developed the fishery management plan.''.

SEC. 13. PROHIBITED ACTS.

(a) PROHIBITION ON DAMAGING GEAR.—Section 307(1)(K) (16 U.S.C. 1857(1)(K)) is amended by striking ''to knowingly steal, or without authorization, to'' and inserting ''to steal, or to negligently''.

(b) FAILURE TO DISCLOSE FINANCIAL INFORMATION.—Section 307(1) (16 U.S.C. 1857(1)) is amended—

(1) by striking ''or'' at the end of subparagraph (M);

(2) by striking the period at the end of subparagraph (N) and inserting ''; or''; and

(3) by adding at the end the following:

''(O) to knowingly and willfully fail to disclose or falsely disclose any financial interest as required under section 302(k) or to knowingly violate any rule established under section 302(k)(8).''.

(c) PROHIBITED FISHING.—

(1) IN GENERAL.—Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended to read as follows:

''(B) in fishing, except recreational fishing permitted under section 201(j), within the exclusive economic zone or within the special areas, or for any anadromous species or Continental Shelf fishery resources beyond such zone or areas, or in fishing consisting of transporting fish products from a point within the boundaries of any State or the exclusive economic zone or the special areas, unless such fishing is authorized under, and conducted in accordance with, a valid and applicable permit issued under section 204, except that this subparagraph shall not apply to fishing within the special areas before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States; or''.

(2) CONFORMING AMENDMENT.—Section 301(h)(2)(A) of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'', approved March 9, 1992 (Public Law 102–251; 106 Stat. 64), is repealed.

SEC. 14. HAROLD SPARCK BERING SEA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

Section 313 (16 U.S.C. 1862) is amended by adding at the end the following new subsection:

''(f) BERING SEA COMMUNITY DEVELOPMENT QUOTA PROGRAM.—(1) The North Pacific Fishery Management Council and the Secretary shall establish a western Alaska community development quota program under which a percentage of the total allowable catch of any Bering Sea fishery is allocated to western Alaska communities that participate in the program.

''(2) To be eligible to participate in the western Alaska community development quota program under paragraph (1), a community must—

''(A) be located within 50 nautical miles from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea;

''(B) not be located on the Gulf of Alaska coast of the north Pacific Ocean;

''(C) meet criteria developed by the Governor of Alaska, approved by the Secretary, and published in the Federal Register;

''(D) be certified by the Secretary of the Interior pursuant to the Alaska Native Claims Settlement Act to be a Native village;

''(E) consist of residents who conduct more than one-half of their current commercial or subsistence fishing effort in the waters of the Bering Sea and Aleutian Islands management area; and

''(F) not have previously developed harvesting or processing capability sufficient to support substantial participation in the groundfish fisheries in the Bering Sea, unless the community can show that the benefits from an approved Community Development Plan would be the only way for the community to realize a return from previous investments.''.

SEC. 15. OBSERVERS.

Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

''SEC. 315. RIGHTS OF OBSERVERS.

''(a) CIVIL ACTION.—An observer on a vessel (or the observer's personal representative) under the requirements of this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under any law of the United States for that illness, disability for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

''(b) EXCEPTION.—Subsection (a) does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.''.

SEC. 16. INDIVIDUAL QUOTA LIMITED ACCESS PROGRAMS.

(a) AUTHORITY TO ESTABLISH INDIVIDUAL QUOTA SYSTEMS.—Section 303(b)(6) (16 U.S.C. 1853(b)(6)) is amended to read as follows:

''(6) establish a limited access system for the fishery in order to achieve optimum yields, if—

''(A) in developing such system, the Councils and the Secretary take into account—

''(i) the need to promote conservation;

''(ii) present participation in the fishery,

''(iii) historical fishing practices in, and dependence on, the fishery,

''(iv) the economics of the fishery,

''(v) the capability of fishing vessels used in the fishery to engage in other fisheries,

''(vi) the cultural and social framework relevant to the fishery and local coastal communities, and

''(vii) any other relevant considerations; and

''(B) in the case of such a system that provides for the allocation and issuance of individual quotas (as that term is defined in subsection (g)), the plan complies with subsection (g).''.

(b) REQUIREMENTS.—Section 303 is further amended by adding at the end the following new subsection:

''(g) SPECIAL PROVISIONS FOR INDIVIDUAL QUOTA SYSTEMS.—(1) A fishery management plan which establishes an individual quota system for a fishery—

''(A) shall provide for administration of the system by the Secretary in accordance with the terms of the plan;

''(B) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested;

''(C) shall include provisions which establish procedures and requirements for each Council having authority over the fishery, for—

''(i) reviewing and revising the terms of the plan that establish the system; and

''(ii) renewing, reallocating, and reissuing individual quotas if determined appropriate by each Council;

''(D) shall include provisions to—

''(i) provide for fair and equitable allocation of individual quotas under the system, and minimize negative social and economic impacts of the system on local coastal communities;

''(ii) ensure adequate enforcement of the system, including the use of observers where appropriate; and

''(iii) provide for monitoring the temporary or permanent transfer of individual quotas under the system; and

''(E) include provisions that prevent any person from acquiring an excessive share of individual quotas issued for a fishery.

''(2) An individual quota issued under an individual quota system established by a fishery management plan—

''(A) shall be considered a grant, to the holder of the individual quota, of permission to engage in activities permitted by the individual quota;

''(B) may be revoked or limited at any time by the Secretary or the Council having authority over the fishery for which it is issued, if necessary for the conservation and management of the fishery (including as a result of a violation of this Act or any regulation prescribed under this Act);

''(C) if revoked or limited by the Secretary or a Council, shall not confer any right of compensation to the holder of the individual quota;

''(D) may be received, held, or transferred in accordance with regulations prescribed by the Secretary under this Act;

''(E) shall, except in the case of an individual quota allocated under an individual quota system established before the date of enactment of the Fishery Conservation and Management Amendments of 1995, expire not later than 7 years after the date it is issued, in accordance with the terms of the fishery management plan; and

''(F) upon expiration under subparagraph (E), may be renewed, reallocated, or reissued if determined appropriate by each Council having authority over the fishery.

''(3)(A) Except as provided in subparagraphs (B) and (C), any fishery management plan that establishes an individual quota system for a fishery may authorize individual quotas to be held by or issued under the system to fishing vessel owners, fishermen, crew members, other persons as specified by the Council, and United States fish processors.

''(B) An individual who is not a citizen of the United States may not hold an individual quota issued under a fishery management plan.

''(C) A Federal agency or official may not hold, administer, or reallocate an individual quota issued under a fishery management plan, other than the Secretary and the Council having authority over the fishery for which the individual quota is issued.

''(4) Any fishery management plan that establishes an individual quota system for a fishery may include provisions that—

''(A) allocate individual quotas under the system among categories of vessels; and

''(B) provide a portion of the annual harvest in the fishery for entry-level fishermen, small vessel owners, or crewmembers who do not hold or qualify for individual quotas.

''(5) An individual quota system established for a fishery may be limited or terminated at any time by the Secretary or through a fishery management plan or amendment developed by the Council having authority over the fishery for which it is established, if necessary for the conservation and management of the fishery.

''(6) As used in this subsection:

''(A) The term 'individual quota system' means a system that limits access to a fishery in order to achieve optimum yields, through the allocation and issuance of individual quotas.

''(B) The term 'individual quota' means a grant of permission to harvest or process a quantity of fish in a fishery, during each fishing season for which the permission is granted, equal to a stated percentage of the total allowable catch for the fishery.''.

(c) FEES.—Section 304(d) is amended—

(1) by inserting ''(1)'' before ''The Secretary shall''; and

(2) by adding at the end the following new paragraph:

''(2)(A) Notwithstanding paragraph (1), the Secretary shall collect from a person that holds or transfers an individual quota issued under a limited access system established under section 303(b)(6) fees established by the Secretary in accordance with this section and section 9701(b) of title 31, United States Code.

''(B) The fees required to be established and collected by the Secretary under this paragraph are the following:

''(i) An initial allocation fee in an amount, determined by the Secretary, equal to 1 percent of the value of fish authorized to be harvested in one year under an individual quota, which shall be collected from the person to whom the individual quota is first issued.

''(ii) An annual fee in an amount, determined by the Secretary, not to exceed 4 percent of the value of fish authorized to be harvested each year under an individual quota share, which shall be collected from the holder of the individual quota share.

''(iii) A transfer fee in an amount, determined by the Secretary, equal to 1 percent of the value of fish authorized to be harvested each year under an individual quota share, which shall be collected from a person who permanently transfers the individual quota share to another person.

''(C) In determining the amount of a fee under this paragraph, the Secretary shall ensure that the amount is commensurate with the cost of managing the fishery with respect to which the fee is collected, including reasonable costs for salaries, data analysis, and other costs directly related to fishery management and enforcement.

''(D) The Secretary, in consultation with the Councils, shall promulgate regulations prescribing the method of determining under this paragraph the value of fish authorized to be taken under an individual quota share, the amount of fees, and the method of collecting fees.

''(E) Fees collected under this paragraph from holders of individual quotas in a fishery shall be an offsetting collection and shall be available to the Secretary only for the purposes of administering and implementing this Act with respect to that fishery.

''(F) The Secretary may not assess or collect any fee under this paragraph with respect to an individual quota system established before the date of enactment of the Fishery Conservation and Management Amendments of 1995, during the 5-year period beginning on that date of enactment.''.

(d) APPROVAL OF FISHERY MANAGEMENT PLANS ESTABLISHING INDIVIDUAL QUOTA SYSTEMS.—Section 304 (16 U.S.C. 1854) is further amended by adding after subsection (k) (as added by section 10 of this Act) the following new subsection:

''(l) ACTION ON LIMITED ACCESS SYSTEMS.—(1) In addition to the other requirements of this Act, the Secretary may not approve a fishery management plan that establishes a limited access system that provides for the allocation of individual quotas (in this subsection referred to

as an 'individual quota system') unless the plan complies with section 303(g).

''(2) Within 1 year after receipt of recommendations from the review panel established under paragraph (3), the Secretary shall issue regulations which establish requirements for establishing an individual quota system. The regulations shall be developed in accordance with the recommendations. The regulations shall—

''(A) specify factors that shall be considered by a Council in determining whether a fishery should be managed under an individual quota system;

''(B) ensure that any individual quota system is consistent with the requirements of sections 303(b) and 303(g), and require the collection of fees in accordance with subsection (d)(2);

''(C) provide for appropriate penalties for violations of individual quotas systems, including the revocation of individual quotas for such violations;

''(D) include recommendations for potential management options related to individual quotas, including the authorization of individual quotas that may not be transferred by the holder, and the use of leases or auctions by the Federal Government in the establishment or allocation of individual quotas; and

''(E) establish a central lien registry system for the identification, perfection, and determination of lien priorities, and nonjudicial foreclosure of encumbrances, on individual quotas.

''(3)(A) Not later than 6 months after the date of the enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall establish a review panel to evaluate fishery management plans in effect under this Act that establish a system for limiting access to a fishery, including individual quota systems, and other limited access systems, with particular attention to—

''(i) the success of the systems in conserving and managing fisheries;

''(ii) the costs of implementing and enforcing the systems;

''(iii) the economic effects of the systems on local communities; and

''(iv) the use of limited access systems under which individual quotas may not be transferred by the holder, and the use of leases or auctions in the establishment or allocation of individual quota shares.

''(B) The review panel shall consist of—

''(i) the Secretary or a designee of the Secretary;

''(ii) a representative of each Council, selected by the Council;

''(iii) 3 representatives of the commercial fishing and processing industry; and

''(iv) one at large representative who is selected by reason of occupational or other experience, scientific expertise, or training, and who is knowledgeable regarding the conservation and management or the commercial or recreational harvest of fishery resources.

''(C) Based on the evaluation required under subparagraph (A), the review panel shall, by September 30, 1997, submit recommendations—

''(i) to the Councils and the Secretary with respect to the revision of individual quota systems that were established under this Act prior to June 1, 1995; and

''(ii) to the Secretary for the development of the regulations required under paragraph (2).''.

(e) RESTRICTION ON NEW INDIVIDUAL QUOTA SYSTEMS PENDING REGULATIONS.—

(1) RESTRICTION.—The Secretary of Commerce may not approve any covered quota system plan, and no covered quota system plan shall take effect, under title III of the Magnuson Fishery Conservation and Management Act before the effective date of regulations issued by the Secretary under section 304(l) of that Act, as added by subsection (d).

(2) COVERED QUOTA SYSTEM PLAN DEFINED.—In this subsection, the term ''covered quota system plan'' means a fishery management plan or amendment to a fishery management plan, that—

(A) proposes establishment of an individual quota system (as that term is used in section 303 of the Magnuson Fishery Conservation and Management Act, as amended by subsection (a) of this section); and

(B) is submitted to the Secretary after May 1, 1995.

SEC. 17. FISHING CAPACITY REDUCTION PROGRAMS.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is further amended by adding after section 315 (as added by section 15 of this Act) the following new section:

''SEC. 316. FISHING CAPACITY REDUCTION PROGRAMS.

''(a) AUTHORITY TO CONDUCT PROGRAM.—The Secretary, with the concurrence of the Council having authority over a fishery, may conduct a voluntary fishing capacity reduction program for a fishery in accordance with this section, if—

''(1) the Secretary—

''(A) determines that the program is necessary for rebuilding, preventing overfishing, or generally improving conservation and management of the fishery; or

''(B) is requested to do so by the Council with authority over the fishery; and

''(2) there is in effect under section 304 a fishery management plan that—

''(A) limits access to the fishery through a Federal fishing permit required by a limited access system established under section 303(b)(6); and

''(B) prevents the replacement of fishing capacity eliminated by the program through—

''(i) a moratorium on the issuance of new Federal fishing permits for the duration of the repayment period; and

''(ii) restrictions on fishing vessel capacity upgrading.

''(b) PROGRAM REQUIREMENTS.—Under a fishing capacity reduction program conducted under this section for a fishery, the Secretary shall—

''(1) seek to permanently reduce the maximum effective fishing capacity at the least cost and in the shortest period of time through the removal of vessels and permits from the fishery;

''(2) make payments to—

''(A) scrap or otherwise render permanently unusable for fishing in the United States, vessels that operate in the fishery; and

''(B) acquire the Federal fishing permits that authorize participation in the fishery;

''(3) provide for the funding of those payments by persons that participate in the fishery, by establishing and imposing fees on holders of Federal fishing permits under this Act that authorize that participation;

''(4) establish criteria for determining the types of vessels and permits which are eligible to participate in the program, that—

''(A) assess vessel impact on the fishery;

''(B) minimize program costs; and

''(C) take into consideration—

''(i) previous fishing capacity reduction programs; and

''(ii) the characteristics of the fishery;

''(5) establish procedures for determining the amount of payments under paragraph (1); and

''(6) identify sources of funding for the program in addition to the amounts referred to in subsection (f)(2)(A), (B), (C), and (D).

''(c) PAYMENTS.—

''(1) IN GENERAL.—As part of a fishing capacity reduction program under this section, and subject to paragraph (2) the Secretary shall make payments under subsection (b)(2).

''(2) ESTABLISHMENT OF FEE REQUIRED.—The Secretary may not make any payment under paragraph (1) for a fishery unless there is in effect for the fishery a fee under subsection (d).

''(3) LIMITATION ON TOTAL AMOUNT OF PAYMENTS FOR FISHERY.—The total amount of payments under paragraph (1) for a fishery may not exceed the total amount the Secretary projects will be deposited into the Fund from fees that apply to the fishery under subsection (d).

''(d) FEES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, with the concurrence of a majority of the voting members of a Council having authority over a fishery for which a fishing capacity reduction program is conducted under this section, may establish an annual fee on holders of Federal fishing permits authorizing participation in the fishery.

''(2) AMOUNT OF FEE.—The amount of a fee established under this subsection for a fishery described in paragraph (1)—

''(A) shall be adequate to ensure that the total amount collected in the form of the fee will not be less than the amount the Secretary determines is necessary for payments under subsection (b)(2) to reduce fishing capacity in the fishery to a level that will ensure the long-term health of the fishery;

''(B) shall be based on—

''(i) the value of the fishery;

''(ii) the projected number of participants in the fishery;

''(iii) the projected catch in the fishery; and

''(iv) the direct costs of implementing a fishing capacity reduction program under this section for the fishery; and

''(C) may not exceed, for any permit holder, 5 percent of the value of fish harvested under the permit each year.

''(3) EFFECTIVE PERIOD.—A fee under this subsection may not be in effect for more than 15 years.

''(4) USE OF AMOUNTS RECEIVED.—Amounts received by the United States as fees under this subsection—

''(A) shall be deposited into the Fund; and

''(B) may not be used to pay any administrative overhead or other costs not directly incurred in implementing this section with respect to the fishery.

''(e) ADVISORY PANELS.—

''(1) IN GENERAL.—The Secretary shall establish for each fishery for which a fishing capacity reduction program is conducted under this section an advisory panel to advise the Secretary regarding that program.

''(2) MEMBERSHIP.—Each advisory panel under this subsection shall consist of individuals appointed by the Secretary and shall include representatives of—

''(A) the Department of Commerce,

''(B) Councils having authority over fisheries for which the panel is established,

''(C) appropriate sectors of the fishing industry affected by fishing capacity reduction programs under this sections, and

''(D) appropriate States affected by such programs.

''(f) FISHERIES CONSERVATION AND RESTORATION FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall be known as the Fisheries Conservation and Restoration Fund (in this section referred to as the 'Fund').

''(2) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

''(A) amounts appropriated under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)(A)), popularly known as the Saltonstall-Kennedy Act;

''(B) amounts paid to the United States Government as fees established under subsection (d);

''(C) any other amounts appropriated for fisheries disaster that the Secretary determines should be used for fishing capacity reduction programs under this section; and

''(D) any other amounts appropriated for making payments under subsection (b)(2).

''(3) AVAILABILITY.—

''(A) IN GENERAL.—Amounts in the Fund shall be available to the Secretary without fiscal year limitation for making payments under subsection (b)(2).

''(B) MANAGEMENT OF UNNEEDED BALANCE.—Amounts in the Fund that are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

''(g) EXPIRATION OF ACQUIRED PERMITS.—Permits acquired by the Secretary under subsection (b)(2)(B)—

''(1) shall not be effective after the date of that acquisition; and

''(2) may not be reissued or replaced.''.

(b) USE OF AMOUNTS TRANSFERRED UNDER SALTONSTALL-KENNEDY ACT.—Section 2(b)(1) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)), popularly known as the Saltonstall-Kennedy Act, is amended in subparagraph (A) by striking ''and'' after the semicolon at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; and'', and by adding at the end the following new clause:

''(iv) to fund fishing capacity reduction programs under section 316 of the Magnuson Fishery Conservation and Management Act, by depositing a portion of amounts transferred into the Fisheries Conservation and Restoration Fund established by that section; and''.

SEC. 18. CONSIDERATION OF ABILITY TO PAY PENALTIES.

Section 308(a) (16 U.S.C. 1858(a)) is amended—

(1) in the last sentence by striking ''ability to pay,''; and

(2) by adding at the end the following new sentence: ''In assessing such penalty, the Secretary may also consider facts relating to the ability of the violator to pay that are established by the violator in a timely manner.''.

SEC. 19. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Title IV (90 Stat. 359–361) is amended to read as follows:

''TITLE IV—MISCELLANEOUS PROVISIONS

''SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary, for carrying out this Act, the following:

''(1) $114,000,000 for fiscal year 1996.

''(2) $118,000,000 for fiscal year 1997.

''(3) $122,000,000 for fiscal year 1998.

''(4) $126,000,000 for fiscal year 1999.

''(5) $130,000,000 for fiscal year 2000.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by striking the items relating to title IV (including the items relating to the sections in that title) and inserting the following:

''TITLE IV—MISCELLANEOUS PROVISIONS

''Sec. 401. Authorization of appropriations.''.

SEC. 20. TECHNICAL CORRECTIONS.

(a) CORRECTION.—Section 304 of the Act entitled ''An Act to provide for the designation of the Flower Garden Banks National Marine Sanctuary'', approved March 9, 1992 (Public Law 102–251; 106 Stat. 65), is repealed.

(b) CONFORMING AMENDMENT.—Section 3(15) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(15)) is amended to read as follows:

''(15) The term 'waters under the jurisdiction of the United States' means—

''(A) the territorial sea of the United States;

''(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

''(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured, except that this subparagraph shall not apply before the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.''.

SEC. 21. CLERICAL AMENDMENTS.

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended by striking ''Committee on Merchant Marine and Fisheries'' each place it appears and inserting ''Committee on Resources''.

SEC. 22. PROVISIONS RELATING TO GULF OF MEXICO.

(a) FISHERY ASSESSMENTS.—Section 304(e) (16 U.S.C. 1854(e)) is amended by adding at the end the following new paragraph:

''(5) The Secretary shall develop and implement a systematic program for the assessment and annual reporting to the public of the status of fisheries in the Gulf of Mexico subject to management under this Act. Such program shall—

''(A) provide for the use of peer-review panels consisting of independent and external experts;

''(B) not exclude peer-reviewers merely because they represent entities that may have an interest or potential interest in the outcome, if that interest is fully disclosed to the Secretary;

''(C) provide opportunity to become part of a peer-review panel at a minimum by soliciting nominations through the Federal Register; and

''(D) ensure that all comment and opinions of such peer-review panels are made available to the public.''.

(b) FISHERY MONITORING.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

''(m) FISHERY MONITORING.—(1) The Secretary shall develop a plan for the Gulf of Mexico region to collect, assess, and report statistics concerning the fisheries in each such region.

''(2) The plan under this subsection shall—

''(A) provide fishery managers and the public with timely and accurate information concerning harvests and fishing effort;

''(B) minimize paperwork and regulatory burdens on fishermen and fish buyers;

''(C) minimize costs to Federal and State agencies;

''(D) avoid duplication and inconsistencies in the collection, assessment, and reporting of fishery statistics; and

''(E) ensure the confidentiality of information.

''(3) The Secretary shall ensure that fishermen, fish buyers, and other individuals potentially impacted by the plan required under this subsection are actively involved in all stages of the development of such plan and that appropriate fishery management agencies are consulted.

''(4) No later than 9 months after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall publish notice of a proposed plan required under this subsection and provide the public with a reasonable opportunity to comment on such proposed plan. The Secretary shall consider such comments before submitting the plan under paragraph (5).

''(5) No later than one year after the date of enactment of the Fishery Conservation and Management Amendments of 1995, the Secretary shall submit a final plan under this subsection to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.''.

(c) GULF OF MEXICO RED SNAPPER STOCK MANAGEMENT STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall have an independent analysis conducted that will evaluate—

(A) the methods, data, and models used to assess the status of Gulf of Mexico red snapper stock assessments;

(B) the effectiveness of the fishery management plan in effect under the Magnuson Fishery Conservation and Management Act that applies to Gulf of Mexico red snapper, in terms of the appropriateness of the management goal and time frame given the available biological data; and

(C) regulations in effect under that Act that apply to Gulf of Mexico red snapper, in the terms of the effectiveness of fairly controlling fishing mortality.

(2) STUDY REQUIREMENTS.—The study shall—

(A) assess all alternatives that could provide a more balanced and practical approach to managing the red snapper fishery in the Gulf of Mexico;

(B) involve commercial and recreational fishermen from the Gulf of Mexico in the collection of data and information and in the development of an accurate assessment plan; and

(C) be completed and reported to the Congress and the Gulf of Mexico Fishery Management Council within 1 year after the date of the enactment of this Act.

(3) USE OF REPORT.—It is expected for the report on the study under this subsection to be used as the foundation for any future management of red snapper in the Gulf of Mexico by the Gulf of Mexico Fishery Management Council or the National Marine Fisheries Service (or both). It is also expected that the Council will suspend the implementation of any individual fishing quota plan for red snapper in the Gulf of Mexico until the study is completed and until the Secretary of Commerce has completed standards or guidelines.

(4) LIMITED IMMUNITY.—Individuals providing credible information to receive the most accurate assessments shall not be subject to any catch reporting violations.

SEC. 23. STUDY OF CONTRIBUTION OF BYCATCH TO CHARITABLE ORGANIZATIONS.

(a) STUDY.—The Secretary of Commerce shall conduct a study of the contribution of bycatch to charitable organizations by commercial fishermen. The study shall include determination of—

(1) the amount of bycatch that is contributed each year to charitable organizations by commercial fishermen;

(2) the economic benefits to commercial fishermen from those contributions; and

(3) the impact on fisheries of the availability of those benefits.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report containing determinations made in the study under subsection (a).

(c) BYCATCH DEFINED.—In this section the term ''bycatch'' has the meaning given that term in section 3(34) of the Magnuson Fishery Conservation and Management Act, as amended by section 4 of this Act.

The CHAIRMAN pro tempore. Are there any amendments to the Committee amendment in the nature of a substitute?

AMENDMENTS OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. YOUNG of Alaska:

Page 33, line 3, strike ''environmental factors'' and insert ''environmental conditions or factors beyond the control of the rebuilding program''.

Page 50, line 10, strike ''yields'' and insert ''yield''.

Page 58, line 24, strike ''paragraph (1)'' and insert ''subsection (c)''.

Page 59, line 7, insert a comma after ''paragraph (2)''.

Page 22, line 17, insert ''and'' after the semicolon.

Page 22, beginning at line 20, strike the semicolon and all that follows through ''program'' at line 22.

Page 23, line 21, strike ''(15)'' and insert ''(16)''.

Page 24, line 17, strike ''and'' and all that follows through the end of the line.

Page 24, after line 17, insert the following new paragraph:

''(15) in the case of any plan which under subsection (b)(8) requires that observers be carried on board vessels, establish a system of fees, not to exceed the actual costs of the observer program, to pay the costs of the program; and''.

Page 23, line 8, after ''processors'' insert ''and fish processing vessels (as that term is defined in chapter 21 of title 46, United States Code)''.

Page 49, beginning at line 7, strike ''other persons as specified by the Council,''.

Page 37, line 17, strike ''shore-based'' and insert ''United States fish''.

Page 38, line 10, strike ''plan, including,'' and insert ''plan and report such actions to the Committee on Resources of the House of Representatives. The Secretary shall implement the plan,''.

Page 38, line 11, after ''appropriations,'' insert ''by''.

Page 38, line 14, strike ''shore-based'' and insert ''United States''.

Page 38, lines 18 and 19, strike ''shore-based'' each place it appears and insert ''United States''.

Page 38, beginning at line 19, strike ''total allowable catch'' and insert ''allowable biological catch''.

Page 47, line 16, after ''appropriate'' insert ''at a level of coverage that should yield statistically significant results, except that on a fish processing vessel at sea observers, shall be required as necessary to ensure monitoring of fishing activities 24 hours each day''.

Page 41, strike lines 12 through 15 and insert the following:

(a) PROHIBITION ON REMOVING, DAMAGING, TAMPERING WITH, OR MOVING FISHING GEAR AND FISH.—

(1) PROHIBITION.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(A) by redesignating subparagraphs (L), (M), and (N) in order as subparagraphs (M), (N), and (O); and

(B) by striking subparagraph (K) and inserting the following:

''(K) to steal or to knowingly and without authorization to remove, damage, or tamper with—

''(i) fishing gear owned by another person, which is located in the exclusive economic zone or special areas; or

''(ii) fish contained in such fishing gear;

''(L) to negligently damage, remove, or move, or to attempt to do any of the foregoing with respect to—

''(i) fishing gear that is owned by another person and located in the exclusive economic zone; or

''(ii) fish contained in such fishing gear;''.

(2) CONFORMING AMENDMENTS.—Section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859) is amended—

(A) in paragraph (1) by striking ''or (L)'' and inserting ''(K), or (M)''; and

(B) in subsection (b) by striking ''section 307(1)(L)'' and inserting ''section 307(1)(M)''.

Page 41, line 19, strike ''(M)'' and insert ''(N) (as redesignated by subsection (a)(1)(A) of this section)''.

Page 41, line 21, strike ''(N)'' and insert'' ''(O) (as redesignated by subsection (a)(1)(A) of this section)''.

Page 41, line 23, strike ''(O)'' and insert ''(P)''.

Page 13, line 25, strike ''307(1)(O)'' and insert ''307(1)(P)''.

Page 65, after the quoted material following line 8, insert the following new subsection:

(c) AUTHORIZATION OF APPROPRIATIONS FOR NOAA MARINE FISHERY PROGRAMS.—The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) in section 2(a)—

(A) by striking ''and'' after ''1992'' and inserting a comma; and

(B) by inserting before the period at the end the following: '', $47,000,000 for fiscal year 1996, $48,645,000 for fiscal year 1997, $50,347,575 for fiscal year 1998, $52,109,740 for fiscal year 1999, and $53,933,580 for fiscal year 2000'';

(2) in section 3(a)—

(A) by striking ''and'' after ''1992'' and inserting a comma; and

(B) by inserting before the period at the end the following: '', $27,400,000 for fiscal year 1996, $28,359,000 for fiscal year 1997, $29,351,565 for fiscal year 1998, $30,378,869 for fiscal year 1999, and $31,442,129 for fiscal year 2000'';

(3) in section 4(a)—

(A) by striking ''and'' after ''1992'' and inserting a comma; and

(B) by inserting before the period at the end the following: '', $17,300,000 for fiscal year 1996, $17,905,500 for fiscal year 1997, $18,532,192 for fiscal year 1998, $19,180,818 for fiscal year 1999, and $19,852,146 for fiscal year 2000''; and

(4) in section 2(e)—

(A) by striking ''1992 and 1993'' and inserting ''1996 and 1997'';

(B) by striking ''establish'' and inserting ''operate'';

(C) by striking ''306'' and inserting ''307''; and

(D) by striking ''1991'' and inserting ''1992''.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, this en bloc amendment has been developed on a bipartisan basis and has the support of the minority leaders of the Resources Committee.

During the Resources Committee markup of this bill, several Members wanted to offer amendments but withdrew them to allow time for compromises to be drafted. This en bloc amendment includes these compromises and makes technical amendments to the bill as reported.

This amendment contains technical fixes which include a clarification in the weighing provision of the bill and correction of the placement of language addressing observer coverage.

The amendment also contains language agreed upon by myself and other Members including: corrections to the Pacific Region Stock Assessment section; additions to the use of observers in ITQ systems; and changes to the Prohibited Acts section of the bill.

I appreciate all the hard work by Members and their staffs in reaching agreement on the language in the en bloc amendment. I support this amendment and would urge my colleagues to also support it.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Alaska [Mr. YOUNG].

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 69, after line 8, insert the following new subsection:

(c) RESOURCE ASSESSMENT.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

''(n) RESOURCE ASSESSMENTS.—(1) Notwithstanding any other provision of this Act, the Secretary shall, wherever practicable, subject to the availability of appropriations, and when the arrangement will yield statistically reliable results, rely on the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the united States. The Secretary shall determine whether this arrangement will yield statistically reliable results.

''(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

''(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage; and

''(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide the compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable biological catch of the surveyed fishery that is reserved for research purposes under section 303(b).

''(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation through the use of the authority provided in this subsection.''.

Page 69, line 9, strike ''(c)'' and insert ''(d)''.

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, during the full committee markup of this bill, we added a provision which will allow the Councils to set aside a portion of the allowable biological catch to be used for research purposes. This is clearly a discretionary provision and not mandatory.

For the Pacific region, we have also allowed the Secretary to contract with private vessels to conduct research and stock assessment work using the portion of the harvest set aside for research purposes. The vessels would then be able to sell the catch to offset the cost of doing the research.

My amendment takes this one step further. It allows the Secretary to contract with private vessels to perform research functions, now carried out by the National Oceanic and Atmospheric Administration [NOAA], in areas other than just the Pacific region.

It will provide more up-to-date research and stock assessment data by contracting vessels to do the work on a yearly basis. At this time, stock assessment work is done approximately every 3 years by NOAA research vessels.

Currently, the National Marine Fisheries Service uses this exact arrangement in the Gulf of Alaska. Survey work is presently being done for black cod stocks and the survey vessels lands their catch to offset the cost of doing the research. For some reason, the National Marine Fisheries Service feels that it does not have the authority to allow this type of arrangement to take place in other areas.

I believe this amendment will give us better stock assessment data, will provide fisheries managers with more up-to-date information, will allow private vessels to bid on doing the research work and will allow the catch to be landed to offset the cost of doing the research, thereby reducing the cost to the Federal Government of doing the research.

This language includes several suggestions made by National Marine Fisheries Service and is a discretionary provision. I think this is a good step in better fisheries management and urge my colleagues to support the amendment.

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

Mr. Chairman, I support the gentleman's efforts to develop new methods of fisheries stock assessment. In this time of declining budgets, the use of fishing vessels may provide a very viable alternative to research vessels that could enable us to collect more timely data and hopefully provide some more opportunity for fishermen.

I do have some concerns with the details of this proposal, as I think the gentleman knows, particularly the authority to allow fishermen to harvest fish outside of and beyond the research surveys in order to cover their costs. This might be difficult to enforce, and I wonder whether we are encouraging fishing in excess of the total allowable catch levels.

I will not oppose the amendment, because I think the premise is a sound one, but I would ask the gentleman if we could continue to work on this issue to iron out these concerns before we go to conference?

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, as the gentleman well knows, when this legislation passes the House, the Senate has not passed theirs. You will be on the conference, sitting beside me as we have done all these years, and I will continue to work with the gentleman, because you do raise a valid point.

The attempt here is to allow what is already being done in other areas where we are being told that they do not think they have the authority. This is really a request by the National Marine Fisheries Institute.

Mr. STUDDS. Mr. Chairman, I support the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUDDS

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

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Page 43, after line 2, insert the following new subsection:

(d) RESTRICTION ON SALE OF LOBSTERS.—Section 307(1)(J)(i) (16 U.S.C. 1557(1)(J)(i)) is amended—

(1) by striking ''plan,'' and inserting ''plan''; and

(2) by inserting before the semicolon the following: '', or in the absence of both such plans is smaller than the minimum possession size in effect at the time under the Atlantic States Marine Fisheries Commission's American Lobster Fishery Management Plan''.

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, my amendment is very straightforward. Under current law, the sale, shipment, and transport of American lobsters smaller than the minimum size established in the Federal American Lobster Fishery Management Plan is prohibited.

Recently, the National Marine Fisheries Service has indicated that this plan might be withdrawn. If it is, the prohibition on the sale and shipment of undersized lobsters would no longer be in effect and our market would be flooded with undersized lobsters. This would have serious implications for the resource and the industry.

This amendment would ensure that the prohibition would remain in effect by allowing the minimum size established by the Atlantic States Marine Fisheries Commission to serve as the baseline in the absence of a Federal plan.

It is supported by the industry, and I hope Members can support it here today.

The administration has seen this amendment and has no objection to it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, my friend from Massachusetts has the foresight to be proactive instead of reactive.

It is my understanding that the National Marine Fisheries Service has indicated that the current Fishery Management Plan for lobster may be withdrawn. If this does occur, it would mean that the current restrictions on the sale and transportation of undersized lobster would no longer be in effect.

Current law prohibits the sale, shipment, and transport of American lobsters smaller than the minimum size established in the Federal American Lobster Fishery Management Plan.

The gentleman's amendment provides the necessary measures to ensure that the current restrictions are not removed, by allowing the minimum size established by the Atlantic States Marine Fisheries Commission to serve as a baseline in the absence of a Federal Fishery Management Plan.

I support the gentleman's amendment and urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 47, line 13, insert ''and'' after the semicolon.

Page 47, strike lines 17 through 19.

Page 48, line 13, strike '', held, or transferred'' and insert ''and held''.

Page 50, after line 6, insert the following:

''(6) Any individual quota system established for a fishery after the date of enactment of the Fishery Conservation and Management Amendments of 1995—

''(A) shall not allow individual quotas shares under the system to be sold, transferred, or leased;

''(B) shall prohibit a person from holding an individual quota share under the system unless the person participates in the fishery for which the individual quota share is issued; and

''(C) shall require that if any person that holds an individual quota share under the system does not engage in fishing under the individual quota share for 3 or more years in any period of 5 consecutive years, the individual quota share shall revert to the Secretary and shall be reallocated under the system to qualified participants in the fishery in a fair and equitable manner and in accordance with the following priorities:

''(i) As the first priority, to persons who have participated in the fishery but have not received any individual quota shares under the system, or have received individual quota shares under the system in an amount insufficient to allow participation in the fishery.

''(ii) As the second priority, to persons who desire to enter the fishery.

''(iii) As the third priority, to persons who participate in the fishery and hold individual quota shares sufficient to permit that participation.

''(7) In reallocating individual quota shares under paragraph (6)(C)(iii), the Secretary may utilize a royalty auction or other comparable bidding process.

''(8) The Secretary may suspend the applicability of paragraph (6) for individuals on a case-by-case basis due to death, disablement, undue hardship, or in any case in which fishing is prohibited by the Secretary or the Council.

Page 50, line 7, strike ''(6)'' and insert ''(9)''.

Page 50, line 23, strike ''or transfers''.

Page 51, strike lines 16 through 21.

Page 54, line 20, strike ''the use of limited access systems under which individual quotas may not be transferred by the holder, and''.

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

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

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is fairly straightforward. What it would do for new ITQ's is allow those portions of the quotas that are not utilized to be reallocated to other fishing interests, to, in many cases, fishermen that have worked these fishing grounds for many, many years, and the crews of the boats, to allow them to participate in the fisheries of their historical position, and fishing of those grounds should not the full quota be used.

This amendment would only pertain to future ITQ's and not to those that have already been granted by the Government. I also think it makes sure that the public resources are continued to be used and widely dispersed for those who have historically been involved in the utilization of those resources, in this case the fisheries, and I would hope the committee would accept the amendment.

My amendment is intended to prevent the giveaway of yet another public resource—our fisheries—as a form of corporate welfare.

ITQ's are a new fisheries management tool where specific quotas are allocated to individual fishermen or corporations based on formulas established by fisheries management councils made up of industry representatives that in many cases will reap the benefits of the formula they establish.

These quotas, which are allocated for free, can then be brought and sold, taking a public resource and turning it into a private commodity.

The chairman's bill has taken some important steps to address the inequities of ITQ's, including a limit on the term of quota allocation and the assessment of a nominal fee of 1 percent if the quota is sold, but it doesn't go far enough however and still results in hundreds of millions of dollars in windfall profits for big, industrial fishing corporations who will receive these quotas shares for free.

My amendment simply eliminates the ability to sell or lease your privilege to harvest a public resource. If you do not use it, it reverts to the Government to be reallocated to individuals wishing to enter the fishery or those who need more quota to make their shares economically viable.

Why is this amendment necessary? Here are just a few reasons.

In the North Pacific halibut/black cod fishery ITQ program that was implemented this year, 40 boat owners received quota shares worth more than $100 million for free. Crew members and skippers, many of whom had years of participation in the fishery, received nothing.

Anyone not lucky enough to receive an initial allocation will have to buy shares from those recipients who got their shares for free. According to some quota brokers in Alaska, those shares are already selling for as much as five to eight times the actual value of the fish they permit you to harvest.

Now the push is on by National Marine Fisheries Service and the large industrial fishing fleets to impose ITQ's in the North Pacific groundfish fishery, the largest dollar fishery in the United States, worth more than a billion dollars at the dock last year.

The reason: After opposing plans to restrict access and control overcapitalization, too many factory trawlers entered the fishery in the late 1980's, ensuring that none of the boats could remain competitive. Now they want us to give them our fish—a public resource—to enable them to make the best of some very bad investments.

Depending on the allocation formula that is adopted, Tyson Seafoods could receive quota shares worth hundreds of millions of dollars for free and then turn around and sell them.

Proponents of quota systems tout their advantages. Allowing holders to fish when they want instead of in a derby fashion, they can product higher quality product, spread out their season, and stay at the dock when the weather is bad. All of these advantages will still hold true.

But what does not merit nor does it require, the flatout giveaway of a public resource with no benefits to the taxpayers. Why does a corporation like Tyson—with $5 billion in annual revenues—need to receive a $200 million subsidy from the taxpayers? Because they made a bad investment of $230 million in 1993, buying Arctic Alaska, when the fishery was already overcapitalized, and now they want a bailout at the expense of the taxpayer.

This is just another form of corporate welfare paid for with taxpayers' resources.

My amendment would ensure that the giveaway of a public resource would be prevented; that big fishing corporations would not profit at the taxpayers expense; and the stewardship of our fisheries remains in the public trust where it belongs.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I support the gentleman's amendment to eliminate transferability of individual quota shares. While I do not like the ITQ's, I want everybody to understand, I have supported and continue to support the regional councils in their role as managers of our Nation's fishery resources.

In fact, the gentleman from California, I am going to tell him now, I had an amendment to his amendment, and I probably will not offer it, because my worthwhile staff reminded me I have always said not to interfere with the council's role in this. But this is a good amendment.

ITQ's have been very controversial both in practice and from a policy perspective. One aspect that has caused a great deal of concern is the recipients of ITQ shares receive a windfall by being the only users of a public resource.

I believe this amendment addresses the concern that fishermen are receiving windfall profits by selling their ITQ shares, while the general public receives nothing from the allocation of this public resource.

I have heard from many fishermen that ITQ's give a few individuals a local on a public resource. The gentlemen's amendment makes sure that those who receive shares must fish them or lose them. If the shares are not fished by the fisherman for 3 or more years, they would revert back to the Secretary, who would then reallocate the share through an auction or other comparable bidding process. This reallocation will allow those who did not get an adequate share, or those who have fished, but did not qualify for shares, to bid on shares.

This amendment eliminates the incentive to enact ITQ systems rather than other limited access options, because some fishermen believe they will reap a monetary windfall from the quota shares they receive.

I want to again stress one of the biggest problems is the possibility of the acquisition of shares by, may I say those that may not be totally 100 percent American, and in controlling what I fought to do with the gentleman from Massachusetts [Mr. STUDDS] in 1976, and that was to Americanize our fleet and to protect our stock and to have a sustained yield. What we find in many areas around the Nation is this is not occurring.

So this really is, with the original language in the bill, a further attempt to make sure that we are looking at the management concept of the fisheries and not just a monetary concept of the fisheries.

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Now, I am all in favor of everybody making large profits. I am all in favor of everybody making a return on their investments. But, I am not in favor of a locked system. And the IDQ's do create a locked system.

Now, if I understood the gentleman correctly, we are only talking about prospective IDQ's, not those that have already been issued. Because one of the things that I have resented in this Congress is that sometimes we become retroactive in tax laws and other laws and people that try to follow the laws that Congress has passed find themselves caught in an untenable position.

Mr. Chairman, I do support the gentleman's amendment. I think it is a correct one to further make sure that we have the management tools that are necessary for the fisheries and they are not depleted to the point they were prior to 1976.

The CHAIRMAN pro tempore (Mr. BUNNING). The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments?

AMENDMENT OFFERED BY MR. FARR

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

The Clerk read as follows:

Amendment offered by Mr. FARR: Page 21, line 13, before the first semicolon insert the following: ''and conservation and management measures necessary to minimize, to the extent practicable, adverse impacts on that habitat caused by fishing''.

Page 23, line 21, strike ''(15)'' and insert ''(14)''.

Page 24, line 12, strike the semicolon and insert ''; and'.''.

Page 24, strike lines 13 through 17.

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

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

There was no objection.

Mr. FARR. Mr. Chairman, first of all, I want to thank the gentleman from Alaska [Mr. YOUNG] for dedicating his service here in Congress to revising this trend and introducing H.R. 39 to help preserve our fisheries for fishers and fish eaters for many generations to come.

However, there is a flaw in the bill. It was made in committee after its original introduction by the gentleman from Alaska, and my amendment corrects that flaw and brings it back to the way it was first presented to the committee.

Mr. Chairman, in essence what is happening with many of our fishery stocks in America in our offshore waters is that the habitat of those fishing stocks are being destroyed and there is no requirement for the councils that manage these fish stocks to look into habitat protection for fish stock protection.

Indeed, in my district alone, the famous Monterey area which people know about because of Steinbeck's writing about the sardine industry, we lost 30,000 jobs in California. We have an industry, the Monterey sardine industry once supported Cannery Row and it died out 50 years ago because of overfishing.

California alone has lost 30,000 jobs since 1978. In a recent report by Governor Wilson on the future of California's ocean resources says that the total California catch declined 18 percent between 1991 and 1992. These losses forced the Governor to declare a state of emergency in 1994 for California's north coast fishing communities. True, California has had a bumper salmon season, but this does not make up for years of decline.

My amendment does one simple thing. It simply requires the regional fishery management councils to include measures to minimize, to the extent practicable, fishing impact on fish habitat. We all know too well that healthy fisheries depend on healthy habitat. Fishery biologists and other scientists point out the loss of wetland and river habitat as the major cause for decline in many commercial fisheries.

Mr. Chairman, H.R. 39 will help address this problem, helping to slow some of the inland harm to commercial fisheries. But the fishing industry itself has a part to play in protecting the fish habitat.

The way the bill is currently drafted, it says that the councils may take steps to minimize impacts on fishing habitats. This is essentially the same as current law which, while it does not mention the subject, would still allow councils to take steps if they chose to.

The problem is that the councils have done nothing to address this under current law. Since they are not required and they will not be required, there is no indication they will address the problem at all. Thus, the councils could go on ignoring fish habitat issues under this bill.

Mr. Chairman, my amendment would fix this problem by requiring conservation measures necessary to minimize, to the extent practicable, adverse impacts on the impact of habitat caused by fishing.

It would require the councils to look for ways to minimize the impacts that fishing gear and fishing practices have on the habitat. This might include time or area closures or restrictions of particular types of gear.

If the councils find that such measures are practical, my amendment would require the councils to include them in their plans. Contrary to what my colleagues might hear, my amendment will not allow any lawsuits because the Magnuson Act, and H.R. 39, do not include citizen suit provisions. Thus, my amendment would provide no basis for lawsuits; certainly, no more basis than any other mandatory provisions in H.R. 39.

Contrary to what my colleagues might hear, my amendment would not give one kind of fisherman a weapon to reallocate fishing shares, because the Magnuson Act requires the councils to allocate fish access to fisheries in a fair and equitable manner.

Finally, it may look like environmental interests are driving this amendment, but there is clearly an environmental component to it. Even if the fish habitat impacts raise no environmental concerns, economics would still argue for my amendment. The decline of a fishery because of fish habitat loss helps kill jobs, helps kill coastal economies and consumer choice.

Mr. Chairman, I am offering my amendment because it has broad support from people who make their living catching fish, including such organizations as the Pacific Coast Federation of Fishermen; the Golden Gate Fisherman's Association; the North Pacific Fisheries Association; the Alaskan Marine Conservation Council; the Unalaska Native Fisherman's Association; the New Jersey Alliance to Save Fisheries; King and Sons, Inc., the largest shipper of American lobsters in the world; Trout Unlimited; the Maine Lobsters Association; the Maine Fish Conservation Network; and the Center for Marine Conservation.

Mr. Chairman, I believe that councils should be required to take those practical steps needed to minimize the impacts. I ask for an aye vote on my amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after the great and kind compliments the gentleman from California has given to me, which are rare and far between on this floor of the House, it is unpleasant for me to rise in opposition to the amendment.

Mr. Chairman, I do understand the gentleman's concerns about protecting fishing habitat from the potential adverse impacts of fishing gear, but I am also concerned about the possible unintended results of the gentleman's amendment.

The Regional Fishery Management Councils, and by the way, none of them when we had our hearings, we had over 14 hearings in the last 4 years, none of them ever spoke in favor of this amendment. I want everybody to remember, the councils do not favor this amendment. Other interest groups may, but not the councils.

The Regional Fisheries Management Councils currently have the ability to reduce adverse impacts that fishing gear may have on fishery habitat. Some councils have already taken steps to reduce the effects on habitat by closing off breeding and nursery areas during certain times of the year.

While the language of H.R. 39 is discretionary, it sends a direct message to the councils that this is an important issue. It recommends that if steps have not already been taken to address this problem, the councils should take the necessary steps to correct any adverse effects that fishing may be having on essential fishery habitat under the council's jurisdiction.

Mr. Chairman, I am concerned that moving this language to the mandatory requirements section of the act will require councils to restrict certain types of gear. It could potentially heighten gear conflicts in fisheries where councils have already taken appropriate steps to minimize the impact on the habitat.

And for those who are not aware of the fishing industry, this is a very competitive industry. There is little what I call comradeship between a troller, a purse seiner, a gill netter, or a hand troller. All of them are seeking part of this. And when we put the council into a decisionmaking factor of choosing one gear over other gear, when it may not be appropriate. In fact the gentleman said there could be no lawsuits. There is a reality that one group could sue the Secretary of Commerce, not the council but the Secretary of Commerce saying that another type of gear could be adversely impacting the habitat, thus gaining a bigger share of the fish.

So I would suggest this just drives a bigger wedge between the gear groups and causes a tremendous problem with the council. The habitat is important and we have already suggested in the bill that they do take this and do promote habitat protection. But let us not

make it mandatory, where there may be another way that they can protect the habitat and avoid the conflicts which would arise between the different gear groups and thus diluting the role of the council.

Mr. Chairman, I do stress this. Only through the councils can this Magnuson Act work. Only through the councils can we truly manage this system. There are those under this administration and the past administration, so it is not partisan, that want to centralize the control of all fisheries here in Washington, DC.

Think about that a moment. They want to bring it here, take it away from the councils, because they happen to think that they have more brains here in Washington, DC, than anybody else. We all know that is wrong. If my colleagues do not know it, I do not know where they have been.

Mr. Chairman, it was set at the 1976 level to make sure that the councils do their work. In some cases, the councils have not worked and we have addressed that issue in this bill and will continue to address it. But it is important that we allow the councils to make these decisions. It is necessary to make sure it is a working unit. When it is mandatory, we are taking away the council's opportunities to function.

Mr. Chairman, I do oppose the amendment.

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

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, in the original bill of the gentleman from Alaska, there was this language. And, in fact, it was not even as weak as perhaps my amendment is, because my amendment says ''to the extent practicable.''

The problem that I think the gentleman recognizes is there is only one body that really can deal with it and has the total jurisdiction and that is the councils.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I will tell the gentleman, I put it in the bill understanding what he was trying to do, but removed it after hearing from the councils. That is why we have the hearing process and the input from the general public. That is why there was no outcry for this amendment at any time during the hearings.

Mr. Chairman, we had a broad spectrum of people interested in this legislation. This has been on the burner for 4 years. I am going to suggest respectfully that I followed the train of thought of the gentleman from California [Mr. FARR] when I introduced the bill originally. But after hearing the councils and other members of the public say this would be detrimental and driving us apart, I made it discretionary and not mandatory. That is the reason.

Mr. FARR. Mr. Chairman, if the gentleman would continue to yield, I think you have just pinpointed the exact difficulty: That nobody wants to deal with this issue. They have had the ability; it is permissible in law; they could have dealt with it if they wanted to.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Alaska. Mr. Chairman, I yield to the gentleman from California.

Mr. FARR. Mr. Chairman, they could have dealt with it and have not. We have to, as lawmakers, make that responsible decision to say that this is important enough that they have to deal with it where it is practicable to deal with it.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, the difference is the councils in many cases have already acted. With the language that is in the bill now, it is really an awakening call for the councils. We will be revisiting this if they do not.

Mr. Chairman, I believe that they do see the importance of this and we do have the backing of the councils. But we have to allow the councils the discretion or we end up being the total managers of the fisheries and that would be a disaster for the fisheries.

The fisheries are very competitive and very monetarily important for certain interest groups and we do not want this Congress to be involved, but should allow the councils to be the ones with the discretion.

Mr. Chairman, I do urge the defeat of the amendment.

Mr. STUDDS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, people may wonder, since the gentleman from Alaska [Mr. YOUNG] and I invariably agree on virtually all matters relating to fisheries, how I could conceivably find myself in a different position. I do not, really, since the gentleman has taken three different positions in the course of this debate. I am going to be with him the first time he was there.

Mr. Chairman, the original draft of the bill, as the gentleman from California indicated, contained the language of the bill drafted by the gentleman from Alaska and myself that he now seeks to reinstate. That aroused some controversy during the committee markup and the gentleman from Alaska, in his usual statesmanlike way, offered a compromise which added the phrase ''to the extent practicable'' to the amendment. I thought that was a pretty good idea too, although it did weaken it to some extent. Then, even that was removed and it is totally discretionary for the councils.

There is nothing in this language that speaks to any conflict or any controversy between gear types. The language in question simply directs the council, when they are developing a plan, to consider conservation of management measures necessary to minimize to the extent practicable, a very large loophole, adverse impacts on that habitat caused by fishing.

Mr. Chairman, it is very difficult to see how that language on its face could be the source of a great deal of controversy. I would think it would be almost inarguable that we would want councils, in the course of developing plans, to consider ways to minimize to the extent practicable adverse impacts on fishery habitat, for very obvious, and it seems to me, self-evident reasons.

Mr. Chairman, I think the gentleman from Alaska was entirely correct when he put this in his initial version. I think he was bending, in the way we must around here occasionally, to circumstance when he agreed to its slight weakening with the addition of the phrase ''to the extent practicable.''

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But I do think to remove this from a requirement for the council's consideration and place it, as the bill now does as simply discretionary, our very sad history here indicates, probably, councils probably will not do it. So I agree with the first two positions of the gentleman from Alaska and the current position of the gentleman from California, and urge support of the amendment.

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

Mr. Chairman, I would like to extend my compliments to the chairman of the full committee for coming up with a bill that goes a long way in protecting a huge natural resource and a very strong part of the U.S. economy, and that is the fishing industry.

I also rise in support of the amendment offered by the gentleman from California, and I think because of several reasons that this body ought to vote for that amendment.

First, it was in the original bill. I think the idea of this provision being in the original bill was to give the councils some discretion to place an emphasis on one of the most important aspects and parts of the fishing industry, and that is habitat, where these fish spawn. They have the discretion; to the extent practicable, they can use this in the formulation of their plan.

One striking detail, or one striking fact, shows the necessity, in my judgment, of this amendment, and that is you could stop fishing today. You could stop all fishing in the coastal areas and still lose 75 percent of the commercially valuable fish to habitat loss. Now, this does, to be honest, involve some of the recommendations and some of the insights into gear types between different competing fishermen. But the emphasis here is to protect habitat laws, and the emphasis needed for the council to use this discretion is overpowering.

To lose 75 percent of the commercial fish because of habitat loss is a striking fact. We also see problems with water quality being degraded by a whole range of sources. In any one

given year in this country, actually in any one given day, one-third of the shellfish beds throughout this country are closed because of problems with habitat.

So the bill has gone a long way to protecting the fishing industry in this country.

I think we should stick with the original language, including ''to the extend practicable'' from the gentleman from California, and I urge a ''yes'' vote on the amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Let me try to set the record straight.

The current law has this language in the discretionary section. Current law is that the ability of the agency is discretionary in this area.

The gentleman's amendment would change current law to make this requirement mandatory upon the agency in every fisheries plan. Now, why is that a bad idea? It is a bad idea for a number of reasons. We are in the throes today of an attempt to reform our Superfund laws because of the fact that when we originally wrote the Superfund laws, we created such a litigation problem that the law has wasted billions of dollars on litigation. Everyone sues, everyone complains, everyone challenges each other under that law.

Please, let us not make that same mistake in this important act.

The amendment offered by the gentleman putting this language into the mandatory section invites those kinds of lawsuits. By whom? Who is going to file a lawsuit if this language is put under the mandatory section? I will tell you who: competing gear types. If there are two kinds of fisheries out there, one which has an allocation that it does not think is fair, another which has an allocation it would like to get, you can bet there would be a lawsuit filed on this particular mandatory section, and the two gear types will be in litigation over this bill.

But let me tell you of an even more important reason why this should not, this amendment, should not be adopted. Current law is working very well. Anyone who tries to say current law is not working well has simply not observed the facts. The facts are that the councils do have the authority today and use that authority where essentially important to restrict damaging gear types in their management plans. They have the authority and have used it to protect sensitive habitat areas such as nurseries and hatcheries from fishing types. They have that authority. They use it.

For us to change the law to make it mandatory simply invites someone to test whether or not they have used their authority correctly or incorrectly in court every time a council moves.

I live on the gulf coast, as do many of the members of our committee live near the coastal areas. We have an important fisheries—25 percent of all the commercial fish landings in America come off the coast of Louisiana. We have incredible nursing grounds. We understand that relationship. Our councils work, in fact, to restrict fishing and fishing gear types when, in fact, there is good evidence those fishing stocks are in any kind of difficulty. They use the discretionary features of this law quite well. We complain sometimes about the science they use, but the fact is that councils are working quite well.

For those of you who want to change the law, and that is what this amendment does, for those of you who want to change this law to make this mandatory, will mean from now on every time our council makes a decision in Louisiana waters, you can bet there will be a lawsuit filed from some other fishermen in some other States. There is a great contest for some of these species. Red snapper, for example, is a very desirable species. It is one that is regulated by the councils. The Florida fishermen used to be in Louisiana waters in droves until the council took some actions to regulate the kind of fishing that occurred in the red snapper industry. You can bet that if there is a mandatory feature in this act, the moment the council moves to do anything in that fishery in Louisiana waters that does not please the Florida fishermen, there will be a lawsuit filed. If they do not do something that somebody else wants them to do under this mandatory section, there will be a lawsuit filed. There will be lawsuits like Superfund lawsuits coming out of our ears, and the bottom line is that this fisheries councils system will begin to do what our Superfund has done: waste money in courts, encourage gear fights and wars, encourage fights between States when right now we are trying to cooperate across State boundaries on the outer continental shelf and will, in fact, destroy what is currently a good and discretionary feature of the law that is working quite well.

I urge Members not to change it.

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

Mr. TAUZIN. I yield to the gentleman from Maryland.

Mr. GILCHREST. I would like to ask the gentleman from Louisiana a couple of questions. If we were debating this issue in 1901, then I would agree that all of this discretion is fine.

Mr. TAUZIN. I thought the gentleman had a question.

Mr. GILCHREST. But in 1995, my question is, considering the gear type we have in 1995, considering the number of fishermen that are out there, considering the number of boats out there, considering all of the technologies——

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 3 additional minutes.)

Mr. GILCHREST. If the gentleman will yield further, considering that we have sonar finders, hydraulic gear, spotter planes, onboard processing equipment, satellite communications systems, considering all of this out here now, taking fewer fish with more fishermen, should there not be some emphasis, and that is what this amendment does, it places emphasis on the discretion of the management councils, which I do not think have done that up to this point.

Mr. TAUZIN. Let me try to answer, yes, indeed, there are many more gear types out there. But if you make this feature a mandatory portion of the law, every one of those new and inventive gear types will be suing to ensure they get a better allotment out of the fisheries plan than the other plan and suing on the basis that council did not follow the mandates of the law now in this area.

Currently, the councils have discretion. They can do everything you want them to do in this amendment, and they can do it without all the lawsuits.

What you are going to do is have a multiplicity of lawsuits. You will have gear wars going on, which we cannot afford. Give these councils the tools without mandating them into lawsuits is what the current law does, and I urge you not to change it.

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

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

Mr. FARR. As you know, the councils now set very controversial issues, and, as you know, in this piece of legislation they can include conservation and management measures necessary to minimize by-catch, that is, the TED's used in Louisiana waters. Those are very controversial. There has never been a lawsuit on that.

Mr. TAUZIN. Reclaiming my time, sir, the TED's are not a by-catch issue. The TED's are an endangered species issue, and that kind of confusion has caused more trouble on our debates on this bill than has helped. I want to straighten that out. This is not a TED's issue. This is not a TED's issue. This is a question of whether or not this feature of the law, which is discretionary, is going to become a mandatory feature in this area, and I urge you not to make it mandatory, because you will have gear wars and litigation unending in this area, where currently the administration and the agencies have the discretion to do the right thing when they need to do it.

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

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

Mr. FARR. My concern is I think you are using the fear tactic of lawsuits. There have never been lawsuits filed. We make some very controversial issues on this.

Mr. TAUZIN. The reason there are no lawsuits filed is no mandatory provision in the law. I cannot file a lawsuit

today to tell the agency it must do something the law said it did not have to do. The reason there is no lawsuit from one gear type to the other is because we do not have your amendment. With your amendment, I can guarantee there will be wars, litigation, many more lawsuits. If you do not believe it, talk to the folks who operate all the gear. They complain every day about their allotments.

They think their type of fishing ought to be the best one, the one that gets the most allotment. There will be lawsuits every day in that case. You will be in lawsuits and your friends on the environmental side trying to stop the fisheries completely, and saying the agency should have had a habitat plan that locked it up. There will be lawsuits from every side of this issue, and I suggest to you that is the last thing that we need. We need more help and cooperation, less lawsuits.

Mr. UNDERWOOD. Mr. Chairman, I move to strike the requisite number of words.

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

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

Mr. FARR. I thank the gentleman for yielding.

I want to point out a couple of issues here. One is, this makes it possible, to the extent practicable, to regulate. It is also a bill that is very much supported by the fishery groups, by the people making their living in the water. They understand there is this controversy going on, and they need to have a forum where that controversy can be resolved.

I agree with the chairman we do not want this resolved in Washington. That is why we are delegating the responsibility to the commission so that they can resolve it on a case-by-case basis on the issues, on the fish that they are responsible in law to regulate.

This bill makes the inclusion of the issue that the gentleman from Louisiana [Mr. TAUZIN] just brought up, the by-catch measures, mandatory. That is going to be as controversial as anything in the bill.

Indeed, if you are worried about issues raising for lawsuits, that one you could argue is even more so than what I am trying to do.

I urge these Members to take a look at those that are sponsoring this amendment, a broad range of fishery groups on both the East Coast, the West Coast, and fishery groups that make their living at the sea, and they want this conflict of the sea resolved. We think this is the best way to do it.

I ask for an ''aye'' vote on the amendment.

Mrs. SMITH of Washington. Mr. Chairman, I rise in support of the Metcalf amendment to H.R. 39.

The halibut and sablefish individual transferable quota [ITQ] for fishermen in the North Pacific is a product of nearly a decade of work.

This ITQ program went into effect earlier this year and has been very successful. This ITQ was necessary because the race for the fish in the North Pacific was becoming extremely dangerous. In fact, between the years 1991 and 1993, there were 216 search and rescue efforts in the halibut fishery alone.

Because of the safety issue and the years it took to develop the plan, it would be patently unfair to change the rules for the halibut and sablefish ITQ in the middle of the game.

I would like to commend the Fishing Vessels Owners' Association and the Deep Sea Fisherman's Union for their diligence in clarifying the intent of this legislation for Washington State fishermen.

I strongly urge my colleagues to support the Metcalf amendment.

Ms. FURSE. Mr. Chairman, I rise to support my friend from California's amendment.

Commercial fishing is one of the Nation's oldest industries. It contributes $111 billion annually to our national economy and creates jobs for 1½ million Americans. Obviously, to maintain a healthy and viable fishing industry, we must protect the habitat in which these valuable fish live.

H.R. 39 currently contains language requiring that fishery plans address the problem of habitat degradation. But it fails to include one significant cause of habitat damage—damage caused by fishing itself. Fishing gear such as trawl nets that are dragged along the bottom of the ocean floor can have a very significant impact on the productivity of essential fishery habitat.

The Farr amendment would improve upon H.R. 39's habitat protection provisions by fixing this shortcoming.

If we're going to look at other sources of habitat degradation, it is only fair that we also require the fishing industry to make sure it's not also contributing to the problem. Anything less would be hypocritical.

The fishing industry recognizes this and supports the Farr amendment. In particular, the fishermen and women of the west coast have endorsed this amendment. The Pacific Coast Federation of Fishermen's Associations says—and I quote:

> Habitat loss is the single most important threat to the health and productivity of this nation's fisheries. Everyone must do their share to restore that habitat to full productivity—including the fishing industry—and to protect essential fishery habitat whenever possible.

I urge my colleagues to join me in voting ''yes'' for this sensible and necessary amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FARR].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 162, not voting 19, as follows:

[Roll No. 717]

AYES—251

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker (CA)
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bilirakis
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Burr
Canady
Castle
Chrysler
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cunningham
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Heineman
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hoyer
Hutchinson
Inglis
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Kleczka
Klink
Klug
LaFalce
LaHood
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Nadler
Neal
Neumann
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Reed
Regula
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Souder
Spratt
Stark
Stokes
Studds
Stupak
Talent
Tanner
Taylor (NC)
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Woolsey
Wyden
Yates
Young (FL)
Zimmer

NOES—162

Allard
Armey
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bevill
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cubin
Danner
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Fields (TX)
Fowler
Frank (MA)
Franks (CT)
Frisa

Funderburk	Lincoln	Rogers
Gallegly	Linder	Rohrabacher
Gekas	Livingston	Royce
Geren	Longley	Saxton
Goodling	Lucas	Schaefer
Graham	McCollum	Schiff
Gutknecht	McCrery	Shadegg
Hall (TX)	McHugh	Shuster
Hancock	McInnis	Sisisky
Hansen	McIntosh	Skeen
Hastert	McKeon	Skelton
Hastings (WA)	Metcalf	Smith (TX)
Hayes	Mica	Smith (WA)
Hayworth	Molinari	Solomon
Herger	Montgomery	Spence
Hilleary	Moorhead	Stearns
Hoke	Murtha	Stenholm
Hostettler	Myers	Stockman
Houghton	Myrick	Stump
Hunter	Nethercutt	Tate
Hyde	Ney	Tauzin
Istook	Norwood	Taylor (MS)
Jacobs	Nussle	Thomas
Johnson, Sam	Ortiz	Thornberry
Jones	Orton	Tiahrt
Kim	Oxley	Torkildsen
King	Packard	Traficant
Knollenberg	Parker	Vucanovich
Kolbe	Paxon	Waldholtz
Largent	Pickett	Watts (OK)
Latham	Pombo	Weldon (FL)
LaTourette	Quillen	Wicker
Laughlin	Radanovich	Wilson
Lewis (CA)	Rangel	Wolf
Lewis (KY)	Riggs	Young (AK)
Lightfoot	Roberts	Zeliff

NOT VOTING—19

Archer	Fields (LA)	Scarborough
Barton	Gibbons	Tejeda
Bateman	Jefferson	Tucker
Cardin	Mfume	Volkmer
Chapman	Oberstar	Wynn
Clay	Peterson (MN)	
Collins (MI)	Pomeroy	

□ 1133

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Scarborough against.

Mr. SAM JOHNSON of Texas and Mrs. FOWLER changed their vote from ''aye'' to ''no.''

Messrs. BALDACCI, HEFLEY, TALENT, WELLER, GUNDERSON, and ENGLISH of Pennsylvania changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BUNNING of Kentucky). Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. METCALF

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

The Clerk read as follows:

Amendment offered by Mr. METCALF: Page 48, line 4, after ''time'' insert'', in accordance with the terms of the plan and regulations issued by the Secretary,''.

Page 50, strike lines 1 through 6 and insert the following:

''(5)(A) An individual quota system established for a fishery may be limited or terminated at any time if necessary for the conservation and management of the fishery, by—

''(i) the Council which has authority over the fishery for which the system is established, through a fishery management plan or amendment; or

''(ii) the Secretary, in the case of any individual quota system established by a fishery management plan developed by the Secretary.

''(B) This paragraph does not diminish the authority of the Secretary under any other provision of this Act.

Page 55, beginning at line 12, strike ''1997, submit recommendations—'' and insert ''1997—''

Page 55, line 14, after ''(i)'' insert ''submit comments''.

Page 55, line 18, after ''(ii)'' insert ''submit recommendations''.

Page 47, line 11, strike '', and'' and insert a semicolon.

Page 47, line 12, insert ''(ii)'' before the text appearing on that line, and move the left margin of that line 2 ems to the right.

Page 47, line 14, strike ''(ii)'' and insert ''(iii)''.

Page 47, line 17, strike ''(iii)'' and insert ''(iv)''.

Page 50, line 7, strike ''(6)'' and insert ''(7)''.

Page 50, after line 6, insert the following new paragraph:

''(6) This subsection does not require a Council or the Secretary to amend a fishery management plan in order to comply with paragraph (1)(D)(i) or (ii) with respect to an individual quota system, if the plan (or an amendment to the plan) established the individual quota system before the date of enactment of the Fishery Conservation and Management Amendments of 1995.

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

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

There was no objection.

Mr. METCALF. Mr. Chairman, this amendment is a narrow one. It does not address the issue of how the new guidelines will affect future individual programs. The amendment addresses only existing individual programs, and it addresses them in only one way. It provides that the existing programs would not be required to be revised in order to minimize the effects on local coastal communities.

In considering the amendment, it is also important to know that existing law already requires that the interests of coastal communities be considered in the development of individual quota systems. The development of those systems also must take into consideration an array of other interests.

The individual fishing quota plan for the halibut and sablefish fisheries of the Bering Sea and Gulf of Alaska, in particular, took 10 long years to be developed. Hundreds of members of the public, including those from local coastal communities, gave testimony before the North Pacific Fishery Management Council in scores of meetings held in many Alaskan towns and in Seattle, WA.

The plan was subjected to close analysis in an environmental impact statement and regulatory flexibility analysis, which were reviewed by the public, the Council, and the Department of Commerce. The Secretary of Commerce approved the program after full opportunity for public comment on the plan and the regulations to implement it. The formal administrative record for the program is 10 feet high.

While features of the plan should be more than sufficient to comply with the new guideline requiring that impacts on communities be minimized, some Commerce Department official or Federal judge might decide otherwise. That could result in an elaborate and costly reconsideration of the program. At the end of the revision process, the public and the fisheries managers could find themselves confronted with another stack of administrative papers 10 feet high.

If the North Pacific Council and the Secretary wish to revisit the issue of coastal communities, that is their prerogative under prevailing law. My amendment simply makes it clear that the system should not be required to be revised due to a possible interpretation of a single new guideline in H.R. 39.

I urge my colleagues to agree to my amendment.

Ms. DUNN of Washington. Mr. Chairman, will the gentleman yield?

Mr. METCALF. I yield to the gentlewoman from Washington.

(Ms. DUNN of Washington asked and was given permission to revise and extend her remarks.)

Ms. DUNN of Washington. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment of the gentleman from Washington [Mr. METCALF]. This is a fairness amendment. I ask my colleagues to support it.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the gentleman's amendment. The gentleman has been working very diligently and hard with me to try to resolve our differences. It was never my intention that the new individual quota system guidelines developed and incorporated in this bill cause a major disruption to already existing ITQ's. I mentioned that to the gentleman from California [Mr. MILLER] and the gentleman from Massachusetts [Mr. STUDDS] a moment ago.

The gentleman is well aware of my general opposition to ITQ's, but I also stated I do not want Congress to overturn any plans implemented already or taken advantage of by those people that follow the present law.

This amendment clarifies the authority of the Secretary of Commerce in regard to amending or limiting fishery management plans. It also clarifies that this legislation will not cause a reallocation of already issued quota shares. It does, however, allow the Councils to make revisions to existing ITQ plans, which is consistent with the Council's current authority.

Mr. Chairman, I urge the adoption of the amendment.

Mr. STUDDS. Mr. Chairman, I rise in brief, muffled opposition to the amendment.

Mr. Chairman, in the past we have always required existing fishery management plans to be amended to comply with any new requirements of the act. I think to start exempting plans or particular aspects of plans from new

requirements, as this amendment would do, would set an unfortunate precedent that I myself cannot support, although I recognize the realities of the situation.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington [Mr. METCALF].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. UNDERWOOD

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

The Clerk read as follows:

Amendment offered by Mr. UNDERWOOD: Designate the existing text as title I, and at the end of the bill add the following new title:

TITLE II—INSULAR AREAS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Pacific Insular Areas Fisheries Empowerment Act of 1995''.

SEC. 202. FINDINGS AND POLICY.

(a) FINDINGS.—Section 2(a) (16 U.S.C. 1801(a)) is further amended by adding at the end the following:

''(10) The Pacific Insular Areas of the United States contain a unique historical, cultural, legal, political, and geographic circumstance, including the importance of fisheries resources to their economic growth.''.

(b) POLICY.—Section 2(c) (16 U.S.C. 1801) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting '' and''; and

(3) by adding at the end the following new paragraph:

''(7) to assure that the fishery resources adjacent to Pacific Insular Areas, including those within the exclusive economic zone of such areas and any Continental Shelf fishery resources of such areas, be explored, exploited, conserved, and managed for the benefit of the people of each such areas.''.

SEC. 203. DEFINITIONS.

Section 3 (16 U.S.C. 1802), as amended by section 4 of this Act, is further amended by redesignating paragraphs (39) and (40) as paragraphs (40) and (41), respectively, and by inserting after paragraph (38) the following new paragraph:

''(39) The term 'Pacific Insular Area' means American Samoa, Guam, or the Northern Mariana Islands.''.

SEC. 204. FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS.

(a) AUTHORITY FOR FOREIGN FISHING UNDER A PACIFIC INSULAR AREA AGREEMENT.—Section 201(a)(1) (16 U.S.C. 1821(a)(1)), as amended by title I of this Act, is further amended by inserting ''or (e)'' after ''section 204(d)''.

(b) AUTHORITY TO ENTER INTO A PACIFIC INSULAR AREAS AGREEMENT.—Section 202(c)(2) (16 U.S.C. 1822(c)(2)) is amended by inserting before the period at the end the following: ''or section 204(e)''.

(c) PACIFIC INSULAR AREA AGREEMENTS.—Section 204 (26 U.S.C. 1824), as amended by section 5 of this Act, is further amended by adding at the end the following:

''(e) PACIFIC INSULAR AREAS.—After consultation with or at the request of the Governor of a Pacific Insular Area, the Secretary of State, in concurrence with the Secretary and the appropriate Council, may negotiate and enter into a Pacific Insular Area Fishery Agreement (in this subsection referred to as a 'PIAFA') to authorize foreign fishing within the exclusive economic zone adjacent to such Pacific Insular Area or for Continental Shelf fishery resources beyond such zone.

''(2)(A) Fees pursuant to a PIAFA shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section.

''(B) The Secretary of Commerce, in consultation with the Governor of the Pacific Island Insular Area, may establish, by regulation, the level of fees which may be charged pursuant to a PIAFA. The amount of fees may exceed administrative costs and shall be reasonable, fair, and equitable to all participants in the fisheries.

''(C) amounts received by the United States as fees under this paragraph shall be deposited in the general fund of the Treasury and shall be used, as provided in appropriations Act, for fishery conservation and management purposes in waters adjacent to the Pacific Insular Area with respect to which the fees are paid.

''(3) A PIAFA shall become effective according to the procedures of section 203.

''(4) The Secretary of State may not negotiate a PIAFA with a country that is in violation of a governing international fishery agreement in effect under this Act.

''(5) This subsection shall not be considered to supersede any governing international fishery agreement in effect under this Act.''.

SEC. 205. ENFORCEMENT.

Section 311 (16 U.S.C. 1861) is amended by adding at the end the following new subsection:

''(f) ENFORCEMENT IN THE INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas shall, to the greatest extent practicable, support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.''.

SEC. 206. CONFORMING AMENDMENTS.

(a) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking ''204 (b) or (c)'' and inserting ''204 (b), (c), or (e)''.

(b) Section 311(g)(1) (16 U.S.C. 1861(g)(1)) is amended by inserting after the citation ''201 (b) or (c)'' the words ''or section 204(d)''.

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Guam?

There was no objection.

Mr. UNDERWOOD. Mr. Chairman, my amendment would allow the U.S. Territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands to responsibly develop an important natural resource and to receive the benefits of that development. I want to reiterate the policy statement in section 202(b) of my amendment, that it is Congress' intent to:

> assure that the fishery resources adjacent to Pacific Insular Areas, including within the exclusive economic zone of such areas and any Continental Shelf fishery resources of such areas, be explored, exploited, conserved, and managed for the benefit of the people of each such areas.

My amendment authorizes fisheries development in the exclusive economic zone adjacent to the Pacific territories through Pacific Insular Area Fisheries Agreements. These agreements would be entered into by the Secretary of State in consultation with the Secretary of Commerce, the Western Pacific Regional Fishery Management Council, and the Governor of the affected U.S. territory. Under my amendment, permits and licensing fees levied on foreign vessels would be used by the participating U.S. territory for fisheries conservation and management purposes in the waters adjacent to the affected insular area. It is also our intent that the schedule of fees, and the portion of fees to be received by each participating territory when there is an overlap of interests, would be developed in joint consultation by the Governors of Guam, American Samoa, the Northern Mariana Islands, and the Western Pacific Regional Fishery Management Council.

Under current law, any economic benefit from licensing fishing vessels would not accrue directly to the territories. Violations of the exclusive economic zone surrounding the territories by foreign fishing vessels are common. In fact, in the same week the House Committee on Resources considered the Magnuson Act, two Japanese vessels were seized by the U.S. Coast Guard in waters adjacent to Guam for illegal fishing.

Mr. Chairman, I should also point out that the Magnuson Act does not allow displacement of domestic fishermen by foreign fishermen.

□ 1145

Foreign vessels would be licensed only for the portion of the allowable catch that is not harvested by domestic fishermen. An important benefit of my amendment would be the increased incentive for foreign fleets to self-regulate foreign fishing in these areas.

Those licensed to fish in our waters would have an interest in reporting those vessels that are fishing illegally. A database would be developed that would help us gauge the true potential of our fishing resources and this information would help us to develop a domestic fishing industry in the Pacific territories.

My amendment is modeled on draft legislation developed by the joint Federal-insular area fisheries working group and endorsed by the Western Pacific Regional Fishery Management Council. Participating in that working group were territorial governors and the Departments of Interior, Commerce, and State.

Mr. Chairman, this amendment is the product of the collaborative efforts of the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources, the gentleman from Massachusetts [Mr. STUDDS], and their staffs. In addition, the Western Pacific Regional Fishery Management Council worked with us and supported our efforts.

The people of the Pacific have responsibly managed their resources for thousands of years. This amendment gives us a valuable tool to develop our fishing resources and contribute to the development of the island economies of the Pacific insular areas.

Mr. Chairman, I again thank the gentleman from Alaska [Mr. YOUNG], the

gentleman from California [Mr. MILLER], and the gentleman from Massachusetts [Mr. STUDDS] for their interest and support of Pacific territories and I urge our colleagues to vote in favor of this amendment.

But as my experience in the crafting of this amendment, and in fishing in the past, has borne out, we do not catch everything we want, and sometimes we get things we do not want, but we are happy we went fishing anyway.

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

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the last word. I rise today in strong support of the Underwood amendment, the Pacific Insular Areas Fisheries Empowerment Act of 1995.

Mr. Chairman, the U.S. insular areas have been under fire lately. Early this year, the delegates from the territories and the District of Columbia had their symbolic votes on the floor of the House taken away. Included in the future agenda is a plan to take away the tax coverovers currently in existence, and the possessions tax credit is on the chopping block as part of the budget reconciliation package in both the House and Senate.

It is clearly time for the leaders in the insular areas to be more resourceful in attracting new business and new forms of revenue. The Pacific Insular Areas Fisheries Empowerment Act of 1995 is one step in that direction.

As has already been stated, in coordination with the U.S. Government, this provision will enable the Pacific U.S. insular areas to charge fees to foreign fishing vessels which wish to fish in the exclusive economic zones surrounding these insular areas.

The U.S. Government does not incur any additional expense because of this change in the law, but the insular areas benefit through increased revenue, and the anticipated assistance of permit holders in reporting violations of fishing rights in the local EEZ's. Any revenues collected must be used for fishery conservation and management purposes in waters adjacent to the insular areas. This is a true win-win scenario for all involved.

It is my understanding that the administration supports this provision.

I want to thank Congressman UNDERWOOD for taking the lead on this issue and crafting legislative language acceptable to the leadership in the insular areas, the majority in the House, and the administration. I also want to thank Chairman YOUNG, Chairman SAXTON, and Congressmen MILLER and STUDDS, the senior Democratic members on the relevant committee and subcommittee for their support of this provision.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I thank the two gentlemen who have been speaking previously. We have worked very hard on this legislation. Frankly, I am pleased with the efforts that have been put forth.

Mr. Chairman, I believe it is important to get these Pacific insular areas involved in conservation and management of the fisheries resources off of their coasts.

Foreign vessels have been reported to be fishing illegally in the 200-mile Exclusive Economic Zone off the coast of these insular areas and they are part of our great United States. Frankly, when the gentleman from Guam [Mr. UNDERWOOD] walked in a while ago, I asked the gentleman to vote with me, and forgot he had lost his vote; both of the gentlemen. This is one time that I would frankly like to have the gentlemen's votes.

Mr. Chairman, I again support this amendment as it has been proposed and compliment the two gentlemen.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would like to join in commending the gentleman from Guam [Mr. UNDERWOOD]. This is important to the insular areas and I am delighted that it could be worked out.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I urge the passage of the amendment.

The Chairman pro tempore (Mr. BUNNING). The question is on the amendment offered by the gentleman from Guam [Mr. UNDERWOOD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK of Massachusetts: Page 50, line 17, strike ''(c) FEES.'' and all that follows through Page 52, line 18, and renumber paragraphs accordingly.

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, this amendment becomes, I think, even more logical with the adoption of the amendment of the gentleman from California [Mr. MILLER]. What we have here is the establishment of the individual quota system. it has been the individual transferable quota, but I guess it is no longer that, thanks to the gentleman from California.

Mr. Chairman, what this does is mandate in the bill before us that the Secretary impose fees on the fishermen who receive these individual quotas, not simply to recover the cost to the Government of administering it, but as a revenue raiser.

Now, the law, without this bill, gives the authorities the ability to recover any costs. So, fees imposed for the purposes of cost recovery will not be affected by my amendment.

The policy question is: should we go to the fishermen who are receiving these individual quotas and make them pay revenues that will help support other parts of the Government?

It is true that from one perspective the individual quotas are a benefit. They are a benefit compared to the people that do not have individual quotas. But they are a reflection of the restrictions we have imposed for conservation purposes. In other words, it is looking at only half the picture to say, ''Oh, there are these people and they get the quota and they can fish and other people cannot.''

Mr. Chairman, I think we all agree that the people involved would rather not have the quotas. They would rather there not be such a system. They would rather simply be able to fish. The individual quotas come in as part of a very restrictive scheme. Restrictions are required, we can debate exactly how much, because of conservation.

But what we have is this situation: Fishermen today, compared to some time ago, are being significantly restricted in what they can catch. That is mandated by the needs of conservation. To logically organize this restrictive system, we are giving individual quotas. The question is, should these fishermen who represent an industry that is already being hit by economic problems, an industry that is already being put upon, should they then, as they are being told they can fish less, have to pay more? Should they pay an additional tax?

So, Mr. Chairman, saying to people that have individual quotas, ''You are lucky,'' remember, these are people who would rather not have the quota. Telling them they are lucky is like the people who told George Orwell, who fought in the Spanish Civil War and was shot in the neck and when he got out of the hospital some people said to him, ''You are a lucky person, because you were shot in the neck and recovered.'' And he said, ''Well, I have to think that all the people who were never shot in the neck in the first place are even luckier than I am.'' To tell the people who have individual quotas that they are lucky, I think that they would say, ''You know who is even luckier? The people who are allowed to go about their businesses and their lines of work without these restrictions.''

Individual quotas are not a benefit. They are an effort to make a restrictive regime more manageable. To go to the people who have received this restrictive regime, the people in the fishing industry, and say to them as part of what they are getting in terms of restrictions, we are going to make them pay for the cost of administering their system, not simply what it cost the Government, this goes beyond recovery.

But we are going to make some money off the fact of their restrictions.

We are going to impose this restrictive regime which individual quota is a part of on them, and as part of that we are going to make a profit. We, the Government, because we are going to mandate that a fee be charged.

Mr. Chairman, in the prior situation, if they could sell the quota, then I think they should have to make a percentage payment to the Government. I was going to have my amendment reflect that and if we still had the quota as a salable item, like taxi medallions, yes, the Government should get a share of that. But thanks to the gentleman from California [Mr. MILLER], the quotas are not transferable.

So, Mr. Chairman, what we are talking about is in this restrictive regime, we are saying to fishermen that they cannot fish as much as they used to. They are under restrictions. But in consequence of our not driving them totally out of business, in recognition of the fact that we are going to let them fish some, although less than they used to, we are going to make them pay a fee not simply to administer this, but for the Government to make a profit off of it.

Mr. Chairman, I think that is inappropriate and, therefore, my amendment leaves everything else in this bill in place, but it says to the fisherman who was not driven out of business entirely, but instead restricted, he will not be required to pay a fee over and above what it costs us to administer this. We are not going to make any money off of him.

Mr. Chairman, I hope my amendment is adopted.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I reluctantly but strongly rise in opposition to the amendment of the gentleman from Massachusetts [Mr. FRANK]. No. 1, this is relatively a new amendment. We just received it today.

No. 2, the amendment would strike in this language the Secretary's ability to charge fees for the management and implementation and enforcement costs of the individual transferral quota system. And for those Members that might be watching this program in their offices, the IDQ's or IFQ's really are a license restriction, like a liquor license. Merchants cannot sell liquor within a certain area or in competition within another area. This gives an exclusive right of a public resource to a fisherman; a boat, a captain, or a fisherman.

All we are asking in this is a minimal fee to help pay the costs of applying this application of IFQ's and IDQ's to these individuals.

Now, as far as saying they are going to catch less, that is not necessarily true. In fact, the quota for the catch is now dispersed among those that got the IDQ's and not the overall general public. In fact, they will probably catch more fish instead of less fish.

But what we are saying is if this costs the Federal Government money to give exclusive rights to that public resource, then that person who receives those exclusive rights ought to be able to, and willing to. By the way, in the committee hearings, most, I would say 99 percent of those that are affected by the IDQ's, supported the concept of paying a minimal fee to implement the act. I want to stress that.

Mr. Chairman, this gives the chance for the Government to recover some of the costs of implementing the IDQ's and IFQ's. It also, in fact, is supported by those that get and have been issued these quotas.

May I say it is only for the quotas that have been issued today and not retroactive and not prospectively in the future. I am going to suggest that if we were to take this away, if my colleagues believe in a free lunch, then they would vote for this amendment. If they believe, as those people receiving the IFQ's and IDQ's, that they ought to participate in the program and pay for the cost, they will defeat the amendment.

Mr. FRANK Of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I may have misunderstood it, but as I read the language, the existing statute, which I had understood was not being amended, gives the Secretary the right to recover the cost of administering the system. And as I read this, it seemed that the fee being mandated here could go beyond that, that that linkage was being weakened.

If the understanding is that they are not to charge any more than the cost of administering, that is one thing. But it did seem to me that 4 percent of the value of the fish, that would be a pretty expensive permitting process.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, in determining the amount of fee under this paragraph, the Secretary shall ensure the amount is ccommensurate with the cost of managing the fisheries with respect to the way the fee is collected, including reasonable cost for salaries and data analysis and other costs directly related to fishery management and enforcement.

Mr. Chairman, I am, frankly, not a lawyer, and the gentleman from Massachusetts is, but if there was an exorbitant amount of fee and the money was given to the Treasury, the Secretary would be open to a lawsuit.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman would continue to yield, there is a difference. The existing law says the level of fees charged under this subsection shall not exceed the administrative fees in covering the permits. The Language the gentleman just read allows the fee on the individual quota to include other costs directly related to fishery management and enforcement far beyond whatever you get for the license.

Mr. YOUNG of Alaska. Mr. Chairman, again reclaiming my time, I do not believe it does that. What we have attempted to do, and may I stress the fact again that this person the IDQ has been given to by the council, and all of this helps pay for the cost of the administration of that program. That is all it does. And no more money goes to the general Treasury and there is no more added cost.

Mr. Chairman, we are not going to balance the deficit on this. I truthfully think that if we are going to talk on this floor about mining royalties, about below-cost timber sales, about all the other good things, then we ought to be considering if we give someone an exclusive right. Now remember, I am not talking about all the fishing fleet. I am talking about the exclusive right, exclusive to catch that fish. He excludes everyone else; then he has told us that he would be willing to pay a share to manage this program.

□ 1200

I have heard no objection from this. This is why I am surprised at the amendment, frankly.

In the hearings we heard none. I can ask the gentleman from Massachusetts, the gentleman from California, the gentleman from Connecticut [Mr. GEJDENSON], which I am reluctant to ask anything, but if in reality did they hear at any time, and I yield to the gentleman from Connecticut, being that I mentioned his name, I will yield to the gentleman from Connecticut.

Mr. GEJDENSON. I was almost about to agree with the gentleman. But I may still agree with you. I would say, no matter what the issue at hand is, though, on the fisheries, the magnitude of how much the taxpayers get ripped off in mining and in timber still outweighs anything involved in this issue, it is wrong to even bring it in.

Mr. YOUNG of Alaska. Reclaiming my time, I do not want to hear speech A.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I will be nicer. Maybe the difference is not as great as we think.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(At the request of Mr. FRANK of Massachusetts, and by unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 2 additional minutes.)

Mr. FRANK of Massachusetts. If the gentleman will yield further, I have heard complaints. The complaints have been from people who say, frankly, at least in my area, these are part of a restrictive regime which is mandated by conservation, and they do not want to have to pay for more than the cost of administering the system, and I would say to the gentleman, as I read the language on 51 and 52, there is a difference in the current law. If he tells me that is not all that intentional, maybe we

can narrow this. That is, if we are talking about a fee that is to cover essentially the cost of the individual quota system, that is one thing. If the gentleman is saying to me it was not intended this would go to broader enforcement, because it does say fishery management enforcement, but that it would not deal with matters, you could not charge a fee for matters unrelated to the administration of the quota system, that includes people overfishing.

Mr. YOUNG of Alaska. Reclaiming my time, this goes just for not only issuing the permit but enforcing the permit and all the paperwork. Just one set of IDQ's costs the Government 3 million taxpayer dollars. I never heard anybody object to participating, we are talking about a very small fee here, participating because they have an exclusive right, and, you know, I am still a little bit befuddled here by where this pressure is coming to eliminate the Secretary's right to collect a fee.

Mr. FRANK of Massachusetts. I will explain it. It came from people who read it, as I read it, and I did not read that language as restrictively as the gentleman has interpreted it, and with the understanding that it is not intended to be more than cost recovery for the actual administration and enforcement of this system, I would withdraw the amendment if I got unanimous consent and ask the gentleman to be able to work with him if we got to conference. I would urge that.

Mr. YOUNG of Alaska. We will continue to work with the gentleman, because that is intent of the amendment.

Mr. FRANK of Massachusetts. If the gentleman would yield further, I would ask if we could agree we could try to work out language to make it exactly clear so there is no ambiguity and other people would not get the same misimpression I have gotten. We would not have a problem.

Mr. YOUNG of Alaska. We will work with the gentleman as I have always worked with the gentleman.

Mr. FRANK of Massachusetts. Yes, the gentleman has.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

AMENDMENT OFFERED BY MR. GILCHREST

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

The Clerk read as follows:

Amendment offered by Mr. GILCHREST: Page 4, strike line 19 and all that follows through page 5, line 14, and insert the following:

(4) by amending paragraph (21) to read as follows:

''(21) The term 'optimum', when used in reference to the yield from a fishery, means the amount of fish which—

''(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, taking into account the protection of marine ecosystems;

''(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by an relevant, social, economic, or ecological factor, and

''(C) in the case of an overfished fishery resource, provides for rebuilding of the resource to a level consistent with providing the maximum sustainable yield from the resource.'';

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

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

There was no objection.

Mr. GILCHREST. Mr. Chairman, as children, many of us heard the story of the goose that laid the golden egg and the folly of the man who killed the goose to eat it. The same principle applies to marine fisheries.

Every year, each fishery provides us with a harvest of fish for our consumption and recreation. But each species must maintain a certain population in order to reproduce and maintain the stock, and if we overfish the stock, we impair the ability of the resource to renew itself.

The collapse of the New England fishery is an example of what happens when we exceed the maximum sustainable yield of a fishery. They deep fry the goose that laid the golden egg.

Our constituents have had to pay millions of dollars to bail out fishermen who lost their livelihood as a result of the failure to manage the resource. Current law allows fishery management councils to allow a stock to be overfished for short-term social or economic reasons. This was one of the main contributors to the collapse of the New England ground fishery.

The bill before us, while good in many ways, does not change the tragic flaw in the Magnuson Act, leaving open the possibility other fisheries will collapse in the future, requiring more bailouts. The principle is simple: In order for a fish stock to replenish itself, a certain base population must be maintained, and in order to maintain that population, a cap must be placed on the number of fish which can be caught. This limit is called the maximum sustainable yield for the fishery.

The way this works is similar to principal and interest in a savings account. As long as we only spend the interest in our savings account, the principal will perpetually replace that interest for us. If we spend down the principal investment, then we impede our ability to get future investment and future interest.

The amendment essentially says we can only catch that portion of the fish that represents interest. This is called the maximum sustainable yield. Without touching the principal, fish, that being the critical population necessary to replenish the stock year after year, we will continue to have fish.

I should emphasize this is not a new concept. We have been calculating maximum sustainable yield for fisheries for many years. The unfortunate fact, however, is that many fishery management councils simply choose to exceed MSY to serve short-term economic interests. I realize most people believe this is an environmental amendment, and I agree to a certain extent it is. Even if overfishing had no environmental impact at all, economics would still argue for this amendment.

Overfishing leads to unemployment, shortages of certain seafood and, in many cases, taxpayer bailouts for fishermen who lose their jobs because there is no more fish.

You do not have to care about the environment to oppose mismanagement of a publicly owned resource.

Some opponents of this amendment will claim that it will prevent fishery management councils from allowing overfishing of so-called trash fish that threaten populations of commercial fish. This argument is its own species of trash fish, and that is, it is a red herring. It is true two fisheries have called for fishing down two species, the arrowtooth flounder and Atlantic mackerel. Both of these species could be fished at several times their current rate without violating the provisions of this amendment.

This amendment will not prevent fisheries from reducing populations of trash fish which threaten commercial fish populations.

We have two choices here: We can manage and preserve the resource, or we can exploit the resource and lose it. I want to call your attention, if the camera can just look at this so people can see this back in their offices, take a look at this chart. In 1900, the number of fishermen compared to the number of fish. Now, 1995, look at the number of fish compared to the number of fishermen, and include the following, there are sonar finders on each one of these ships, there is hydraulic gear, spotter planes, there is onboard processing equipment, there are satellite communications systems. We went in 1900 from this to 1995 to this.

There has to be some sense of a management tool to preserve the stock so we can preserve the fisheries.

Now, there is a bright spot in all of this. There is a bright spot. In the mid-Atlantic region, striped bass or rockfish in 1985 was commercially extinct. When we injected some reasoned management in this to prevent overfishing, 1995, with some sense in the management, the rockfish, striped bass, are fully recovered. This would not have happened if we did not inject some science to prevent overfishing.

If we want to preserve the fishing industry, I encourage you to adopt my amendment.

Ms. FURSE. Mr. Chairman, I rise in strong support of the Gilchrest amendment. It is a commonsense amendment. It has been endorsed by the Pacific Coast Federation of Fishermen's Associations. That is the Nation's largest organization of commercial fishermen and women who fish the west coast.

I really want to compliment my colleague for introducing this very, very

sensible amendment, and I urge that my colleagues support it.

Mr. Chairman, I rise in strong support of the Gilchrest amendment.

This is a commonsense amendment.

It does not take a rocket scientist to figure out that if we catch more fish than are produced in a given year then we will decrease that fish population. And if we continue to do this year after year, we may deplete that species to levels so low that we cannot harvest them at all. If there is no fish to catch, then the fishermen and women who rely on those fish for their livelihood cannot make a living, cannot pay their bills, and cannot feed their families.

If we want to prevent this overfishing that leads to economic tragedy for our fishing communities, then we need to harvest within the biological limits of the fish population. It is that simple.

The Gilchrest amendment would ensure the long-term sustainability of the U.S. fishing industry by changing how annual fish quotas are calculated so that they never exceed the biological limits of the fish population being harvested. In this way we can prevent overfishing before it happens and causes economic disruption to fishing communities.

This amendment has been endorsed by the Pacific Coast Federation of Fishermen's Associations, which is the Nation's largest organization of commercial fishermen and women on the west coast.

It is not often that an industry comes to Congress and asks for stronger regulations, yet fishermen and women are calling upon us to pass this amendment to protect the long-term viability of their livelihood. Who are we to deny this request to assist them in better managing their economically vital industry?

I strongly urge my colleagues to support this well thought out and commonsense amendment.

Mr. GILCHREST. Mr. Chairman, will the gentlewoman yield?

Ms. FURSE. I yield to the gentleman from Maryland.

Mr. GILCHREST. I thank the gentlewoman for yielding.

What I would like to do is just give a demonstration of what overfishing is. If you look at this chart up here, sustainable fishing, you can only take what the fish can make. I am going to show you what a sustainable fishing management plan does.

If you look at the green fish up here, this is considered that catch. If you look down here, you see breeding and juveniles. These are the fish that actually have the potential to reproduce themselves. Sometimes fish have to be 9 years old before they can reproduce. Sometimes they have to be older than that.

A sustainable fishery plan works as follows. Just watch this. You take the catch. You look down here, those 10 fish can be replaced with the number of spawning fish at the bottom. This is like being back in a classroom. Now they are replaced. What we can do down here, there are still a number of fish that can grow and respawn. That is a fishery management plan that brought the rockfish or the striped bass back in the mid-Atlantic States.

I am going to show you what happens if you do not have a management plan. You exceed maximum sustainable yield. You take more of the spawning in the catch than can be replaced.

When you do down that far, the only thing that can be replaced are now three. The next year, since fishermen are used to catching what they have caught the previous year, you are going to go further down into the breeding population, into the juvenile population, and what you have is a fishery that collapses. We have seen it in New England. We have seen in the Gulf of Mexico. We have seen it around the coastal areas of the United States.

The United States has more coastal fisheries waters than any country in the entire world, but unfortunately, because occasionally there has been mismanagement, we are a net importer of fish. If we want to sustain the fishing industry, which is worth billions of dollars, if we want to sustain fishermen who need to support their families, I will give you an example: In 1986, in the Gulf of Mexico, the average wage for a fisherman was $39,000. Now, 1995, the average wage for a fisherman in the Gulf of Mexico is $29,000. That is because they expend much more time trying to catch fewer fish.

I encourage you, let us put some sense back into the management of one of the greatest laws this country has had, the Magnuson Act. I urge we include some science, we include some data to relieve the burden of the management councils from making these decisions. They receive this information from the National Marine Fishery Service, from the scientific statistical committee, from an advisory panel. They get this information. Let them use this information. They can allocate the amount of time you will be out there fishing. They can allocate the number of fishermen. They can allocate the months of the year that you do it.

Unless we manage the fisheries wisely, we are going to lose the fisheries in this country.

I urge adoption of my amendment.

Ms. FURSE. Reclaiming my time, I just want to thank the gentleman for certainly the most colorful and interesting dissertation on reproduction I have seen on the House floor.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

I am hard-pressed to compete with show-and-tell on television. That is one of the things that is wrong with our Congress today. It was well done.

But there is more to legislation than a show-and-tell program for those that promote one side of the issue. This issue was voted for in committee and thoroughly defeated. No one spoke in favor of this in the committee. Every council, the North Pacific, Pacific council, mid-Atlantic council, South Atlantic council, and the gulf council spoke against this amendment, and yet this body and the audiences exposed to a very good presentation, but it is not scientific. The issuer of setting optimum yield [OY], maximum sustainable yield, [MYSY], is a complicated one that fisheries management has been arguing about for years. It is not an easy issue. It is just not a little display with red fish and green fish and little fish and big fish.

If you believe in science, the scientists oppose this amendment. Yes, they do. There are some conservation groups or so-called preservation groups or antifishing groups that do support it.

□ 1215

Unfortunately, the thing that bothers me the most is that under this legislation, this amendment, the council will now be required to address those stocks which are overfished and institute a rebuilding of those stocks, including saber tooth flounder, which kill everything else that flows and grows in the ocean. And they may be God's creatures, but there are other creatures out there that in fact are the prey of the saber tooth flounder. And yet we are in the business of saying we are going to have sustained yield for all those fish that spawn and all those fish that we consume and all those fish that support the fishermen in the communities. We are also asking the council to manage them well enough where they have a sustainable yield, but under this amendment those which prey upon that other than the fish themselves, which in reality would be devouring those little fishes at the bottom of the scale.

Now, those that do not believe that man should be involved in this management program, I would vote for the amendment, too; if we want to exclude everybody out of it, including the fishermen, then I would vote for the amendment, too.

But I can suggest respectfully we have made great progress with the councils today. We are managing our fish much better. By the way, this is relatively a new law in the scope of time, 1976. And why did we pass this law? Because the foreign fleets literally were raping our seas and our fish and leaving nothing back but the carnage that they created.

This Congress finally decided we should Americanize our fleet. I tell you, we did make some mistakes, because we were unprepared to manage it. But every council, every region, the National Fishery Institute, and all the scientists that I know directly involved with this, oppose this amendment.

Again, I cannot compete with someone that is a professor that presents a very nice and simple explanation. But if you believe in the committee process and the testimony before the committees, one of my biggest disappointments in this body has been the lack of listening to those who testify and allowing amendments to come to this floor with really no backing or justification for them, other than to be interest-special to be presented to this

Congress, and because it has the pizazz, people vote for it. I understand that. We just went through one of those votes. It is easy. But the credibility of the legislation as we write a law is diminished when this type of event occurs.

Again, let me stress, every council, the National Marines Institute, Fishery Institute, everybody involved directly oppose this amendment.

Now, if the committee process means nothing, vote for the gentleman from Maryland's amendment. If you believe man should not be involved with the management of, vote for the gentleman from Maryland's amendment, and everybody will be happy. But if you believe in the process of science, the process of the councils, and the committee process, you will vote no on this amendment.

The gentleman is well intended, his intentions are honorable. The gentleman made a great presentation, and I compliment him. But this is a bad amendment and it should be rejected.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, again, I want to compliment the gentleman from Alaska, Chairman YOUNG, for bringing this measure to the floor, but I also want to talk for a moment just about why it is essential that we adopt amendments like this and the one we just adopted.

Since 1976, the United States has had exclusive jurisdiction over the, out to 200 miles, what we call the exclusive economic zone. That means that all of the activities, whether they be mining or fishing, sports or commercial, are regulated within that zone.

We are the only elected body that has responsibility for that, because all of that property is under public ownership. I think that the big debate on this whole bill is how we move forward in the 21st century being able to sustain a very vital activity which is labor intensive, and for every coastal community in the United States that has been historically the reason for that community existing, and that is its offshore fisheries.

We have seen, and, as I said before, I represent the Monterey Bay area, which was once the sardine capital of the world. We lost all that. The canneries shut down. We had massive unemployment. The fishermen stopped fishing. It was a really depressed area.

Why did it happen? It was because nobody took account of what was in balance, of trying to keep the fisheries in balance. What this amendment is all about is it essentially is a statement by those of us, Members of the U.S. Congress, who have taken the oath of office to manage these resources in a practical, reasonable manner, so that they are indeed this word that we use all the time now, sustainable, so that future generations can go out there and fish as well.

We have to manage it. The debate is on how you manage it. We have given that responsibility to these fishery councils. Do they manage every kind of fishery in the ocean? No. Do they get into certain commercial fisheries? Yes. Why do we have those councils? Because we need to have some local forum, where the debate about that particular fishery can be held and rules can be set. The season can be set, limited entry, if that is the issue, can be set, in a way in which we have been able to delegate the responsibility for looking at that fishery.

What these amendments are all about is giving that council a little bit more authority, saying look beyond just the fishery at hand, the ability for us to make money on a catch this year. Let us look at trying to sustain this over a period of time; and, indeed, if you are disturbing the hatchery, the very thing that is providing the commercial catch, you are going to wipe out that fishery.

As the gentleman from Maryland [Mr. GILCHREST] said, our Nation has jurisdiction over more ocean territory than any other country in the world, and is now a net importer of fish because we have lost so many of our fisheries. This importing of fish is essentially creating additional Federal trade debt.

So these amendments I think are very responsible amendments. We are the only ones in the United States, the only elected officials, that can deal with this issue, because we have exclusive jurisdiction over the economic zone of the oceans out to 200 miles, and these councils are wisely, as this bill states, the responsibility for managing those zones for a particular type of fishery.

I think if these councils have enough responsibility and enough jurisdiction to do it wisely, indeed, we can sustain these fisheries for generations to come. The fishermen that are there today and the fisherwomen there today, their generations and their grandchildren can go into that industry.

If we do not protect these fisheries, they are going to be a one time wipe out and nobody will be employed, and the processors will be shut down, the truckers will be shut down, and the commercial activity of fishing will be lost. That would be senseless, for the U.S. Congress until 1995 to wipe out one of America's most effective and historic industries.

So I urge an ''aye'' vote on this amendment.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not a simple question. I represent that area of the country probably most sadly impacted by the failure of inability of a council to wisely and effectively manage a resource, in the case of the New England ground fishery. We have seen, to our great pain, what happens when the loophole provided in the current statute allowing maximum yield to be exceeded for economic and social reasons is taken advantage of. It is something I think we need to think carefully about.

First of all, I want to thank the gentleman from Alaska [Mr. YOUNG], our chairman, for allowing a modification in the original text which is now in the bill in the case of an overfished fishery. The gentleman agreed with us in the case of a fishery that has already been overfished and depleted, that we ought under no circumstances allow the maximum yield be exceeded. I thank the gentleman, and I concur with him.

The question occurs and is raised by the gentleman from Maryland as to whether we need to go further, whether there ought to be any circumstances or in any fishery for any reason where we would allow the maximum yield to be exceeded.

Now, the gentleman, referring to his either saber tooth or saw tooth or arrow head flounder, I forget which flounder it is, is making, as I understand it, essentially an ecological argument that there may be cases, given the balance or imbalance of the stocks in the sea, when the maximum yield of one or more stocks may well want to be exceeded, for ecological reasons.

I am not a scientist, but I would concede to the gentleman that may be the case, and, if it is the case, we probably should allow for that with the best science we have, knowing, as the gentleman knows, as I do, that our science in these matters is at best imprecise. Unfortunately, we are cutting back on resources given to this research, which is, sad but another question.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. One of the problems we have though, if we in fact fish the saber tooth flounder, or arrow tooth flounder, or whatever it is, and by the way, for the audience listening, it looks like an ordinary flounder, but it has the worst set of teeth you can imagine. You cannot catch one because it cuts the line and everything else. If we try to fish them down there would be a lawsuit contrary to saying you are doing it for economic purposes because you are saving the salmon and cod and halibut.

Now, there is our catch-22. That is why when we make things mandatory, we do mess up the soup. I am very concerned about that. It is, by the way, an ecology-type question. But the gentleman sees what I am saying. If I fish down the arrow tooth flounder, supposedly to provide more halibut, cod, or whatever else is available, then I can be in fact accused, or the council can be, of fishing for economic purposes.

Mr. STUDDS. Mr. Chairman, reclaiming my time, I do not think we are disagreeing on this matter. By the way, I would not wish upon the gentleman the maximum yield of the arrow tooth flounder. I think we are only taking 10 percent of it at the moment. God knows what we would do with the other 90 percent.

But, let me say the current law, as the gentleman knows, and it is repeated in part in this bill, with regard to maximum sustainable yield, says ''as modified by any relevant economic, social, or ecological factor.''

I am not disagreeing with the gentleman with regard to ecological factors, whether it is the arrow tooth or any other flounder. We may in fact have a situation in New England that is somewhat analogous to that. We may, in the depletion of the traditional ground fish stocks, the cod, flounder, and haddock, have a disproportionately large and unnatural amount of, say, dog fish or skate or mackerel or something, which may be related to the fact that our human effort deleted the traditional commercial stocks. It may be, I do not know, but it may be we want to overharvest, if you will, the current supply of the new species in order to restore what was some semblance of the natural balance over time. That may be. And if it is, it is an ecological factor that the scientists need to take into account.

What I suggest to the gentleman is, conceding that, maybe the lesson we should draw from the tragedy in New England is we ought not to allow this maximum yield to be exceeded for economic or social reasons. That is where we made our fundamental mistake in New England.

I grant the gentleman, there might be a case to be made for ecological variation. But it would seem to me what we experienced in New England, to our horror, would say to us we ought not to allow the maximum yield to be exceeded for economic or for social reasons on the grounds that, you know, we have got to pay the mortgage next month or the next year, and the hell with the next decade or next century.

That is what got us where we are. That is the kind of shortsightedness that so damaged our ground fishery and I think bodes so ill for fisheries elsewhere.

So all I am saying to the gentleman is while I support this amendment as it is currently written, in the amendment, the unlikely event, that the gentleman from Maryland were not to succeed in prevailing upon the body with his wisdom, I would suggest we support this.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. STUDDS] has expired.

(On request of Mr. GILCHREST, and by unanimous consent, Mr. STUDDS was allowed to proceed for 2 additional minutes.)

Mr. STUDDS. I yield to the gentleman from Maryland.

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

Just a comment very quickly to the chairman of the full committee, and also I would say the ranking member of the full committee, the gentleman from Massachusetts [Mr. STUDDS]. These two gentlemen probably know more about fishing than anybody else in this Congress. I also want to compliment the gentleman from Alaska for dealing with this issue to protect the fishing industry.

Just a couple of quick comments about my amendment and how it would impact arrow tooth flounder. Right now, the allowable catch for arrow tooth flounder is 312,000 tons. What is being caught right now is 45,000 tons. So we can continue to catch a huge amount. I am not sure what you would do with it, but you can catch a huge amount more, and not come close to maximum sustainable yield.

I see the gentleman from Massachusetts, the other gentleman from Massachusetts, who has an issue with Atlantic mackerel, the allowable catch for Atlantic mackerel is 850,000 metric tons. What is actually harvested right now is 12,500 metric tons. So that means you could incurease both of these enormously without impacting the yield of this particular species.

What you need to do to catch more mackerel or more arrow tooth flounder is to find a market for it. But my amendment does not impact in any way the complexity of the ecology of the fisheries.

□ 1230

I also want to make one other comment about the number of organizations and people that are supporting this amendment. I have three pages of organizations, from fisheries institutes, from fishermen, from scientists, and so on.

Mr. STUDDS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, as I say, while I do intend to support the gentleman's amendment, and I hope that it prevails, I would really ask that all Members look carefully at what we have just gone through and are still going through and will be going through, unfortunately, for a good many years to come in New England. I think we are paying a heavy price for having allowed ourselves the luxury of modifying that yield for economic and social reasons.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to reluctantly oppose the gentleman's amendment, and I understand the arguments both he and my colleague from Massachusetts have been making.

I think if we went back in time perhaps 20 or 25 years, I would have no trouble supporting this amendment at all. But now we are in a situation where, as the gentleman from Massachusetts [Mr. STUDDS] pointed out, in the past, the yield for certain ground fishes off the coast of New England were altered for reasons that may be very arbitrary. However, those stocks are now depleted.

Mr. Chairman, the gentleman from Maryland makes the point that mackerel, an underutilized species, could be caught in a significantly greater numbers. I look at our role as trying to restore the balance to the fishing stocks somewhere close to where they were before. If we continue where we are now, we have very low numbers of ground fish, we have very high numbers of what are called underutilized species. Those species prey upon the young ground fish we say we are trying to restore.

So, Mr. Chairman, this amendment, the effect of it now, would actually make it more difficult to restore those ground fish stocks. I think the intent of the gentleman is positive. Again, if this had been proposed maybe 20 years ago I think I would support it.

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

Mr. TORKILDSEN. I yield to the gentleman from Maryland.

Mr. GILCHREST. Mr. Chairman, as far as Atlantic mackerel is concerned, we could catch 60 times more than we are catching now under my amendment. I do not think my amendment would prevent catching this particular mackerel to raise the stock of the ground fish.

Mr. TORKILDSEN. Mr. Chairman, the point on mackerel, on herring, and other underutilized species is that, literally, we have to, if you will, substantially increase the catch if we are going to quickly see the restoration of ground fish.

Now, the gentleman knows, because we have talked about this before, that there really is not a huge market for mackerel in the United States right now. There are efforts under way, some in Massachusetts, some in other States, to create markets for that. But even if the markets are not there, if we are serious about restoring our ground fish, we will have to look at what creatures in the environment are preying upon their young. Right now some underutilized species are in exactly that circumstance.

So, Mr. Chairman, I do rise to reluctantly oppose the gentleman's statement. I would hope we could work out some language to take in specific considerations, but in those areas where the environment is not in balance. I think we have to make exceptions. The amendment does not make exceptions that I think are adequate to restore the ground fish off the coast of New England, therefore, I do have to oppose the amendment.

The CHAIRMAN pro tempore (Mr. BUNNING of Kentucky). The question is on the amendment offered by the gentleman from Maryland [Mr. GILCHREST].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 304, noes 113, not voting 15, as follows:

[Roll No. 718]

AYES—304

Abercrombie
Ackerman
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Burr
Camp
Canady
Cardin
Castle
Chabot
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cremeans
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hefley
Hefner
Heineman
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Taylor (MS)
Thompson
Thornton
Tiahrt
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—113

Allard
Archer
Baker (LA)
Ballenger
Barr
Bateman
Bliley
Blute
Boehner
Bonilla
Bono
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Chambliss
Chenoweth
Coble
Coburn
Combest
Cooley
Crane
Crapo
Cubin
de la Garza
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Fields (TX)
Flanagan
Frank (MA)
Franks (CT)
Frisa
Funderburk
Hall (TX)
Hancock
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hostettler
Hutchinson
Istook
Johnson, Sam
Jones
Kaptur
Kim
Knollenberg
Largent
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Martinez
McCollum
McCrery
McInnis
McKeon
Metcalf
Mica
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Orton
Packard
Paxon
Peterson (FL)
Pombo
Quillen
Radanovich
Roberts
Rogers
Rose
Schaefer
Shadegg
Shuster
Smith (WA)
Solomon
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Torkildsen
Vucanovich
Wicker
Wolf
Young (AK)
Zeliff

NOT VOTING—15

Chapman
Collins (IL)
Durbin
Fields (LA)
Johnston
Kasich
McIntosh
Mfume
Parker
Riggs
Scarborough
Smith (MI)
Tejeda
Tucker
Wilson

□ 1253

Messrs. HUTCHINSON, ROBERTS, and DOOLITTLE changed their vote from ''aye'' to ''no.''

Messrs. KLINK, BREWSTER, and DEAL changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. BUNNING). Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

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

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. . SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) IN GENERAL.—Title IV, as amended by section 19, is further amended by adding at the end the following new section.

SEC. 402. SENSE OF CONGRESS; NOTICE TO RECIPIENTS OF ASSISTANCE.

''(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

''(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.''.

Mr. TRAFICANT. Mr. Chairman, this is a buy-American amendment that would, in fact, apply to the funds appropriated under this act. It has the support, from what I understand, of the chairman and the ranking Democrat.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I think the gentleman makes a great presentation of this buy-American amendment. He has been the leader in buy-American. He is so pro-American, that I will accept this amendment with open arms and embrace it and congratulate the gentleman.

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

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

Mr. STUDDS. Mr. Chairman, me too.

Mr. TRAFICANT. Mr. Chairman, reclaiming my time, this does not mean that we have to buy and eat American fish. There is a whole lot more to it.

Mr. Chairman, I ask for an ''aye'' vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. GOSS

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

The Clerk read as follows:

Amendment offered by Mr. GOSS: Page 29, line 3, add ''and'' after the semicolon.

Page 29, strike lines 4 through 7 (and redesignate the subsequent paragraph accordingly).

Mr. GOSS. Mr. Chairman, this amendment simply strikes one paragraph from the bill—language added to H.R. 39 during consideration by the Resources Committee. The provision I am seeking to remove bars two regional fishery management councils—the Gulf of Mexico and the South Atlantic—from taking any actions to reduce shrimp bycatch for another year. ''Bycatch'' in this case refers to the finfish, turtles, marine mammals, and any other non-shrimp sea creatures that are caught and killed by shrimpers. Put plainly: Bycatch is waste, pure and simple—the fish, turtles, sharks, and so forth are caught in the nets, die, and are discarded. How much of these resources are wasted under current practices? The National Marine Fisheries Service states that in the South Atlantic, shrimp make up a mere 20 percent of a shrimper's typical harvest—and in the Gulf of Mexico that figure drops to just 16 percent, meaning that over 80 percent of the average haul is wasted. For every 1 pound of shrimp caught in the gulf, more than 4 pounds of finfish alone are killed and discarded. Congress and NMFS have

recognized that this level of bycatch can cause serious environmental and economic problems.

On the economic front, the tremendous waste of finfish hits two Florida industries hard. It hits commercial fishermen who rely on healthy stocks of finfish like the red snapper in order to make a living. These stocks have been heavily depleted by shrimping nets and according to NMFS, ''This source of mortality would have to be significantly reduced in order to rebuild red snapper stocks within the time frame established by the Gulf of Mexico Fishery Management Council without halting all directed commercial and recreational red snapper fisheries.''

Other commercial finfish stocks are also threatened. Another industry important to Florida is recreational fishing. Former President Bush and millions of others enjoy Florida's coastal waters for the excellent sport fishing opportunities. But the stocks of gamefish are dwindling—in some part due to bycatch by shrimp trawlers—and we in Florida cannot afford to lose this resource.

On the environmental front, the decline of fish stocks overall has a negative impact on the entire food chain and could potentially throw the whole system out of balance. In addition, endangered sea turtles have historically been caught and killed in shrimp nets. While efforts in the gulf—specifically the use of turtle excluder devices—have reduced the take of these creatures, the death rate has climbed this year, and it is clear that more could be done to reduce turtle deaths.

Again, in the State of Florida this is a fairness issue: residents of Florida's coastal communities have imposed strict limits on the size, location, and lighting of houses—partly in an effort to help the endangered sea turtles. These measures won't make a difference without the cooperation of those who share the gulf's resources, including the shrimpers.

Mr. Chairman, others will argue that allowing this exemption for the shrimpers in the South Atlantic and Gulf of Mexico is unfair because it puts their own fishermen at a disadvantage—but I will leave that to them. I am here as a gulf coast Member, representing Southwest Florida. And the message from my district is very clear—don't waste more time and money on studies of this problem. Since 1990 we've spent some $7.5 million on studies—all the while delaying action. The time has come to move forward and allow the fishery management councils to do their jobs. I would ask my colleagues to support my amendment which allows councils opportunity to get on with the job of reducing unnecessary and significant bycatch waste.

□ 1300

Ms. FURSE. Mr. Chairman, I rise in favor of the amendment. I am a cosponsor of the amendment.

This amendment will just ensure that all fisheries in this country are treated equally. That is only fair. Americans hate waste, and in the fishing industry waste is called bycatch. This bycatch means fish that are thrown away, caught and killed because they are the wrong type of fish or they are the wrong size. The bycatch totals 27 million metric tons each year; that is 25 percent of all the fish we catch.

Now, H.R. 39 currently contains several important provisions to try and reduce the problem of bycatch. These measures apply to all fisheries along the U.S. coasts except one, the shrimp trawl fishery in the Gulf Mexico and South Atlantic. An amendment was added in the markup that will let these shrimpers continue to fish the way they do today.

Now, every other fisher man and fisher woman in the United States is working to fish more cleanly. Why this special treatment? Why this loophole? What makes this loophole even more unfair is that the gulf fishery has the worst bycatch rate of any fishery in the United States. More than 80 percent of all fish are thrown back dead or dying.

Now, the Goss-Furse amendment will make the shrimp fishery follow the rules of every other fishery in the United States. I have brought with me today a photo of a typical shrimp trawl harvest, this one. You will note that, although the target fishery is shrimp, the net is full of many other finfish and invertebrate species.

To further illustrate this, I have brought along a chart of an average 60-pound harvest from a shrimp trawl fisher. This is what they would catch in an hour. These numbers come from a very recent report which we paid for, was asked for by Congress of the National Marine Fisheries Service.

As you can see in this chart, shrimp make up only 16 percent of the weight of the catch. Commercially and recreationally important finfish are thrown away; 68 percent of the catch is thrown away. In other words, for every pound of shrimp that is caught and kept, 4.3 pounds of fish are wasted.

Now, this waste practice has resulted in 1 billion pounds of fish, and the marine life wasted on the Gulf of Mexico is about 1 billion pounds.

Now, this third chart I have brought along shows that the 600 million pounds of commercially and recreationally harvested finfish that are wasted annually include 13 billion Atlantic croaker, 35 million red snapper, a great fish food, and more than 5 million Spanish and king mackerel. This is fish that sports men and women and commercial fishers would love to catch and we would all like to eat.

I ask my colleagues, where is the fairness in asking the fisher men and women of the West Coast, the companies of Alaska and New England to all pitch in and do their fair share while a single fishery is allowed to waste and plunder a viable resource?

Now, it is very important to point out to my colleagues that the Gulf and the South Atlantic fishery council is made up of local fishermen, regional fishermen. They want to move forward and do the right thing. Yet we are about to pass a law that would prevent them from cleaning up the fishery. That is not States rights. We need to allow these fishery councils to do their job.

We certainly do not need another report. As my colleague points out, we have already spent $7 million on a shrimp by catch trawl report. We know there is a problem. It is a huge problem. We do not need to wait. If we are serious about Government that makes common sense, we must oppose the loophole. We must support the Goss-Furse amendment.

Simply, this amendment would make all the fisher men and fisher women in this country follow the same rules. It is fair. It is a good idea. I urge my colleagues to vote ''yes'' on the Goss-Furse amendment.

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

Mr. Chairman, this is not about turtle excluder devices, but it is just like the turtle excluder device process. This issue involves another device which the agency and the Federal Government has invented called a fish excluder device. A fish excluder device, or FED, is what the agency wants to compel shrimp fishermen in the Gulf of Mexico to carry in their shrimp nets. They are already carrying a TED, a turtle excluder device. Now they want them to carry a new invention, a fish excluder device.

The language the committee adopted said hold off a second. Let us give this thing a year. Why do we not do what the House voted on earlier this year? Why do we not subject this fish excluder device to the new test of peer review by scientists outside the agency and examination of what other devices or what other techniques can best avoid the bycatch problem in the fisheries of shrimp in the Gulf of Mexico? A cost-benefit analysis called for in the regulatory reform bill that passed this House is over waiting for action in the Senate right now.

But, no, this amendment says, go ahead, do not worry about whether it is cost-benefit effective. Do not worry about whether there may be better ways to deal with the bycatch issue than requiring fishermen to carry another device in their shrimp nets. Just go ahead and impose this fish excluder device on the shrimp fishing industry, just like we imposed the turtle excluder device on the shrimp fishing industry in years past.

So the two are somewhat related. The two are very related. This House voted overwhelmingly to change the rules by which the agency regulates in this area. What did we say? We said, look, before you impose a recovery plan or a management plan like a fish

excluder device, look at all the alternatives available. Look at the ones which work without putting people out of business. Look at the ones which will get you the same results without forcing someone to sell their shrimp boat or to give it up or to give it up because they cannot pay the payments on the mortgage.

Look for all the ways to solve these problems before we impose a Government-inspired new device upon the industry without any consultation in terms of alternatives and good scientific evaluation of whether this new device is going to help or hurt. But, no, this amendment comes in and says, let us go forward. Let us rush this fish excluder device, put it out, force it on the industry, whether or not it makes good sense, whether or not it meets the cost-benefit analysis of the bill that is awaiting action.

Why the rush? I will tell you why the rush. The rush is on to do this regulation, impose this new device because they are afraid that the Senate just might one day pass our regulatory reform bill, and the government agency that is trying to impose this new device just might have to subject it to the kind of review that agency regulations ought to be subject to, the kind of review that includes a wide range of discussions of what might work in bycatch and a wide-ranging discussion of what the cost-benefit analysis of this new requirement is.

Let me give my colleagues quickly a summary of the results on the TED's. Yes, we have a 98 compliance rate with the TED's in the Gulf of Mexico today, a 98 compliance rate. Unfortunately, 25,000 fishing families have now been reduced to 12,000 fishing families. We held a task force hearing in my district to talk to some of those fishermen who were left, the ones who are still surviving.

What they have told us without exception is, if you let the Government impose a new device like a fish excluder device on it, without examining the cost-benefit relationships, without working with us to reduce bycatch or to utilize bycatch more efficiently, if you do not work with us, the rest of us are gone in short order.

Now, there are Members in this House who would just as soon see the commercial shrimp fishing industry gone. There are Members in this House who would be satisfied for America to live on imported shrimp and not have a shrimp industry in America. There are Members in this House who do not much care about whether there is a gulf fisheries shrimp industry alive or not. But there are 12,000 families in my district who still support themselves by fishing shrimp, supplying it to the American household. There are 12,000 families asking us to do a simple thing: Ask the agencies not to impose this device until we have had a chance for the new regulatory reform bill to pass and to go into effect.

Why the rush? The rush is on because the environmentalists want to see this FED imposed. They want to see an end to the shrimp fishing industry. That is what this is all about. If Members want to please them, if we want to throw a vote to them again today, then vote for this amendment. But if we want to see the end of shrimp fisheries in the Gulf of Mexico, that is what we will be accomplishing. I urge Members not to adopt this amendment.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on behalf of the gentleman from Louisiana, as a Member from Maryland, I will do everything in my power to sustain and to continue the livelihood of those families that are engaged in these shrimp fisheries in the Gulf of Mexico. I think the last thing I and Members of this committee want to do is to eliminate that particular industry. The last thing we want to do is to import more shrimp rather than to use our domestic shrimp, and the last thing we want to do is to impose burdensome gear types that are unworkable.

I want to make a couple of points. The gentleman was talking about rush to judgment on using different gear types, on reducing by-catch. There was a study that cost well over $1.7 million. That study has been going on for 5 years.

□ 1315

The study is ready to be implemented, and the gulf council, the South Atlantic council are gearing up to implement the study that was approved by a full range of groups, including a number of fishermen. So the last thing we want to do is to put people out of business. We are not rushing to judgment. This study has been completed, and it is ready to go.

What the gentleman from Louisiana wants to do is postpone it yet another year. I am not sure the ecology of the fishing industry in the Gulf of Mexico or the South Atlantic can wait that long.

By-catch and waste are currently the greatest threat to the commercial fishing industry. Fishery managers around the country are faced with the problem of how to reallocate what is thrown overboard toward a more beneficial use. A fish that is caught and thrown back dead does not add anything to the economy. It does not put food on the table. It does not keep the shrimp fishery families in business, and it will certainly not produce generations of fish that will yield economic benefit in the future.

Discards represent 80 percent of what the gulf shrimp fishing industry pulls in over the side. Throwing away 80 percent of what they catch, we cannot sustain that. Something has to be changed.

As this Congress endeavors to find ways to diminish a staggering Federal deficit, as we contemplate the exploitation of some of our most fragile natural resources to address that, I find it absolutely unconscionable that we will allow this sort of waste to continue as we try to stretch taxpayers' dollars to assist communities in New England that once relied on the collapsed Georges Bank stocks. It is astounding that we prevent these two councils, South Atlantic council and gulf council, from managing the stocks under their jurisdiction to prevent a similar catastrophe for red snapper fishermen and so on.

Fishery managers in this country are charged with the duty of managing marine resources to the maximum benefit of this Nation. We do not want to interfere with the fishing industry in the Gulf of Mexico, but I do not think Washington, DC, should tell the gulf council that is deciding to implement some of the advice of this 4- or 5-year-long study and the South Atlantic council that are ready to implement some of the recommendations, I do not think we here in Congress should at the last minute, which is what is happening, deny those councils the right to do that. It does not necessarily mean in all cases a FED, a fish excluder device. It does not necessarily mean the FEDs are going to be implemented in all of the ships.

My last point, we waste, just in that area of our coastal waters alone, try to imagine, 50,000 10-ton garbage trucks. That is how many fish are wasted each and every year. We cannot afford to continue that waste. While we are wasting fish, even though we have more territory than any other nation in this world as far as the ocean is concerned, we are a net importer of fish.

This is a study that has taken 5 years. It is a study that has cost $7.4 million. It is a study that the gulf council and South Atlantic council are willing and ready and gearing up to implement, and I do not think we, as a Congress, in the last minute should deny them that right.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I thank the gentleman for yielding.

Does your bill require, or, well, let us back up a little bit, I think you made a statement about what percentage of the shrimp that is consumed in America comes from overseas. What percentage is that?

Mr. GILCHREST. I made a comment about the percentage of fish caught and percentage wasted. When I said we are a net importer of fish, I did not include a percentage of any particular species of fish.

Mr. TAYLOR of Mississippi. We are directing this amendment at the gulf fishing fleet. I would like to remind this body well over 80, and probably closer to 90, percent of all shrimp eaten in America is imported now. Much of it comes from communist China.

What you are asking this body to do is put yet one more mandate on the

American fleet that is only about now 15 percent of the total that is consumed here, while not putting a similar mandate on the Chinese, on the Mexicans, on the Koreans.

Mr. GILCHREST. Reclaiming my time, what we want to do is sustain.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Florida [Mr. GOSS].

This amendment, in my opinion, would allow the premature imposition of potentially devastating regulations on the Texas shrimping industry. Texas shrimpers represent a $6 million trade employing 30,000 men and women on a total of 2,400 trawlers.

By cutting short a comprehensive review of by-catch reduction devices, this amendment threatens the livelihood of an entire industry. Instead of relying on sound science, this amendment, in my opinion, is based on speculation, incomplete information, and bureaucratic inertia.

As originally written, this program was to be a cooperative effort between the Federal Government and the affected industries. Unfortunately, the Government appears to have already made up its mind and is now threatening to leave the industry research unfunded. These studies, which would end should this amendment be adopted, are producing information which directly contradicts the regulatory tilt of the National Marine Fisheries Service's findings.

For example, take some of the early data from a study by the Gulf and South Atlantic Fisheries Foundation authorized under this program. This information indicates that the fin fish by-catch is not as severe as once thought. Rather than 15 pounds of fin fish by-catch per pound of shrimp, as originally estimated by the NMFS, the foundation study indicates that, in reality, this ratio is closer to 2 to 3 pounds.

Did the NMFS change their study to reflect this information? No. They continued to press for an increase in regulation despite scientific evidence to the contrary.

Another disturbing item is the lack of direct side-by-side testing of these devices. The Gulf and South Atlantic Fisheries Foundation petitioned the NMFS to allow the basic tests, towing a naked net without by-catch reduction devices, while simultaneously towing another equipped to free nontarget species. One would think that a direct comparison would be the easiest way to evaluate the performance of these devices. Yet the NMFS refused to allow the test, citing that the chance that turtles might be caught. You talk about a catch 22.

We need these devices to save the species, but because you might catch one, we cannot perform the test to see if they work. It is ironic that measures designed to save these animals may not have any actual impact because we have decided not to test them thoroughly.

It appears that this amendment would put the cart before the horse. While the goals of this amendment are commendable, it recklessly curtails the only source of accurate science-based information available. Acting without such information would be both a mistake and a disaster.

The fishing industry is just asking that we allow 1 year to get this one right. Presently, both the regional councils and the NMFS are poised to start a new round of regulation based on incomplete data and misguided science. Where have you heard that before? They know the study will be completed by June. Would it not be best for all involved, the fin fish, the shrimping industry, the American people, to make sure that these devices work? Let us not be in a rush to regulate.

I urge you to vote ''no'' on the Goss amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to, and I will not, question the motives of people who are in favor of this amendment. I am sure they are well-intended. But I do not think they have taken the time to think out what they are doing.

As I mentioned to my friend, the gentleman from Maryland [Mr. GILCHREST], something in the nature between 80 and 90 percent of all the shrimp that are eaten in this country are imported anyway. So what you are doing is putting another mandate on the American fisherman who has seen his percentage of the shrimp sales in this country shrink from about 90 percent just 15 years ago down to 10 percent right now. They are at the mercy of the shrimp that are dumped on the market by the Red Chinese, the Indians, the Ecuadorans, the Mexicans, and other places. They are already at the mercy of them as far as price, because 10 percent of the market does not dictate the market price. Ninety percent of the market does.

They already are the only nation in the world that has to pull the turtle excluder device. I have visited several other countries as a result of my work on the Committee on National Security. It almost always takes me out over the water. Invariably, I get a chance to look at other people's fishing vessels. In Panama, I have never seen a TED. In Colombia, I have never seen a TED. Other places I have visited around the world, not one TED. Yet our Nation allows these shrimp to come into our country and gives those people an advantage over our fishermen who are living by the rules.

I also think I have a little advantage over some of the proponents of this bill. I have been on shrimp boats. I own a shrimp trawl, and I can tell, those of you who are in favor of marine mammals ought to know most of these fish that are caught that are tossed overboard that are dying are eaten by porpoises. What the porpoises do not eat, the sea gulls eat. They are not wasted. A lot are kept for bait by commercial crabbers.

The science behind this, they would have you believe, the statement of the gentleman from Maryland [Mr. GILCHREST] would have you believe they are literally dumped overboard like garbage. They become an important part of the Marine ecosystem. Thousands upon thousands of sea gulls flock to the Mississippi Gulf Coast in time for shrimp season every year.

What happens if you no longer allow this? They are going to die. So for those of you concerned about messing up the ecosystem, you are the ones who are going to mess up the ecosystem by passing this ill-advised piece of legislation.

But lastly, I just want to make a point of fairness. It is really fair to put one more mandate on the American fisherman, who is already barely surviving, who does not dictate the price for his product, that comes from Red China, comes from India, Ecuador? Is it really fair to make him do one more thing that you will not ask our foreign competitors to do? My answer to that is ''No,'' it is not fair.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Is there a law right now that requires that imported shrimp caught in other countries brought into America in competition with shrimp produced here in America has to abide by any of these regulations?

Mr. TAYLOR of Mississippi. I say to the gentleman from Louisiana [Mr. TAUZIN] there is such a law. As we both know, the Commerce Department, for political reasons, not wanting to offend our friends and allies we have bases with overseas, does not enforce it. I can assure you it is not being enforced in Panama.

Mr. TAUZIN. The other nations, in fact, are free to import into this country without complying with the same requirements that our fishermen are at great disadvantage?

Mr. TAYLOR of Mississippi. It is very much my NAFTA argument all over again. We are putting rules on Americans that we are not willing to put on our trading partners.

Ms. FURSE. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentlewoman from Oregon.

Ms. FURSE. Is it not true that every fishery in this country has to abide by by-catch rules, the Alaska fishermen, the Northwest fishermen, the North Atlantic fishermen? What this amendment does is says there is one rule for all fisheries, and that the people who set the requirements are those local councils.

Now, we understand that the Gulf of Mexico and the South Atlantic council, made up of citizens in the fishing industry, are ready to implement the by-

catch regulations. Our amendment says merely that all fishermen have to hold by the same rules which are set by these regional councils of fishermen, made up of fishermen. We just say it is not fair Alaska fishermen and North Atlantic fishermen and Oregon and Washington fishermen have to be held by rules, but this one fishery has been allowed by an amendment in the bill to be exempt from these rules. This is a fairness issue, I say to the gentleman from Mississippi [Mr. TAYLOR]. This is an issue that fishermen are ready to put some time and attention to, and now why should one fishermen be exempt?

The CHAIRMAN pro tempore (Mr. GILLMOR). The time of the gentleman from Mississippi [Mr. TAYLOR] has expired.

(By unanimous consent, Mr. TAYLOR of Mississippi was allowed to proceed for 2 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, the gentlewoman raises an excellent question. I say to the gentlewoman from Oregon [Ms. FURSE], you are speaking fairness, and you are asking for universal implementation of the law.

□ 1330

But the truth of the matter is, the only people who would have to implement this law will be Americans. Foreign competitors will not implement this law. The foreign competitors have not implemented the TED law. The American shrimpers have suffered as a result of that.

This is yet another good idea that has not been perfected, much like the TED's where the Federal Government spent $4 million trying to perfect a turtle excluder device which to this day does not work properly. Now we are putting one more mandate on these fishermen.

Getting back to what was said, it is simply not fair to ask the American fisherman to do this, if his foreign competitor will not.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have no intention of prolonging this debate. I do want to put one thing in perspective, if I may.

I think the gentleman from Florida and the gentlewoman from Oregon are entirely correct, and I commend the gentleman from Louisiana, who is certainly one of our most skillful parliamentarians and has been extraordinarily successful in battling for the interests of his constituencies as he sees them. I would remind Members how successful the gentleman has been.

There has been some suggestion here we are singling out the gulf shrimp fishermen for unfair treatment. Quite the reverse is true. The gentleman from Louisiana has been successful in singling them out for uniquely special treatment under the law, unlike that available to anybody else, any other fishery in the country.

Five years ago, the gentleman successfully wrote into law an exemption for the gulf fisheries specifically so a 3-year study could take place. The 3-year study took place. The gentleman then extended the extension for the gulf fishery another 3 months, which I guess is all we would give him, until April 1994.

The important thing is not only have there been special exemptions for this fishery and this fishery alone, but since April 1994, which is almost a year and a half ago, there have been no such exemption and there have been no regulations promulgated by the Councils. So nobody apparently is in a real big rush to do anything.

I would also remind Members that in the event that any regulation were promulgated, it would not be by the Secretary of Commerce or anybody in Washington; it would be by the Fishery Management Councils in the region.

To put a little more context, if I may, the bill before us, which the gentleman from Alaska and others have worked so hard on, makes some very major progress in strengthening the fundamental act. One of the most important pieces of that progress is to strengthen the provisions dealing with bicatch.

The worst bicatch problem by far in this country is precisely in the fishery we are now discussing. At a time when we are ratcheting down in the bicatch in every other fishery in the land, in Alaska, in New England and everywhere else, which is going to cause pain everywhere else, once again those who speak for the gulf fishery are in here asking for special treatment and special exemptions from this, as they have done so successfully for over 5 years now.

I love shrimp. I love the fishery. I stand with the gentleman and all others in defense of the fishery. But so far as I know, there are orders for gulf fishing boats in the shrimp fishery. I realize there is an imbalance in terms of imports, but I do not think you have trouble selling what you catch.

But even that is really extraneous to what is here. The question is, with the new national standards, trying to get at one of the worse problems we have, not just in Louisiana or the gulf, but everywhere, which is bicatch and wasted biomass and food, once again that region of the country which has the worst problem and which is the only region that has exempted itself from a law which applies to everybody else in the country for 5 years, is once again asking for special exemption for them and for them alone.

I think on the grounds of fairness, we should stand behind the gentleman from Florida and the gentlewoman from Oregon and say no, we are going to treat all regions of the Nation equally.

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

Mr. STUDDS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman has pleaded that we not treat one area different from the other. Would the gentleman tell me whether these turtles are found in the waters of Massachusetts and whether the waters of Massachusetts are covered by the TED's regulation?

The answer is they are found, and you are not covered by the TED's regulation. They stop at the Carolinas. The answer is these regulations do not apply to the gentleman's region. They have been very specially applied to our region.

Mr. STUDDS. Mr. Chairman, reclaiming my time, we are not talking about TED's, as these gentlemen have pointed out.

Mr. TAUZIN. Mr. Chairman, if the gentleman will continue to yield, the gentleman has made a very complimentary statement that this gentleman has done a great job of exempting his region from coverage by the regulation. I am covered by the TED's.

The region in Massachusetts where turtles are found is not covered by the TED's regulation. I wonder why? I wonder how that happened. Perhaps I should compliment the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, reclaiming my time, the gentleman quite accurately pointed out that we are not talking about TED's. There is no reference to that in here. I am also informed, to my utter astonishment and delight, that New England shrimp fishermen do pull TED's, or FED's.

Mr. TAUZIN. If the gentleman will yield further, would the gentleman confirm for me that the TED's regulation stops at the Carolinas?

Mr. STUDDS. I believe that is correct. It is also irrelevant. The gentleman was quite correct in pointing out we are not talking about that. At least we were not until the gentleman chose to.

Mr. TAUZIN. Will the gentleman yield?

Mr. STUDDS. I do not know.

Mr. TAUZIN. Think about it.

Mr. STUDDS. I will think about it.

Mr. TAUZIN. I would like to compliment the gentleman from Massachusetts.

Mr. STUDDS. In that case, I will certainly yield.

Mr. TAUZIN. Mr. Chairman, I would like to compliment the gentleman from Massachusetts for doing such a great job of making sure the TED's regulations stopped at the Carolinas, since he has done such a great job of complimenting me.

Mr. STUDDS. Mr. Chairman, reclaiming my time, I thank the gentleman for his absolutely pungent and totally irrelevant observation.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

I will submit my statement for the RECORD in opposition to the Goss amendment. I also suggest respectfully

there will probably be another amendment offered at a later time that I hope everyone sees the wisdom of voting for.

I have watched this Congress in the light of supposedly protecting, which I support, but also supposedly in making sure that all species are protected, which is well and good.

But we have driven our tuna fleet overseas. When I first came to Congress we had 212 tuna boats. We have three left. They are catching tuna; I do not see any shortage of tuna, but without any regard to what we said had to be done in our waters or with our American fleet.

We are doing the same thing with the shrimp fleet. If, in fact, what the gentleman from Florida [Mr. GOSS] and the gentlewoman from Oregon [Ms. FURSE] mention is a fact, and I will not dispute what they say, if in fact that is occurring, that should apply to every country that we import those type fishes from, and then let the Americans, like I say, eat bread, otherwise have no shrimp. That is what it boils down to.

I do not think it is fair to pick out just my shrimpers or somebody else's shrimpers. If what they are doing is supposedly biologically wrong, that should apply to India, China, Ecuador, or Mexico, which this whole thing started over the turtle. It always bothered me when I would go to Mexico and see people eating turtle eggs, and eating and drinking turtle oil for certain medicinal purposes, and having turtle boots, and our fishermen are saying no, you have to drag a TED. I do not think that is fair, nor is it equitable or correct environmentally.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me point out what the gentleman's amendment will delete from the bill, and I call the attention of the gentleman from Massachusetts to this particularly. They will delete the section that says any measure implemented under this act to reduce incidental mortality of nontargeted fisheries or sources shall apply to such fishing throughout the range of the nontargeted fishing resource concerned.

In short, we are trying to make sure when these regulations do go into effect, they cover everybody, not just a selected area.

Second, let me point out that our amendment adopted by the committee did not create an exemption for the gulf. It did not. It simply said that before the regulations were put in place, that several things had to occur: First, that a cost-benefit analysis under our regulatory reform had to occur; second, that technological devices and other changes in fishing operations to minimize bicatch should be examined so that all options are open to the fisheries councils in the various regions; and third, whether it was practicable to utilize nontargeted fisheries resources which were unavoidably caught; in short, to do the complete work.

You heard the gentleman from Texas [Mr. DELAY] point out that the agency refused to allow a side-by-side test to find out what really worked and what did not work. This business of going forward without the full science, without a cost-benefit analysis, without an evaluation of what else might work, so we do not impose these mandates on our fisheries that are not imposed on other countries that import to America, is wrong. We ought to tell the agency, do it right, if you are going to do it. We ought to tell the agency when you do it, when you require it, require it across the whole range. Do not stop at North Carolina. If the fish are getting caught in the gulf waters and in the waters off Massachusetts, and you have to have this device, make sure it is applied all over the range of those fisheries, not just some of it.

But most importantly, this is not an exemption which the amendment tries to strike. It is simply a requirement that the agency follow the rules we adopted in the House; cost-benefit analysis, alternative resource recovery devices, good science behind the study before you promulgate another device, and fair treatment for Americans who are trying to earn their living and produce food and fiber for this Nation.

Now, if that is not a correct plea, then what is? Should we not ask the agency to follow the rules we adopted this year? Why this rush to judgment? I suggest to you they want to rush it out because they are not prepared to defend it under the new rules, and they know they cannot defend it under the new rules. They want to rush it out, impose it, and then we are stuck with it, the way we have been stuck with a lot of other Federal regulations that do not make good sense.

The gentleman from Alaska has asked us to pay attention. If this amendment is adopted, there will be an amendment to follow it. Please pay attention to the next amendment, if this one should, by all worst reasons, get adopted.

The next amendment says we ought not treat our Americans differently than we do others. Watch for that one when it comes. We ought to at least do that.

We ought to defeat this amendment, make sure good science and proper evaluation of these devices occurs before we go forward.

The CHAIRMAN. The time of the gentleman from Alaska [Mr. YOUNG] has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

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

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I would just like to clarify what the amendment before us does and does not do. I believe the gentleman from Louisiana suggested that it strikes lines 10 through 14 on page 29, which says it shall apply throughout the range of nontargeted fishery resources.

It does not strike that unless I have the wrong amendment. It strikes lines 4 through 7 and those four lines only.

Mr. TAUZIN. Mr. Chairman, what the gentleman says is correct.

Mr. STUDDS. The gentleman's last oratorical flurry was based on that assumption.

Mr. TAUZIN. Mr. Chairman, if the gentleman will yield, the gentleman's last oratorical flurry was in answer to the gentleman's very complimentary words that we have exempted our region. We have not. We have not exempted our region.

We have simply said get the scientific work done and make sure it does apply. If you are not striking to make sure it does not apply to everything, I am grateful, but you ought to get it done right so your fisheries and my fisheries have the same good science making these determinations, not some science that says, as the gentleman from Texas [Mr. DELAY], pointed out, we are not going to test everything. We just want to impose this Federal Excluder Device, this FED, on everybody, without ever checking out to see if there is a better way to do things.

Mr. ORTIZ. Mr. Chairman, I rise in opposition to the Goss-Furse amendment. This amendment would require premature, costly regulation to be imposed on the shrimp fishery before a comprehensive review of the best scientific data is available. A study being coordinated by the Gulf and South Atlantic Fisheries Foundation is currently evaluating the best methods of reducing bycatch. This study is expected to be completed in June 1996.

Without the results of this study, the shrimping industry will be subjected to mandatory bycatch reduction devices without the benefit of the best data available to make this decision. This results in lower catches and more expense to an industry which is working to be resource conscious.

Let's not advocate needless regulations which will only damage the shrimping industry in south Texas. We need meaningful research with representation and input from all interested and affected parties to come up with some solutions and achieve their intended result without decimating a once-proud industry.

Vote ''no'' on the Goss-Furse amendment.

The CHAIRMAN pro tempore (Mr. GILLMOR). The question is on the amendment offered by the gentleman from Florida [Mr. GOSS].

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

RECORDED VOTE

Ms. FURSE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 294, noes 129, not voting 9, as follows:

[Roll No. 719]

AYES—294

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Blute
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Buyer
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Cremeans
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefley
Hefner
Heineman
Herger
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Kolbe
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Ney
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tate
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—129

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bateman
Bereuter
Bilbray
Bliley
Bonilla
Brewster
Browder
Bunning
Burr
Burton
Callahan
Calvert
Chenoweth
Christensen
Coble
Coburn
Combest
Cooley
Crane
Crapo
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Edwards
Emerson
Ensign
Everett
Fields (TX)
Fowler
Franks (CT)
Frisa
Funderburk
Gonzalez
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hilleary
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson, Sam
Jones
Kim
Knollenberg
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
Lucas
McCrery
McInnis
McIntosh
McKeon
Metcalf
Mica
Montgomery
Myers
Myrick
Neumann
Norwood
Nussle
Ortiz
Parker
Paxon
Peterson (FL)
Pickett
Pombo
Radanovich
Regula
Riggs
Roberts
Rogers
Rose
Royce
Salmon
Sanford
Scarborough
Shadegg
Shuster
Skelton
Smith (TX)
Solomon
Spence
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Vucanovich
Watts (OK)
White
Young (AK)
Zeliff

NOT VOTING—9

Brown (CA)
Chapman
Fields (LA)
Mfume
Sisisky
Tejeda
Tucker
Volkmer
Wilson

□ 1404

Messrs. SKELTON, THOMPSON, PAXON, HALL of Texas, SMITH of Texas, and BURTON of Indiana changed their vote from ''aye'' to ''no.''

Messrs. CHAMBLISS, RANGEL, TOWNS, WELLER, PAYNE of New Jersey, MANZULLO, JEFFERSON, OWENS, and FLANAGAN, Ms. BROWN of Florida, and Ms. MCKINNEY changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 5, after line 14, insert the following: ''and (D) which provides employment opportunities and economic benefits through the sustained participation of local community-based fleets and the coastal communities which those fleets support.''.

Page 7, line 2, strike the closing quotation marks and second period, and after line 2 insert the following:

''(41) The term 'efficiency' with respect to the utilization of fishery resources means fishing which—

''(A) yields the greatest economic value of the fishery with the minimum practicable amount of bycatch, and

''(B) provides the maximum economic opportunity for, and participation of, local community-based fleets and the coastal communities which those fleets support.''.

Page 22, at line 8 strike ''and'', and at line 22 strike ''program'' and all that follows through the end of the line and insert ''program; and''.

Page 22, after line 22, insert the following:

''(15) take into account the historic participation of local community-based fleets and the coastal communities which those fleets support, and provide for the sustained participation of those fleets and communities.''.

Page 38, after line 20, insert the following:

(h) ECONOMIC ANALYSIS.—Section 304 (16 U.S.C. 1854) is further amended by adding after subsection (m) (as added by section 22(b) of this Act) the following new subsection:

''(n) ECONOMIC ANALYSIS.—In performing any economic analysis of a plan, amendment, or regulation proposed under this Act, the Secretary or a Council, as appropriate, shall consider the costs and benefits which accrue to local community-based fleets and the coastal communities they support.''.

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

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

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment is simple and straightforward. What it seeks to ensure is that local, community-based fishing fleets continue as a valuable sector of our fishing industry. It requires that in the consideration of optimum and efficient use of resources, that we understand the overall benefit to this Nation of the sustained participation of our coastal fleets and our coastal communities and the families that are involved in the business of fishing.

Mr. Chairman, it seeks to recognize, as we all should, that very often a fishing boat represents a small business. It represents an individual, or in many cases a husband and wife or two brothers, providing for their families, or fathers and sons, who are engaged in the small business of fishing.

Mr. Chairman, this is an amendment that tries to make that compatible with the decisions that the councils have to make about the sustainability of the resources and takes into account the economic impacts on communities and on coastal fleets. I think it is a good amendment and I would hope that the committee could support it.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would suggest that if I knew the gentleman from California [Mr. MILLER] was going to be so cooperative and so understanding on issues of fisheries, he should have joined our committee many, many years ago.

The gentleman from Massachusetts [Mr. STUDDS] and I have had a great working relationship concerning the seas. We have worked, I believe, although we had our discussions about to which degree we can go, but we have always sought to protect the species, provide the species, and make sure that the American fisherman does exist.

Mr. Chairman, the gentleman from California has offered an amendment that has great merit. Again, I want to compliment the gentleman. One of my biggest fears over the years is after we Americanize the fleet, through no fault of the fishermen themselves, those that had the great, deep pockets from overseas, and other areas, would have the possibility of obtaining total control of the fisheries and thus we would have avoided what we were seeking to begin with, and that is an Americanized-type fishery, especially with the communities that live along the coast.

So, I do compliment the gentleman and would suggest respectfully that he look forward to the future when we have this continued cooperation regardless of who sits in the chair. Regardless of what happens, that we work together on these important issues.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I cannot resist the observation that it is certainly not my fault that the gentleman from California has had to engage in a crash course in the fisheries.

Mr. YOUNG of Alaska. That is true.

Mr. STUDDS. Mr. Chairman, let me also join the gentleman from Alaska in his assessment of the amendment of the gentleman from California [Mr. MILLER]. I know that the gentleman from Alaska shares the same vision with regard to how we would like to see the future of this industry develop.

Mr. Chairman, we need more fishermen, not necessarily more boats. We need smaller vessels. We need vessels run by those who own them. We need, if anything, possibly and ironically, a less rather than a more efficient fishery in many respects.

Mr. Chairman, I commend the gentleman from Alaska. I commend the gentleman from California and anyone else who ought to be commended.

Mr. YOUNG of Alaska. Mr. Chairman, I urge support of the amendment.

Ms. FURSE. I rise in strong support of the Miller of California amendment.

The small coastal communities that line much of our Nation's perimeter—including my district in northwest Oregon—are often economically dependent upon the bounty of the fishery resources that lie off their shores. Many of them have fleets of small, family-owned boats that bring back their marine harvest to be processed onshore. In this way, they multiply the economic benefit of their catch by generating additional jobs and marketable products in their communities—unlike the mammoth factory trawlers that process their huge catches at sea and take it to distant ports. These small boat fleets and coastal communities suffer the most as fisheries become overcapitalized and overfished.

The Miller amendment will help protect these coastal communities and small boat fleets by making sure their fate is considered when fishing rules and regulations are adopted by the regional councils.

The Pacific Coast Federation of Fishermen's Associations, which is the Nation's largest trade association of commercial fishermen and women on the west coast, endorses this amendment because they see it as vital to protect the economic health of America's family fishing operations and keep coastal communities economically afloat.

I urge my colleagues to join me and the family fishermen and women in supporting the Miller amendment.

The CHAIRMAN pro tempore. The question is on the amendment of the gentleman from California [Mr. MILLER].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. RIGGS] for the purpose of a colloquy.

Mr. RIGGS. Mr. Chairman, first of all, I want to thank the chairman of the committee and the ranking member for their work on this bill. As a Representative of a coastal district, in fact, I represent more coastline than any member of the California delegation.

Mr. Chairman, I appreciate the difficulties and complexities the gentleman from Alaska has faced in crafting legislation to balance such diverse and complicated and sometimes competing fishing interests. I believe, however, there is still one aspect of the legislation which should be clarified hence my colloquy now.

As the gentleman knows, the law currently permits fishermen to avoid regulation in the absence of a fishery management plan by fishing exclusively in Federal waters, then delivering their catch to a coastal State or nation without landing laws addressing that particular species of fish.

Mr. Chairman, there are a number of smaller fisheries along the west coast, such as pink shrimp, thresher shark, and dungeness crab, which are not now covered by a fishery management plan. I have been informed that the Pacific Fishery Management Council and the National Marine Fisheries Service simply do not have the resources to develop and implement fishery management plans for these fisheries. Much of the fishing activity occurs in State waters, but there is fishing activity on the same stocks in the exclusive economic zone as well.

These States' efforts to control and manage these smaller fisheries are being frustrated by their inability to extend these regulations to the exclusive economic zone.

The language currently found in the Magnuson Act would allow nonresident fishermen to harvest fishery resources and deliver them to Canada or Mexico, or to forum shop between conflicting State landing laws on the west coast. Such action is in direct defiance of the efforts of our States to implement conservation and management regimes in the absence of Federal management.

At a time when the Congress is asking the States to assume a greater share of the burden in managing public resources, we need to let the States fill the conservation and management vacuum caused by insufficient Federal management funds.

Again, Mr. Chairman, as a Member of Congress from a west coast State with coastal constituencies, I respectfully ask that the gentleman from Alaska [Mr. YOUNG] and his able staff, work to find a balanced and agreeable solution that will ensure these stocks not covered by a Federal fishery management plan can be protected from overharvesting.

Mr. YOUNG of Alaska. Mr. Chairman, reclaiming my time, I commend my colleague for his tenacity on this issue. At every point in the reauthorization of this act, he has shown his commitment by continually pushing me and the members of the committee on this matter.

Mr. Chairman, in response to the specific questions of the gentleman from California, I assure the gentleman I will make it a priority of the committee to find a solution that will adquately protect those stocks not covered by a fishery management plan from overharvest.

Mr. Chairman, may I suggest to the gentleman this has been one of my goals. The gentleman is absolutely correct that many areas for other reasons have not had a fishing plan that would cover them, consequently I think they are being overfished and we will address this issue. Probably in conference, by the way.

Mr. RIGGS. Mr. Chairman, if the gentleman would continue to yield, I thank the gentleman from Alaska and look forward to working with him.

AMENDMENT OFFERED BY MR. HAYES

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

The Clerk read the following:

Amendment offered by Mr. HAYES: At the end of title I of the bill, add the following new section:

"SEC.—PROHIBITION.

''No fish may be introduced into interstate commerce of the United States unless the Secretary of Commerce certifies that the country of origin of the fish has implemented and is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry.''.

Mr. HAYES: Mr. Chairman, I rise to explain and support the amendment.

Mr. Chairman, in the previous debate on a prior vote on an amendment, we had a resolution of a confrontation of whether certain environmental goals were so important as to perhaps interfere with those who are trying to make a living.

I think as a society, the reflection of that vote was, with a combination of concerns of sports fishermen, combination with that of concerns of environmentalists, that that is a decision that we as a country would make.

Mr. Chairman, what I have done with this amendment is to simply say let us do not disguise who we are talking about when we say this country's commercial fishermen or fishing industry. To the place I come from they are not

an industry and they are not commercial, in the sense of a large corporate existence. They are small families of people who are able to send their kids through school because they get up early in the morning and bring home nets late in the evenings.

They live in a world of regulatory schemes, almost none of which are easily comprehended if you are of the highest educational level. Instead, more often than not, they are the families whose kids never have quite too few dollars to be able to get a Federal grant for educational assistance, and who make a little too much to receive any of our generous government programs. Who make enough to support their family, but not an additional amount to pay for tuition.

□ 1415

They do not like Feds. They did not like them before they heard the word this afternoon and for good reason. They feel that they are always the ones who are the last to be recognized unless we are sending 20,000 kids into Bosnia, in which case they will be the first people to get the notice in the mail.

So what I have done is simply this, I have said that if we are going to have these environmental goals recognized, if we are going to recognize the commercial fishing industry at all, then let us implement a fairness that simply says, you cannot bring the product into this country from places where they do not care about these rules and where they are supporting their people who are trying to scratch out a living fishing. Let us not do that at the expense of our own people. Let us make it fair.

It is my understanding that this is not a matter that is opposed.

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

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

Mr. STUDDS. Mr. Chairman, I know exactly what the gentleman wants to do. I frankly do not have any objection to it. I suspect this was drafted hastily. I want to suggest, although I am not sure precisely how to improve it, the way it reads now is that no fish may be introduced into the United States unless, I am skipping here, the country of origin of the fish has implemented and is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry. That is the totality of the fishing industry of the country.

I assume what the gentleman intends, and I do not quite know how to say this, is that requiring devices on that country's fishing industry and fisheries where such devices would be appropriate and analogous to U.S. requirements or something like that. I hope the gentleman does not mean to suggest that the entire fishery, all fisheries have to have them whether they need it or not.

Mr. HAYES. Why do we not say this, is enforcing laws or regulations requiring fish excluder devices on that country's fishing industry in the manner in which such laws or regulations would be enforced in the United States?

Mr. STUDDS. Mr. Chairman, if the gentleman will continue to yield, that is exactly the kind of thing I am suggesting.

Mr. HAYES. Mr. Chairman, I would have no objection to adding that.

Mr. STUDDS. I assume that is the gentleman's intent.

Mr. HAYES. Mr. Chairman, that is correct.

Mr. STUDDS. That may not be the perfect wording but it is closer than this.

Mr. HAYES. I have no objection to that perfecting language.

MODIFICATION OF AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I ask unanimous consent that the amendment be modified.

The CHAIRMAN pro tempore (Mr. COMBEST). The clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Mr. HAYES: At the end of the matter proposed to be inserted by the amendment, before the period, add the following: ''in the manner in which these laws are enforced in the United States''.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

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

Mr. HAYES. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman. I simply want to rise in support of the amendment and also indicate that the amendment as drafted could mean that not only are these devices going to be required on other countries that are required on our fishermen, but they are going to be enforced the same way they are enforced on our fishermen. We have a similar law of TED's right now that is not enforced in Mexico, not enforced in other countries. That is wrong. If this is such a great thing that has to be foisted on the industry with or without cost-benefit analysis, we want to make sure it is enforced on other countries equally as it is enforced on fishermen in our country.

Mr. HAYES. Mr. Chairman, I would make the further observation that the existing provision was circumvented by a letter from the Secretary of Commerce involving TED's because the country of origin was deemed to be one of low economic standards. While the gentleman and I represent districts in America whose median family incomes are well below the national average, we would like to make it clear in this debate, we are talking about any country, any place under any economic circumstances.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to compliment the gentleman from Louisiana and the gentleman from Massachusetts and the other gentleman from Louisiana. This is an example of what should have been implemented in this Congress many, many years ago. We would not have the trade deficit we have today if we were to do so. But I will say, my favorite individual groups, interest groups, preservationists, and I could call them a whole lot of other things, somehow think that the so-called environmental movement only has to reside in the United States. We can clean all the air up; we can clean all the water up and save all the fish and all the furry animals and everything else. But we also buy from overseas.

I just mentioned the turtles in a previous statement. You could go right down, I think you can go right down now to Mexico and buy turtle soup, turtle oil, turtle leather, yet our shrimp fishermen are penalized.

I can go into the clothing industry and all the other industries, which most of my colleagues should be aware of that do not meet our standards but we buy it from abroad. We wonder why we have lost our jobs and why we have lost our other industries. We have lost 500,000 jobs in the oil industry overseas, supposedly to protect the environment of the United States. We lost our timber jobs to protect the spotted owl. Now we are buying timber from Canada, cutting the rain forests in South America. And we are continually not recognizing this environment is a one-world operation.

We cannot have it on one end and say we are going to be pure on this end and dip this hand into the mud. That is what we have been doing.

This amendment is an attempt to bring to light the unfairness of allowing and requiring our small, little tiny remaining industry in the fishing field to meet requirements supposedly for an interest group and not requiring them someplace else.

The gentleman from Louisiana has done an excellent job in presenting this amendment. The only thing I have any reservations about is, will the Secretary of Commerce enforce the law? I want to suggest to this body, I have watched now six administrations, four Republican, two Democrat, I have watched department heads, undersecretaries, and secretaries thumb their nose at the Congress.

I have said before, I will say it again, we ought to in fact cite them for contempt when they do not implement the law passed by this Congress. If we believe we are coequal branches of the government, when we make the laws, they are to implement them. And when they ignore us, they are wrong. That is why we do not have a great deal of faith in this government by the general public.

I am not going to always agree to what this Congress does. Many times my friend from Massachusetts will support something that is totally way out on the left side. I will support something way out on the right side, but

that is the system. But when there is finally a law passed and the President signs it, then to have one of the agency heads say we are not going to do it because it might interfere or hurt someone's feeling overseas, that is wrong.

I think this body has a responsibility to cite those agencies and those people responsible for contempt when they do so.

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

Mr. YOUNG of Alaska. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I was just getting into the gentleman's vision speech. It is very compelling.

I believe there are no further amendments left to the bill. Members should know that we are virtually at the end of this debate.

I just had to take a second to reflect, I was sitting here in my mind seeing the gentleman and myself and a handful of others standing here in 1976, when we enacted this statute in the first instance. Since then, as Members know, the Senate has seen fit, in a subsequent Congress, to actually rename, to name the statute after one of its former Members, which is a remarkable act that only the upper Chamber could contemplate, I suspect.

I have no idea whether either the gentleman or I will live long enough to see the next reauthorization of this statute. And since there is always a chance that neither he nor I will be here on that occasion, is the gentleman contemplating as a final amendment here what I have suggested so many times, renaming it once again so the Senate will understand once and for all this should be the Young-Studds Act?

Mr. YOUNG of Alaska. Mr. Chairman, I have not considered that, although I do think we deserve the merit for this bill probably more so than the one it is named after. I do say this with respect. The gentleman and I put the work in on this bill. The gentleman was chairman of the subcommittee. It came through his committee. Unfortunately, history has a way, those that are still available are never remembered in good light. So after we leave, we will not know whether to rename the bill.

Mr. STUDDS. That was supposed to be lighthearted, not egotistical. The name, if we think about it, has a certain ring to it, which I think might last longer than both of us. May I also say, the gentleman does not look as old as he must be given how long ago we were here.

Mr. YOUNG of Alaska. Mr. Chairman, I want to thank the staff members that have worked on this and not individually by name but each one of them knows how much has been put into it. This legislation will go, in fact, over to the Senate side, and we will go to conference. But the ultimate goal of everyone in this room is to make sure that our fishermen and our fish can coexist for future generations.

This is a good and well-balanced bill. it should and will become law. It is time that this Congress acts in a positive fashion.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Let me begin my complimenting my colleague, the gentleman from Louisiana [Mr. HAYES], for his amendment. It is the right thing to do.

But as my colleague, the gentleman from Alaska [Mr. YOUNG], pointed out, we will be counting on the Department of Commerce to enforce it. History has shown for all of the reasons that he has named, in addition to political treaties, in addition to bases in different places, in addition to mutual alliances, it probably will not be enforced.

So what the net effect will be is that we will have put another unfunded mandate on the American fishermen that his foreign competitors will not have to have. I am going to vote for the Hayes amendment. I am going to pray that the Department of Commerce will enforce it. But I can tell Members this, they are not. Therefore, I am going to vote against this whole bill, because it is just one more example of Washington not being fair to our folks.

One of the reasons for the big change last November is the people got sick and tired of us not being fair to them. So I will encourage Members to vote for the Hayes amendment. I will encourage the Secretary of Commerce for once to stand up for the American people, the people who pay his salary. I also encourage Members to vote against the bill because it is not being fair to the American shrimper.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES], as modified.

The amendment, as modified, was agreed to.

Mrs. SMITH of Washington. Mr. Chairman, I join my colleague Congressman RIGGS in his concerns with the lack of management authority outside the jurisdiction of State waters.

I have been working with the Columbia river Crab Fisherman Association and the Columbia River Crab Fisherman's Association on this very important issue. I cannot emphasize enough the importance of fishing and crabbing to the small communities in Pacific and Gray Harbor Counties.

Certain fisheries such as dungeness crab, scallops, and thresher shark are not covered by a Federal Fishery Management Plan. States lack the authority to manage these fisheries while the Pacific Fishery Management Council and the National Marine Fisheries Service lack the resources to manage them.

In the absence of management and conservation authority, these fisheries can easily be exploited by fisherman fishing exclusively in the EEZ and then landing the product in State or foreign nation without landing laws addressing that species of fish.

The bill as currently written grants authority to manage in the EEZ in Alaska. I appreciate the commitment by Chairman YOUNG to give serious consideration to extending this authority to other States.

Ms. PELOSI. Mr. Chairman, I rise today to express my support for the amendment offered by Mr. Gilchrest to H.R. 39, legislation to reauthorize the Magnuson Act.

Since it was originally enacted, the Magnuson Act has been the premier legislative tool for ocean fisheries management.

This bipartisan reauthorization bill goes a long way to address the problems associated with overfishing, bycatch and waste of fish, and fish habitat protection. However, we need to further strengthen the bill.

The amendment offered by the gentleman from Maryland reinforces the bill's overfishing provisions by redefining optimum yield. Currently, more than 40 percent of our Nation's fish species are overfished.

The Gilchrest amendment proposes a new definition of optimum yield so that short-term social and economic factors would not take precedence over long-term social, economic, and ecological health.

Marine fisheries are one of our country's greatest and most valuable natural resources and they must be conserved for long-term economic and ecological sustainability. The Gilchrest amendment shares this goal.

I urge my colleagues to strengthen the Magnuson Act by supporting the Gilchrest amendment.

Mr. ZELIFF. Mr. Chairman, I rise today to urge my colleagues to support the fine work of the Resources Committee and Chairman YOUNG and support H.R. 39, the reauthorization of the Magnuson Act.

This issue is of tremendous importance to the fishermen along the seacoast of New Hampshire, and I am pleased that I have had an opportunity to work with the Resources Committee and Chairmen YOUNG and SAXTON to address a particular concern of mine. The problem of gear conflict, or acts—either intentional or not—that destroy gear such as nets and lobster pots, is an increasingly serious problem for fishermen in the Northeast, who are already suffering these days.

After working for several months with Chairman SAXTON and Chairman YOUNG, we were able to work out language that addresses the problem of gear conflict, and I have no doubt that this provision will be of tremendous assistance to our fishermen in New Hampshire and the entire Northeast.

Prior to discussing the amendment, however, I wish to provide a bit of background information and set the stage as to why this language is necessary.

First of all, fisherman's gear can be loosely defined as the tools he, or she, uses to catch fish. Gear could be fixed gill nets, lobster pots, or nets dragged behind large trawlers that catch everything in their path. The fishing industry in New Hampshire consists primarily of gill net fishermen who leave a number of nets attached to a secured line in the ocean and check on those nets periodically every few days or so.

The simplest example of a gear conflict would be to envision a large boat dragging a net behind it navigating through an area where gill nets are located. The gill nets are caught up in the trawler's net and are destroyed. The same situation occurs when a trawler passes through an area of lobster pots. The pots are either destroyed or entangled in the nets and pulled from the ocean.

The gear conflict problem is exacerbated in the New England area by the recent closing of fishing grounds off the east coast which were traditionally fished by large trawling vessels.

Predictably, the large trawlers, in search of new areas to fish, have moved inshore and are now competing for fish in areas traditionally fished by gill-netters and small lobster fishermen. As NMFS and the New England Fishery Management Council review even more restrictive measures to further limit traditional fishing areas, there will be fewer and fewer areas to fish and that such reductions will lead to a greater concentration of fishing vessels and more gear conflict.

In a report provided to the New England Fishery Management Council, in the period between November 1992 and January 1995, there were 73 gear conflict incidents reported to the Portsmouth, NH, NMFS Office of Enforcement. Primarily, these incidents were between large trawling vessels and small gill-net or lobster fishermen. Based on discussions with fishermen and fishery officials, it is apparent that the actual number of such incidents may be twice what is reported.

The economic costs to the small boats whose gear is being destroyed is staggering. The gear lost in the period referenced above had a value of $130,000, costing individual vessel owners anywhere from $1,700 to $23,000 to replace the gear. In light of the fact that most small fishermen, like many other small businesses throughout the country, are struggling to survive and face increasing Government regulation, losing gear can prove to be an economic burden that is simply too difficult to bear.

The Magnuson Act, as currently written, requires that, to hold an alleged perpetrator of a great conflict liable, NOAA General Counsel must prove that an individual knowingly destroyed gear. It has been very difficult for NOAA to prove an individual's state of mind or that he acted with intent. Therefore, many gear conflict cases are left unpunished.

The language I worked out with the Resources Committee includes a two-tier system to address NOAA's dilemma. First, this system sets a negligence standard as its base, meaning that if NOAA could prove that a vessel is simply negligent then NOAA could hold a vessel civilly liable for the gear conflict. This tier would carry a fairly wide range of penalties so that NOAA could implement a small penalty in the event that a conflict was truly accidental. However, in the event that a vessel continually—or intentionally—is involved in gear conflict situations, NOAA would have the opportunity to severely penalize repeat offenders.

It is the second tier that would be used in the most egregious cases wherein NOAA had sufficient evidence to prove that a vessel consciously and with intent destroyed another fisherman's gear. This tier would carry the opportunity for NOAA to criminally prosecute the vessel responsible for the gear conflict.

It is absolutely essential that we in Congress give the fishery enforcement community the tools it needs to protect the small commercial fishermen working off the coasts of our great Nation. On the mainland, any individual who consciously destroys the tools necessary for an individual's small business to operate would be severely treated. I believe, and I am sure the small boat fishermen in New Hampshire and nationwide, would agree, that if NOAA can prove an individual consciously destroyed another person's tools of livelihood, that person should be considered a criminal.

The fact is, as the Government continues to decrease the areas where fishermen are allowed to fish, more and more vessels are going to be concentrated into smaller areas. If we don't act now to develop language which will deter conflicts, many small boat fishermen will simply be wiped out. Worse yet, if we don't act, fishermen will take it upon themselves to protect their own gear, inevitably leading to the kind of standoff I outlined earlier. I am hopeful that my colleagues will not allow this to happen.

We are an anticrime Congress. We are a Congress that believes in protecting small business. I believe that this legislation does both. I urge my colleagues to support H.R. 39.

Ms. PELOSI. Mr. Chairman, I rise today to express my strong support for the amendment offered by Mr. MILLER to H.R. 39. This important amendment will help maintain the economic viability of family fishing operations throughout the United States, and by doing so, help keep our coastal, community-based fishing fleets alive.

The Miller amendment to H.R. 39 requires fishery management plans to consider historic participation and the needs of coastal fleets and the communities they support.

When the Magnuson Act became law in 1976, its chief goal was to develop U.S. fishing capacity and to promote efficient use of our fisheries. Since then, fisheries management plans have favored larger boats with huge capacities at the expense of smaller, family-run operations.

By requiring that fishery management plans consider the participation and needs of smaller operations, we will ensure a diversified fleet throughout our country which maximizes jobs, provides greater economic benefits to our communities, and results in less waste and lower capital costs.

I am proud to represent a congressional district with a long history of active family fishing operations. Each year, millions of visitors to northern California enjoy the fruits of the sea which are a result of long hours and hard work. This amendment supports these family operations and ensures that their sector of the coastal fishing economy will be strengthened.

I urge my colleagues to support the Miller amendment and vote ''yes'' on H.R. 39.

The CHAIRMAN pro tempore. Are there further amendments to the bill.

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Pursuant to the order of the House of September 18, 1995, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. COMBEST, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 39) to amend the Magnuson Fishery Conservation and Management Act to improve fisheries management, pursuant to the order of the House of September 18, 1995, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Pursuant to the order of the House of September 18, 1995, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 37, not voting 7, as follows:

[Roll No. 720]

YEAS—388

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Baesler
Baker (CA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston

Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Taylor (NC)
Thomas
Thornberry
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—37

Bachus
Baker (LA)
Callahan
Cooley
de la Garza
Dicks
Dornan
Dunn
Everett
Hancock
Hastings (WA)
Hayes
Laughlin
Lincoln
Livingston
McCrery
McDermott
McIntosh
Metcalf
Montgomery
Nethercutt
Neumann
Ortiz
Parker
Pombo
Scarborough
Smith (WA)
Stearns
Stockman
Stump
Tate
Tauzin
Taylor (MS)
Thompson
Thornton
Tiahrt
White

NOT VOTING—7

Chapman
Fields (LA)
Flake
Mfume
Tejeda
Tucker
Volkmer

□ 1449

Messrs. EVERETT, LAUGHLIN, NETHERCUTT, DE LA GARZA, and MCCRERY changed their vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 39, FISHERY CONSERVATION AND MANAGEMENT AMENDMENTS OF 1995

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 39, the Clerk be authorized to make such technical and conforming changes as are necessary to reflect the actions of the House on the bill just passed.

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

There was no objection.

PERSONAL EXPLANATION

Ms. JACKSON-LEE. Mr. Speaker, I rise to indicate that yesterday I had an official leave of absence because of official business in my district, and I would like to place in the RECORD my position on rollcall votes No. 714, 715, and 716.

Mr. Speaker, if I had been present at the time of rollcall 714, I would have voted ''aye''; if I had been present at the time of rollcall 715, I would have voted ''aye''; and if I had been present at the time of rollcall 716, I would have voted ''aye.''

PERSONAL EXPLANATION

Mr. CHAMBLISS. Mr. Speaker, I was tending to business in my district yesterday, which caused me to miss rollcall votes 714, 715, and 716. Had I been present, I would have voted ''yes'' on approving the Journal, ''yes'' on H.R. 2070, and ''yes'' on H.R. 2353.

APPOINTMENT OF CONFEREES ON H.R. 2076, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1996

Mr. ROGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2076), making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MOLLOHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 2076 be instructed to insist on the House position regarding the salaries and expenses of the Securities and Exchange Commission.

The SPEAKER pro tempore. Under the rule, the gentleman from West Virginia [Mr. MOLLOHAN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. ROGERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. MOLLOHAN].

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

Mr. Speaker, my motion urges the House conferees to insist on the House position regarding the level of appropriations and the allowable level of fees collected by the Securities and Exchange Commission.

The House bill, Mr. Speaker, provides for a total appropriation of $103 million. This level provides for the commission to operate at their fiscal year 1995 funding level after the collection of fees totaling $184 million plus an approximate $10 million carryover.

Mr. Speaker, the Senate bill appropriates a total of $135 million, while allowing for the collection of only $123 million in fees. This means, in plain terms, that the Senate bill spends $32 million more than the House bill while at the same time it cuts the commission's operating level.

I was suggesting this anomaly that the Senate appropriates more money than the House does but reduces the fee collection, which means, in plain terms, that the Senate spends $32 million more than the House bill but at the same time it cuts the commission's operating level by approximately 10 percent. There are substantive reasons why I oppose cutting the SEC's operating level, which I will discuss in a moment.

But the Senate bill makes absolutely no sense from a fiscal standpoint. It provides $32 million higher spending levels to get a 10-percent cut in operations. It is not good fiscal policy.

Mr. Speaker, the cuts to the SEC's operating level mean fewer investigations. It means delays in the review of legal disputes. They mean a lessened ability for the SEC to pursue fraud, and it means less of an ability to prosecute fraud when fraud is found. This would come at a time when American financial markets are expanding and the potential for fraud increases along with that expansion.

There is no evidence that the incidence of fraud is decreasing. In fact, with the increasing complexity of financial deals and the instruments used to consummate these transactions, the SEC's missions are more and more vital.

In addition, the Senate bill abolishes the SEC's office of investor education and assistance. This office is the only place where individual investors can get their complaints resolved without resorting to litigation. The steady rise in the stock market is due, in part, to the fact of an increasing number of individual investors placing their funds there. Do we really want to eliminate the only Government entity that offers these investors the ability to have their complaints resolved without costly court action?

Part of the reason for the Senate action is given that it is based upon this notion that the States should perform this task, that the States should take over part of this responsibility. That is simply not practical in this context, and it is yet another example of piling additional responsibilities on States and not funding those responsibilities.

Mr. Speaker, protecting the stability and the integrity of the American financial markets is of paramount importance. I do not think that the Members of the other body were fully aware of the impacts of their action when this bill was passed in a rather chaotic moment just before the last recess.

Mr. Speaker, I believe that the chairman of the subcommittee is prepared to accept the motion. I have discussed it with him.

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

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

I will be brief. I have no objection to this motion to instruct the conferees, to insist on the House position on the Securities and Exchange Commission. I believe it will help resolve this issue in conference.

The House position maintains overall funding for the SEC at the fiscal 1995 level, $297 million, instead of a 10-percent cut as proposed by the Senate. The House maintains the current fee structure while the Senate reduces fees. As a result, the Senate appropriates $31.5 million more than the House and yet reduces overall funding by 10 percent.

In short, the Senate bill pays more to get less.

The House position, on the other hand, is a bipartisan position that has resulted from extensive cooperation among the Committee on Commerce, the Committee on Ways and Means, and the Committee on Appropriations. It represents a coordinated approach to sustain the SEC while gradually reducing reliance on fees.

The House approach was most recently endorsed by the Washington Post in an editorial last Sunday.

So I will support the motion offered by the gentleman, my colleague, and I would urge its adoption.

Mr. MOLLOHAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from West Virginia [Mr. MOLLOHAN].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. ROGERS, KOLBE, TAYLOR of North Carolina, REGULA, FORBES, LIVINGSTON, MOLLOHAN, SKAGGS, DIXON, and OBEY.

There was no objection.

□ 1500

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include tabular and extraneous material on H.R. 2076, the matter just considered.

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

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florda. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2126, Department of Defense Appropriations Act, 1996.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2126) making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a further conference with the Senate thereon.

The Clerk read the title of the bill.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2126, be instructed to reduce within the scope of conference total spending by $3 billion compared to the amount provided in the House bill to be derived from deleting funds for low priority ''Procurement'', Research, Development, Test, and Evaluation'' and other projects contained in the House or Senate bills that were not included in the President's Budget: *Provided*, That the conferees shall not reduce military pay or Operation and Maintenance readiness activities below the levels provided in the House bill.

The SPEAKER pro tempore. Under the rule, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Florida [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

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

Mr. Speaker, my motion to instruct conferees is fairly straightforward. It simply asks the conferees to delete $3 billion worth of pork which the conferees placed into this bill.

Every Member who has told his or her constituents that they want to change business as usual in Congress ought to enthusiastically support this motion. It simply instructs conferees to bring back a new conference report that cuts $3 billion in pork projects that do not affect readiness and do not affect military pay or operation and maintenance when they bring the bill back to the House.

The motion is very simple. It would save $3 billion. As Everett Dirksen used to say, ''That is real money.''

Mr. Speaker, I think it would be useful to review a little recent history to put all of this into context. Earlier this year we heard an awful lot of scare talk about how it was vital to our national interests to add another $7 billion to the Pentagon's quarter of a trillion dollar budget request in order to protect the readiness of our Armed Forces. Who could be against that?

The House leadership told us that this $7 billion was so essential and of such high priority that it had to be done, even if in the process it required other areas of the budget to apply draconian reductions to America's senior citizens, to working families, to workers who needed training, to America's kids. As a result, over the last 3 months, this Congress has produced one of the meanest and most extreme budget proposals that has been produced in the history of the Congress, to pay for more military spending and to provide huge tax cuts, over 50 percent of which go to the wealthiest people in our society.

Compassion for the sick and elderly has been thrown out the window; concern for clean drinking water and clean air has evidently evaporated; investments in the education of our children and in job training for workers tossed out of work have been severely savaged; summer jobs for lots of kids in

this society have been eliminated; cops are being taken off the street as fast as they were put on it last year; and what are we getting for all of this sacrifice in the military budget?

Well, that question was answered several weeks ago when the first Defense appropriations conference report, which this House voted down, correctly, was first produced. That gives us a clear picture of what the new leadership of this Congress feels is the top priority. The headline that should have accompanied the conference report on that bill is ''Pork Replaces Readiness.''

Now, where did that $7 billion go? It did not go to the troops. The critical readiness account in the conference report operation and maintenance was actually lower than it was in the Clinton budget by nearly half a billion dollars, after you take out non-DOD items, like the $300 million in Coast Guard funding that comes under the Transportation bill, the $260 million in inflation cuts which should have been credited to both the President's budget as well as the House budget, because it is merely an estimate, and $650 million in contingency financing.

So in real, practical terms, the operation and maintenance account is half a billion dollars lower, not higher, than President Clinton's budget was. Yet the bill produced by this committee put the entire $7 billion into pet procurement projects that the Pentagon did not even ask for and says they do not need right now.

If you do not believe me, if you do not believe a Wisconsin progressive, then why not take the word of a pro-defense conservative Republican Senator. I have a letter from Senator MCCAIN which every one of us has received, and that letter lists some 100 projects, some 100 pieces of pork, which in his estimate, by conservative standards, will cost the taxpayers $4.1 billion in unnecessary spending. That does not even count the unnecessary funding for star wars and two extra $1 billion ships.

My motion does not go nearly as far as Senator MCCAIN suggested that we go. It simply says cut $3 billion, rather than the $4.1 billion that the Senator identified.

Mr. Speaker, if Members are against pork, they ought to vote for this motion. If they are against corporate welfare, they ought to vote for this motion. If Members are for deficit reduction, they ought to vote for this motion. If anybody wants to see the list that the good Senator provided us, I am more than willing to show, and we have got some additional projects as well which we are willing to talk to people about, including projects put in these bills by some people who on Tuesday will talk about how much they are saving the taxpayer in the defense bill and then on Thursday will slip in extra items that raise the cost of everything from Navy construction projects to you name it.

Mr. Speaker, I reserve the balance of my time and urge every Member to read what the good Senator has said about the unnecessary pork items in this bill before you vote on this motion.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would start by saying here we go again. The House overwhelmingly defeated an attempt to reduce the House bill when it was on the floor in its initial stages. This is a rehashing of the same approach. The conference report did reduce the House bill. We expect that the conference report numbers would be about the same, but let me tell you where they are.

If we were to accept the Obey motion to instruct and if it were to prevail, this bill for fiscal year 1996 would be $2.6 billion less than the defense bill that was signed into law last year, which would mean the 12th year in a row that our investment in our national security has been reduced. It would result in a defense appropriations bill which would be $5.2 billion less than the House-passed defense authorization bill.

So we are talking about a very fiscally conservative defense bill. What we are trying to do, we are trying to change the direction. Our defense establishment has already been reduced by 1.2 million personnel. At the same time, the President, the Commander in Chief, is sending U.S. troops around the world. If anybody is paying any attention at all, they know that the President intends to send 20,000 to 25,000 more American troops to Bosnia. To do what? To keep the peace? They do not call this peacekeeping forces anymore. Now they call it the implementation force. They are supposedly going with full combat gear and heavy equipment.

My attitude is if the U.S. troops are going to be deployed to a hostile situation, that is the way they ought to go. But if they are going like that, that means there is no peace to keep. It means they are there to implement the peace. According to the news media this morning, the President has no intention of coming to the Congress to get any approval on the part of the Congress for this deployment of U.S. troops. I say that is wrong, Mr. President. The Congress has not only a right, but an obligation to be involved in these kind of decisions.

Now, what type of programs would we have to eliminate if the gentleman from Wisconsin [Mr. OBEY] were successful? What are the low priority, unrequested additions?

First, let me speak to the issue of what is unrequested. Everyone who knows what is going on in this business, in the Congress and outside the Congress, at the Pentagon, at the White House, understands that the President sets a budget number. Regardless of what the Department of Defense, the Army and the Navy and the Air Force and the Marine Corps, what they think they need to accomplish their missions, they have to work within that political number set by the President.

We tried to do our work a little differently. We had in the war fighters, not the political Pentagon but the people who have to perform the missions, who have to go to places like Bosnia or who went to Somalia or Desert Storm, to find out what their needs are. We came up with quite a list. I know that the gentleman who preceded me does not like it when I bring out this scroll, and I will not roll it out again, but this scroll contains hundreds of items that the Army and the Navy and the Air Force and the Marine Corps have identified as critical issues for them, but they could not get them in the budget because the number was not there.

We are trying to turn that corner. We are trying to change the direction of 11 years of reduction, year after year, in our national defense activities, and that is what is on this scroll. We have tried to provide some of those. They are on the list.

Let me speak to what some of those are. What are the unrequested adds? I hope the Members will pay attention to this, because almost every Member in this Chamber has written to me or spoken to me about this issue: $100 million that we added to this bill for breast cancer treatment and research for those women who serve in the military and the spouses of the men who serve in the military who may at one time or another have to deal with the issue of breast cancer.

We were asked to provide $300 million for the military, the military activities, of the U.S. Coast Guard. While they do not come under our jurisdiction for their total funding, they are a military organization, and they are essential to our Nation's security. So we added $300 million for the Coast Guard.

We added $322 million for barracks renovation, because some of the conditions of some of the barracks that our soldiers have to live in are pathetic. We are trying to correct that.

We provided additional money for the Guard and Reserve equipment, because the Guard and Reserve, as we have reduced the end strength of our Armed Forces, the Guard and Reserve become extremely more important. Secretary Perry told us just a few days ago that when the troops go to Bosnia there will be Guard and Reserve units that will go with those troops that go to Bosnia.

□ 1515

So they need to be properly equipped. And we tried to bring them up to date by modernizing their equipment.

And, yes, the gentleman from Wisconsin [Mr. OBEY] does not like this one at all, but we did provide extra money for ballistic missile defense.

I remember going to Saudi Arabia during Operation Desert Storm with the gentleman from Pennsylvania, JACK MURTHA, who was then chairman of this subcommittee, and shortly after we returned from that war zone we learned that a Scud missile had killed

a large number of Pennsylvania National Guardsmen who were asleep in their barracks because our missile defense was not as good as it ought to be. It is still not, and we are trying to improve that.

Mr. Speaker, we want to make sure when our troops are deployed and they go to sleep in their barracks behind the war zone that they ought to be provided some protection against a Scud type missile or an incoming ballistic missile.

We provided some extra money for trucks. I visited some army bases just recently and I saw trucks that were in service in the Army when President Truman was President of the United States. It costs more to keep them up than it does to replace them, so we are trying to replace some of those World War II vintage trucks.

Mr. Speaker, I do not know how many of us remember General Schwarzkopf's comments when he came back from Desert Storm as a conquering hero, but he made the point to our subcommittee and to anybody that would listen that without the trucks that he had, that incidentally the Pentagon had never asked for but Congress provided, without those trucks he could never have prosecuted that war to the extent that he did.

Mr. Speaker, we had a $400 million shortfall in ammunition. Ammunition. We provided extra money for ammunition.

Something else we did that was an initiative of our subcommittee. There is an ongoing operation in Iraq to deny access to the skies of the Iraqi fighter pilots. That is ongoing. We added $650 million to pay for that operation.

The way it has always been done in the past, Mr. Speaker, the President just goes ahead, he deploys the troops, and at the end of the year we have to come up with a supplemental to pay for that. We knew how much this operation was going to cost and so we provided the $650 million over and above the President's request to pay for that operation. And if we did not do that, what happens? They have to borrow it from their training accounts.

Mr. Speaker, I would like to now move on to the subject of Bosnia because that is exactly what is happening today. The operation in Bosnia, before any additional deployment, is going to cost over $300 million this fiscal year. That money is being borrowed from their training accounts; and, as the Bosnian situation develops and grows more serious and more expensive, the moneys are going to be borrowed from training, from readiness, from operations and maintenance. We took a first step toward correcting some of that problem here with this money for the unbudgeted contingencies.

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

Mr. YOUNG of Florida. I yield to the gentleman from Washington, who happens to be a distinguished member of our subcommittee.

Mr. DICKS. Mr. Speaker, I wanted to take a minute here to join the gentleman in urging the House to vote against this instruction.

I have great respect for the gentleman from Wisconsin. He has been a good friend of mine for many years, and I understand his point of view. And many of us on the Democratic side of the aisle have difficulty with the budget priorities that are being presented to us in the reconciliation package and in the appropriations bills. But as someone who has served on this subcommittee for 17 years, I would like to remind my colleagues that we have reduced defense spending since 1985.

Mr. Speaker, if we took this year's budget and put it back into 1985 dollars, it would be about $350 billion. That was kind of the high point of the Reagan defense buildup. Since then we have cut that budget from $350 billion down to $250. Now, show me any other area of Government where we have made those kinds of cuts. It is about a 37 percent reduction in real terms.

I would also point out that that 1985 budget defense spending included about $135 billion for procurement. That procurement budget has now been cut down to $41 billion a year, a 70-percent reduction, which, I think, is going to be the next major problem that we face in the defense area.

Mr. Speaker, people talk about readiness. We are spending a lot of money on readiness. Where we are not spending the money properly, in my judgment, is in procuring the new weapon systems to replace the equipment that we have in each of our services. I think that this $3 billion cut, coming at a time when this administration is going to be asking us to come up with money for Bosnia on top of it, would be a serious mistake in judgment.

I would support my chairman here. I think we have to support what the committee did on a very bipartisan basis. Yes, we can look at Senator MCCAIN'S list. I do not like a lot of the things that were in there, but I would point out that most of them came from the other body. We go into those conferences and we have to deal with these issues, and the ones that the chairman has pointed out are very important and he has done his level best to keep the bill as free of unnecessary spending as he can. And yet we are doing some things in the health area, like breast cancer, which I think, overwhelmingly, the House and the country would support.

So, Mr. Speaker, I hope we can resist this motion to instruct and remember the context. We have already cut defense way back. We have cut force structure by a third. We have a much smaller military today than we did just a few years ago, and it is the one area in Government where we have really made, over a substantial period of time, real reductions. At this point I think we have to level that off or we are going to do considerable damage to the readiness and the ability of this country to defend itself.

I appreciate the chairman yielding.

Mr. YOUNG of Florida, Mr. Speaker, I thank the gentleman for his comments, and I reserve the balance of my time.

Mr. Speaker, may I inquire how much time is remaining on each side?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Wisconsin [Mr. OBEY] has 23 minutes remaining, and the gentleman from Florida [Mr. YOUNG] has 18 minutes remaining.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume, and note that the gentleman from Florida has indicated that in my remarks I am doing nothing but rehashing old arguments. That is absolutely correct, and I intend to rehash those arguments again and again and again and again and again until people stop listening to bafflegab and start facing some true facts.

We have heard about the draconian reductions in the U.S. military budget. My question is: In comparison to what? This chart shows a red bar representing the Russian military budget since the Soviet Union collapsed, and the blue bar is representing the United States budget since that time. This shows the comparative reductions in military spending by the Soviet Union and the United States.

As we can see by the rapid decline in the red bars, the Russians have reduced their military spending since the Berlin Wall fell by about 70 percent. The United States, represented by these blue bars, has reduced our military budget by about 10 percent over that same time period.

Now, Mr. Chairman, I would suggest this hardly indicates that somebody is going to get you. It hardly indicates that we are about to be swarmed over by the red hordes or any other hordes in the world.

This chart shows how our military budget compares to that of all our potential adversaries. If we take Russia, if we take China, if we take Syria, Iraq, Iran, Libya, North Korea, Cuba, that military powerhouse, Cuba, if we take them all and add them together and compare them to what the United States spends in the rest of the pie chart, we spend about 2½ times as much as all of our potential adversaries put together.

Mr. Speaker, third point. We take the good old B–2. We are only buying twice as many B–2's as the Pentagon asked for at a cost of $1.2 billion a crack. Just the cost of one of those airplanes would pay the tuition for every single undergraduate student at the University of Wisconsin for the next 12 years. That puts it in perspective. Just two B–2 bombers.

If we just decided not to spend the money for those two B–2 bombers, we could restore $1.2 billion in cuts for education; we could provide $1 billion

for home heating help that has been cut out of the budget, to help 6 million households; we could provide summer jobs for 300,000 kids, all with just what we are going to spend to buy two of those B–2 bombers.

This committee, however, in its infinite wisdom, says ''Oh, oh, oh, we have to buy them, baby, because somebody wants them.'' The gentleman from Florida says that there are other items that some people in the Pentagon would like. Well, then, I suggest that they ought to get those items through the Pentagon's process, because right now the Pentagon itself has turned down the items that I am trying to eliminate in this bill.

Now, Mr. Speaker, I am not a bit surprised there is some general or some admiral who will come to us and whisper behind us and say: ''Hey, I have to have this. Really would like this.'' Of course, they do. Have any of us ever met a bureaucrat in any profession, military or otherwise, who did not have his hand out for something that he would like that the country cannot afford? Wake up, fellas. Wake up.

Mr. Speaker, the gentleman talks about what General Schwarzkopf said about the need for some equipment. The general I prefer to listen to in this case is named Eisenhower, and he warned us a long time ago of the pernicious effect on the ability of this Congress to control spending that is created when we have the huge military industrial complex that goes to work and decides that they are going to build a weapon system by putting projects in 48 of the 50 States so that they create pressure on virtually every single congressional delegation to vote for something even though it is not needed.

Mr. Speaker, having said all that, I want to say that is not what is at issue here today. What is at issue here today is whether or not we are going to take over $4 billion in pork. Capital P-O-R-K, pork. If we are going to take $4 billion in pork and knock out three-quarters of it. I am not even asking that we knock it all out. You can keep your favorite items. We can get together and decide how we are going to divvy up the rest but knock out three-quarters of, not what I say is pork, but what Senator MCCAIN says is pork. And the last time I looked, he is not exactly a left wing antidefenser.

So, Mr. Speaker, I would suggest that we keep this in perspective and remember that this amendment does not attack the defense of the country and it does not attack the military preparedness of the country. All it says is, ''Boys and girls, take three-quarters of the pork out of the bill.'' That is all it says. It does not even single out which items should be taken out. It leaves it up to the committee and their great expertise.

Mr. Speaker, I would urge Members to vote for the motion to recommit.

□ 1530

Mr. YOUNG of Florida. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania [Mr. MURTHA], the ranking minority member on the subcommittee and a former chairman.

Mr. MURTHA. Mr. Speaker, let me talk about some of the comments that the ranking member of the full committee made and the concern I have about passing instructions to reduce the amount of money available to the Defense Department.

When I was just over in Bosnia over the weekend, I found that they are using some of the money from the next quarter already and we are trying to sort out exactly how the money should be spent. Now, what we have done this year is try to make adjustments in the various programs that the Defense Department has asked for. For instance, over the years, we have put language in the bill, or we have put a number of programs in the bill that have been absolutely essential to the national security of this country.

Mr. Speaker, I remember well, probably 15 years ago, when a number of us offered an amendment to put SL–7's in. The Navy did not want it. The Defense Department did not want it. It took us 2 or 3 years before we could get that legislation through. As a matter of fact, we passed the legislation and in the gulf war, it was essential, since 95 percent of the materiel that was sent over to Saudi Arabia went by ship, much of it went by these SL–7's, which are large cargo-carrying vessels.

We do adjust what the Defense Department asks for. That is our job. Our job is to try and set the priorities for the Defense Department. Now, we are going to go back to conference. We are going to look at all the things, the adjustments that the Members have asked for, the concern that they have about the various issues, and if I remember on the floor, there was an amendment to reduce defense in the initial phase, before the conference, by 5 percent, by 3 percent. Both of those were defeated substantially.

I believe we have the right mix. I have talked to a number of people in the Defense Department, and they think we have the right mix. I disagree with the gentleman from Wisconsin who said that the members in the military are looking for a handout. I believe very strongly that they serve with dedication. They try to get the most for their money. They do not ask for money unless they feel they need it. They feel that it is essential that our troops be prepared for the type action they may be sent into.

We have got a concern about the deployment to Bosnia. We want to make sure that any troops that are sent there are prepared. We want to make sure they have the most modern weapons possible. We made the decision on the B–2. The House made the decision on the B–2; made the decision that we need that modern weapons system in order to save money in the long run.

Mr. Speaker, I was the one that offered, years ago, an amendment to jump over the B–1 and go to the B–2, because I felt the B–1 was obsolete at that time. It was defeated on the floor of the House. I accepted the fact that it was defeated on the floor of the House, and I predicted that it would be very difficult for us to build a number of B–2's, but we are now in a position where we found the money to fund the B–2. We cut intelligence. We found that there was extra money that had not been used and could not be used and was not obligated in the intelligence sector that we could put into this issue.

One of the major weaknesses in the Navy Department right now is the fact they have not bought the modern airplanes. We are not going to have airplanes that are stealthy. Our airplanes are slower than they were in Vietnam. Even though some of them are modern, an awful lot of them, the bombers in particular are not only not modern, but they are antiquated and very susceptible to ground fire. So, we are now in the process of trying to upgrade the Navy Department.

The B–2 plays a part in that. The military leaders themselves feel that the F–22 is an essential part of the defense of this great country. If we allow this equipment to become antiquated, we become vulnerable and we start to lose lives. We found 50 years ago that 50 percent of the aircraft were deadlined because of the lack of spare parts. We have tried to take care of that. We have tried to reach the delicate balance of continued research and development, spare parts and readiness.

Mr. Speaker, we sat in hearings for 5 months. Hours and hours of hearings, trying to make sure we made the right decisions. This bill came out of committee, adjusted between the House and the Senate, with what we felt was something that the White House could sign.

Mr. Speaker, I predict that this bill, with a very minimal change, will be signed by the White House at some point. We will have to make some changes, but I would urge the Members to defeat the motion to instruct by the gentleman from Wisconsin and let us go to conference and work it out.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, we have heard, ''Oh, we cannot cut this bill because we are going to endanger items important to national security.''

Mr. Speaker, if my colleagues would take a look at Senator MCCAIN's list: Electric vehicles research, brown tree snake research, wastewater treatment plan for a community, a small business development center for another community, national solar observatory, a natural gas boiler demonstration project, Mississippi resource development center. That hardly sounds to me like these are crucial defense items.

Mr. Speaker, I could name a lot more, and will, if pressed. But it just seems to me that, as I said earlier, I am not even insisting that we take the Senator's full $4 billion list of pork. I am suggesting that we ought to take three-quarters of it and take it out of the bill.

Mr. Speaker, I would make another point. What I said, and my colleagues can go back and check the record, what I said was that there is not a bureaucrat, be they in the military or elsewhere, who does not have his hand out for something that the country cannot afford. I stand by that statement. I have too much experience around here to know anything other than that.

Mr. Speaker, those bureaucrats come into our offices every day from the military, from universities, from you name it. There is not an agency of this government that does not have its hand out for something, trying to get around the budget limitations put on that agency by the President of the United States and the Office of Management and Budget.

Mr. Speaker, I would make another point. The gentleman from Florida [Mr. YOUNG] says, Well, you know, we are going to have future contingencies that we have to pay for. I would be willing to buy an amendment right here and now which takes $3 billion out of the pork and put it right into the contingency fund. If the gentleman wants to offer that, I would be happy to accept it and start over with the motion to recommit.

So, let us not kid ourselves that this money is here for contingencies. This money is here because there has been a political accommodation reached to try to fund projects which the Pentagon says are not necessary. I do not suggest that the Pentagon in all cases is right. I think the gentleman from Pennsylvania is perfectly correct. That there are some instances in which we need to exceed what any agency asks for, and we have heard a number of those cases made during the Iraqi war, for instance. I agree with that observation.

That is why this amendment does not call for the elimination of all pork. It does call for the elimination of three-quarters of it, because that is the only way I know how, that is the only way I know how to break up the insider dealing, which otherwise is going to prevent us from really forcing the tough questions.

Because as all of my colleagues know, the great hidden secret in our military budget is that while in the 7-year period overall, this budget that the Congress has produced would spend more than the President, after the seventh year, it spends less than the President is suggesting. The fact is that there is no way we are going to be able to keep to that outyear glidepath to take us down to those lower numbers unless we start eliminating some of the waste up front, right now.

Mr. Speaker, we are going to be on this floor tomorrow and we are going to be asked to cut Medicare benefits. We are going to be asked next week to gut the protection of the middle-class families when one in their family has to go to a nursing home. We are going to be asked to take major reductions in education, 30 to 40 percent reductions in job training, but we are being told that we cannot afford to cut this $3 billion in pork? Baloney.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Speaker, first, let me applaud anyone who wants to save money in this body. But there are bigger issues at stake on this measure.

Mr. Speaker, I am a member of the Committee on National Security and today Secretary of State Christopher came before the committee and said it was his opinion that he could commit 25,000 American troops to the most dangerous place in the world without congressional approval.

If my colleagues happen to have read the Constitution, article I, section 8 gives that responsibility to send young Americans off to war solely to the Congress.

And this is a war. They would be sent in, allegedly, as peacekeepers to a part of the world where the best-armed people consider us to be their enemies, because we have bombed them repeatedly in the last month or so.

This body, led by the gentleman from Pennsylvania [Mr. MURTHA] with the help of the entire body, passed a measure that would prohibit the President from spending funds on ground forces in that portion of the world without congressional authority. That is our job. We cannot run away from it.

One of the reasons that the majority defeated the defense appropriations bill conference report was because that language had been removed after the House voted for it unanimously. Mr. Speaker, the gentleman from Florida [Mr. YOUNG] is the chairman of that subcommittee. I would like to know what the gentleman's feelings are going to be entering this conference as far as trying to put that language back into the bill, because as the gentleman knows, under the rules of the House there will be very few avenues for a Member of the House to vote on this issue.

Mr. Speaker, I think the House has spoken on this, and I think it is very important that we stick to the efforts of the gentleman from Wisconsin [Mr. NEUMANN], the gentleman from Pennsylvania [Mr. MURTHA], and the many others who passed that amendment unanimously.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I appreciate the comments the gentleman has made and I know of the gentleman's strong interest.

Mr. Speaker, I have to say that I could not agree with him more with the issue that he raises dealing with the President sending United States troops to Bosnia. As a matter of fact, in the bill that I presented as the chairman's mark to the subcommittee, I had 5 pages of language dealing with the issue of Bosnia and the President's obligation to deal with the Congress on the issue.

On the House floor, the gentleman from Wisconsin [Mr. NEUMANN] and the gentleman from Pennsylvania [Mr. MURTHA] worked together to make that language even stronger. We attempted to keep that language in the conference. It was very difficult.

Mr. Speaker, in the last week the gentleman from Pennsylvania [Mr. MURTHA] and I have both met with Secretary Perry and Ambassador Holbrooke. We discussed this issue and I asked the Secretary if the President still intended to come to the Congress to get approval before sending troops to Bosnia. His response was, ''Yes.'' And I said, ''Well, in what form would that consultation or that approval take?'' And Mr. Perry's response was, ''I don't know. That's the President's call.''

But I agree with the gentleman that American troops should not be sent into hostile situations without the consent of the Congress. If the President is willing to come to Congress and get that approval, that is one thing. But if he is not, then Congress has to do what it can with the purse strings.

Mr. Speaker, I would assure the gentleman that we intend to make sure that that happens.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming what time I have left, there has been a tradition, there has been a tendency of Presidents in both parties to commit American forces and then, once those young men are in harm's way, then come to Congress and ask for the money.

My colleagues know the position that puts us in. Then we are voting against the troops in the field and we know we cannot do that. That is why I think it is so important. That this body speak today and speak now on this issue that this is a congressional decision that we will not run away from. That we want to make this decision before the first American is put in harm's way in the former Yugoslavia.

□ 1545

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Speaker, all of us on the subcommittee have the same concern that the gentleman does. As the gentleman knows, I just came back, from Sarajevo. We stayed overnight there, not intentionally, but could not get out because the last

flight was canceled because of the activity—we might define it as activity—going on around Sarajevo.

I have a great concern about putting troops in, and for 3 or 4 years we have been working in the subcommittee trying to convince the administration that, before they make humanitarian deployments, they must come and get authorization from Congress. Now, why do I say humanitarian deployment? I do not think a deployment to Sarajevo or to Bosnia is a national security issue. I believe it is a humanitarian deployment.

On the other hand, I think they are only 20 percent of the way. I do not think that they have come close to settling the problem. What I said in talking to the chief of staff of the White House and talking to Secretary Perry and the gentleman from Florida [Mr. YOUNG], we have agreed that we think they have to have ironclad assurances from all the participants before any Americans are sent in. And Holbrooke is the one that said they are only 20 percent of the way. So they have got 80 percent to go. They are a long way off. I think in conference we can deal with this as we see it developing.

I doubt very much if we will see an agreement before the first of the year. The gentleman from Wisconsin just mentioned to me, will they get them in before the weather gets bad? To me, it is more important that we get an agreement, which is enforceable with robust rules of engagement, with a robust force agreement, with the participants saying, the United States or the NATO allies can enforce this agreement, rather than have them come to an agreement which is a compromise and a danger to American forces.

So we are a long way from agreeing to this. I think in conference, I hope we work something out that would be acceptable and yet agreeable to the Congress.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida [Mr. YOUNG] has 9 minutes remaining, and the gentleman from Wisconsin [Mr. OBEY] has 10 minutes remaining.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have to say that my good friend, Mr. OBEY, and I have had many differences on the floor, but we have remained friends throughout those differences.

I was a little offended when I thought the gentleman was trying to compare soldiers in the field to bureaucrats with their hands out. Soldiers in the field are in harm's way. They need the best training they can get. They need the best equipment they can get. They need the best technology they can get to accomplish the mission, No. 1, and to give themselves a little protection, No. 2.

I see nothing wrong with that at all; to the contrary, I support that strongly. I would reaffirm a commitment I have made many, many times. I would never vote to send an American into a combat situation unless I knew that I had done everything that I possibly could to provide the best training and the best technology and the best equipment possible to accomplish the mission and, yes, give them a little protection at the same time.

So I cannot compare those folks to bureaucrats with their hands out, in the words of the gentleman from Wisconsin [Mr. OBEY].

There are some bureaucratic requests that were made. We are talking about what was requested by the administration and what was not. Let me tell Members some of the things that were requested by the administration that we did not do. We did not do, for example, the funding for the Russian conversion projects to convert their defense industry to supposedly nondefense industry. But let the record show that they were actually using our money to convert their defense industry to a different type of Russian defense industry.

The gentleman from Wisconsin [Mr. OBEY] talked about the B–2. The Pentagon did not want it. We know the B–2 is an expensive program. It was not in the President's budget. The *Seawolf* is another expensive program, but it was in the President's budget. They are both fairly important.

I remember the battle some years ago about the F–117. The arguments were, well, the Air Force did not request the F–117. The Pentagon did not ask for it. Why should we complete the program? But the Congress decided to complete the program. Congress prevailed. Who knows better than Saddam Hussein how effective the F–117 is because those airplanes flew over Baghdad at night, caused severe damage to Saddam's ability to conduct his war. They were never seen by the enemy because it was a good weapon. The Pentagon did not ask for the funds to complete that program but we did it anyway. Congress decided that it was a good program.

I have looked at the list that the Senator, that the gentleman from Wisconsin [Mr. OBEY] has talked about. I saw the list. I added the items up. If we took everything out of this bill that is on the list presented by the Senator, it would only come to about two-thirds of what Mr. OBEY wants to reduce.

What would some of those things be if we took out the list that the Senator sent over? Well, I mentioned the breast cancer program of $100 million. He thinks that is pork. Ask a woman that has had breast cancer or someone in their family that ever had breast cancer or who has a suspicion of breast cancer, ask them if they think the $100 million for breast cancer is pork. I think we would find the answer is definitely not.

What about all the soldiers and the sailors and the airmen, the male members of the military? There is money in here for prostate cancer research. That is on the Senator's list. He would take that out. What about head injury research? That is on the Senator's list. He would take that out. What about AIDS research, unfortunately a growing problem in the military? We need to do something about that. The Senator's list would take that out.

What about the Coast Guard, whether we are dealing with drug interdiction, whether we are dealing with search and rescue, whether we are dealing with Cubans and Haitians leaving their homelands to come to the United States? That is all in the interest of the United States. That money is on the Senator's list to take out.

I say to my colleagues that the Senator's list is really mushy. The Senator's list may have a few things in here that would not have to be there, but, for the most part, the list is not a very accurate list as to what is pork and what is not pork.

Our defense program has been reduced for 11 straight years. Defense manpower is down by over 1.2 million personnel. At the same time, the President is sending U.S. troops anywhere he desires without the approval of the Congress.

The Obey amendment would like to deal with procurement funding. Procurement funding, that is the technology and the equipment that I talked about to let the soldiers accomplish their mission and protect themselves at the same time. Procurement funding is 70 percent less in this bill than the procurement level of 10 years ago. This is a pretty good defense bill. I say to the Members on my side of the aisle, it meets the obligation that we made in our Contract With America to change the direction of our national defense, to move away from a hollow force, to be prepared in the event the President decides to send Americans into harm's way. That is what this bill does.

This is a pretty good bill. Mr. Speaker, I ask that Members defeat the Obey motion to instruct and allow us to get to conference and deal with the issues that we have to deal with.

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

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] has 10 minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, on the assumption that sometimes we need to repeat things about 50 times before Members hear what it is that is being said, I am going to repeat an argument I made 10 minutes ago. Before Members get all hot and bothered about the military threat facing the United States, let us compare military spending worldwide.

This chart shows: this piece which represents all of the military spending by all of our potential adversaries put together, including Russia, China, and all of the popgun powers of the world, that compares to the United States military expenditures which are about 2½ times as much. Not included in this chart is the money spent by our European allies on military spending. Does

anybody really think that we are at the edge of Armageddon with this kind of distribution of spending?

When our principal military adversary, Russia, represented by these red bars, has reduced its military spending by 70 percent, while we have reduced ours only by 10 percent, represented by the blue bars, does anybody think there is not any room at all to save a dime or a dollar? I would suggest that is a pretty good margin for error.

Now, the gentleman refers to some items listed on Senator MCCAIN's list and says we should not cut them. Don't! Keep them! But I do ask why should we be funding wastewater treatment plants in Hawaii? Why should we in my own State be providing money for a cleanup of a site which the pentagon itself says there is no Pentagon liability for? Why should we be doing that? We did not do it in the House bill. Why is that being done?

Why are we providing for the expenditure of $20 million worth of improvements to a federally owned educational facility prior to transferring that facility to local educational agencies? I know nothing about that project. But I can tell Members one thing. I would sure like to get that deal in my district, have the feds spend $20 million on a project and then turn it over to my local school people. Not a bad deal, baby, if you can get it. Not bad at all.

Or, for instance, the committee prohibits the downsizing or the disestablishing of the 53d Weather Reconnaissance Squadron. I do not know if that is a good idea or not, but it costs additional money. It prohibits the use of Edwards Air Force Base as the interim air head for the national training center, in another pork fight between members. I do not know which side is right, but the decision the committee made costs the most money.

I suppose I would not be here today doing this if it were not for the vote that the majority is going to ram down our throats tomorrow on Medicare. Tomorrow we are going to be standing here, and the majority party is going to be demanding that we cut $270 billion out of Medicare to provide a $245 billion tax cut, most of which will go to people who make over $100 thousand smackeroos a year. I think that is unfair. I think that is immoral.

Yet, we are being told that we ought to further the squeeze on the appropriations side of the budget, on domestic programs. In fact we had to make $7 billion in additional reductions in education, in job training, in environmental protection, in agriculture, in natural resources protection in order to free up this $7 billion for the Pentagon. Then what is it spent on? Is it spent on readiness? No.

As I said earlier, this bill, when we compare real dollars to real dollars and get the categorizations right, this bill spends half a billion dollars less on readiness than President Clinton's own budget.

All of my colleagues know that the B–2 would not stand a chance of a snowball in we know where of surviving a vote on this floor if the contractor had not spread those contracts out to so many subcontractors that we have over 40 States who are going to get a little bennie from that B–2 project.

□ 1600

In addition, Mr. Speaker, when we take a look at what that baby costs, 1 billion 200 million bucks a crack, and then we remind ourselves that the Pentagon did not even ask for it, that this committee is choosing to buy twice as many of those planes as the Pentagon wants! I would suggest to my colleagues, given this picture, and given this picture, there is a little room for cutting.

So I repeat. All this motion to instruct says, without singling out any single item, all it says is let us take three-quarters of the pork which was listed by Senator MCCAIN in his letter. Let us assume he is wrong on 25 percent of it and cut out the rest. The committee can choose which items get cut. That is all this motion says.

Mr. Speaker, I want to see how many people on this floor are going to vote today to preserve $3 billion in pork in the military budget and then tomorrow are going to vote to stick it to the old folks. I want to see how many of my colleagues really have that much guts.

Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. OBEY].

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

Mr. OBEY. Mr. Speaker, I object to the vote on the grounds 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 134, nays 290, not voting 8, as follows:

[Roll No. 721]

YEAS—134

Ackerman
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Blute
Bonior
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
Dellums
Deutsch
Dingell
Doggett
Duncan
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Foglietta
Ford
Fox
Frank (MA)
Furse
Ganske
Gephardt
Gordon
Green
Gutierrez
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnston
Kaptur
Kennedy (MA)
Kildee
Kleczka
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martini
McCarthy
McDermott
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Minge
Moakley
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Petri
Pomeroy
Poshard
Ramstad
Rangel
Reed
Riggs
Rivers
Roemer
Roth
Roukema
Roybal-Allard
Rush
Sanders
Sawyer
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thurman
Towns
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—290

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kennelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manton
Manzullo
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Regula
Richardson
Roberts
Rogers
Rohrabacher

Ros-Lehtinen
Rose
Royce
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—8

Chapman
Fields (LA)
Flake
Hilliard
Houghton
Tejeda
Tucker
Volkmer

☐ 1622

Mr. QUINN and Mr. HASTINGS of Florida changed their vote from ''yea'' to ''nay.''

Messrs. SHAYS, MOAKLEY, and GANSKE changed their vote from ''nay'' to ''yea.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). Without objection, the Chair appoints the following conferees: Messrs: YOUNG of Florida, MCDADE, LIVINGSTON, LEWIS of California, SKEEN, HOBSON, BONILLA, NETHERCUTT, ISTOOK, MURTHA, DICKS, WILSON, HEFNER, SABO, and OBEY.

MOTION TO CLOSE CONFERENCE WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. YOUNG of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves, pursuant to rule XXVIII (28), clause 6(a) of the House Rules, that the conference meetings between the House and the Senate on the bill, H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, be closed to the public at such times as classified national security information is under consideration; provided, however, that any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. YOUNG].

Pursuant to clause 6 of rule XXVIII, this vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 418, nays 3, not voting 11, as follows:

[Roll No. 722]

YEAS—418

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
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
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
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
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—3

Chenoweth
DeFazio
Stark

NOT VOTING—11

Browder
Chapman
Dooley
Fields (LA)
Flake
Gephardt
Hilliard
Rangel
Tejeda
Tucker
Volkmer

☐ 1642

So the motion was agreed to.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the following Members be the conferees on the part of the Senate to the bill (H.R. 4) ''An Act to restore the American family, reduce illegitimacy, control welfare spending and reduce welfare dependence'': Mr. ROTH, Mr. DOLE, Mr. CHAFEE, Mr. GRASSLEY, Mr. HATCH, Mr. MOYNIHAN, Mr. BRADLEY, Mr. PRYOR, and Mr. BREAUX. From the Committee on Labor and Human Resources for the consideration of title VI and any additional items within their jurisdiction including the Child Abuse and Protection Act title; Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. KENNEDY, Mr. DODD, and Ms. MIKULSKI. From the Committee on Agriculture, Nutrition, and Forestry; Mr. LUGAR, Mr. DOLE, Mr. HELMS, Mr. LEAHY, and Mr. PRYOR.

The message also announced that the Senate agrees to the amendment of the House to the resolution (S. Con. Res. 27) ''Concurrent resolution correcting the enrollment of H.R. 402''.

DISAPPROVAL OF CERTAIN SENTENCING GUIDELINE AMENDMENTS

Ms. PRYCE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 237 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 237

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. 2259) to disapprove certain sentencing guideline amendments. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(1)(2)(B) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. An amendment in the nature of a substitute consisting of the text of S. 1254, as passed by the Senate, shall be considered as adopted in the House and in the Committee of the Whole. The bill, as amended, shall be considered as the original bill for the purpose of further amendment under the five-minute rule. The bill, as amended, shall be considered as read. No further amendment shall be in order except the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, which may be offered only by Representative Conyers of Michigan or his designee, shall be considered as read, shall be debatable for one hour equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such further amendment as may have been adopted. The previous question shall be considered as ordered on the bill, as amended, and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 2259, it shall be in order to take from the Speaker's table the bill S. 1254 and to consider the Senate bill in the House. All points of order against the Senate bill and against it consideration are waived. It shall be in order to move to strike all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 2259 as passed by the House. All points of order against that motion are waived. If the motion is adopted and the Senate bill, as amended, is passed, then it shall be in order to move that the House insist on its amendment to S. 1254 and request a conference with the Senate thereon.

□ 1645

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. PRYCE] is recognized for 1 hour.

Ms. PRYCE. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from Ohio [Mr. HALL], my good friend, pending which I yield myself such time as I may consume.

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

(Ms. PRYCE asked and was given permission to revise and extend her remarks and include extraneous material.)

Ms. PRYCE. Mr. Speaker, House Resolution 237 provides for the orderly and expedited consideration of H.R. 2259, legislation reported from the Judiciary Committee to disapprove certain sentencing guidelines proposed by the U.S. Sentencing Commission.

Specifically, the rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The rule waives clause 2(l)(2)(B) of rule XI, which requires the inclusion in committee reports of rollcall votes, against consideration of the bill. It also provides for the adoption in the House and in the Committee of the Whole of an amendment in the nature of a substitute, consisting of the text of the Senate-passed bill, S. 1254.

The rule provides that the bill, as amended, shall be considered as the original bill for the purpose of amendment, and shall be considered as read.

The rule makes in order an amendment in the nature of a substitute which may be offered by Representative CONYERS or his designee. That amendment, if offered, shall be considered as read, shall be debatable for 1 hour, and shall not be subject to amendment. As is the right of the minority, the rule also permits one motion to recommit the bill, with or without instructions.

The rule further provides that after passage of the House bill, it will be in order to consider the Senate bill, and all points of order against the Senate bill, and all points of order against the Senate bill and against its consideration are waived.

Under the rule, it will be in order to move to strike the text of the Senate bill and insert the House-passed text, and all points of order against such a motion are waived. Finally, the rule provides that if the motion is adopted and the Senate bill is passed, then it will be in order to move that the House request a conference with the Senate.

Mr. Speaker, the underlying legislation which this rule makes in order, H.R. 2259, responds to the strong opposition expressed by America's law enforcement community to recent recommendations made by the U.S. Sentencing Commission which would result in reduced sentences for certain crack cocaine-related and money laundering offenses.

The House is compelled to act on this disapproval measure in a timely manner because the Commission's recommendations in these two areas will take effect automatically unless Congress intervenes before November 1.

The other body has already passed substantially similar legislation. Under this structured rule, the House will still have the opportunity to debate outstanding concerns about this legislation, while also minimizing the need for the lengthy conference process.

Mr. Speaker, as a former judge and prosecutor, I witnessed firsthand many cases which involved drug-related offenses. More than I would like to remember. I certainly sympathize with the concerns expressed by Representative CONYERS, and others who testified before the Rules Committee yesterday, about the disparity in sentences involving different forms of cocaine and its relationship to the African-American community. In fact, I wholeheartedly agree with one of my Rules Committee colleagues who commented yesterday that neither the status quo, nor the proposed solution, is acceptable.

I am confident, however, that this legislation moves the debate in the right direction by giving the Commission time to consider other sentencing options for cocaine-related offenses, while signalling our firm resolve that drug-related and money laundering offenses will not go unpunished.

The war on drugs is clearly far from over. We owe it to our citizens and especially to our young people, whether they live in the inner cities or in more affluent suburban neighborhoods, to teach them that drug use is a certain path to self-destruction.

As the committee report on H.R. 2259 points out, witnesses at the Crime Subcommittee's hearing on crack cocaine acknowledged important differences between crack and powder cocaine. For example, crack is more addictive than powder cocaine; it accounts for more emergency room visits; it is more popular among juveniles; it has a greater likelihood of being associated with violence; crack dealers have more extensive criminal records than other drug dealers and they tend to use young people to distribute the drug at a greater rate. In short, the hearing evidence overwhelmingly demonstrated significant distinctions between crack and powder cocaine.

While the evidence clearly indicates the differences between crack and powder cocaine which may warrant differences in sentences, the committee notes that the current 100-to-1 quantity ratio used to evaluate the severity of crimes involving either powder or crack cocaine is not the appropriate ratio. I agree that the goal must ultimately be to ensure that the uniquely harmful nature of crack is reflected in sentencing policy, while also upholding the basic principles of equity in our criminal code.

Our colleagues should also note that if the Commission's guidelines were to go into effect without Congress lowering the current statutory mandatory minimums, it would create gross sentencing disparities. Sentences just below the statutory minimum would be drastically reduced, but mandatory minimums would remain much higher.

For example, an offender convicted of distributing 5 grams of crack would, under the statutory mandatory minimum penalty, face a mandatory prison term of 5 years.

However, an offender convicted of distributing 4.9 grams of crack could, under the Commission's guidelines, receive a sentence within a range of 0 to 6 months of imprisonment. Just traces,

means the difference between days of incarceration and years of incarceration.

I am also pleased to note that the administration supports the bill's intent with regard to penalties for trafficking, as well as the section related to money laundering offenses.

The Commission's money laundering amendment would deprive prosecutors of an important law enforcement tool used in attacking criminal enterprises that engage in a wide variety of illegal activities, and whose very existence depends on their ability to deposit and launder the proceeds from these activities. Stiff sentences, which treat the act of money laundering itself as a serious offense, should be preserved.

In closing, Mr. Speaker, let me reassure Members that the debate on how best to close the sentencing disparity in cocaine-related cases will not come to an end with passage of this legislation. In fact, the debate is certain to continue as the Commission fulfills the mandate included in H.R. 2259 too examine additional alternatives to current proposals.

This is a fair and balanced rule, Mr. Speaker, which will allow Members to debate the basic question of whether the distinction between different forms of cocaine and their impact on society should warrant differing sentences.

It also provides the minority with two separate opportunities to amend the base legislation. First, through a complete substitute, if offered by Representative CONYERS or a designee; and second, through a motion to recommit which, if offered with instructions, can include almost any amendment as long as it is consistent with the rules of the House.

Mr. Speaker, this rule was reported by the Rules Committee by voice vote, as was the underlying legislation, and I strongly urge its adoption by the House today.

Mr. Speaker, I include the following material for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of October 17, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	51	73
Modified Closed[3]	49	47	16	23
Closed[4]	9	9	3	4
Total	104	100	70	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of October 17, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	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	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
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 and 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).
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 (2/13/95).
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	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of October 17, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: Voice Vote (10/11/95)
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. HALL of Ohio. Mr. Speaker, House Resolution 237 is a modified closed rule which will allow consideration of H.R. 2259, a bill to disapprove sentencing guidelines amendments scheduled to take effect November 1, 1995, unless Congress intervenes. Some of these guidelines relate to the sale and possession of crack cocaine and cocaine powder, and money laundering.

As my colleague from Ohio, Ms. PRYCE, has ably described, this rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

Under this modified closed rule, the ranking minority member of the Committee on the Judiciary, or his designee, may offer an amendment in the nature of a substitute. No other amendments may be offered.

I am disappointed that the Rules Committee did not grant an open rule. I believe that a full and open discussion about the sentencing guidelines is the best way to consider this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, the vast majority of the speakers who will be following me are African Americans, and some Members are going to come to the conclusion that the issue we will be discussing today is a race issue. It really is not. It is a fairness issue, and to vote to support the Sentencing Commission is not a matter of whether you are tough on crime or whether you support law and order issues. It is really a matter of whether you are willing to do the right thing, the fair thing. It goes to the heart of what is on America's mind today, the different perceptions between the black and white communities within America as to the integrity of our judicial system.

Why should a person with a high income who might get caught with $200 of powdered cocaine in their fancy automobile and more likely in an affluent neighborhood, why should they have, in the first place, less chance of being caught and, in the second place, much less chance of getting a severe penalty than a young child really holding a $20 piece of crack cocaine in a drug-infested neighborhood?

But the reality is that we created this system of disparity. All I want is what the Sentencing Commission wants, which is equal justice under the law, and the fact is we do not have that today, because at the time there was a rage about crack cocaine. So we imposed mandatory penalties on crack cocaine that do not apply to powder cocaine.

But it is the affluent who buy the powder cocaine, who have much more choice within their lives, and it is the young, poor children and youth of low-income neighborhoods, whether they be black or white or Hispanic, who are much more likely to have crack cocaine in their possession, and they are the ones that the criminal justice slams and puts them away for much of their productive lives. If you are going to do that, do that to the affluent people as well, the people who have much more choice in their lives, who are paying much more for their cocaine habit and have less excuse.

I urge my colleagues to support the Sentencing Commission to do what is fair and right and to start the healing process within our great country.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

□ 1700

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for yielding me this time and for his kindness and leadership.

Mr. Speaker, I think the real issue is the role of this Congress? How do we stop drug addiction and drug abuse, and how do we explain to the American people the travesty of our acts today? Disapproving a report regarding reforming of a system that racially discriminates against some defendants versus other defendants who commit the same drug related crime. That is what is happening on the Republican side of the aisle.

The U.S. Sentencing Commission is not a biased body. It is comprised of prosecutors and Judges from around this Nation. It is not an organization that is in the hip pocket of some inner city or some local urban gang.

But what the U.S. Sentencing Commission came to tell the Committee on the Judiciary was that this Nation has a problem. Our Federal judges are forced to be unfair with this cruel sentencing structure. The courts are unable to make decisions, that do punish, but do not sentence certain races of people more extreme than any other.

It also ties the hands of Federal courts to cure drug-addicted defendants through fair treatment programs.

It is clear that we all abhor the use of drugs, crack, and powder cocaine, but we also support the Constitution and fairness and equality for all. This report clearly speaks to the question of fairness, and I, like the gentleman from Ohio [Mr. HALL] wish there were an open rule so we could be fair and for instance increase the time served for those possessing cocaine.

We are not going to be fair. We are going to continue to send those living on street corners in inner-city America to their death by way of incarceration for 5 years and 10 years and 35 years, and then those who are in Beverly Hills or somewhere else possessing cocaine can get away with 6 months or less.

Let us be fair. That is what we need.

Ms. PRYCE. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. MCCOLLUM], the distinguished chairman of the Subcommittee on Crime of the Committee on the Judiciary.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding this time.

Mr. Speaker, I think the debate we are going to see quite a bit of this afternoon about drugs, and powder versus crack cocaine, is a very important one to have right now, because there is a lot of misunderstanding. There is a misunderstanding about what this rule and the bill that is going to ensure does or does not do.

We are dealing with 27 recommendations of the Sentencing Commission to change the guidelines on a whole range of sentences the Commission made last May, I guess it was now. Two of those recommendations we are suggesting we disapprove, and we have until November 1, Congress does, to do that. Those two recommendations deal with questions of lowering the amount of the penalty for crack cocaine possession and for trafficking, and the other one deals with money laundering.

On the crack cocaine side, drawing all of the debate here in the rules discussion, we are talking about something that is probably not even well understood even then, because there is a fundamental difference between crack and powder cocaine and its treatment in the law that the Sentencing Commission can have nothing to do with.

The fact of the matter is we have minimum mandatory sentences for the crack crystal form of cocaine, which is the most deadly, most addictive, most dangerous, most widely used, and the one we want to get at the most. The penalty for that is a 5-year minimum mandatory sentence for even the simple possession of five grams of that. It takes 500 grams of powder to get the same 5-year minimum mandatory sentence.

There is a real reason for that distinction in history. We are not out here debating that today. We can debate it, but we are not in any format to change it, because the Sentencing Commission can only address that which is below 5 grams or below 500 grams. Their changes actually would create a greater disparity for that reason. They have proposed changes for those who possess 4.9 grams and under, but they do nothing for anybody who possesses 5 grams, one-tenth of a gram greater.

What we are dealing with as well is the truth of the matter, that when you talk about crack, as opposed to powder, you are talking about something that is always dealt in in small quantities. So when somebody has 5 grams of crack, they are probably a trafficker. There is a presumption in the law for the most part that they are. Maybe we do not need the possession penalty at all, because a prosecutor quite probably could go into court and prove trafficking on simply 5 grams of crack cocaine being possessed by somebody, as well as a lesser quantity probably than 500 grams on powder.

But the issue is do we today want to disavow the Sentencing Commission guidelines and send it back to them to try to work through a better guideline, while we look at maybe concerns we have over these minimum mandatories, which we have a right to do separately, and in the Subcommittee on Crime we may well do over the next year.

In the meantime, let the Sentencing Commission work again to find a way out of the problem it created. It created a problem in this area because it is only addressing those underneath the 5-gram level and under the 500 in the case of the powder cocaine.

I would suggest the prudent thing to do is to follow what this rule does today; allow us by virtue of enacting this rule to adopt the Senate provisions, which are refined over what came out of the Committee on the Judiciary in the House in the sense that it recommends that we send this back to the Sentencing Commission and orders them in essence to produce certain results following broad guidelines that we give them in their own realm where they have jurisdiction. Then let the rule of the House and the way we normally work things through the committee structure deal with the other concerns being expressed today.

We really do have a problem with crack cocaine. It is really dangerous stuff. We have had testimony from the police chief and the chief prosecutor as well as the chief trial judge in the District of Columbia, who are all African-Americans, that they do not want to see us make the actual equalization between the punishments for crack and powder. They see a need, as most prosecutors and other people do, whether they are black or white, to keep a distinction. I just urge that consideration.

Mr. HALL of Ohio. Mr. Speaker, I yield 8 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I think the gentleman from Texas for yielding me this time to debate on the rule.

Mr. Speaker, I rise in opposition to the rule. I am opposed to the rule because the rule does not give sufficient time to debate this important issue. Of course, I guess I should not be surprised, if we are talking about debating the Medicare bill for 1 or 2 or 3 hours tomorrow, that we are giving only a small amount of time to this issue. But I do think that my colleagues need to understand what this debate is about and why it is important.

I start by making reference to 2 days ago. Two things significant happened 2 days ago. First of all, the President of the United States addressed this Nation about the Issue of race relations in this country. Here is what he said, part of what he said:

> And blacks are right to think something is terribly wrong when African-American men are many more times likely to be victims of homicide than any other group in this country; when there are more African-American men in our corrections system than in our colleges; when almost one in three African-American men in their twenties are either in jail, on parole, or otherwise under the supervision of the criminal system. Nearly one in three, and that is a disproportionate percentage in comparison to the percentage of blacks who use drugs in our society. Now, I would like for every white person here in America to take a moment to think how he or she would feel if one in three white men were in similar circumstances. We are at a dire position in this country insofar as the number of black men incarcerated or in the prison system is concerned.

On the same day, on Monday, 1 million black men stood up and came to this Nation's Capitol and said we want to take responsibility for our families and our communities and what is going on in our communities, and all we are asking from this Congress is fairness. This is an introspective look at ourselves, and all we want is fairness.

Now, there is not anybody going to come on this floor today—we heard Ms. PRYCE say when she talked about the rule, we have heard everybody who gets up on this floor today on this issue—who is going to submit that the disparity that exists in the sentencing between crack cocaine and powder cocaine is a fair disparity. There is nobody who is going to come in here and argue that. So what this issue is about, as the gentleman from Virginia [Mr. MORAN] has indicated, is fairness. It is about fairness.

Crack cocaine and powder cocaine are two forms of the same drug. They are cocaine. Crack cocaine is 30 minutes of baking of powder cocaine. That is all it is. You put it in an oven and it comes out the other end crack cocaine. Yet 5 grams of crack cocaine will get you a mandatory minimum penalty, whereas 500 grams of powder cocaine will get you a similar penalty. If somebody is convicted of selling $225 worth of crack cocaine, they get the same penalty as somebody get who sells $50,000 worth of powder cocaine.

Crack cocaine is the only drug that we have subject to a mandatory minimum sentence. Now, I am not going to stand here and argue that crack cocaine is not a serious drug, but it is no more serious than heroin. There is no mandatory minimum for heroin. It is no more serious than LSD. There is no mandatory minimum for LSD. Methamphetamines, you name it, there is no other drug that has a mandatory minimum. And yet we have singled out crack cocaine for a 5-year mandatory minimum.

Why? I do not know. They said because it was a dangerous drug. But is not heroin a dangerous drug? Is not powdered cocaine a dangerous drug? Is not LSD a dangerous drug? So how could we discriminate in that way?

What is the impact of that discrimination? Poor young kids who can only afford crack go to jail. Rich young kids who can afford powder cocaine go home and sleep in their own beds at night.

Then people ask, why is one in three black persons, who happen to be the poorest people, in jail, when that is not the case for white young people? Why are there more black teenagers or college age kids in jail than there are in college?

This is a fairness issue, my friends, and this bill does not even put any time limitation for the Sentencing Commission to report back. I tried to correct that by offering an amendment, and the Committee on Rules said no, we will not even let you put a time limitation. We are going to discuss this to death. Let the Sentencing Commission go back and study it for 10 years so we do not have to deal with it in the Congress of the United States.

That is what this is all about. Justice delayed is justice denied, and we are delaying and denying justice to the very people who need it in our society.

□ 1715

Ms. PRYCE. Mr. Speaker, I yield 30 seconds to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding me

time. I just wanted to respond. I respect my good friend from North Carolina a great deal, but one thing about which he said is, I think, a mistake, and I suspect he does not realize it.

The Sentencing Commission has to report back next May. They report every May, and we are asking them to send this back to us the next time they get the chance, and that is in the language of the bill as adopted.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I would say to the gentleman there is absolutely nothing in this bill that says the Sentencing Commission must report back by next May. The Sentencing Commission might report back by next May on some other issue, but there is no requirement in this bill that requires it.

Mr. MCCOLLUM. Mr. Speaker, reclaiming my time, I would simply say they do report back next May.

Mr. HALL. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Speaker, the present law, as has already been stated, finds that five grams of crack will get you 5 years mandatory minimum. That is a couple hundred dollars worth. Five hundred grams of powder is what you have to sell to get the same amount of time. That is tens of thousands of dollars.

The facts we have found are that 95 percent of those convicted of crack are black or Hispanic, although the majority of users are white. For powder, 75 percent of those convicted of powder cocaine offenses are white.

The Sentencing Commission equalized the base sentence for both of those offenses with enhancements. You will get extra time after the base if a firearm is used, violence, death, if juveniles are used, if there is a prior record, depending on an individual's role in the enterprise, whether or not they are near schools, if other crimes are involved. The way crack is distributed generally will get more enhancements. But they will be getting a higher sentence because of what they did not because of their race.

We have the Commission to get the sentencing policy out of politics and into reason. In fact, over 500 prior recommendations have been made. None have been rejected.

The evidence we have seen in drug courts, Mr. Speaker, is that it makes more sense to have users of drugs treated by drug treatment rather than go to jail anyway. When we had drug courts consider, we found those we sent to prison would have a recidivism rate of 68 percent, whereas those sent to treatment would have a recidivism rate of 11 percent.

Mr. Speaker, by having this mandatory minimum for those who are guilty of possession only of a couple of hundred dollars worth of crack, we will have more crime and spend more money and lock up a group that is 95-percent black or Hispanic.

So we have the rule. The rule does not allow an amendment for the money laundering part. We had no hearings on that, so we do not know what that is about and no amendment has been ruled in order. There is no date for the reporting back for the Sentencing Commission, other than their normal reporting back. There is, Mr. Speaker, a report from the Justice Department, but not the Sentencing Commission.

We have recommended in this legislation that they study this issue for another year. Mr. Speaker, last year we told them to study it. They studied it and they came back and told us that it was wrong to have the disparity.

I hope that we will reject the rule and reject the bill.

Ms. PRYCE. Mr. Speaker, I yield 7 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding me this time. I was sitting in my office and listening to some of the debate. The gentleman from South Carolina was speaking as I walked out the door, and the suggestions were being made that there was some racist motivation behind the question of minimum mandatory sentencing for crack cocaine and possession thereof. And also the question was raised as to how did this ever get into the law.

Well, Mr. Speaker, I want to tell the gentleman how it got into the law. It was an amendment I put into the law, and I put it in when I was on the Judiciary Committee. At that time I felt that it was a very important provision to be in the law. There was no racist motivation whatsoever in putting that in the law.

It was about in 1986, right about then. I was on the Judiciary Committee. Crack cocaine was almost a recent phenomenon, but it was growing like Topsy. This was something back in 1981 or 1980, back when I was mayor of Fort Lauderdale, when a crack was a thing in the sidewalk. We knew nothing about crack cocaine. This came in in the early 1980's, and we found the instant addictive nature of this substance was absolutely debilitating.

We also found that where it was being used most, and where it was creating its worst problems were in minority areas because of the cheapness of it. We found this was an area that was being unfairly, unconscionably impacted by cocaine, crack cocaine, as it is even today.

So I would say to the gentleman from South Carolina that it was because of concern for what this was doing in minority neighborhoods, how it was tearing up these neighborhoods, and it has. The gentleman well knows this from his own background. The problem that we have in the inner cities, particularly in minority areas right now, the crime and all of this, is that the drug problem in this country has absolutely torn these neighborhoods apart.

What did it seem to be the best thing to do? The best thing to do was to go after the dealers. We set quantities we felt that would qualify people as dealers, not users but dealers, people who were going in and exploiting the poor people and stealing their lives and their future by selling them crack cocaine.

There was no racist motivation at all. As a matter of fact, it was a question of trying to save the minority neighborhoods from this awful curse that had gone all across this country, and it is not only confined in the minority areas. I will not suggest that. But it seemed that was where it was having its biggest impact, and this is where we had to go after the problem, and this is why we did it.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, first of all, I would say to the gentleman that I am from North Carolina. We take those distinctions pretty seriously in my part of the country.

Mr. SHAW. I apologize.

Mr. WATT of North Carolina. Some of my best friends do live in South Carolina.

Mr. SHAW. I hope one day to have a home in your State.

Mr. WATT of North Carolina. Mr. Speaker, I want to assure the gentleman, whose integrity and honesty has preceded me in this body. I have heard about the gentleman's integrity, and I have never suggested that the motivation 10 years ago, or whenever this was put into the law, was a racist motivation. However, the impact of this law has been very, very, very substantially racist in its impact. To defend a provision in the law 10 years later, based on knowledge that the gentleman did or did not have 10 years ago, is something that I would hope that the gentleman would not do.

I agree that 10 years ago the gentleman did not have knowledge about crack. But the information that has been submitted to the Committee on the Judiciary now suggests that the gentleman happened to have been wrong about a lot of the assumptions that the gentleman was making; that this drug was more addictive than powder cocaine. Both of those drugs are addictive.

And, Mr. Speaker, to the extent that the drug is accompanied by violence or other surrounding things, they are socioeconomic things, and the Sentencing Commission's recommendations would take where there was violence or enhancing the penalty where children were involved.

So notwithstanding the fact that your motives were good 10 years ago, the fact is that now hindsight is a lot better than foresight. And I am not questioning the gentleman's foresight. I am questioning the gentleman's motivation in putting this into the law at the time he did. But we now know better, and we should not just stand up

and say, OK, we made a mistake 10 years ago, so let us prolong the mistake and make it again.

Mr. SHAW. Mr. Speaker, reclaiming my time, I thank the gentleman from North Carolina for clearing that up, and I will be sure not to make that mistake again.

I would go back to the point that what we were after was dealers. We were not after users on minimum mandatory. And the gentleman made the statement in his remarks earlier as to why did we go after heroin and some of those other drugs. Heroin use back in 1986 had fallen way down, and we did have certain information about crack cocaine, and it really scared us very much about what would happen to our neighborhoods.

Mr. WATT of North Carolina. Mr. Speaker, if the gentleman will yield further, that is the point I am asserting to this body.

I do not argue with the facts that were available 10 years ago or whenever it occurred. Len Bias had just died. There were a lot of facts that would have justified our making that assumption. But two wrongs, as my mama used to tell me, do not make a right; and we can correct that wrong now if we will do it. If we will have the courage to do what is just now, not 10 years ago.

Mr. SHAW. Mr. Speaker, reclaiming my time, I would close by just saying to the gentleman that the inner-city neighborhoods, the poor minority neighborhoods, are the most fragile in the entire country. They are the ones that have to be protected. They are the ones where we have to rid the neighborhood of the drug dealers. I think we must all work together to see this does not happen.

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

Mr. SHAW. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Speaker, I just want to make the point, as much as I wish it were changed, as the gentleman from North Carolina is suggesting, I see in the crime subcommittee the same statistics today as when the law was passed.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. CONYERS], the former chairman and now the ranking member of the Committee on the Judiciary.

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

Mr. CONYERS. Mr. Speaker, I am very glad my friend, the gentleman from Florida [Mr. SHAW], is still on the floor, because there are two points that I would like to make that are very important here.

First of all, we appreciate his concern for our neighborhoods that are ravaged with drugs. The gentleman referred to the minority community. We now have 40 African-American Members, men and women, in the Congress that are, with all due respect, as concerned as he is, if not more so, about the pernicious effects of drugs in our community. We welcome the gentleman to this concern that we all mutually have, and now we invite him to listen carefully to the points that we are making.

The first one has already been made, and it is that there is no accusation of a racist motive when this disparity was first brought into the law. But the second one is much more important, and that is that we can now correct what has now been proven to be a disparity that turns on race and economic ability.

In other words, what has happened in the sentencing disparity is that more and more African-Americans and Hispanics, minorities in poorer neighborhoods, have been deliberately targeted. That has increased the incarceration rate.

Another study that I would refer you to shows now that the number of young African-American males caught in the criminal justice process is not one out of four but is now one out of three. One of the main reasons is this disparity.

And so it would seem from the gentleman's comments that I could invite him to join us in my amendment that merely ends the disparity of 100 to 1.

□ 1730

We will now make the possession part, and that is what you complained of, and that is what we complained of. We are not talking about sale or trafficking. We are talking only about possession. We should understand here that this debate and the amendment that will follow deals only with possession. People who have never committed an offense, never been incarcerated, have no record, and are yet being sentenced to 5 years for mere possession. Would that amendment have some appeal to the gentleman from Florida under these circumstances?

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would like to say to my friend from Michigan that I always listen to him, sometimes voluntarily, sometimes not voluntarily, but I have certainly listened to the remarks that he has just made. And I would say to the gentleman that we are not talking about mere possession here.

Before reaching the minimum mandatory sentencing guidelines, for the law now, one has to have over 5 grams of crack cocaine. That qualifies them as a trafficker, not a casual user. And if the gentleman does not believe that qualifies them as a trafficker, I would suggest that he might want to argue that further within the committee to change the level, the committee on which the gentleman is the ranking Democrat member.

But I would say to the gentleman that we need to go after drug traffickers of all these drugs that are destroying the future of the young Americans, and that is exactly what this crack cocaine continues to do.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I rise in strong opposition to this resolution of disapproval. The Congress has no business overriding the expertise of the U.S. Sentencing Commission. Crack cocaine mandatory minimums make a mockery of justice. Yes, this is a fairness issue and, yes, whether we like it or not, it is a race issue.

The U.S. Sentencing Commission was designed to take the politics out of criminal sentencing, to be bipartisan. Yet its judgment, based on years of experience and a responsibility to justice, is being summarily rejected in this bill.

Mr. Speaker, Federal sentences for crack are 100 times greater, 100 times greater, than those for powder cocaine. The implications of this disparity are severe. Yes, this is a fairness issue and, whether my colleagues like it or not, it is a race issue. Young white males are not filling up those jails. Let me tell my colleagues, that statistic that was given of young black males between the ages of 20 and 29, one of three in our communities are in the criminal justice system.

We do not like drugs. We do not want drugs. We want to prosecute people who traffic, but we do not want to take a silly young man who happens to get a crack or two pieces of crack and put him in jail. They could get 10 years mandatory minimums under this law that we are operating under now.

Members know it is wrong. The Sentencing Commission knows that it is wrong. They want to correct it. What are we doing? Why do we not let their work go into effect? It does not make good sense.

Further, let me tell my colleagues what is happening. Minorities represented an average of 96 percent of those prosecuted for crack cocaine nationally in Federal courts from 1992 to 1994. This is a fairness issue, sir, and it is a race issue.

I do not know why we have taken the time of this House to try to overrule the Sentencing Commission, who spends hours, who have all of the data, all of the statistics.

Mr. Speaker, we had a march out there just the other day. We had a march with 1 million black men who came to this city, and they said,

> We are going to take responsibility but we want a little fairness in the system. We want you to know that we cannot continue to live, we cannot continue to live in a system that disregards us, that marginalizes us, a system that is not fair, that is not equal.

Did Members not hear them? Did Members not see them? Why do Members persist in this kind of unfairness? I am telling my colleagues, we need do nothing but let the Sentencing Commission's recommendations go into effect.

I want to tell my colleagues those young men said, ''We are going to take

responsibility, we are going to help clean up our communities, but we need you to give us some help.'' Let us be fair. Let us stop sending young black and Latino males off to jail at 18 and 19 years old to give 5 and 10 years of their lives and never be rehabilitated.

Ms. PRYCE. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Speaker, I would say to the gentlewoman from California, who would not yield to me, that she is talking about these innocent young blacks with just a few things in their pocket. We are talking about 20 to 50 doses. Nobody walks around with that unless they are selling and unless they are trafficking, and those are the ones we are after.

I do not know how it is in California, but I can tell you that in Dade County, in Broward County, and Palm Beach County that I represent, and as a matter of fact right here in this Nation's Capital in the minority areas, they are saying come in and arrest the drug traffickers, get them out of our neighborhood. Put them in jail and throw the key away.

That is the voice of America. That is the voice of the minorities in the areas that are responsible who want to get their areas up out of poverty, get out of the gutter, get the problems out of their neighborhoods and get the crimes out of the streets so again they can walk their streets and sit on their front porch and they can enjoy life.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 seconds to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, let me say to the gentleman, that I believe that he is sincere, but I want him to know that the gentleman does not love my community more than I do. The gentleman does not care about it more than I do.

Mr. Speaker, I care about those who are hungry. I care about the young people who are not going to be able to work because of the policies of the other sides of the aisle. I care about the babies. I care about the welfare mothers, and I want real welfare reform.

So, Mr. Speaker, I do not want the gentleman to ever believe that he cares more about my community than I do. I do not want the gentleman to think that somehow his policies and his beliefs are right for my community. I would like the gentleman to ask me sometime, and ask us sometimes, those who work in those communities.

Mr. Speaker, I tell the gentleman, no black leader has said to him: Lock up our kids and have this disparity in law. Nobody said that to the gentleman.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

[Mrs. MEEK of Florida asked and was given permission to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, it has been well-demonstrated and well-said here today that there is a disparity in the way African-Americans are treated and the way other Americans are treated, particularly minorities, when it comes to cocaine and crack cocaine.

The facts have been revealed to us. The figures have been revealed to us. So what more do we need? What we see here is a study and what keeps this country in a turmoil is when we do not look at the facts and the impact of the facts on the people we all represent.

Mr. Speaker, I think each of us saw the 1 million black men who were here the day before yesterday. They are crying out for fairness. That is all they are asking for. Fairness. So, that if someone uses crack, they will get a sentencing. If someone uses cocaine, they will get a sentencing. That there will not be a disparity just because one is convicted of crack cocaine and the other one is using cocaine.

Mr. Speaker, that is all that is being asked for here. When we usurp the sentencing guidelines, that means that we are saying that they do not know what they are doing. They have not studied this situation. Here we come in Congress and do some micromanaging from here, when we have not tested any of these theories.

Let me tell my colleagues something. Minorities represent, and not only African-Americans but other minorities, represent—our jails are full of them. This is the newest industry we have. I say to my colleagues, go down there. They will see the jails. They are full. Know why? An average of 96 percent of those prosecuted for crack cocaine in Federal courts from 1992 to 1994 were African-Americans and minorities. These are facts. And that is all we are saying today. Why not do this?

Mr. Speaker, I want this particular rule or resolution killed, because it needs to be. I do not think it is bipartisan. It is just a matter of saying we want to be fair. We want to treat all Americans the same. We should not have a different yardstick; one for crack cocaine and one for cocaine. One yardstick for all with liberty and justice for all. That is all we ask.

Ms. PRYCE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Speaker, I am going to surprise everyone. I am a conservative Republican on law and order. I am for ''Three Strikes, You're Out,'' and I am for this particular motion that is being made by the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, we did not address this problem. We did not attempt to straighten out money laundering when people did not launder money. We have a perception that we do not want to be to the left of anybody. We are tough on crime. We are tougher on crime than my colleagues on the other side of the aisle are.

Mr. Speaker, their perception is because we have a 100-to-1 ratio in weight between rock cocaine and powder cocaine, that this is a race issue; just because 96 percent of the people arrested under rock cocaine are black. Imagine that.

Mr. Speaker, we did not lock the Sentencing Commission, which is housed in the Department of Justice and staffed by the Department of Justice, in the room with the Justice Department so they could come over here and play each other against each other. We do not know these folks. They are too lenient; we are really tough.

They know and they both admit these ratios are wrong. And the black people feel like they are being picked on. Why? I would say to the gentleman from Florida [Mr. SHAW], because it is 10 doses versus 5,000 doses in my white suburbia.

Mr. Speaker, I do not know why they feel they are being picked on, just because if someone is arrested with 10 doses, they are presumed to be a pusher and they have to have 5,000 doses of my powder to be a pusher. They get 5 automatic years, with the judge not able to say this guy has never been arrested before.

Mr. Speaker, in money laundering it is even more egregious. If a person wants to steal poker chips from their employer, because they work for Harrah's, they should be convicted of stealing. That is 18 months. When they go to cash that in, that is money laundering. They don't hide it. They do not change their name. They cash the chips in. Forty-six months.

If one of my colleagues takes a bribe from a Federal Bureau of Investigation agent who works long and hard and spends months to set them up and says, ''Thank you for your vote on the B–2 bomber. Here is a check. We want to see you come back.'' If my colleagues do not stop them and say, ''Wait a minute. There is no connection between my vote and your check,'' because they have known they are being set up, they get 18 months for taking the bad check.

They get 46 months for depositing it in their own name, reporting it in the FEC, paying State income tax and Federal income tax, if it were an honorarium, prior to their being gone, or if it is a campaign fund. It is money laundering.

They did not commit money laundering. But, they need this tool in order to get them to cop to the other, because they do not think they took that check in bad faith from Lockheed, or whoever the lobbyist is, because that member believes in the B–2 bomber. It is built in California and I will walk over coals to support it. But if my colleagues do not correct that man when he hands them a check and innocently says, ''This is because you voted for the B-2 bomber,'' they are going to jail. But not for stealing or bribery. They going for money laundering.

The Commission is right. A stopped clock is right twice a day. The Clinton administration is right twice a day.

Mr. Speaker, I say to the gentleman from Florida [Mr. MCCOLLUM], we should lock up the Sentencing Commission and the Department of Justice in a room and make them tell us what is the correct ratio for crack cocaine? What is money laundering, if it is not depositing a check? Let us address these problems.

Mr. Speaker, I am going to vote to vote with these folks, because they are dead right.

Mr. Speaker, the bill under consideration, H.R. 2259, would overturn the sentencing guideline recommendations of the U.S. Sentencing Commission concerning penalties for money laundering and crack cocaine. The rationale for this legislation is that we have to be tough on criminals, and that any reduction in sentencing for these specific crimes sends the wrong signal to those who participate in these illegal activities.

I understand this very real concern, and it is one that I share. I have been in public office for 15 years, during which I have been at the forefront of the fight against crime. From truth in sentencing to three strikes, you're out, my legislative history is clear: We must have zero tolerance for criminal activity.

At the same time, we must be sure that our penalties are just and our justice system itself is fair. And that's why I'm opposing H.R. 2259 today. The bipartisan Sentencing Commission has called for reform of the mandatory sentencing guidelines for money laundering. The Commission does not want to reduce sentences for drug kingpins or major fraud operations. The Commission has recommended making sentences for money laundering in keeping with the gravity of the crime. In fact, sophisticated fraud would receive more serious punishment than under current law.

But the Commission does call for less severe mandatory sentences on those who have engaged in less serious fraudulent activity. For example, in the case of United States versus Manarite, a defendant who skimmed casino chips was convicted of money laundering for cashing in the chips at the casino. In another instance, United States versus LeBlanc, a bookmaker who accepted checks in payment for gambling debts was convicted of money laundering for negotiating the checks.

Yes, theft is a criminal action that deserves punishment—yet for the law to view depositing ill-gotten gains into a bank account as money laundering is silly. These minor-league crimes are simply not on par with sophisticated operations in which millions of dollars are laundered through the banking system. Due to mandatory minimum sentencing, such minor offenders are filling our Federal prisons—prisons now crowded beyond capacity.

In a word, the hands of Federal judges are tied—they are compelled to send low-level crooks to jail with violent, dangerous offenders. When a convicted rapist is spending less time in jail than a bank teller who took $1,500 and deposited it into a bank account, something is obviously wrong.

The Sentencing Commission—a bipartisan group of Republicans and Democrats—is calling for stiffer penalties on those who engage in sophisticated money laundering schemes. But the Commission also wants to give judges greater discretion in the sentencing of minor offenders. This is not softness on crime—it fits in perfectly with the conservative philosophy of cracking down on thugs while at the same time avoiding the micromanagement of the criminal justice system at the Federal level.

Mr. Speaker, I strongly urge a ''no'' vote on H.R. 2259. This is a matter of justice and of true federalism—letting local judges decide how best to punish wrong-doers. In our zeal to fight crime, let's not trample on the prerogatives of State and municipal authorities. Let's fight crime—not common sense.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Speaker, it is idiotic for us to have a disparity in these ratios for powder cocaine or crack. In fact, I would say to the gentleman from Florida [Mr. SHAW] and the gentleman from Florida [Mr. MCCOLLUM], one has to have powder cocaine in order to make crack cocaine.

□ 1745

The reality is that the people who have the powder cocaine are directly responsible for the creation of the crack cocaine. So, if one wanted to root out the evil and punish it, one would create the disparity in the reverse.

Now, what we have here is a situation where I think that most people in this country can recognize that on one hand we have most of the people arrested for crack happen to be white, but most of the people who are convicted and serving these mandatory minimums happen to be black. There is a problem right there. We have had a number of studies that show in every case the sentencing for crimes in our country is racially influenced and more severe. Every time the crime is the same, there is a differential in the sentencing. So, unfortunately it falls upon people in minority communities to bear the brunt of that.

One does not have to recognize that. But I think that the American people can see the sheet being pulled away from what is a racist implementation of the criminal justice system in this country, and we shall reap what we sow. People who serve on juries are right not to feel comfortable with our criminal justice system, not to feel as though it is balanced. What do we create when we send a kid away or a young adult for 5 years in jail? Are we educating them while they are in jail? Are we giving them drug treatment while they are in jail? Are we doing anything for them? No. In fact, proposals from this side of the aisle want to make that 5 years the roughest 5 years of their life.

Then I would suggest that we reap what we sow. They will return to these same communities, having learned nothing other than how to be hardened criminals when they were, in fact, just innocent victims of the allowance of our Government to allow these drugs to flow into these communities from the beginning. The coca leaf is not grown here. We do not see a lot of African-American young people from Philadelphia or Watts flying these fancy airplanes or speedboats across the ocean bringing this cocaine in here. To have a disparity in which we make crack more evil than powder cocaine, when one needs the powder to make the crack, is asinine.

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

Mr. HALL of Ohio. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan [Mr. CONYERS].

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

Mr. CONYERS. Mr. Speaker, 48 hours ago this Nation, perhaps the world, was galvanized by the resolve that has never happened before publicly in our community. A million African-American males came together to pledge to restore and fight for family values, to build up their neighborhoods, to fight crime, to root out evil and wrongdoing. Now, 2 days later, we come here to reexamine whether we will deal with this moment of fairness in terms of crack and powder disparity in sentencing.

Please listen to the members of the Congressional Black Caucus and their friends that bring us not expert testimony, but they live in, represent, have grown up with, are a part of the communities that are being wracked by this unfair sentencing.

I want to deal with one problem that the gentleman from Florida has raised in which he has cavalierly said time and time again that, if you have 5 grams of crack, it is presumed that you are a dealer. A gram is one-thirtieth of an ounce. You have to prove that you are a dealer. If you are arrested for possession, possession is possession. Trafficking is a different crime entirely.

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

Mr. Speaker, this rule will allow Members, as they have been doing for the last hour, to debate the basic question of whether the distinction between different forms of cocaine and their impact on society should warrant different sentences. I urge passage of this rule. It will allow Members of different opinions on this very important issue to debate them fully.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 237 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. 2259.

□ 1750

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. 2259) to disapprove certain sentencing guideline

amendments, with Mr. BEREUTER 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 Florida [Mr. MCCOLLUM] and the gentleman from Michigan [Mr. CONYERS] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. MCCOLLUM].

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

Mr. Chairman, each year, the Sentencing Commission amends its sentencing guidelines with the aim of promoting more consistent Federal sentencing policy. The Commission is to follow Congress' lead as Congress—not the Sentencing Commission—sets sentencing policy. The Commission's congressionally established mandate is to fill in the gaps in Federal sentences.

This year, the Commission sent up 27 proposed amendments to the guidelines for congressional review. H.R. 2259 would prevent 2 of them—amendments 5 and 18—from taking effect. Amendment 5 would dramatically reduce crack penalties, by treating crack cocaine the same as powder cocaine. Amendment 18 would dramatically reduce money laundering penalties. H.R. 2259 keeps the penalties where they currently are.

Mr. Chairman, H.R. 2259 is the right thing to do. It preserves the current penalties for crack cocaine traffickers and white collar money launderers. It continues the congressionally established policy of treating crack cocaine and powder cocaine differently, by refusing to lower the crack trafficking penalties. And it avoids allowing the Sentencing Commission to lower guideline sentences so substantially that our Federal sentencing policy would be plagued with severe sentencing disparities for similar crimes.

The evidence is clear: Crack and power cocaine are different, and should be punished accordingly: crack is more addictive than powder cocaine; it accounts for more emergency room visits; it is most popular among juveniles; it has a greater likelihood of being associated with violence; and crack dealers have more extensive criminal records than other drug dealers and make greater use of young people in distributing crack. Congress is right to maintain the current stiff sentences for crack trafficking.

As I stated when the Judiciary Committee considered the bill in September, the current distinction between crack and powder cocaine offenses may not be perfect. When Congress established these penalties in 1986 and 1988, we attempted to set punishments that fit the crimes and that sent the unmistakable message that drug trafficking will simply not be tolerated. To that end, Congress established a 100 to 1 quantity ratio that provides mandatory minimum sentences for offenses involving 5 grams or more of crack cocaine and 500 grams or more of powder cocaine. Such actions are always subject to occasional review and I for one am certainly willing to consider alternative proposals. Indeed, this bill requires the Sentencing Commission to recommend an adjustment to the quantity ratio. It may be that Congress will want to change the 100 to 1 quantity ratio by increasing the penalties for powder cocaine. But I am unwilling to retreat in the attack on drug traffickers by sending a message to crack dealers that Congress is softening its stance regarding the acceptability of their behavior. Our goal must ultimately be to ensure that the uniquely harmful nature of crack is reflected in sentencing policy and, at the same time, uphold basic principles of equity in the United States Code.

In June 1995, the House Crime Subcommittee heard dramatic testimony from the police chief, the U.S. attorney, and the chief judge in the District of Columbia about how crack has devastated the Nation's Capital. They warned us in unmistakable terms not to reduce crack penalties to those of powder offenses because of the more destructive nature of the crack market. As we debate this bill today, we must all remember the following fact: No one is more opposed to reducing the crack cocaine sentences than those who have been devastated by the scourge of crack trafficking and the violence and death that it brings. Ultimately, H.R. 2259 is about whether or not this Congress has the courage to continue to fight the war on drugs by being tough on those who traffic in death.

H.R. 2259 responds to the overwhelming opposition expressed by America's law enforcement community to the Sentencing Commission's crack proposal. The Justice Department strongly opposes the Commission's crack amendment because tough crack cocaine penalties are vital tools for Federal prosecutors who are attempting to uproot deadly drug trafficking organizations.

H.R. 2259 also prevents the Commission's recommendations concerning the possession of crack cocaine from taking effect. The Commission's recommendation would treat the possession of crack in the same manner as simple possession of powder cocaine. This would be a mistake. The crack possession offense is not used by prosecutors for mere simple possession cases. The possession of even relatively small amounts of crack is frequently inseparable from the trafficking of crack. The crack trafficking trade is unique, and generally involves trafficking in much smaller quantities of crack than in the powder cocaine trade. An offender caught with 5 grams or more of crack, as provided under the statute, can be reasonably presumed to be engaged in trafficking even though the quantity possessed is relatively small; furthermore, it is the street level dealers who are the only ones visible to law enforcement and who can lead to the arrest of larger traffickers.

The Crime Subcommittee is aware that the Commission's amendment No. 8 will change the methodology used to calculate the weight of marijuana plants. The Crime Subcommittee will be carefully following the implementation of this amendment to ensure that it in no way represents a step backward in the war on drugs. I would like to thank my friend from Oregon, Mr. BUNN, for his assistance in ensuring that amendment No. 8 does not undermine our counterdrug efforts. Any retreat at this time in our battle against the evil of illegal drugs, and in particular crack cocaine, would be a mistake this Congress would long regret. Congress must not lose its resolve.

H.R. 2259 would also prevent the Commission's amendment No. 18 regarding the money laundering amendment from taking effect. The Commission's money laundering amendment would substantially reduce the base offense level in the sentencing guidelines for money laundering activities of all types. The Commission's amendment then proposes that certain enhancements corresponding to specific offenses be added to the base offense level. Even with the proposed enhancements, however, the amendment would significantly reduce the sentences for various serious offenses, including arms violations, and murder for hire.

The Commission's amendment defines a category of offenses to be less serious when the offense that underlies the money laundering activity is closely associated with the money laundering activity itself. These offenses would receive a base offense level corresponding to the underlying crime only, and receive no enhanced sentence for the money laundering activity itself. Such a proposal is troubling because it fails to provide at least some additional punishment for the money laundering activity itself.

Under amendment 18 a wide range of money laundering cases of varying severity would receive reduced sentences. For example, laundering $100,000 or more of fraud proceeds so as to conceal the source would be reduced from a range of 27 to 46 months to a range of 21 to 27 months.

It is clear that the current money laundering guidelines can be improved. There are undoubtedly cases where money laundering sentences have appeared to be disproportionate to the underlying crime. Starting in November, I intend to work with Members of both parties, the Senate, the Justice Department, and the Sentencing Commission to develop a sensible amendment to the money laundering guidelines. Such a change must address the problem of overly harsh penalties for receipt and deposit cases where the money laundering activity is minimal, while avoiding the sweeping across-the-board reductions that the Commission's amendment would produce. At

the same time, we must not lower the sentences for significant money laundering.

At a time when organized criminal enterprises are growing and expanding their operations, we must not support a proposal that would substantially reduce the sentence for so many criminal activities, even serious ones.

H.R. 2259 also requires the Sentencing Commission to submit to Congress recommendations proposing revision of the sentencing guidelines and the statutes that deal with crack cocaine and powder cocaine sentences. The bill further requires the Justice Department to submit to the Senate and House Judiciary Committees, not later than May 1, 1996, a report on the charging and plea practices of Federal prosecutors with respect to money laundering. I support these requirements. However, I want to make an important point about the language of the bill that calls for the Commission's recommendations for a revised drug quantity ratio. The recommendations called for in section 2(a) (1) and (2) should not be understood to be an invitation for the Commission to recommend again, as they did this year, that the drug quantity ration be changed to a ratio of 1 to 1. Such a ratio, even with penalty enhancements, fails to reflect the many substantial differences between crack cocaine and powder cocaine.

Mr. Chairman, H.R. 2259 is an important piece of legislation. It will ensure that Federal law enforcement continues to have the tools necessary for combating drug trafficking and money laundering. This is no time for Congress to back off the war on drugs.

□ 1800

I think it is very important at this point in time we realize that November 1 is a deadline looming. If we do not adopt this bill today before us, and send it over to the other body, and get it enacted into law and signed by the President, these 2 provisions, the 2 out of the 27 that we do not agree with, will become law automatically and be the new sentencing guidelines on November 1. So the deadline is to act now. It will be nice to correct things around the edges where we see the problems, but we need more time to work on those. The best course of action is to adopt this bill, send the matter of these two issues of crack cocaine and money laundering back to the Sentencing Commission, get them to report back to us, get the Justice Department to issue a report, and next year make the changes that are more responsible than those contained in the two amendments we disapprove today.

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

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I point out to the gentleman from Florida [Mr. MCCOLLUM], my good friend with whom I have worked on Committee on the Judiciary across the years, that sending this bill back is the best way to dodge the issue. The one thing we do not want to do is, after the Sentencing Commission has taken years of studying this, to tell them to go back and study it some more. That is what they have done.

Mr. Chairman, what we need to do is give it to them one way or the other, and now is the moment to correct the disparity between crack cocaine and powdered cocaine. Let us do it today.

Mr. Chairman, I yield 5½ minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I hope very much that we reject this rejection of the Sentencing Commission.

Many Members of this body have a speech in which they talk about our efforts to fight poverty, our efforts to house people, our efforts to defeat hunger, and they say we spend all this money and it has not worked. They point to gross statistics that say, ''Gee, there are still poor people, there is still bad housing.'' Mr. Chairman, I do not think much of that method of argumentation, but I also would expect them at least to be consistent in applying it because, if we want to look at an area where a policy that has cost an awful lot of money does not on its face appear to have worked, let us look at the policy of trying to combat drug abuse by locking up for long periods of time people who have committed no violent crime, have taken nothing from anybody by force, have struck no one, have attacked physically no one, and are at most very, very low-level, bottom-of-the-chain members of drug sales or may not be sellers at all. They may simply be users, and they may, by that, be users who share with one or two other people.

Mr. Chairman, what we have is a policy which has locked up large numbers of mostly young men for very long periods of time, and it has not worked very well. I know it is popular, and I have to say one of the things that is the oddest I have heard in this debate is Members who say, ''Let's have the courage to reject the Sentencing Commission, let's have the courage to continue to lock these people up for many, many years.'' I cannot think of anything that takes less courage in America today than the perpetuation of this policy.

I think courage is, ''Let's think about it.'' But we are not simply talking here about what I think is a mistaken policy of locking up nonviolent violators of the drug law for very long periods of time, as dumb and as wasteful as I think that is. That is a policy I cannot change right now.

We are talking about one particular aspect of this which says given that we are going to lock up these mostly young men who have done no violent crime against anybody and who have not been caught selling anything, because then they would be charged differently, but who are holding, what, almost a quarter of an ounce or a half an ounce, that we will treat them very harshly, but we will do it in a way which, and let us be very clear, no one has called into question the premise here. The sentencing disparity is overwhelmingly objectively a racist one.

Now maybe my colleagues think it is justified, but no one has denied that the effect of the policy is to treat young black men much more harshly for the possession of a given quantity of this substance of cocaine in this form than others. I can think of no policy which we have which in fact ends up so racially distorted, and I have to say I have had people on the other side say, ''Well, it is because we care about these communities.''

Mr. Chairman, I am one who believes that elections are meaningful in this country. I am skeptical when I hear large numbers of voters complain about the actions of this Congress because they sent us here. No one parachuted into this dome, no one got appointed here, and I believe that people on the whole elect people who represent them.

So when, and I have to say this to the overwhelming white majority of which I am a part in this House, when our African-American colleagues come here in large numbers and plead with us to allow a nonpartisan body of experts to change this racially disparate policy, it is a march to this floor of our African-American colleagues who are pleading with us to alleviate the most racially unfair policy in America, and, please, even if my colleagues disagree, do not tell them, ''Oh, this is in the interest of your community, this is what the people you represent really want.'' I believe that we do not stay in this place very long if we do not reflect the people who sent us here, and when we have this extraordinary expression from the wide spectrum of opinion we often get within the Congressional Black Caucus saying we are doing a terrible disservice to this Nation and to these young people when we perpetuate this racially disparate situation, then it seems to me people ought to listen.

We have talked about the racial problems reflected in the verdict of O.J. Simpson. Many Members here, and let us be honest, many Members here were disappointed that a march led by Louis Farrakhan got such enthusiasm. I ask, ''Why do you think it is happening? Why do you have this great disparity?'' It is partly because of the kinds of policies we have here. Can we really be so sure about maintaining this disparity in sentencing in the face of the Sentencing Commission's argument, even if my colleagues think that maybe they can make some technical justification because of the chemistry of the powder versus the chemistry of the crack? Is it worth perpetuating the anger, and the anguish, and the sense of manifest unfairness that it brings? I do not see how anyone in good faith can argue that we, as a Nation, are well served by maintaining this.

Mr. Chairman, no one is talking about letting people walk. No one is talking about letting people off the hook. We are asking for a recognition of a very grave racial injustice.

Mr. MCCOLLUM. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. BRYANT], a member of the committee.

Mr. BRYANT of Tennessee. Mr. Chairman, I rise in support of H.R. 2259. This bill disapproves of 2 of 27 proposed amendments to U.S. Sentencing Commission Guidelines. Those two proposals pertain to cocaine sentencing and money laundering.

This legislation is necessary in order to keep these recommendations from taking effect on November 1, so we must act now.

On first glance it may sound sensible to have the same penalties for crack and powdered cocaine, but the difference between the two types of substances justifies the greater penalties for crack.

Mr. Chairman, the Subcommittee on Crime, of which I am a member, and many of those people speaking tonight are on that committee, heard testimony from the Sentencing Commissioner who wrote the minority report, and from an Assistant Attorney General in the Department of Justice who, among others, recommended our regarding this present differential between crack and powder. Now their testimony was in favor of keeping stronger penalties for crack cocaine. It was compelling. Crack cocaine offenses should be punished severely because of the threat it poses to society and, in particular, the communities in which it is used and sold. Crack cocaine is more psychologically addicting than powdered cocaine and more likely to lead to drug dependence. It produces a more intense high and, thereafter, produces a quicker and sharper drop from this intense high. Crack cocaine accounts for many more emergency room visits than powdered cocaine, and importantly crack is cheap. It is popular among teenagers, and it is most likely to be associated with violent crimes, burglaries, carjackings, drive-by shootings, whatever.

Let there be no mistake about it: Crack cocaine threatens our society's future. Because crack is cheap,its market is easy to get into.

One study has found ''* * * that crack distribution lacks a set of highly centralized or formally organized distribution syndicates. It relies heavily on the 'low end' dealer [and] users [who] * * * occupy a shadowy ground between dealing and consuming.''

Crack is cheap and it is widely available, and, because of its popularity among teenagers and its close association with violence, crack directly threatens our next generation.

My colleagues, we have a duty as a civilization, as a lawful society, to do all that we can to fight this threat and to try to protect our young people of all races. That is why I do not understand this argument of race, this objection to the current crack-powder ratio, that it unduly punishes blacks.

In a recent speech on The Mall, and I think it has been referenced already, the Reverend Jesse Jackson stated that, and I quote:

> Why are there so many blacks in jail? Is it behavior or is it the rules? Let me talk about the rules here. Five grams of crack cocaine, five years mandatory. Five hundred grams of powdered cocaine, you get probation.

Mr. Jackson then went on to charge, and again, I quote:

> That's wrong; it's immoral; it's unfair; it's racist; it's ungodly; it must change.

Some of my distinguished colleagues on the other side of the aisle seem to use the same argument, and I have a great deal of respect for their intelligence, and their honesty, their integrity, and their position in this. I just disagree with them. I do not think this is racial.

It is my hope that as a legislative body, we, as representatives of the millions of Americans who sent us here to protect them from the hopelessness of the American drug culture and the rampant violence which results from it, can look above and beyond these charges leveled by Mr. Jackson and others with a sense of purpose and reason.

Make no mistake about it though. Our penal system must not begin to be tailored around race, socioeconomic status, or anything else for that matter. We do not need prosecution by quota. We need to crack down on crack cocaine.

My colleagues, do not be misled by the weightless argument by the time-honored issue of race concerning crack and powder cocaine. As a former prosecutor, U.S. attorney, I learned that we must prosecute the crimes regardless of the neighborhood in which they occur. Can we turn our backs on the many inner-city areas where crack is an epidemic, killing its youth who are the victims? Are the victims of the crack-associated crime any less deserving of the full weight and support of the prosecution and our law simply because those victims are black? No. Penalties must continue to be consistent with the nature of the crime without regard to outside factors which have no bearing on the commission of that crime.

Indeed, let us not forget that the sentencing Commission reported that in regard to the penalty differences between crack and powder cocaine, and I quote, ''The penalties apply equally to similar defendants regardless of race.''

This is what the Sentencing Commission said:

> No, it is not the rules. Blacks are not in jail because the system treats them differently than anybody else. These blacks in jail are there because they were dealing with one of America's most dangerous drugs that is plaguing our society.

This is important to me. I could go on, but let me try to summarize what I am saying here.

The fact that the penalties apply equally to each and every American, regardless of their race, is the essential point to keep in mind. If the Members of this body have a problem with equal treatment under the law, then they should voice that concern. But there really is no such concern, because the current penalties do in fact treat everyone the same.

Mr. Chairman, let me finish, and, if I have time, I would like to yield to the gentlewoman from Colorado [Mrs. SCHROEDER], but I do want to make this final point in conclusion. Congress may later decide to modify the quantity ratio of crack cocaine and powdered cocaine, and I trust that we will retain substantially more severe penalties for crack offenses. However, H.R. 2259 is not the vehicle for changing the quantity ratio.

I urge my colleagues to pass this legislation, disapprove these two of the Sentencing Commission recommendations, and allow the Committee on the Judiciary to revisit the quantity-ratio issues through a reasonable process.

□ 1815

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina [Mr. WATT], a Member who has concentrated his efforts on this activity.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I guess I have to eat my words now, because I thought nobody was going to come to this floor and say that what we are doing is fair. The gentleman from Tennessee [Mr. BRYANT] has said it and he said it with a straight face. I just find that absolutely unbelievable.

Mr. Chairman, my colleagues have to understand what is going on here. Crack cocaine and powder cocaine are both cocaine. Crack cocaine happens to be used by poor people who are predominantly black people because it is cheap. Powder cocaine happens to be used by white people who happen to be richer, and as a consequence, you get this disparity in the application of the law.

Mr. Chairman, I said in an earlier debate here on the floor, I made a mistake; I said that it is 30 minutes to get from powder cocaine to crack cocaine. I was corrected. It is actually 10 minutes. I am told that if you put a tablespoon of baking soda with powder cocaine and you put it in a microwave and bake it for 10 minutes, that converts it to crack cocaine. You cannot get to crack cocaine without going through powder cocaine. So how we can justify a greater penalty for crack cocaine than for powder cocaine I just simply do not understand.

So, then you presume that if somebody has 5 grams of crack cocaine, they are dealing in cocaine. Five hundred grams of powder cocaine is necessary before you get to that same presumption. Five grams of crack cocaine

produces 10 doses. Five hundred grams of powder cocaine produces 5,000 doses. Five grams of crack costs $225. Five hundred grams of powder cocaine costs $50,000. So what do we end up with? The rich guys have to have $50,000 worth of this substance, 500 grams of it, to even think about getting the same sentence that the poor person has.

The gentleman says that is fair? There is no way that we can assert to the American people that that is fair. There is no way that I can assert to my community, to the black community, to the black residents that live throughout America and who live in my congressional district that that is fair. If I cannot assert to them that the laws are fair, then I cannot assert to them that they have to abide by them. Fairness is the basis of every law, or should be.

Mr. Chairman, we cannot say to black people in the country, you deserve to go to jail for something that white people do not go to jail for. It is unfair, it is outrageous, it is despicable, that we would sit here on this floor of Congress, 2 days after the President has talked about fairness, 2 days after a milion people have come here and begged for fairness, and we say, let us go do business as usual, let us keep this in effect while we study it some more.

We have been studying this issue for a long, long time, and it is time for us to deal with it and deal with it in a way that is fair to the American people and to our communities.

Mr. CONYERS. Mr. Chairman, I yield 3½ minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

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

Mr. Chairman, I rise in support of H.R. 2259. This debate has begun to touch on an issue which is broader than we can possibly cover today, and that is disparate representation in the criminal justice system of the races. We all know that there is a disparate number of African-Americans in prison and other custody today than of non-African-Americans. That does not mean that African-Americans are a majority, but they are represented in the criminal justice system more frequently than their percentage in the population. I personally believe that occurs for a number of reasons.

For example, law enforcement is oriented towards street crimes. The fact of the matter is, less educated criminals tend to commit street crimes, whereas more educated criminals tend to commit the more sophisticated crimes, like fraud and embezzlement. In fact, with respect, I think many Americans may not know that when they hear about the crime rate, it does not include every crime. Only street crimes are counted. Murder, rape, robbery, aggravated assault, burglary, larceny, auto theft, and arson. If anyone commits any one of those crimes, then the crime rate goes up. If someone commits a sophisticated crime like embezzlement, the crime rate does not go up.

Now, I think that that kind of approach will have a disparate impact. However, I do not think the solution is to prosecute fewer burglary or arson or larceny cases. I think the solution is to prosecute more fraud and embezzlement cases and the like which are generally committed by otherwise middle class, probably non-African-American individuals.

That is how I feel about this particular debate. I think a number of arguments have been made that crack cocaine in fact is worse for a number of reasons than powder cocaine. For example, in my own community of Albuquerque, NM, tragically, just a short time ago, a young child, under 2 years old, virtually a baby, died from eating crack cocaine that was available in the house where the baby was. I suppose this could happen ultimately with any drug, but it happened with crack.

Mr. Chairman, I wanted to make the point that if disparity is the issue, and if fairness is the issue, and there really is not a logical reason to distinguish crack cocaine from powder cocaine, then there is another solution, which is raise the penalty on powder cocaine. I think to be reducing drug penalties is to send the exact wrong message to the Nation at this time.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

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

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say, we heard this before at the Committee on the Judiciary, our colleague from Virginia, Mr. SCOTT, tried to offer an amendment to do what the gentleman said, to raise the powdered penalty, and a Republican made a point of order and was ruled out of order. The majority carefully drew this bill so that any effort to raise the penalty for powder would be out of order. So the gentleman says that, but we are presented with the situation where no one can do it.

Mr. SCHIFF. Mr. Chairman, reclaiming my time, this particular bill came before us according to the law to accept or reject specific recommendations from the sentencing guidelines commission, and that amendment, if even seriously made, was out of order at that time.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will yield further, why did the gentleman put out such a bill?

Mr. SCHIFF. Mr. Chairman, it is my time.

I am saying that I am willing to pursue the idea further about whether there is a legitimate difference between crack and powder cocaine, and if there is not, I will support a bill, a separate bill on this floor to raise the penalty for powder cocaine. If we raise the penalties, there is no disparity and no unfairness, as the other side has argued.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, Members on the other side have said at the committee and here: well, the answer is to raise, if you think the disparity is unfair, the penalty for powder. Some of us do not think that is the answer, but let us be very clear. Neither do they. Because I never saw people with a worse case of the gonnas. They are gonna do it, but they do not do it.

Nobody on that side has put out such a bill. They have put this bill before us in a way that makes it out of order. So for people to try to argue that the real way to deal with disparity is to raise the penalty for powder and then do nothing to accomplish that, they are rebuking that argument.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], the ranking member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for yielding me this time, and I thank him for his statement on this.

Mr. Chairman, I came to talk about Judge Lyle Strom. Judge Lyle Strom was appointed by President Reagan. He is the chief judge of the U.S. District Court in Nebraska, not a State known for a lot of radicals. They look like they have great common sense out in Nebraska, especially a Reagan appointee.

Well, let me tell you about Judge Lyle Strom. This brave judge has stood up and become the first Federal judge to refuse to impose a mandatory minimum sentence in a crack case, because he thought it was totally unfair, as did the Sentencing Commission who has studied this and is saying it is totally unfair.

Mr. Chairman, crack cocaine is minutes away from being powder cocaine. What you are really doing by protecting powder cocaine, which is what the other side is really doing, I think here today, is that they are protecting the entrepreneurs. They take the powder cocaine and cook it up and can sell it. Oh, well, we do not want to get the big guys. We want to get the little guys at the end of the line, and we have a disparity of 100 to 1. We are not talking a little disparity. It is a 100 to 1 disparity that we are talking about here when we look at the differences in the sentencing.

Now, Mr. Chairman, it seems to me that when you look at people like the judge who is head of the court in Nebraska, and when you look at the Sentencing Commission, which is not a radical bunch of people, they are saying to us that if we want this justice system to be considered fair and equal, and if we are going to sew up the holes in Miss Justice's blindfold so she is not peaking out to see whether this is a little entrepreneur that has powder and is

going to make it into a lot of things, and who knows, it could be healthful later on, then we really need to act on what they are saying rather than throw what they are saying aside.

I really find it amazing that people are coming here and saying, oh, no, this is fair, this is fine, and then the gentleman from Massachusetts [Mr. FRANK] just pointed out that the other things that are being said on this floor are also untrue, and that is that if you really think you ought to raise powder cocaine up, then raise it up. Who is stopping you from doing it? However, every time that is tried, no, they have a reason for not doing that, either.

Mr. Chairman, it is absolutely no wonder that people think this is unfair, because it is unfair. Every objective soul that has really looked at this, including 8 of the 10 witnesses that appeared in front of the subcommittee and testified on this, and I tell you, it is the other side who called them, 8 of the 10 witnesses, when polled, disagreed with this bill. They were called to testify on this bill and they did not think that we should do this bill. They thought we should introduce fairness into our legal system. What a radical concept, that this 100 to 1 ratio was unfair, and that if we could not figure out that the root cause of crack cocaine was power and we were going to insist on protecting powder possession, but going after crack possession, we really look like we got it all backward.

I would say that 8 out of 10, when they are called by the people trying to push the bill and could not get a better vote than that, is enough to say we all ought to sit up and take notice and we ought to listen to the many, many fair and objective people who have studied this and say we should move forward. Otherwise, we are never, never going to be able to look African-Americans in this country in the eye and say we are treating them fairly, because we are not, and we better deal with it. Mr. Chairman, if my colleagues vote for this bill tonight, they are not treating them fairly, and they are allowing this injustice to continue.

□ 1830

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT], a former law enforcement officer.

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

Mr. TRAFICANT. Mr. Chairman, I do not believe the Republicans are trying to be unfair; I just believe they are wrong.

Cocaine is listed under Federal law as a narcotic. Cocaine is, in fact, a central nervous system stimulant. To really look at the severity of the abuse of drugs in our country, we have to understand, and Congress does not even understand the phenomenon. As a result, our laws are all screwed up.

Show me an abuser of a central nervous system stimulant such as methamphetamine administered intravenously and I will show you someone as strung out and as dangerous as a crack cocaine abuser. Cocaine is imported, not crack. Cocaine and crack cannot be separated.

The right thing to do would be to treat both of these lethal drugs under the same mode. The problem that we have out in society today is we misidentify drugs, we confuse the scene, and we have so many powerful burdens and powerful penalties that no one really understands it.

I tell my colleagues the truth. Working in the field for 11 years, I worry about that youngster getting ahold of cocaine, mixing it with heroin, with that speed ball; and after a while they will throw the cocaine away, and they will be strung out on the street corner, be the toughest person to rehabilitate. There is no rehabilitation. These youngsters have never been anywhere.

Let me make this statement. To treat crack differently than cocaine has no defensible merit and no argument on this floor, none whatsoever for any professional who understands it.

Vince Lombardi was loved by all, the great Hall of Famer. Willie Davis was asked, ''Why do you love Vince Lombardi so much?'' He said, ''I love him because he treated us all alike, like dogs, but all alike.''

Let me tell Members something. The kids on the streets have crack because they want to get them strung out as fast as possible, but we should not treat these drugs differently. They are one and the same, my friends, and we are wrong if we do that.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, 5 grams of crack, 10 doses, a couple of hundred dollars worth, 5 years mandatory minimum; 500 grams of powder, 5,000 doses, tens of thousands of dollars to get the same penalty. In fact, possessing the 10 doses only gets a person more time than distributing tens of thousands of dollars worth of powder cocaine.

Ninety-five percent of those convicted for crack offenses are black and Hispanic. Seventy-five percent of those convicted of powder offenses are white. The Commission decided to equalize the base sentence with enhancement. Some say that crack dealers ought to get more because of the nature of the distribution. The enhancements will take that into consideration. Because you will get more time if you have a firearm, violence or death, juveniles, prior prison records, near schools, leadership role in the enterprise, other crimes, the sentencing will be based on the crime and based on an objective determination, not because the group happens to be 95 percent black.

Mr. Chairman, the reason that we have a Commission is to take the politics out of the sentencing. Over 500 prior sentence changes have been made. None have been rejected. They can consider the evidence.

For example, the evidence in possession is that there is a 68-percent recidivism rate for those that go to prison, 11 percent recidivism rate for those who get treatment. So we spend more money, end up with more crime if we send people to prison for simple possession. The Commission can act intelligently and make that decision without regard to the political implications.

The reason for the Commission is to put things in perspective, Mr. Chairman. Five-year mandatory minimum for users and small-time street dealers with a couple of hundred dollars worth, 95 percent black and Hispanic. Street dealers will be replaced as soon as they get arrested. Those distributing tens of thousands of dollars of uncooked crack or pre-crack or powder can get probation, a group 75 percent white. The Commission can treat large-scale dealers of tens of thousands of dollars of uncooked crack more seriously than street dealers or simple possession without regard to political implications.

This bill rejects the intelligent, nonpolitical analysis of the Commission in an unprecedented act. The bill suggests that we should go back, to send the issue back to the Sentencing Commission to study it. Yet there is no date for the end of the study. And there is nothing to study.

Because they told us what they thought. They told us that there is an unjustified disparity with racial overtones. We should defeat the bill, let the nonpolitical Sentencing Commission recommendations become law. It is the fair thing to do.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR], a member of the committee.

Mr. BARR. Mr. Chairman, I think the distinguished gentleman from Florida [Mr. MCCOLLUM], the chairman of the Subcommittee on Crime and Criminal Justice, for yielding me the time.

Mr. Chairman, this really has to be one of the most bizarre debates that I have witnessed in the 10 months that I have had the honor of serving in this Congress of the United States. I was just reminded of how bizarre it is listening to one of the proponents of the sentencing guideline recommendations, the sentencing commission recommendations talk about us protecting powdered cocaine users. That is bizarre.

Then we have people saying there is absolutely no difference whatsoever between powdered cocaine and crack cocaine when there are in fact substantial differences, in terms of the effect it has on the person, how quickly it has that effect on that person and how much more deeply and quickly addictive crack cocaine is than powdered cocaine. Yes, they come from the same base; yes, they are chemically similar, but in their effects they are very, very different and the crack cocaine is much more dangerous.

I am also reminded in this debate, Mr. Chairman, about how out of touch Members on the other side are from the real world. The real world, Mr. Chairman, is a world that I have visited, have worked in and talked with people in when I had the honor of serving as the United States attorney for the Northern District of Georgia. Not simply content with staying in the Federal Building or in the United States courthouses, myself and police officers and Federal agents and assistant United States attorneys regularly went out into the community to determine are, in fact, our priorities the priorities of the people who want to be protected from drug dealers, murderers and thieves in their communities.

In many of those visits, Mr. Chairman, I had the opportunity to talk with men and women and mothers and fathers in housing projects, many of them in Atlanta where we have some of the oldest and poorest housing projects in the country, many of them populated not exclusively but in terms of the number of people predominantly by black families, and in talking with those mothers and those fathers and those children and those brothers and sisters, they do not share the belief of our colleagues on the other side.

They told me than, they tell us now, they tell law enforcement officers now, I do not care whether that person is black or white who is dealing death in the form of crack cocaine, I do not care whether that person who murders people either deliberately or inadvertently by drive-by shootings because they are high on crack cocaine or because they think that person may have snitched on them, they want those people off the streets. They want them off the streets and they deserve to have this Congress heed that cry and not be diverted, not be drawn off target by specious arguments, absolutely specious arguments that we are hearing from the other side that simply because we want to punish very strongly, very strictly and hopefully very swiftly people that deal in a very, very addictive, very dangerous mind-altering drug such as crack cocaine, that we think because much smaller quantities can result and are used in fact for trafficking and distribution than larger quantities of powdered cocaine, that those people ought to be punished more because it is those people who are going into the housing projects where our black youth are being killed and those mothers particularly tell me. They told me this when I was United States attorney, they tell me now as a Representative in the United States Congress, ''Get those people off the streets and put them away for a long period of time.''

That is the real world. Those are the real arguments. In fact, Mr. Chairman, those are also the arguments of this administration. The Clinton administration came to the Congress of the United States and they said, yes, we may argue that there has to be or perhaps might be some different equation we use but even this administration recognizes that there is in fact a difference, a very big difference between the effects of crack cocaine and powdered cocaine and it is appropriately and has been appropriately for going on a decade now reflected in the difference in sentencing because it reflects differences in the real world use and effect of these drugs.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I appreciate what the gentleman from Georgia just said, but when you go into white houses and white neighborhoods, they want white dealers put away, that sell it to white people. But they do not say put them away for a longer period of time than black people, or put black people away for a longer period of time than white people. It is a crime problem.

You know what cocaine does in the suburbs? People shoot people in the suburbs. They beat their children. They beat their spouses. They screw up their businesses. They leave home. They have dissolutions of families, of marriages and children are left and are wards of the State.

It is the same drug. It is the same scourge on communities. The suggestion that somehow because black people believe in law enforcement and do not like people selling drugs in the streets that that means they are for the unequal treatment of people is crazy, is absolutely crazy. We ought to deal with this as it is.

You have a little luxury because you come through parts of my district and pick it up in your BMW and go to a home where a cop would not go unless you called them and you get the luxury of using it and dealing it, you get a different penalty.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I thank my friend, the gentleman from Michigan [Mr. CONYERS], for yielding me the time.

Mr. Chairman, let me tell this to my colleague from Georgia. I live in my district. I live in the city of Atlanta. I know the people of Atlanta. I have visited and stayed overnight on more than one occasion in the projects. I served on the city council in that city for almost 6 years, served on the public safety committee. I know the police department of that city.

This amendment is about fairness, equality and justice. It is about treating our poor and minorities the same way we treat others in our society.

Chemically, crack and powder cocaine are the same drug. They are the same in every way but one. Poor people use crack. People of color use crack. People who use crack go to jail.

On the other hand, more affluent people use powdered cocaine; and when they are caught and arrested and prosecuted, they often go free or get lighter sentences than those who use crack cocaine. This is not only wrong, it is unjust, and it should not be.

These are the facts. The way the law is designed, it sends poor people to jail. It sends people of color to jail. This is not justice. This law is not right. It is not fair.

My colleagues, cocaine is cocaine. Breaking the law is breaking the law. It is time to stop discriminating against the poor and people of color. It is time to treat poor people the same way we treat the rich. It is time to treat each and every person who uses cocaine the same.

The Conyers amendment will go a long way to restoring fairness to our justice system. It will restore faith and confidence. As recent events have shown, many of our citizens see two different judicial systems. They see different laws for different people. They see statutes that discriminate and a system that does not treat all people equally under the law. That is not the American way. That is wrong. It is dead wrong, and it must be changed. We have an opportunity tonight to change it.

I urge my colleagues to support justice, equality, fairness and integrity. Support the Conyers amendment.

□ 1845

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

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

Mr. EMERSON. Mr. Chairman, it seems to me that cocaine is all bad and it should all be strongly discouraged, crack or powder.

The issue should not be the lowering of standards to conform with another but perhaps the raising of one standard to bring them all up to equal status. So I rise today in strong support of disapproving certain drug sentencing guidelines as recommended by the Sentencing Commission.

I think that fighting our Nation's war on drugs has got to be swift and sure. By accepting a rollback in punishment for crack cocaine offenses, we would be sending precisely the wrong message. That is why I introduced legislation in this Chamber to block the Commission's recommendations.

According to the Federal Bureau of Investigation bulletin of a mere 5 months ago:

> The sentencing tables used in drug cases base punishments on the type and amount of the drug as well as the criminal history of the defendant. Offenses involving crack cocaine receive substantially higher sentences than those dealing with cocaine in its powdered form due to crack's higher addictive qualities.

We cannot play ostrich by sticking our heads in the sand and thinking America's drug problem is simply going to solve itself and go away. Our constituents expect us to stand up for

them and to make their, our, neighborhoods safer. By disapproving the Sentencing Commission's recommendations, we will be doing that.

Let us look at the facts. Drug trends prove the need for stiff punishment. There is no question about that. The sale, the manufacture, the possession of cocaine, according to the Federal arrest rates, has skyrocketed in this last decade alone.

In addition, the number of Federal cocaine seizures has jumped from nearly 8,000 kilograms in 1983 to more than 78,000 in 1992, and according to the Justice Department's uniform crime reports for 1993, nearly 2 out of every 3 people arrested for selling and manufacturing drugs was in the heroin or cocaine and their derivatives category, while almost half of everyone arrested for drug possession fell into that same category.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE].

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

Ms. JACKSON-LEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to say that H.R. 2259 absolutely needs to be rejected. It flies in the face of what we consider to be the notion of equality under the law.

It is interesting that my colleague, the gentleman from Georgia [Mr. BARR], can talk about how he has traveled the highways and byways of inner-city Atlanta. But let me say to you that it is all in the asker of the question as to what the responder says. I asked the same question in neighborhoods that I grew up in, and I asked a group of African-American ministers, ''How many of you enjoy your community using drugs? Would you raise your hands?'' I got no takers. But then I asked the fairness question: ''How many of you understand that those who sell crack get 100 times more sentencing than those who sell cocaine?'' Shock came across their faces because they really understand the needs of their members day after day after day. They are in the homes of crying mothers who say, ''He simply wanted to have a job.'' They are in the homes of crying families who say, ''Where is the treatment facility for those who are addicted?'' That is what the question becomes.

Then we want to reject the language of a sentencing commission that is bipartisan, which, if I might simply read on page 105 in a report from the U.S. Sentencing Commission, February 1995, ''Cocaine and Federal Sentencing Policy,'' and it says, ''Thus, the media and public fears of a direct causal relationship between crack and other crimes do not seem to be confirmed by empirical data.''

What is the Congress talking about? By this action today this Congress is unfairly saying ''Throw them in the jailhouse and throw the key away.'' Ninety-five percent of them are minorities. Throw equality under the law out the window.

I abhor drugs. But what I am saying to you is you are not fixing something. You are destroying a community, and then we find out in this same report, on page 105, that the members of inner-city communities are not cocaine or heroin abusers or criminals. Basically, factors such as prospects of employment in the crack trade for young persons who most likely will be unemployed are the key to getting them out on the street selling drugs. Where are the real jobs to solve this problem?

Where are the solutions from my colleagues, the Republicans, on job creation, on job training?

I am going on the record, I do not want to see drugs proliferating in our communities across this Nation. But as a member of the Committee on the Judiciary, understanding the Constitution, equal protection under the law, I think it is atrocious that we stand here today, rejecting a bipartisan commission that simply says equalize the sentencing, and likewise documents that other crimes do not necessarily come out of crack usage.

What we need are jobs in our communities, treatment in our communities. This is an abomination. Let us stop the abomination. Let us not support H.R. 2259 and support the Conyers substitute which affirms the fair U.S. Sentencing Commission's recommendation. The Commission's recommendations help stop crime. This Republican legislation destroys lives.

Ms. JACKSON-LEE. Mr. Chairman, I must rise in opposition to S. 1254, which has been made in order as original text for the bill to disapprove sentencing guidelines that would equalize the sentencing for the sale and possession of powder and crack cocaine.

The current sentencing guidelines are an affront to our professed notion of equality under the law. There is a 100-to-1 disparity in sentencing for offenses concerning crack cocaine versus powder cocaine. If an individual possesses 5 grams of crack cocaine, he is subject to a mandatory minimum sentence of 5 years. Whereas an individual who possesses 500 grams of powder cocaine is subject to a maximum sentence of 1 year. This is patently unfair.

Moreover, the racial disparity in sentencing of crack cocaine offenders is unacceptable.

The statistics show that 88 percent of the convictions for crack cocaine are against African-Americans. In the city of Los Angeles, no white American has been convicted of a crack cocaine offense since 1986. Despite this evidence of racial disparity around the country with respect to cocaine sentencing, this bill would destroy the opportunity to reduce such disparity and make our criminal justice system more equitable.

The recommendations of the Sentencing Commission are sound and the result of significant research and deliberation. This commission is comprised of a distinguished group of men and women who have reviewed a significant amount of data and heard testimony from interested parties on this critical matter. Some proponents of this bill are using stories and anecdotes from a few members of the law enforcement community that crack cocaine offenders should be subject to such harsh sentencing.

The commission voted 5 to 4 in approving the new sentencing guidelines. All of the commissioners, however, agree that the current sentencing disparity between offenses for crack cocaine and powder cocaine is too high.

A rejection of this bill would be a perfect opportunity for Congress to help all Americans have a greater confidence in our Criminal Justice System. In the Subcommittee on Crime and in the full Judiciary Committee, we had an opportunity to vote on amendments that would accept the recommendations of the U.S. Sentencing Commission but that would lead toward some reduction in this disparity. However, those amendments were defeated on a party line basis. Some Members may argue that this bill, S. 1254, is a better bill than the bill that was reported out of the Judiciary Committee. This bill is still bad public policy.

Let us use this opportunity to restore a sense of fairness in the Criminal Justice System. It is not a matter of being tough on crime but a matter of whether our Judicial System will have any credibility by millions of Americans.

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Indiana [Mr. BUYER], a member of the committee.

Mr. BUYER. Mr. Chairman, this is the third time now that I have, with patience, listened to the debate of my colleagues from both sides.

I do rise in support of H.R. 2259 to disapprove the recommendations made by the U.S. Sentencing Commission regarding crack cocaine and money laundering.

Despite what we hear from the opponents of this bill, the legislation is about being tough in the war against drugs. It is about standing up for our children's right to grow up drug-free and be saved from the scourge of drug abuse that has ruined so many young lives.

I applaud the courage of the chairman, the gentleman from Florida [Mr. MCCOLLUM], for moving forward with this legislation in the face of some of the allegations we hear tonight. He does so out of concern for all of America's children.

The U.S. Sentencing Commission has recommended equalizing these penalties for distribution of the cocaine and crack cocaine, and I believe that it is simply wrong.

Although the same drug, crack cocaine possesses the greater risk to society due to its increased addictiveness, the manner in which it is marketed, and the increased association with violence. Our sentencing policies must reflect the inherent differences, not be race-based, sex-based, or national origin-based. The Sentencing Commission-proposed changes do not do this.

The powder cocaine, due to price, is generally used by the more affluent. One of the most distressing things about crack is it is cheap and inexpensive. Of these using cocaine, crack was

the more popular among 12-to-17-year-olds than among any other age group. Crack is highly addictive and is available to our children for little more than lunch money. The other harms associated with crack are an increase of violent crime, destructive to the entire neighborhoods, to the child, and to domestic abuse. Our sentencing policies must reflect these greater harms to society.

The target of these sentencing guidelines is the dealers of crack cocaine. Under current policies, a mid-level dealer who distributes 50 grams of crack would trigger a 10-year sentence. Under the proposed changes by the Sentencing Commission, this same dealer would only face a 12-to-18-month sentence. This is too short of a time for someone responsible for selling up to 500, 500 crack transactions that devastate 500 potential lives.

In closing, let me leave with my colleagues the words of someone on the front lines fighting the war on drugs. I recently received a letter from the Marion County prosecutor in Indianapolis. He writes and says,

> I simply cannot understand why the United States Sentencing Commission would consider lightening the penalties for crack cocaine distribution relative to other narcotic drugs. To do so would be a serious mistake and would more than likely lead to even fewer meaningful prosecutions of crack cocaine dealers in Federal court.

I must make one other comment, and that is it is not justice nor equality to base criminal prosecutions based through the dimension of color, sex, or national origin. If we take the arguments that I have listened to here tonight, and let us look at it from the other perspective and say if white-collar crime, that there are more whites in America that commit bank fraud, in a racial disparity of 1000 to 1, should we then reduce the penalties? If we then look at sex and say that how many, if there are greater men that commit battery against spouses, should we have lesser penalties against the men? If we look to the dimension of national origin and say that because there are more illegal aliens from Mexico versus Canada, that therefore we should not be harsh on illegal aliens from Mexico?

The penalties of crime should not be based due to the dimension of color, sex, or national origin, period, and I support the efforts of the gentleman from Florida [Mr. MCCOLLUM].

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume, to point out to my colleague on the Committee on the Judiciary that, first of all, my substitute does not include dealers, trafficking. It only deals with possession.

Second, the majority of crack users in America are not African-Americans. They are white.

Mr. Chairman, I yield the remainder of my time to the distinguished gentlewoman from North Carolina [Mrs. CLAYTON].

(Mrs. CLAYTON asked and was given permission to revise and extend her remakes.)

Mrs. CLAYTON. Mr. Chairman, I rise in opposition to this bill and in support of the Conyers substitute.

The distinguished jurist, Judge Learned Hand on one occasion stated, ''If we are to keep our democracy, there must be one commandment, Thou shalt not ration justice.''

Indeed, this Nation is the leading democracy in the world because we labor to ensure that our citizens are governed by one standard of justice—equal under law, according to the inscription above the U.S. Supreme Court Building.

It troubles me that this bill seeks to disapprove the proposed sentencing guidelines regarding crack cocaine.

The question is why?

Do the recommendations of the Sentencing Commission create a dual standard of justice?

The answer is ''no.''

In fact, the recommendation of the Sentencing Commission is to create a single standard for all cocaine offenses—whether the offense involves powder or crack cocaine.

That, it seems to me, meets the mandate of equal justice.

Do the recommendations of the Sentencing Commission call for a change in sentencing for cocaine offenses?

Again, the answer is ''no.''

The recommendations simply provide for cocaine offenses involving crack to be equal to those involving powder cocaine—the penalty for both will be the same, and the penalty for powder cocaine remains unchanged.

Mr. Chairman, let us not forget that the 1994 crime bill directed the Sentencing Commission to examine the disparity between sentencing for crack cocaine and powder cocaine offenses.

The Commission followed that directive, and made 27 recommendations on May 1, 1995, including recommendations to equalize the penalties for crack and powder cocaine.

The Commission did what Congress told them to do.

Now—because the Commission did not do what some would have preferred that they do—we are faced with an effort to undo what they did.

The Sentencing Commission is composed of judges and lawyers and others, expert in the field of sentencing.

They conducted their business within the administrative authority given them by an act of Congress.

No proponent of this bill has argued that the Commission acted without authority.

They stayed within the banks of the law that created them.

Why then do some now seek to negate the legitimate actions of the Sentencing Commission?

Why are some willing to accept a dual standard of justice in our law enforcement system?

Why are some willing to allow minority citizens, low income citizens, to bear a stricter sentencing burden than nonminorities bear—for the same offense?

Why are some willing to overlook the fact that African-Americans account for almost 90 percent of those convicted of Federal crack cocaine charges?

Those are the questions, Mr. Chairman, and they are compelling.

I hope we will get some honest answers.

Then, let us reject this ill-advised, constitutionally awkward legislation.

Mr. MCCOLLUM. Mr. Chairman, I will conclude by making a couple of points. First of all, what we are all about here tonight in this bill is to disavow two of the Sentencing Commission recommendations, one of them dealing with money laundering, that has hardly been discussed. Clearly, we need to veto that. We do not want it to go into effect. It would dramatically reduce the penalties for money laundering in this country. We may need to revise them a little bit, but not as dramatically as they have done.

Second, this question of revising the issue of disparity, difference, if you will, between the quantities of crack and the quantities of powder that trigger mandatory minimum sentencing and sentencing guidelines; we cannot change the minimum mandatory here tonight. That is not what it is about. For 5 grams of crack, the minimum mandatory is going to remain equal to 500 grams of powder. We can debate that for a long time to come. But that is the case.

By failing to enact this tonight, we will let the Sentencing Commission guidelines go into effect that I think would be far worse than what we have today because there would be even greater disparity in the crack sentencing proposition. I am sure we will get a chance to debate it in a few minutes.

The decision of the Sentencing Commission was 5–to–4. It was very close on this issue for a lot of the reasons we have been debating tonight, and I look forward in a few moments to the debate on the amendment the gentleman from Michigan is going to offer, because we can discuss then how possession indeed in this case is the same as trafficking.

Mr. MFUME. Mr. Chairman, today we vote on legislation which would disapprove the U.S. Sentencing Commission's guideline amendments regarding the disparity between crack and powder cocaine sentences.

When Congress created the Sentencing Commission in 1984, it entrusted an independent body with the difficult task of establishing and making recommendations regarding guidelines for Federal crimes. During deliberations on last year's crime bill, Congress directed the Sentencing Commission to study the sentencing disparity in cocaine.

Under current law, individuals who are convicted of crack cocaine offenses are subject to penalties that are 100 times more severe than those convicted of powder cocaine offenses. In other words, a defendant who sells 5 grams of crack cocaine will receive the same 5-year

mandatory minimum sentence as a defendant who sells 500 grams of powdered cocaine. In addition, possession of 5 grams of crack results in the imposition of the 5-year penalty, but possession of 5 grams of powdered cocaine will only result in a 1-year maximum sentence.

Earlier this year, the Commission produced a report in which it strongly supported the elimination of the current 100 to 1 ratio. Despite an indepth study that took into consideration empirical and scientific data, this House now seeks to dismiss the Commission's recommendations and thereby allow the sentencing disparity to continue. Passage of this bill would mark the first time that the Congress has rejected the guideline amendments proposed by the Sentencing Commission.

Americans have looked upon the judicial system with increasing mistrust partly in light of the controversy surrounding the disparity in setencing involving cocaine. The findings of the Commission indicate that African-Americans accounted for 88.3 percent of Federal crack cocaine trafficking convictions in 1993, Hispanics 7.1 percent and whites 4.1 percent. The low cost of crack cocaine makes it the drug of choice for poorer Americans, many of whom are African-American. The Commission found that ''the high percentage of blacks convicted of crack cocaine offenses is a matter of great concern . . . Penalties clearly must be neutral on their face and by design.'' The presence of such a racial disparity calls into question the integrity of a judicial system that premises itself on fairness.

The harshness of the penalty ratio has been shown to be unfairly focused upon low-level drug dealers and addicts rather than cartels, smugglers, and large scale traffickers who deal in powder cocaine before it is converted into crack for sale at the street level.

These problems are further aggravated by law enforcement practices wherein minority areas are targeted. Earlier this year, a Federal appeals court dismissed a case against four African-Americans accused of selling crack because the Government refused to provide evidence that might determine if the defendants had been unfairly targeted. Joining the majority opinion, Justice Stephen Reinhardt stated that the statistics compiled by the Federal public defender's office raised ''a strong inference of invidious discrimination'' against minorities.

Conversely, not a single white has been convicted of a crack cocaine offense in Federal courts serving Los Angeles and its surrounding counties since Congress enacted its mandatory sentences for crack dealers in 1986. Rather, these defendants are prosecuted in State courts where sentences are far less. In their dissenting opinion, Democrats on the Committee on the Judiciary properly expressed concern in stating that ''the existence of such a facially flawed sentencing scheme undermines the credibility of our entire system of Federal laws and might invite discriminatory behavior by Federal law enforcement personnel.''

According to research conducted by the Sentencing Commission, mandatory minimum penalties for powder and crack cocaine have not been uniformly applied. This is due in large part to lower State penalties for crack. Thus the decision to prosecute in Federal rather than State court can have a tremendous impact on an individual sentence. As such, the choice of forum is a significant factor in determining sentence length.

The problems that have arisen with the current cocaine sentencing disparity highlight the basic problem with mandatory minimum sentencing laws. These laws were designed as an added crime deterrent and were intended to reduce sentencing disparity by eliminating the discretion that judges and parole boards exercise. However, mandatory minimum sentences prevent judges from making the time fit the crime.

In conclusion, Mr. Speaker, I ask my colleagues to oppose this bill and support the findings of the U.S. Sentencing Commission which examined this issue closely and opposed the current penalty scheme.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2259, a bill that disapproves of the sentencing guideline amendments. Let me state from the beginning that I recognize the challenge we face in curbing drug abuse in our Nation. In fact, I have been a longstanding advocate for strong congressional action to reduce and prevent the scourge of drug abuse and addiction from our Nation's communities. Nonetheless, I cannot support this measure before us today because it creates two brands of justice, one white and one black.

H.R. 2259, disapproves of the U.S. Sentencing Commission's proposed sentencing guideline amendments regarding crack cocaine and money laundering. The 1994 crime bill directed the U.S. Sentencing Commission to examine the disparity between sentencing for crack cocaine and powder cocaine offenses. On May 1, 1995, the Commission made 27 recommendations, including recommendations to equalize the penalties for crack and powder cocaine. The action proposed in this legislation will short-circuit the recommendations of the acknowledged experts in this field, the U.S. Sentencing Commission.

While the most recent FBI uniform crime report states that, since 1989, the number of crimes per 100,000 inhabitants is down 4 percent, the African-American community has increasingly become the target of the criminal justice system. A Washington-based advocacy group, known as the ''Sentencing Project,'' confirmed this fact when it reported that a shocking one-third or 32.2 percent of young black men in the age group 20–29 is in prison, jail probation or on parole. In contrast, white males of the same age group are incarcerated at a rate that is only 6.7 percent.

As the Nation experiences a slight overall decline in the crime rate, 5,300 black men of every 100,000 in the United States are in prison or jail. This compares to an overall rate of 500 per 100,000 for the general population, and is nearly five times the rate which black men were imprisoned in the apartheid era of South Africa. America is now the biggest incarcerator in the world and spends approximately $6 billion per year to incarcerate black men. The number of African-American males under criminal justice control, 827,440 exceeds the number enrolled in higher education.

When we examine why African-Americans are increasingly being targeted for punishment by the justice system, one factor stands out as a primary contributor—the mandatory minimum sentences associated with crack cocaine offenses. The evidence clearly establishes a disparity under current law in sentencing between crack cocaine and powder cocaine. Those persons convicted of crack possession receive a mandatory prison term of 5 years by possessing only one-hundredth of the quantity of cocaine as those charged with powder cocaine possession.

The U.S. Sentencing Commission found that blacks accounted for 84.5 percent of Federal crack convictions in 1993. Because of this and other unbalanced drug control laws, the number of incarcerated drug offenders has risen by 510 percent from 1983 to 1993. In addition, the number of African-American women incarcerated in State prisons for drug offenses increased a staggering 828 percent from 1986 to 1991. Clearly, the African-American community has been disproportionately represented in this dramatic increase that is the direct result of the crack mandatory minimums.

Mr. Chairman, the time has come for the Congress to have the courage to do the right thing, end this racist and unfair targeting of African-Americans for punishment. The time has come for all of us to take this small step in favor of justice and equality for all Americans. I urge my colleagues to vote against this bill.

Mr. STUPAK. Mr. Chairman, I rise today to express my support of H.R. 2259.

As my colleagues may know, on July 19, I introduced H.R. 2073, legislation similar to H.R. 2259 and S. 1254. We need to remain tough on crime, and my legislation and the bill being considered today represent a commitment against drug abuse and drug traffickers. The scourge that crack cocaine brings to communities all across America must be stopped, and the proposal by the U.S. Sentencing Commission to change Federal sentencing guidelines pertaining to crack cocaine was, quite simply, wrong and wholly inappropriate.

As a former law enforcement officer, I fully understand the overwhelming need to prevent the Sentencing Commission's proposal from being implemented. The guidelines, if allowed to become law in just 2 weeks, would mean that some offenses that are now subject to 5- to 10-year mandatory prison sentences could potentially result in sentences involving no required prison term at all. This is the completely wrong message to be sending out to traffickers and users of crack cocaine.

A major part of our effort to fight crime and defeat criminals rests with punishing those dealing drugs, the pushers and traffickers who have inflicted tremendous harm on literally thousands of individuals, tremendous harm on families all across America, and tremendous harm on communities and neighborhoods in our own congressional districts.

There are some who point to the apparent disparity in sentences for crack cocaine as opposed to powder cocaine. I actually believe that there should be an adjustment in these respective sentences, but I prefer to see an increase in the penalties for powder cocaine, instead of lowering the penalties for crack cocaine, as the Sentencing Commission has proposed.

Mr. Chairman, this response to the guidelines proposed by the Sentencing Commission is responsible and fair. Most of all, this legislation represents our continued commitment to combatting drug abuse and stopping those who wish to destroy the lives of thousands of our fellow citizens.

Mr. RUSH. Mr. Chairman, I rise today in support of the Conyers substitute. It is ironic

that we are in the House of Representatives to consider a proposal that is the opposite of our concept of justice and fair play. The scales of justice must be balanced. Yet, this measure seeks to arbitrarily place a greater value on possession of crack cocaine over powdered cocaine. During this evening's dialog, I have heard many speaker's argue that crack cocaine is more devastating to our community than powder cocaine. To this I say—a rose by any other name still has thorns.

The distinguished manager for the Republican majority has argued that this measure is color blind. I dare say, it is anything but that. Such an assertion is confounding in light of the fact that it is now common knowledge that one in three African-American males is in some way impacted by the judicial system. This fact alone makes it clear that African-Americans will be disproportionately affected. This is anything but color blindness.

What is the motivation behind this measure? Is it to get tough on crime by locking them up and throwing away the key by any means necessary? Or, is there a conspiracy among the Republican majority to incarcerate as many African-American males as possible?

This bill is nothing more than a narrow minded effort to ostracize those who already bear the brunt of the injustices within our judicial system.

We must combat crime. We must make our streets safer for our families. However, this must not be done at the expense of individuals who some have an embedded fear, if not hate for. If in fact the Republican majority wants to establish a color blind society, as it professes, it is dishonesty, if not intellectual heresy, to introduce a bill such as this. This bill is blatantly biased, it is not based on sound legal rationale, and is direct in contradiction with our standards of justice.

Mr. SANDERS. Mr. Chairman, I am outraged that we are not given the option to support both fairness in our criminal justice system and a strong stance against crime and illegal drugs. The issue here is extremely important. There is no excuse for a young man in the ghetto to be arrested for crack cocaine possession and get 5 years in prison when the more affluent powder cocaine user risks only 1 year in jail. The simple fact is that the poor and the black minority are treated unfairly under current sentencing guidelines.

Don't get me wrong. This Congressman thinks that drugs are a scourge on America and I strongly believe we must fight cocaine use in any form. We should be addressing the fairness issue by raising the punishment for powder cocaine, not lowering the sentence for crack offenses. I am deeply disturbed that this was not given as an option today.

I come from an almost all white State and I know that the people of Vermont want tough law enforcement and tough penalties against drug dealers. But they do not believe that a white cocaine user should be treated far more leniently than a black cocaine user. And that is what the issue is here today. The criminal justice system must be fair and unbiased or it is simply not just.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of S. 1254, as passed by the Senate, is adopted, and the bill, as amended, is considered as an original bill for the purpose of further amendment, and is considered read.

The text of the amendment in the nature of a substitute consisting of the text of S. 1254 is as follows:

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

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the ''Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary'', submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offense in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the judiciary Committees comments on the study prepared by the Department of Justice.

No further amendment is in order except the amendment in the nature of a substitute printed in House Report 104–279, which may be offered only by the gentleman from Michigan [Mr. CONYERS] or his designee, is considered read, is debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment and is not subject to amendment.

It is now in order to consider the amendment printed in House Report 104–279.

□ 1900

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

Mr. CONYERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. CONYERS: Strike all after the enacting clause and insert the following:

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 (except to the extent they amend section 2D2.1) of the ''Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary'', submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

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(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine;

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(d) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28, United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. MCCOLLUM. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I offer a very simple substitute to the Senate bill that we are dealing with this evening. I offer my amendment as a substitute to the language in S. 1254. My bill is exactly the same in the language as S. 1254 in every respect, except that it deletes the section disapproving the Sentencing Commission's recommendation that the penalties for crack cocaine and powder cocaine be equalized.

To make it clear, we are now dealing with my substitute amendment. I urge that it be carefully considered.

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

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

Mr. Chairman, I think the gentleman is sincere in what he wants to do, and I know that there is considerable concern about the difference between the quantities that are involved in the possession offense for crack and the quantities involved with respect to powder. That has really been the discussion through the general debate and some of the rule debate this evening.

My own judgment personally is the Sentencing Commission ultimately should come back both for trafficking and possession with something that closes that gap, but does not go to the 1 to 1 ratio, that does not completely eliminate it, which is what the gentleman would do with regard to the so-called possession offense.

But one point really needs to be made. When we are dealing with 5 grams of crack, which is what we are talking about tonight, we are dealing with 20 to 50 doses at least of crack. We are not really dealing with possession in the simple sense of mere use. We are dealing with a dealer.

When somebody is out on that street and he has 5 grams in his possession, he does not have it there for the purposes of consuming it or using it. He has it there because he is out there to sell it, to make money, to traffic in it. That is the common amount, and a very sizeable amount that is used by those who are out there selling it.

If you want to look at how this all takes place, the Colombian cartel, for example, sends the powdered cocaine to New York or Chicago or San Francisco or Atlanta or wherever. They probably have somebody here, maybe legally or illegally, who is a Columbian, part of the Columbian mafia, if you will, and they divide up that powder. And they, more likely than not, are the one that converts it to crack in a large warehousing operation, not a little operation where we are going to take a spoon and put it in the microwave, although you can do that and get results.

The truth is, they make very large quantities of crack, and they get their folks out there in New York or Atlanta or Jacksonville or Miami or wherever, that distribute or sell this crack in these doses of about 20 to 50, in that kind of quantity. So 5 grams is a very common amount for a major crack distribution ring member to be carrying around.

Prosecutors do not prove their case on proving a sale. It is very difficult to do. Even when you are dealing with the large powder Colombian cartel members, in proving huge quantities, it is usually proved by circumstantial evidence of proving they have had this huge quantity, and inferring from that or having the jury infer from that that indeed, there is a trafficking going on here.

Occasionally they are fortunate enough to be able to prove by some technical method that money transferred or occurred. If we take away from the law the sentencing distinctions on the possession of 5 grams of crack, as the gentleman from Michigan wants to do, we have undermined the Federal prosecutors in doing any kind of effort to prosecute effectively those who are the dealers for the most part in the United States. They may still be able to catch occasionally one of the Colombian cartel members or one of his honchos from Colombia sitting up in the big cheese of New York, but they are not going to be able to deal with street crime effectively at all anymore. I want all Members to understand what the gentleman is proposing is a dramatic reduction in the sentencing for those who are dealers in crack.

Now, one other point needs to be made, and that is that because we are dealing with what the Sentencing Commission can do, if literally it is 5 grams of crack that we are talking about, then in that situation the minimum mandatory sentence is not going to be altered by anything we do tonight. The Sentencing Commission has no power over that. It is not before us tonight. The Congress would have to go in and alter it. It is a minimum mandatory sentence, as is the 500-gram minimum mandatory sentence for powder. That disparity that so many are talking about will remain on the books tonight, no matter what we do.

What we will do is to have the strange anomaly, if we were to adopt the gentleman's amendment, of having somebody dealing in 4.9 grams of crack being able to get a very much lower sentence than the minimum mandatory sentence for the 5 gram dealer.

Do not believe there are not going to be a lot of people out there trying to weigh cocaine very carefully to be sure they are only carrying around 4.8 or 4.9 grams and not 5, because they are going to get a huge difference in the sentence they could get in the Federal courts for this particular situation.

In addition to that, you are going to mess up the chain reaction the prosecutors need. They need to grab that guy who is the dealer on the street. They do not care about the user. If you look at the thousands, and there are thousands of those locked up who are dealers on the streets in Federal prisons today, we are not talking about hundreds of thousands, but several thousand, most of them, 99 percent of them are not there for any use. They are there because they are a dealer, and they are there because they did not cooperate in helping getting the bigger guy who actually provided them with the stuff.

This is an important leverage tool for our prosecutors, the ability to prosecute the 5 grams of crack, the street dealer with this 20 to 50 doses in his pocket out there, and threaten him, even if we do not actually put him in jail, with the fact that he can go there for a long period of time.

A few of them decide that they are not going to squeal, and they are not going to tell who the other person is upstairs, and they do wind up serving their sentences, perhaps longer than maybe some others might like to see happen. But we cannot relent now in the war against drugs at the street level and expect to be able to be successful in any way if we adopt the Conyers amendment. It is not an appropriate amendment to adopt tonight.

I would also make one or two other points while I am up here about the racist question. I have heard it debated ad nauseam and I understand the sincerity of those making it, but let me suggest to you that the fact that there are more blacks in jail, whether it is for this reason or a lot of other reasons, and they are there for a lot of other reasons, whether there are more blacks on death row, which we have debated out here when we debated the death penalty, proportionate to their population numbers and ratios to the whites or other races in our society, or in the case of the crack cocaine issue, it is not racist that they are there. It is not, in my judgment, at all racist.

If you think about those words, the idea of racism implies prejudice. It implies that we in Congress or those in law enforcement are out there intentionally attempting to put somebody in jail because of the color of their skin or to make them serve a longer sentence. That is not so. What we are talking about is the truth of the matter, is that for better or worse, many African-Americans, especially these juveniles who do not have the jobs that have been discussed out there tonight as well, who for a variety of root causes, welfare, and so forth, look to the way of crime, particularly dealing in crack, as a way to make money. They are naturally going to be the ones that are most often caught up in it, but it does not mean the fact that we are equally applying the laws, which we are, to whites and blacks and Asians and Hispanics and everybody else, that the law is racist or that the end result is racist. It is not, It is not.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, let me give the gentleman a fact, and tell me whether or not this is racist. In Los Angeles, the U.S. district court prosecuted no whites, none, for crack offenses between 1988 and 1994. This is despite the fact that two-thirds of those who have tried crack are white, and over one-half of crack's regular users are white. I will give you that fact again. None. Not one white in the U.S. district court in Los Angeles was prosecuted for crack offenses between 1988 and 1994. Check it out.

Mr. MCCOLLUM. Mr. Chairman, if I can reclaim my time, I will check it out. I would suggest to the gentlewoman, unless there is an extraordinarily good reason why, that perhaps the prosecutor you just named may himself have been in some way prejudiced or biased. That is the implication you have given. But the statistics alone do not prove racism, just as they do not prove disparate impact. Statistics do not prove it. They suggest we ought to look into it. I would not question we should look into it. But by and large, the truth of the matter is, if we are applying it equally, the law itself is not racist.

Perhaps an individual prosecutor might be racist. I believe though that the issue tonight does not have bearing on directly, though we are concerned about it, with what an individual prosecutor might do, but rather what are the guidelines that we are giving them? What are the guidelines of the law, what are the guidelines of the Sentencing Commission, what are the guidelines of the Department of Justice. We can then go back and should go back in our committee work and in our jobs as Members of this Congress and as the executive branch in its role in the Department of Justice in ferreting out racial bias and discrimination and improper processing.

If it is a U.S. attorney that does something improper and discriminatory in nature, he ought to be disciplined. We should take advantage of making sure that happens. But the law itself, which is what we are dealing with tonight, should be colorblind, and it is colorblind in this regard.

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

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, would my colleague, the chairman of the committee, remember, we do not have to checkout the statement of the gentlewoman from California [Ms. WATERS]. I brought that before the Subcommittee on Crime's attention months ago. This is not something we ought to have to check out.

The second thing I would like my friend from Florida to remember is that, and he has repeatedly said this during this debate, 5 grams possession of cocaine or crack is no presumption that they are selling. Sale and trafficking is a completely different crime. So the gentleman should remember that there is no way that the gentleman can presume that someone that has 5 grams of anything is indeed dealing in sale. That turns on the facts and the evidence in the court. If the prosecutor finds someone selling, he will prosecute for sale.

Now, Mr. Chairman, we are going to be working on this subject of crime and race for the rest of our career, I would say to the gentleman from Florida [Mr. MCCOLLUM], so we do not want to get off into space tonight on it. What I want the gentleman to know, and perhaps we will have to deal with this more carefully in our committee, is that African-Americans by more than one study are more likely to be arrested, more likely to be charged with more offenses, more likely to be prosecuted, more likely to receive heavier sentences, more likely to go to death row. That is because of the racial injustice in the criminal justice system.

Please remember this as we proceed on into other related subjects about race and the criminal justice system.

Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. PAYNE], who serves now as the current chairman of the Congressional Black Caucus.

Mr. PAYNE of New Jersey. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as chairman of the Congressional Black Caucus, I rise in strong opposition to this outrageous attempt to thwart the recommendations of the Sentencing Commission and I rise in strong support of the Conyers amendment. The sentencing guidelines are an effort to restore some degree of fairness to our criminal justice system by addressing the enormous disparities that exist between the penalties for crack cocaine and those for powder cocaine.

Mr. Chairman, the Sentencing Project, a national nonprofit group, recently noted that while African-Americans constitute 13 percent of all monthly drug users, they represent 35 percent of arrests for drug possession, 55 percent of convictions and 74 percent of prison sentences. One of the primary reasons we have experienced a rise in minority incarcerations is the imbalance in our national drug policy not an increase in crime.

Is this equal justice under the law—to say that if you can afford powdered cocaine you will be given preferential treatment in the courts? I don't think any fair-minded American supports this blatant inequity in our system.

Our drug policy has become a tale of two cities, or, more accurately, a tale of two classes—rich and poor.

Mr. Chairman, it was the U.S. Congress which created the Sentencing Commission in 1984 to allow criminal justice professionals to establish sentencing guidelines for Federal crimes. Now, Congress has decided that they don't like the decision that the Commission has made, after careful study and analysis, to equalize the penalties for crack and powder cocaine. The Commission specifically noted that ''blacks comprise the largest percentage of those affected by the penalties associated with crack cocaine.''

As some of my colleagues have pointed out, the Million Man March this past Monday highlighted the importance of racial justice as we work to rid our communities of drugs and violence and to restore hope to Americans who have been living too long with no hope and little faith in our system of justice. Restore fairness and equity to our criminal justice system—oppose this attempt to disapprove the Sentencing Commission recommendations and support the Conyers amendment.

□ 1915

Mr. MCCOLLUM. Mr. Chairman, I yield myself 1½ minutes.

I just wanted to make a response to the gentleman from Michigan in particular, my good friend who is the ranking member on the minority side of the full committee. I certainly recognize, as he suggests, that we do have to deal, as a committee, and the subcommittee on crime particularly, with the potential for racial bias and concerns in law enforcement and in our judiciary. And I am willing and ready to do that.

But, Mr. Chairman, the issue tonight is really not over that, it is over the law. The cold hard law that is going to be applied to whites and blacks and everybody else. Whether or not it is applied equally by individuals who are in the system is another separate matter. We are talking now about the actual guidelines, the sentence guidelines.

I, for one, and I think a lot of us who do believe in fairness and equity, do not want to reduce the penalties for crack cocaine. We do not want to do it. We might consider later on, and hope the Sentencing Commission does some leveling of the process of disparity that has been discussed by raising perhaps the powder, but the way to deal with it is to send this back to the Sentencing Commission tonight, not attach an amendment that dramatically lowers these penalties.

Where there is a problem with bias in the system, let us work to get it out of the system. The bias is not in the sentencing, it is not in that part of the law. The bias is in, if it is there, in the individuals and how they are enforcing the law.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds to continue the dialog with the chairman of the subcommittee.

As the gentleman knows, this is a disparity that comes about because one community uses one drug and that this drug has been pinpointed by law enforcement officers and the arrest rate has gone up astronomically.

As the gentleman also knows, the rate of usage of even crack is exceeded in the white community and there is no 95 percent conviction rate for that same drug.

Mr. Chairman, I yield 3 minutes to the gentleman from New York, Reverend FLAKE.

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

Mr. FLAKE. Mr. Chairman, some of us who stand on this floor tonight have been put in a very untenable position by persons who indicate that periodically they have an opportunity to go into these communities and they make a determination on what is best for the persons in that community by the basis of those periodic trips.

I stand tonight, Mr. Chairman, as a person who lives in such a community as they visit, a community where I also happen to pastor a church of some 8,300 members. I think I am in a position to do a pretty good job of judging that which is imperative for a change in the quality of life there.

Let me make it very clear that the position that some of us are put in to night is to give the appearance that we do not want to see drugs dealt with harshly. Let us make sure that it is understood that that is not the case. What we do want is fairness. We want equality. We want justice. The reality is we have seen too many of our young men become the fodder for the development of the growing criminal justice enterprise in this Nation. Too many young people with promise and prospects and possibilities have been cut short largely because our laws are not justifiable.

Over the last several weeks we have come face-to-face with the reality that the Commission report was in fact not only projective but has become reality, in that we do have two societies with two views on almost everything. And undergirding most of those views is the reality of race.

I cannot imagine that we in the U.S. House of Representatives cannot see that differential. We react very violently. We react in such ways to declare. We cannot imagine how people could possibly react to decisions they see in society based on what they perceive to be the evidence. It is because of circumstances like those that we face today, Mr. Chairman, circumstances where there is a class of people who believe that they are being dumped on by the very system that has a responsibility to protect them, a system that has a responsibility to deal fairly, not on the basis of misperceptions, not on the basis of stereotypes, not on the basis of anecdotal evidence that has no real support.

Indeed, Mr. Chairman, in this case, persons were put on a commission. They had an obligation to look at all sides of an issue. They looked and what they discovered was a disparity. It seems to me that the Congress ought to accept that recommendation. They ought to understand that what all people in this Nation want, regardless of their color, is to make sure that in our laws there is justice.

They will see no justice in what we do tonight, and we will wonder the next time there is a march, whether it is a million men or whether it is 400,000 does not matter, why are they marching? Why are they demanding so much? What do they want? What they want is justice. What they want is a system that is fair.

Mr. Chairman, if we cannot raise the standards as it relates to crack, we cannot raise the standard as it relates to heroin, then we ought to at least find a way to make it equal. It ought not to be based on race, and it is, whether we say it or not.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I thank the gentleman from Florida for yielding me time.

I just want to follow up on some of the comments being made tonight and continue the reference to these statutes and penalties being race-based and basing that primarily on statistical data of sheer numbers of people in the penitentiary. As most people who have worked in this industry and who have been involved in the prosecution and investigation of these types of cases understand, the typical drug scheme out of Colombia, or wherever, is somewhat an upside-down pyramid, where we have the source country sending out drugs. And as they go further away from Colombia and enter into the United States, and further into the central United States, they are distributed to more and more people, again, much like an upside-down pyramid, to the point that they begin to reach the streets and reach the communities.

They are readily available, because they are easily hid. We are talking about small rocks here. Because they are very cheap, they are very accessible to our young people, our teenagers, people who do not have a lot of money to spend, people who will very oftentimes commit acts of violence to get the money to purchase these. And primarily because these drugs are extremely addictive, I question those people that stand up and say that they are the same thing.

Mr. Chairman, that process of cooking that cocaine makes a tremendous difference on that crack. I think the evidence clearly shows that crack cocaine, as I have mentioned before, is not only more addictive but it causes a more intense addiction, a more intense high, as well as a more intense drop off of that high, which creates the addiction. Again, they may be the same thing beginning and end, but that process which results in the crack cocaine makes a dramatic difference to the users, and I cite those statistics of the sheer numbers of people who use those.

Because of that, Mr. Chairman, we cannot ignore this problem that is sweeping our communities. If we do, as has been alluded to by the gentleman from Georgia [Mr. BARR] and so many other people, what do we tell these people who come up and rise up in the communities, the mothers of these children, that we would like to choose to ignore at this point; that we are not going to prosecute these cases; that we are working under some sort of quota system because so many blacks at that level in this upside-down pyramid are in prison?

That is not the way our system works. In fairness and equality, we have to prosecute all those cases. It may be at some point in the future this ratio of 100 to 1 is too high and that we will have to revisit this. But I think most of us would agree we do not want to lessen the penalties for cocaine but rather increase those at the appropriate time.

I, for one, Mr. Chairman, and I think the gentleman from Florida [Mr. MCCOLLUM], the committee chairman, has indicated he shares that same desire of perhaps bringing those ratios closer together, but let us not send the wrong message to our society by lessening penalties for crack cocaine.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. SCOTT], a distinguished member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Chairman, this amendment exposes the bill for what it is. Ten doses of crack, about a couple hundred dollars' worth, possession only, 5 years mandatory minimum. No amount of possession of uncooked crack, that is powder, can get an individual a mandatory minimum. In fact, it takes almost $50,000 worth of cocaine for conviction of distribution to get the 5 years mandatory minimum.

So we have the situation where we can catch someone distributing 20,000 dollars' worth of powder, they get probation; and the person caught with a couple hundred dollars' worth of possession only, crack cocaine, gets a 5-year mandatory minimum.

Mr. Chairman, 95 percent of those who are charged with crack offenses are black or Hispanic, 75 percent of those charged with powder offenses are white. This amendment addresses possession only.

We have heard, through evidence in drug courts, that the best way to deal with nonviolent, low level, first offense, possession only drug offenders is through treatment. If we send them to jail we can expect a recidivism rate of 68 percent, which would cost us, at 5 years, $25,000 a year, it costs us $125,000. If we give them treatment, an 11-percent recidivism, an 80-percent drop, at $1,600 in cost, that is less than 2 percent of what it took to send them to prison.

So if we lock up a group, virtually all black and Hispanic, it will cost us more and we will end up with more crime. That does not make sense.

Mr. Chairman, we do not have a mandatory jail sentence for any drug possession charge other than crack, for which virtually all the defendants are black and Hispanic. Not uncooked crack, that is powder, not heroin, PCP, LSD. Nothing for possession only. The 5-year mandatory minimum for possession of crack costs more, results in more crime, and locks up minorities. That is why the Commission voted to change it.

Mr. Chairman, we have never rejected a Commission recommendation. At least let the recommendations as far as possession of crack go forward. Vote ''yes'' on the Conyers amendment.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, we have been before this body this evening pointing out the disparity, pointing out the inequality, pointing out the injustice of the system as it operates now. I am surprised at much of the rhetoric and all of these so-called conversations that my friends on the other side of the aisle have been having in minority communities.

□ 1930

I am glad to know that my colleagues are going there. I am glad to know that they are communicating. But let me tell my colleagues what the mothers in my community say where I live.

They say: Ms. WATERS, why do they not get the big drug dealers? What is this business under Bush that stopped resources going to interdiction? Why is it large amounts of drugs keep flowing into inner cities? Where do they come from and why do not they get the real criminals, Ms. Waters, why is it 19-year-olds, who are just stupid? They are not drug dealers; 19-year-olds who wander out into the community and get a few rock crack cocaine. Why is it they end up in the Federal system? Why is it they end up with these 5-year minimum mandatory, up to 10 years mandatory sentences? Why can you not get the big guys?

They say: We believe there is a conspiracy. This is what mothers in these communities say. We believe there is a conspiracy against our children and against our communities. They do not understand it when policymakers get up and say, Oh, it is not interdiction that we should be concerned about. As long as there is a desire for drugs, they are going to continue to flow and what we have got to do is just concentrate on telling them, Just say no.

They say: Ms. WATERS, we do not understand that and we do not know why a first-time offender, who happens to be black or Latino, ends up with a 5-year sentence. And why is the Federal Government targeting our communities? They are targeting our communities and they are not targeting white communities who are the major drug abusers. They are targeting our communities from the Federal level. Thus, our kids go into the Federal system and the whites, who are drug abusers and traffickers, go into the State systems. They get off with their fancy lawyers with probation, with 1 year, with no time, and our kids are locked up.

Mr. Chairman, for those of my colleagues who say, Well, we know it is unfair, but just keep letting it go on for a while and we will take a look at it, are they out of their minds? How can they stand on the floor of Congress pretending to support a Constitution and a democracy and say, ''We know it is not fair, but just let it continue and we may take another look at it''?

When I give them the facts and they know them to be true, and I will say it again. In Los Angeles, the U.S. District Court prosecuted no whites, none, for crack offenses between 1988 and 1994. And my colleagues tell me that they think it may be applied unequally? This is despite the fact that two-thirds of those who have tried crack are white and over one-half of crack regular users are white. This is a fairness issue and it is a race issue.

Mr. Chairman, I do not care how they try and paint it. I do not care what they say. This is patently unfair. It is blatant and my colleagues ought to be ashamed of themselves. It is racist, because their little white sons are not getting caught up in the system. They are not targeted. Our children are.

Mr. Chairman, they are going into the Federal system with mandatory sentences and it is a race issue. It is a racist policy.

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

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR], a member of the committee.

Mr. BARR. Mr. Chairman, do my colleagues on the other side of the aisle know what they all are applauding? They are applauding going lenient on people who traffic in death in their communities. In their communities in Los Angeles and in Georgia and all across the country.

Mr. Chairman, if it is so improper, it is so outrageous for this Congress to be debating whether to disapprove proposals, and that is all the Sentencing Commission's amendments are, is proposals, if it is so outrageous as these folk on the other side of the aisle would have the country believe, to be debating whether or not we, as representatives of the people, believe that these guidelines are in fact appropriate or not appropriate, then I am tempted, I will not ask, but I am tempted to ask many on the other side of the aisle who were here a decade ago when the Sentencing Reform Act was passed that gave rise to the mechanism that brings us here this evening, why they in fact voted for that. Why the Congress a decade ago voted for that, when in fact the law itself provides for this review mechanism itself.

Mr. Chairman, the law passed by previous Congresses, in which they were in a majority, passed a Sentencing Reform Act that set up the Sentencing Commission and set up the mechanism that says in each and every instance when these amendments are proposed by the Sentencing Commission, that they shall in fact be reviewed or either adopted or rejected by the Congress of the United States.

That is, in fact, Mr. Chairman, very appropriate, lawful, and clearly contemplated by them when this law was passed. The mechanism that brings us here this evening. And it is extremely disingenuous for those very people to now say, we should not be passing judgment on the Sentencing Commission. After all, they were set up by statute. The same statute said explicitly that we should pass judgment on these.

In fact, Mr. Chairman, the mechanisms and the penalties we are debating here tonight reflect reality. Not

what is going on on the other side of the aisle, but reality in the real world.

In the real world, Mr. Chairman, crack cocaine kills people. It kills people quicker than powdered cocaine. It creates a more intense, more serious, and much more rapid high in much less quantities than powdered cocaine. It is reflective of those proven scientific facts, Mr. Chairman, that have led prosecutors utilizing these statutes, adopted previously by the Sentencing Commission, to say to drug dealers, drug traffickers, those who possess more than 5 grams of crack cocaine, which is a significant quantity of crack cocaine. It might not be a significant quantity of marijuana or powdered cocaine to the same extent, but it is a significant quantity. It is, in fact, these quantities that deal the death in the communities by people that they wish to protect here this evening.

In fact, Mr. Chairman it provides law enforcement an important tool. Law enforcement goes where the crack cocaine is. They do not make it up. They go where the crack cocaine is being distributed and is being trafficked. These sentencing guidelines with the mandatory minimums, Mr. Chairman, give them essential tools, very essential tools to root out these dealers and runners who operate in broad daylight. It gives our law enforcement officials, Mr. Chairman, in many instances the only vehicle that will take them from those daylight sales of those quantities. They may appear small, but they are numerous, they are frequent and they are dangerous, to get them inside to the distributors, the top level distributors, which, in fact, Mr. Chairman, we as Federal prosecutors, deal with. We do prosecute top-level drug traffickers through Organized Crime Drug Enforcement Task Forces and other task forces across the country.

So, Mr. Chairman, I am not going to stand here and listen to the demagoguery on the other side saying that we do not prosecute these cases. We do prosecute them. They are being prosecuted and let us not let up now.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS]

Mr. HASTINGS of Florida. Mr. Chairman, I would ask the gentleman from Georgia [Mr. BARR] to be responsive to a question that I would like to put to him, if he would.

Mr. Chairman, I heard the gentleman from Georgia say that this gives law enforcement a tool for the purpose of being able to get inside the larger portions of the operation. I gather that to be the essence of what you said. You were a prosecutor and I was a judge. Name me one crack case that led to a Colombian drug dealer being put in jail. Name one.

Mr. BARR of Georgia. How about Operation Polar Cap, Judge?

Mr. HASTINGS of Florida. Operation Polar Cap did not start with a crack cocaine operation whatsoever.

Mr. BARR of Georgia. It dealt in crack cocaine.

Mr. HASTINGS of Florida. You said that street dealers lead to that kind of tool. You know doggone well that is not true.

Mr. BARR of Georgia. I am not gong to be lectured here by you. We are dealing with the real world, Mr. Chairman.

Mr. HASTINGS of Florida. What real world are you talking about?

Mr. BARR of Georgia. The real world that you are not operating in any longer, Judge.

Mr. HASTINGS of Florida. When you stand there and give forth with pontification as if you were God, we live these circumstances every day of our lives. You have not lived there and don't you dare come forward in that manner.

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman from Florida did control the time. The committee will follow proper procedural order here.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I want to be measured in my response, because this is an issue that is of utmost importance because it deals with fairness. And some of our perceptions of fairness are different than other folks' perception of fairness.

But I just want to appeal to my colleagues, and anybody who is listening, to understand what we are talking about. Five grams. That is what I have got in my hand here. That will get you 5 years in prison. Take this and multiply it times 100 of powder cocaine and you still will not get 5 years in prison. This is 5 grams.

Now, if anybody can say to me that that is fair, whether you live on the white side of town or the black side of town, on this side of the tracks or that side of the tracks, if the gentleman from Georgia [Mr. BARR] can stand up with a straight face and say that that is fair, if he can sleep with himself at night, that is fine. I do not have a problem with that.

But my colleagues ought to know that my constituents do not think that that is fair. It is not about being soft on crime. It is not about condoning drugs. It is not about wanting drugs in our communities. It is about being able to look our children in the face and say: There is fairness in our system of justice. There is fairness in our laws.

That is what this debate is about. My colleagues can say that it is about let us study it again until next year. They can say it is about trying to protect us from ourselves in our communities, and we do not know what is good for our own communities. They can stand up and lecture us about what is good in our communities.

They can say that it ain't about race. They can say that we ought to make the judgment today, based on what we thought was the case 10 years ago when this law was passed. But they ought not be able to go home tonight and look at themselves in the mirror and say that that is fair, because they know it ain't.

The American people know that it is not. And the people who gathered out here on this Mall several days ago know that it is not fair. My colleagues are asking them to have respect for a system of justice that they know, and we know, and they know is not fair.

When they do not have respect for that system of justice, we cannot be responsible for them. My colleagues want us to be responsible, and we try to be responsible. But in order to be responsible, my friends, we must have equity and fairness in the system.

So, I do not want to belabor this. My friends can pass the buck. They can say we will deal with it next year. But the reason we set up the Sentencing Commission and gave them this authority was to come back with tough decisions and recommendations just like this. And when we draw it back into the political process and politicize these issues of fairness, that we tried to take the politics out of, so that we can go back and say I was tough on crime, I was tough on drugs, my colleagues have got to understand that there is an issue of fairness that everybody knows exists. And if they are not fair, it is going to come back to bite them and they can count on it.

□ 1945

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

I have here from the sentencing project, which did a study called ''Young Black Americans and the Criminal Justice System Five Years Later.'' They end their summary of that report with a chart showing the percentages of African-Americans in the population among the monthly drug users, what percentage they constitute of drug arrests, of drug convictions and prison sentences. Here I think, I say to my colleagues, is where we can get an idea about the unfairness of the system without any doubt whatsoever.

The first chart, the first bar is of the U.S. population of African-Americans by percentage, 12 percent. The next bar is monthly drug users who are African-Americans, 13 percent. The third bar is drug arrests, African-Americans arrested for drug use, 35 percent of all those arrested. But 13 percent are drug users, 35 percent arrested.

The next bar is drug convictions, 55 percent. And the last bar is prison sentences, 74 percent.

So from 12 percent of the population, to 13 percent of the monthly drug users, to 35 percent of the drug arrests, to 55 percent of the drug convictions, to 74 percent of the prison sentences, it seems to me a good time this evening, Mr. Chairman, for the Subcommittee on Crime of the House Committee on the Judiciary, that we begin to plan for an investigation into the relationships between race and the criminal justice system.

Now, we have done that in a couple of important respects this year. I would like all of our colleagues to know

about what the gentleman has done in that regard, because we are having hearings on the militia in America very soon, next month. That was a result of the gentleman's cooperation and the gentleman from Illinois [Mr. HYDE], the chairman, that we would look into these militia, also these other organizations, the skinheads, the Aryan Nations and other sorts of groups.

I have been trying to get that investigation and hearing for many years. We now have another request in to the chairman, not unrelated to this subject, about investigating police activity in America now that we have found that, in Philadelphia, police have been planting drugs, planting evidence to the extent that they have spoiled hundreds of cases pending and that have occurred in the criminal justice system in that city.

We know about the Fuhrman tapes, 12 hours of tapes that recount an incredible amount of intentional lawbreaking not only on the part of former Detective Fuhrman but that was endemic throughout the police department in which he served for many years.

We have complaints coming from as close in as Maryland, as far as New York. New Orleans has been a problem that the Department of Justice has been investigating with a long list of others.

So what we are talking about, and I think we are having an intelligent discussion on it, is race and crime and the criminal justice system. Tonight we focus 48 hours after a million people have visited the Capital. We are now focusing on one item of this huge, complex, difficult-in-America subject to discuss.

I commend the gentleman for the way he has been forthcoming across the months, the gentleman from Florida [Mr. MCCOLLUM]. I know that the gentleman indeed has some reservation about this disparity. The gentleman does not support the sentencing commission, but I do. Most of the Members, I think, in this Congress, after having listened to this debate tonight, will support the substitute that I make to the Senate bill merely to bring into focus one of two recommendations that the gentleman has sought to have rejected by the sentencing commission.

Please, let us give it a shot. It does not change the statutory, mandatory offenses, as the gentleman well knows, but it is the beginning step. It is the beginning step toward undoing this mischief that creates 95 percent of the crack cocaine prosecutions being brought to African-American and Hispanic citizens.

Please join us in this effort. It will not break the bank. It will not change the problems in the criminal justice law. It will not end racism in America. But it will be one small but all-important step toward us making this a better place to live. It will restore some confidence that is badly needed in the system.

I urge the gentleman to give it his utmost consideration. I hope that all of the Members of this House that have heard this debate will come in and vote freely and fairly about whether or not this disparity between powder and crack should be eliminated this night in this place on this vote.

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

The CHAIRMAN. The Chair would observe that the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM], has 11½ minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, it is an honor to follow such speakers as my distinguished colleagues from the other side of the aisle, my colleagues on the Committee on the Judiciary, the ranking member, the gentleman from Michigan [Mr. CONYERS], the gentleman from Virginia [Mr. SCOTT], and the gentleman from North Carolina [Mr. WATT], who always give serious, measured, well-reasoned debate to any issue that they deal with and to which, while I may disagree with them many of the times, I always try very hard to listen and understand and follow their logic, which is always there. But I think we just have oftentimes philosophical differences, recognizing the same problem out there but just having different ways to get to the solving of those problems.

My colleague from North Carolina held up five packets of sugar as an example of how little amount we are talking about here. But if we were not talking about sugar but rather five packages of rock cocaine and how that would translate in the real world, how much havoc would that wreak, how many lives that would destroy, how much hope that would destroy, I think we would all be shocked at how much addiction that small amount, that small quantity can cause. I think this Congress recognized that 10 years ago and has consistently recognized that over the last 10 years, up to this point.

The laws mentioned that no prosecution of any particular race, color or creed, these laws apply to all. They are equal laws for all people. It may be, if I am hearing from the other side, they are being applied maybe not uniformly. It may be we need more investigators and officers to go out there and ferret out all of the people that are using crack cocaine. But I can tell Members, in the inner city, for all those reasons I have mentioned in the past, how cheap it is, how easy it is hidden, how addictive it is, what a high it can cause. The concentration consistently seems to be in minority areas in the city.

I know from personal experience that is where the law enforcement officers tend to go, where the crime, where the majority of the crime is. They go out to the highways, interstates to catch the speeders. There are people speeding elsewhere, but most speed there, so they are going to be out there where most of these crimes are committed.

Yes, there are substantially higher drug dealers caught. We seem to focus on the crack cocaine, the street dealers, but they are used to build bigger cases, the gentleman from Georgia [Mr. BARR] mentioned. While it may not cause the downfall of the Colombian kingpin, I can assure Members that these people have been used to make bigger and bigger cases, as we go up that or back up the other side of that inverted pyramid and cause other cases to be made over the years.

The people are being prosecuted for powder cocaine as well as crack cocaine. We are having some success there, but we have got a long way to go. Again I urge my colleagues not to water down these penalties, not to send the wrong message, not only to our young people but to those drug dealers out there that we are lessening that deterrent for drug dealing.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] has the right to close, and the gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

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

One reminder about the substitute that is before us, it is dealing with crack possession only, not trafficking, not people working in the underworld. Small amounts of crack, 5 grams, about one-sixth of an ounce is all that is involved.

We implore Members to consider this substitute favorably, which comports with the recommendations of the Sentencing Commission, which we, in fact, created a number of years back. It is a small but very, very important step forward. We hope that with this debate we have illuminated the minds of many of our colleagues who may have been wondering just what this was really all about.

Support my substitute amendment.

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

Mr. Chairman, first of all, I want to tell the gentleman from Michigan, as he well knows, that I respect him and his suggestion with regard to our working together and continuing to work together on trying to resolve matters that involve the problems of the criminal justice system, including those problems where there may be bias or discrimination, those continued relationships will go on. And we will have hearings that indeed will examine those types of problems, particularly when they involve Federal law enforcement officers and which are under our jurisdiction.

With respect to those matters that I think he alluded to a few moments ago, involving some of the State officers, it may well be that is more appropriate

in another subcommittee of the Committee on the Judiciary, the Subcommittee on the Constitution, but I am willing to work with him on all levels about all of that.

Also he probably is well aware that yesterday I joined some of his colleagues on that side of the aisle and some of mine on this side in both races in an effort to encourage the President to form a new Kerner Commission to examine the problems of racial tensions in this country. I personally think it is time we do that again. I think some of the misunderstandings would be helped by a dialog that that commission would represent.

But I think tonight the discourse we have had reflects some divisions of opinion over what is indeed the nature of the subject of criminal justice and sentencing and what is indeed the law and what is impartial and what is cold about it and what should be equal to everybody and what may indeed be perceived as prejudicial or biased or in some way, as someone put it awhile ago, I think the gentleman from North Carolina, unfair.

It is my considered judgment, in all honesty, that the sentencing guidelines that we are wanting to retain and would otherwise be disturbed by the Sentencing Commission if we do not reject the guidelines or if we were to adopt the gentleman's amendment, I believe those underlying guidelines are fundamentally fair. There may be an appropriate time in the future to raise the punishment for powder cocaine to a higher level. But I believe there is nothing about it that is unfair or racially motivated or biased in any way to say, as I do and many of my colleagues, that we want to keep the punishment for crack cocaine and dealing in crack cocaine at the level it is now.

□ 2000

Send that message. Have a mandatory sentence for 5 grams of crack cocaine. That message needs to be out there on the street, and we need to give law enforcement at the Federal level every tool it can have to get crack and cocaine off the streets. I do not want to lower it, and tonight my colleague's amendment, if it were adopted, make no mistake about it, would lower the amount of the punishment for the trafficking in 5 grams or so of crack cocaine, which is 20 to 50 doses, which is the street dealer, which is the runner who is out there who, as a couple of folks on my side have pointed out earlier this evening, is the person we see every day as a police officer on the street, the one we can go after, and the one we can get, and the one who leads on, hopefully, in cases to larger dealers. It is that person who is selling that crack not just in the ghetto, but in the schools of our country, in the schools that are inhabited by all races of all colors and all nationalities, exposing our youth to the death that crack and cocaine do imply and do occur at times, and while I can be sympathetic to the concerns that there are more blacks in jail today because of dealing at this level in crack cocaine, I am sympathetic because of the fact that I know that they come from problem families because their youths oftentimes are starting into this effort at the ages of 10, 12, 14, not 19 as somebody said earlier, but very young ages to deal maybe because of poverty, maybe because they got involved in a gang, maybe because they do not have the right education. Who knows the reason? But they are there because they dealt in the cocaine at the time. They are not there because of the problems that created the environment out of which they came, and, while I would like to deal with that environment, and I will be glad to work with those on the other side of the aisle as well, as those on my side, to deal with it, the place and the time is not tonight. It is not in dealing with the question of sentencing guidelines.

What we are here about tonight is simple. We are here tonight to say that 25 of the 27 recommended amendments of the Sentencing Commission be allowed to go into effect, but we are here tonight to reject two of them, two of them to lower the punishments dramatically for money laundering and crack cocaine, and I, for one, believe that those are simple, straightforward messages. We do not have the opportunity tonight to eliminate, or reduce, or mitigate minimum mandatory sentences for crack cocaine or anything else. We are simply here to reject or accept the question with regard to the recommendations of the Sentencing Commission, and with respect to the crack cocaine issue and the gentleman's specific concerns as are addressed in the Conyers amendment, we are dealing with a recommendation that came to us split 5-to-4. The minority, four, fought strongly against, and we are here tonight dealing with a matter where we have heard from law enforcement of all levels, of all races, of all colors, telling us that they believe there should be a distinction between powder and crack, that crack is more dangerous. We have heard the experts. They told my subcommittee that it is more addictive, it does lead to more problems, it is the major problem, and we do need to keep differences, and we are here tonight to send this back to the Sentencing Commission and say, ''Look, there may be some mitigation you want to do. Go look at it again, but don't bring us back a 1-to-1 ratio between crack and powder. We want to see something different.''

The gentleman from Michigan's amendment would go to an absolute 1-to-1 ratio between powder and crack tonight. It would reduce substantially the amount of punishment for crack dealers. It does not increase the powder. it is not permitted tonight under the rules. It is, make no mistake about it, if adopted, a reduction, a dramatic reduction, in the punishment for crack cocaine dealing in this country as we know it.

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

Mr. MCCOLLUM. I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I would ask the gentleman about the Conyers amendment itself; it just deals with possession. It does not do anything dealing with distribution, dealing. It discourages all of that.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, it deals with possession of 5 grams or so of crack, and it is that possession—not use, not consumption—that we are concerned about. It is that possession which is in fact dealing. It is trafficking.

If I can retain my time, I say to the gentleman, you do not possess 5 grams of crack, which is 20 to 50 doses, for your personal consumption. That is the normal routine street-dealer amount that it's cut up in and divided and sold in. This is a dealer, and it is the way prosecutors prove their case. They don't have the ability to prove the actual cash transactions in most instances. That is true of the bigger transactions, as well as the smaller transactions, so we are dealing now with the possession question, but a possession question concerning trafficking, not simple use.

So, let us make no mistake about it. If we take this tool away from our Federal prosecutors, we are not going to be allowing them to do their job, we are not going to get crack dealing off the streets, and we are not going to get the major prosecutions that we want to have.

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

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Subcommittee Chairman on Crime, ask any prosecutor. Five grams of possession is possession. Trafficking—sale—is a different crime, and, if there is evidence for that, that is what the charge will be. Please do not muddy the waters as we conclude this debate.

Mr. MCCOLLUM. Reclaiming my time, I would suggest that the muddied waters are there because the reality of prosecution is that in this area of the law in dealing with crack we are talking about distributors, we are talking about possession of large quantities, dealing quantities. That in and of itself is proof of dealership, and that is the way cases are made. We are tonight talking about something very significant and very important that would, if adopted—the Conyers amendment—destroy the underlying prosecutions of crack dealers on the streets of this country.

Mr. Chairman, I urge a ''no'' vote.

The CHAIRMAN pro tempore (Mr. BEREUTER). The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 98, noes 316, not voting 18, as follows:

[Roll No. 723]

AYES—98

Abercrombie
Andrews
Baker (CA)
Becerra
Beilenson
Berman
Bevill
Bishop
Bonior
Browder
Brown (FL)
Clay
Clayton
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
DeFazio
Dellums
Dingell
Dixon
Engel
Ensign
Evans
Farr
Fattah
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Gibbons
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Horn
Jackson-Lee
Jefferson
Johnson, E. B.
Kennedy (MA)
LaFalce
Lantos
Lewis (GA)
Lofgren
Martinez
Matsui
McCarthy
McDade
McDermott
McKinney
Meek
Mfume
Miller (CA)
Mink
Moakley
Moran
Morella
Murtha
Nadler
Olver
Orton
Owens
Parker
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Stokes
Thompson
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Woolsey
Wynn
Yates

NOES—316

Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pallone
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (PA)
Weller
Wicker
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Bateman
Boucher
Brown (CA)
Chapman
Fields (LA)
Furse
Harman
Rangel
Spence
Stark
Studds
Tejeda
Tucker
Volkmer
Weldon (FL)
White
Whitfield
Wilson

☐ 2025

Ms. ESHOO, Mr. BARRETT of Wisconsin, and Mr. OBERSTAR changed their vote from ''aye'' to ''no.''

Mr. CONDIT changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute is rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. No further amendments are in order.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WALKER) having assumed the chair, Mr. BEREUTER, 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. 2259) to disapprove certain sentencing guideline amendments, pursuant to House Resolution 237 he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

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

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WATT of North Carolina. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WATT of North Carolina moves to recommit the bill H.R. 2259 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

In section 2(a)(1), strike ''The United States'' where it appears immediately after ''IN GENERAL.—'' and insert ''Not later than March 1, 1996, the United States''.

☐ 2030

Mr. WATT of North Carolina. Mr. Speaker, it is quite obvious from the last vote that the Members of this body wish to have this matter studied further and have a recommendation made back by the Sentencing Commission. But there is an oversight in this bill and the motion to recommit simply would correct that oversight. That oversight is to specify a date by which the Sentencing Commission would report back to the Congress. The motion to recommit would simply set March 1, 1996, as that date.

The gentleman from Virginia [Mr. SCOTT] is a co-offeror of this motion to recommit and I yield to the gentleman from Virginia.

Mr. SCOTT. Mr. Speaker, we have never before rejected a recommendation of the Sentencing Commission although we have had 500 or so opportunities. We are going to send this back to the Commission to study. They have already studied it. They said the disparity between crack cocaine and powdered cocaine sentencing is not justified and that there are severe racial implications. The purpose of the Commission is to take the politics out of sentencing.

This bill makes no sense because it gives a person convicted of possession of only a couple of hundred dollars' worth of crack cocaine, 95 percent of that group are black or Hispanic, they give them a tougher sentence than those who are caught distributing tens of thousands of dollars' worth of powdered cocaine, 75 percent happen to be white. The Commission eliminated this disparity after due deliberation and if

we are going to tell them to reconsider, we ought to at least give them a date certain by which they ought to report. I stand in support of the motion to recommit.

Mr. WATT of North Carolina. I thank the gentleman from Virginia [Mr. SCOTT].

Mr. Speaker, this is really not a controversial motion to recommit. All it does is specify the date by which the Sentencing Commission is to report back to this Congress.

The gentleman from Florida [Mr. MCCOLLUM], the chairman of the subcommittee, conceded during the general debate on this bill that he thought there was a date specified in the bill by which we would expect the Sentencing Commission to report back. In fact, there is no date specified in this bill as to when the Sentencing Commission will report back. The Sentencing Commission has already studied this issue at some length. Everybody knows that there is a major unfairness and disparity in the sentencing, and we need to correct that disparity as quickly as we can possibly correct it if there is going to be any faith in our justice system.

I would ask my colleagues to support the motion to recommit for that purpose.

Mr. MCCOLLUM. Mr. Speaker, I rise in opposition to the motion to recommit.

I recognize the gentleman's sincerity in wanting to put a technical date in here for reporting time for the Sentencing Commission, but I do not believe that is necessary, and I think it could be counterproductive. I will tell why.

First of all, the Sentencing Commission will regularly, in due course, report May 1 of next year; and I believe that it is very inherent and implicit if not explicit in what we are sending out today that we want them to report back on that date, when they routinely do anyway, with some new suggestions in the two areas that we are disapproving, which are the reductions of the amount of time in money laundering and the amount of time in crack cocaine.

We are saying today to them by rejecting their two recommendations that what they have done is simply too severe. They have dramatic reductions in the punishments both in money laundering across the board and in crack cocaine trafficking and dealing.

Second, and I think this is really the most important part of this, the gentleman has come back with not the May 1 date but a March 1 date; and a date at all like this being put into the bill by this motion to recommit would be different from what the other body has done. They have already passed exactly what we have done, and we have a deadline of November 1, just 12 days from now, to reject the Sentencing Commission's recommendations or they go into effective law.

We do not have a lot of time for the other body to mess around or to have a conference, and I do not think that the concern over the reporting date merits the problematic issue that would result in our having the potential for this whole thing to go down because the other body did not timely act or we did not get together.

The Sentencing Commission will report in due course May 1 of next year. We directed them by explicit language in this bill that they are to come back to us on the issues of the crack cocaine and the issue of the money laundering.

I urge a ''no'' vote on this motion to recommit.

The SPEAKER pro tempore (Mr. WALKER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 149, noes 266, not voting 17, as follows:

[Roll No. 724]

AYES—149

Abercrombie
Andrews
Bachus
Baesler
Baker (CA)
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Duncan
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McCarthy
McDade
McDermott
McKinney
Meehan
Meek
Mfume
Miller (CA)
Minge
Mink
Moakley
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stenholm
Stokes
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Woolsey
Wynn
Yates

NOES—266

Ackerman
Allard
Archer
Armey
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
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
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
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
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Bateman
Berman
Boucher
Chapman
Fields (LA)
Furse

Harman
Rangel
Royce
Smith (MI)
Spence
Stark
Studds
Tejeda
Tucker
Volkmer
Wilson

□ 2053

Mr. HORN changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. WALKER). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. MCCOLLUM. Mr. Speaker, I demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 332, noes 83, not voting 17, as follows:

[Roll No 725]

AYES—332

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
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
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—83

Abercrombie
Baker (CA)
Becerra
Beilenson
Bishop
Bonior
Brown (CA)
Brown (FL)
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Dellums
Dingell
Dixon
Doolittle
Engel
Evans
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Gejdenson
Hall (OH)
Hastings (FL)
Hilliard
Jackson-Lee
Jefferson
Johnson, E. B.
Kennedy (MA)
Kim
Lewis (CA)
Lewis (GA)
Lofgren
Martinez
McCarthy
McDade
McDermott
Meek
Mfume
Miller (CA)
Mink
Moran
Morella
Nadler
Oberstar
Olver
Owens
Packard
Payne (NJ)
Pelosi
Pombo
Rohrabacher
Roybal-Allard
Rush
Sabo
Sanders
Schroeder
Scott
Serrano
Skaggs
Stockman
Stokes
Thompson
Torres
Towns
Traficant
Velazquez
Vento
Waters
Watt (NC)
Watts (OK)
Waxman
Williams
Wynn
Yates

NOT VOTING—17

Bateman
Berman
Boucher
Chapman
Fields (LA)
Furse
Harman
McKinney
Rangel
Royce
Spence
Stark
Studds
Tejeda
Tucker
Volkmer
Wilson

□ 2104

The Clerk announced the following pair:

On this vote:

Ms. Harman for, with Mr. Berman against.

Mrs. THURMAN changed her vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MCCOLLUM. Mr. Speaker, pursuant to the provisions of House Resolution 237, I call up from the Speaker's table the Senate bill (S. 1254) to disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The text of S. 1254 is as follows:

S. 1254

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

SECTION 1. DISAPPROVAL OF AMENDMENTS RELATING TO LOWERING OF CRACK SENTENCES AND SENTENCES FOR MONEY LAUNDERING AND TRANSACTIONS IN PROPERTY DERIVED FROM UNLAWFUL ACTIVITY.

In accordance with section 994(p) of title 28, United States Code, amendments numbered 5 and 18 of the ''Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary'', submitted by the United States Sentencing Commission to Congress on May 1, 1995, are hereby disapproved and shall not take effect.

SEC. 2. REDUCTION OF SENTENCING DISPARITY.

(a) RECOMMENDATIONS.—

(1) IN GENERAL.—The United States Sentencing Commission shall submit to Congress recommendations (and an explanation therefor), regarding changes to the statutes and sentencing guidelines governing sentences for unlawful manufacturing, importing, exporting, and trafficking of cocaine, and like offenses, including unlawful possession, possession with intent to commit any of the forgoing offenses, and attempt and conspiracy to commit any of the forgoing offenses. The recommendations shall reflect the following considerations—

(A) the sentence imposed for trafficking in a quantity of crack cocaine should generally exceed the sentence imposed for trafficking in a like quantity of powder cocaine.

(B) high-level wholesale cocaine traffickers, organizers, and leaders, of criminal activities should generally receive longer sentences than low-level retail cocaine traffickers and those who played a minor or minimal role in such criminal activity;

(C) if the Government establishes that a defendant who traffics in powder cocaine has knowledge that such cocaine will be converted into crack cocaine prior to its distribution to individual users, the defendant should be treated at sentencing as though the defendant had trafficked in crack cocaine; and

(D) an enhanced sentence should generally be imposed on a defendant who, in the course of an offense described in this subsection—

(i) murders or causes serious bodily injury to an individual;

(ii) uses a dangerous weapon;

(iii) uses or possesses a firearm;

(iv) involves a juvenile or a woman who the defendant knows or should know to be pregnant;

(v) engages in a continuing criminal enterprise or commits other criminal offenses in order to facilitate his drug trafficking activities;

(vi) knows, or should know, that he is involving an unusually vulnerable person;

(vii) restrains a victim;

(viii) traffics in cocaine within 500 feet of a school;

(ix) obstructs justice;

(x) has a significant prior criminal record; or

(xi) is an organizer or leader of drug trafficking activities involving five or more persons.

(2) RATIO.—The recommendations described in the preceding subsection shall propose revision of the drug quantity ratio of crack cocaine to powder cocaine under the relevant statutes and guidelines in a manner consistent with the ratios set for other drugs and consistent with the objectives set forth in section 3553(a) of title 28 United States Code.

(b) STUDY.—No later than May 1, 1996, the Department of Justice shall submit to the Judiciary Committees of the Senate and House of Representatives a report on the charging and plea practices of Federal prosecutors with respect to the offense of money laundering. Such study shall include an account of the steps taken or to be taken by the Justice Department to ensure consistency and appropriateness in the use of the money laundering statute. The Sentencing Commission shall submit to the Judiciary Committees comments on the study prepared by the Department of Justice.

The SPEAKER pro tempore (Mr. WALKER). The gentleman from Florida [Mr. MCCOLLUM] is recognized for 1 hour.

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

This bill is the companion Senate bill that is referred to in the rule of the bill we just adopted. I ask for its adoption.

Mr. Speaker, I move the previous question on the Senate bill.

The previous question was ordered.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2259) was laid on the table.

PERSONAL EXPLANATION

Ms. McKINNEY. Mr. Speaker, I was not recorded on rollcall vote No. 725. I would like the RECORD to show had I been recorded I would have voted ''no''.

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just considered.

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

There was no objection.

LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, I would like to take a minute to inform the Members that there will be no more votes tonight. We will begin to proceed with special orders.

In a minute I will be asking unanimous consent to convene the House at 9 a.m. tomorrow. This is an agreement we have made with the minority so that the Members would expect then the House to convene at 9 a.m. We would then proceed to have fifteen 1–minutes on each side of the aisle and them begin consideration of the rule for the health care bill.

Mr. Speaker, we would expect the first vote to come sometime between 10:30 and 10:45 tomorrow morning.

HOUR OF MEETING TOMORROW

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow, Thursday, October 19, 1995.

The SPEAKER pro tempore. (Mr. BUNN of Oregon). Is there objection to the request of the gentleman from Texas?

There was objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

[Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

MEDICARE BILL SACRIFICES SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BEVILL] is recognized for 5 minutes.

Mr. BEVILL. Mr. Speaker, I rise in strong opposition to the so-called Medicare Preservation Act, which this House will vote on tomorrow. This bill does not preserve Medicare. It preserves the high cost of health care and sacrifices our senior citizens.

Seniors will be asked to pay more out-of-pocket for their health care needs if this legislation is enacted. And, what is the justification for that? It's not so save Medicare from bankruptcy. Only $90 billion of the proposed $270 billion in Medicare cuts is needed to keep the program solvent for the next 10 years.

The seniors are being asked to pay more so that the wealthy in this country can get a tax break. That's what this legislation is all about. It's not about preserving Medicare. It's about giving the Nation's wealthiest people a tax break at the expense of 37 million American senior citizens and their families.

This legislation will impact more than one in every six people in my Fourth Congressional District in Alabama who depend on Medicare. This bill jeopardizes the quality of their health care, the affordability of their health care and their choice of doctors. That's the last thing they need or want.

Most people would agree that changes are needed to ensure the long-term survival of Medicare. In fact, Congress already has performed minor surgery on the Medicare program nine times when changes were needed.

But, this plan calls for major surgery on Medicare when there is no emergency. I think Congress needs to wait until after the Presidential election and then perform minor surgery to keep Medicare fiscally sound. We shouldn't do it when there is no immediate need and we certainly shouldn't do it in the middle of presidential politics.

We must continue to fight waste, fraud and abuse in the Medicare program. We must tighten enforcement of laws we already have on the books. And, any savings ought to go back into the program itself.

If there is so much concern about the viability of Medicare into the 21st century, let's use any savings to make the program better. Medicare savings certainly should not be used to further reduce taxes for the big corporations and the high income people.

This legislation represents an attempt to balance the budget on the backs of senior citizens. The cuts to Medicare account for 30 percent of all the proposed spending reductions for the next 7 years. Is this fair?

Is it fair to jeopardize the quality of care available to the elderly under Medicare, their choices of doctors and hospitals, and most importantly, their ability to pay for health care services? I submit that it is not fair.

We do not need to rush forward with an ill-conceived plan just so we can give wealthy people a tax break.

Any changes in Medicare need to be carefully crafted, well-thought-out and publicly debated. Congress should examine all the options for strengthening the Medicare program and devise a plan to achieve savings without penalizing senior citizens.

Instead, this House will vote tomorrow on a plan to unfairly cut $270 billion from Medicare to pay for a $245 billion tax cut for the wealthy. If this plan passes, seniors will pay more and get less.

I will vote against unfair cuts in Medicare. I will vote to ensure that the Nation's senior citizens have quality, choice and affordability when it comes to their medical care.

□ 2115

The SPEAKER pro tempore (Mr. BUNN of Oregon). Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

[Mr. CUNNINGHAM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LISTEN TO THE PEOPLE OF PENNSYLVANIA—VOTE NO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. BORSKI] is recognized for 5 minutes.

Mr. BORSKI. Mr. Speaker, I rise in strong opposition to the Republican plan to cut Medicare by $270 billion while at the same time giving a $245 billion tax break to wealthiest Americans.

Mr. Speaker, it is my honor to represent the 3rd District in the Commonwealth of Pennsylvania, the 20th oldest district in the United States. Pennsylvania is the 2nd oldest State in the United States of America. One out of every 6 residents in the Commonwealth of Pennsylvania is a Medicare recipient. One out of every 7 Pennsylvanians is on Medicaid. One out of every 3 Pennsylvanians who enter the hospital use Medicare. Four hundred thousand people in the city of Philadelphia are on Medicaid. The combination of Medicare and Medicaid cuts would be devastating not only to senior citizens but also to the health care providers in the city of Philadelphia.

Let me give you one example. In my district in the city of Philadelphia 88 percent of the people who enter the Episcopal Hospital are on Medicare or Medicaid. Mr. Speaker, I do not know how the Episcopal Hospital can survive. Several other hospitals in my district and in the city are also on the critical list. In the 3rd District, my district, we could lose 6,000 health care workers in the 3rd District alone. The city of Philadelphia may well lose over 25,000 jobs. The impact of the Medicare cuts on seniors is they will pay more, and receive less care, and get less choice. Hospitals and communities everywhere will be devastated.

Mr. Speaker, that is the bad news. Unfortunately there is no good news. But there is worse news. We all know that Medicare is for the elderly, and we all know that Medicaid is for the least fortunate among us. But what people do not know is that Medicaid covers long-term-care costs. Sixty-five percent of the nursing home care in Pennsylvania is paid for by Medicaid. This safety net is gone. Spousal impoverishment protection is gone. What will happen to these seniors who have spent their lifetime savings once they are forced to enter a hospital?

Mr. Speaker, in the last several weeks I have traveled throughout my district talking to as many people as was humanly possible. Thousands of people in my district have sent in questionnaires. Thousands of people have written letters to our office. Our phones are ringing off the hook. People do not want Medicare cuts of $270 billion and tax breaks of $245 billion at the same time.

Mr. Speaker, tomorrow we will take up one of the most important measures in my tenure in this Congress. I intend to vote no on the $270 billion cuts in Medicare, and I urge my colleagues to also vote no.

THE MILLION MAN MARCH AND THE O.J. SIMPSON TRIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, yesterday I indicated that on Thursday, tomorrow, I would do a special order for 60 minutes on the whole tragedy surrounding the O. J. Simpson double murder, the trial, the verdict. Mr. Speaker, I have not only a very astute and politically active wife, but five grown children, the first who will soon turn 40, and the other four are all in their middle to late thirties. To a daughter and to a son, three daughters, two sons, they said, ''Dad, talk about the march, the gathering of 400,000 people on The Mall. Explain why you went. Talk about race relations in America, and only use the O. J. Simpson tragedy in passing reference.''

So, Mr. Speaker, I think I will do that and take that advice of my grown children tomorrow.

I did want to mention that probably was a short count. I have been to many gatherings on The Mall, 200,000 with Martin Luther King, one of the proudest days of my life to join that true march. I have often seen it when it was 300,000, 400,000. I came to one of the ugliest Vietnam demonstrations of all time with hundreds of arrests and trashing of the city. They claim that was about 600,000.

Mr. Speaker, if that was 600,000, then I think yesterday was a half a million. I mean Monday was half a million or 600,000.

Be that as it may, I started at the Lincoln Memorial, right where I had sat in the third row when Dr. King gave his stirring 19-minute speech. He had only been allocated 7, but it was certainly a stirring 19, and it took me about 3 hours to wend my way in a serpentine pattern all the way up to the grandstand at the west front of our Capitol. It was a beautiful day with more fathers and sons together than I had seen in many years in this city, until I got up near the front. Then you could pick up the feeling of Mussolini, people in fake uniforms, people with glazed looks, security guards, and a man who if he had quit at 19 minutes and taken the part about protecting the innocence of children in all of our communities and the condemnation of young artists shucking corn to sell it to a degenerate society, and to stop throwing their talent back in God's face, Mr. Farrakhan might have ended up a winner. But the other 2 hours was discombobulated garbage, and some of it still hinting at hatred and division in our country.

While all this was going on and while I was speaking yesterday, O. J. Simpson is beginning his rehabilitation, playing golf yesterday at a white country club in Florida, signing autographs for stupid young women who, I guess, missed the signature John Wayne Gacy or the Boston Strangler, and I hope that people will look in their newsmagazines from last week and look at another victim of this double murder, O. J. Simpson's son Jason. This is not a son celebrating a ''not guilty'' verdict, as the mom rightfully would do, and the sisters and the daughters would do. This is a son with a broken heart who knows that his dad committed a double murder and has put a cloud over his whole family, not to mention innocent little Justin and Sydney, and to keep coming in our face the way O. J. is, a Republican millionaire who, I repeat, told the gentleman from California [Mr. DREIER] here that he voted for George Bush. That would be a jury of his peers, the 8 millionaires out of the 10 of us. I am not one of them in the Senate. I am in the Presidential conquest.

Mr. Speaker, I yield to a distinguished lawyer, the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I welcome the gentleman's expression on the feelings that he has had. That is what this country represents. But I am disturbed at the gentleman from California's attempt to characterize what has captured the hearts and minds of many in the African-American community, the question of equal justice, the question of the ability to be treated with equal justice under the law and to address their grievances, which I think the march Monday reflected; and I am, however, glad the gentleman noted the bonding, of fathers and the sons, black men from all walks of life. That was the real story of last Monday.

I did not have the opportunity to hear your comments yesterday. Actually, I am involved in a fight to save Medicare right now. However, I would hope we applaud those that you see the value in American citizens peacefully protesting and recommitting their lives to a better way of life.

And as to the O.J. trial, which this is not a time to debate, I hope that we can applaud the fact that the judicial system was in place because otherwise we would have anarchy. I am just hoping that we can put the definition of what happened both Monday and at the conclusion of the O.J. Simpson trial, in context, no matter what one's opinions may be about the laws that govern this country—the right to a peaceful protest and the right to a trial by jury worked.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. DORNAN. Mr. Speaker, could I ask, and if anybody wants to object, I certainly understand, that the gentlewoman from Texas [Ms. JACKSON-LEE] have 5 minutes out of order?

The SPEAKER pro tempore. That unanimous-consent request is out of order during the special orders.

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from California for having yielded to me.

Mr. DORNAN. Courtesy of half a second then, Mr. Speaker?

I would hope, Mr. Speaker, we could have an hour discussion, every Member of this House, on the O.J. Simpson trial, because most Americans think the justice system broke down, that he was as guilty as sin.

Ms. JACKSON-LEE. That would be worthy. I think the American people need to hear both sides of the story.

Mr. DORNAN. I agree.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. To clarify, the gentleman from California [Mr. DORNAN] may not make a unanimous-consent request to extend time under 5-minute special orders.

WHY SO LITTLE TIME FOR DEBATE ON THE MOST IMPORTANT VOTE IN OUR CAREERS?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, I think many Members feel, as the gentleman from Pennsylvania [Mr. BORSKI] indicated just a few minutes ago, that the vote tomorrow will probably be the most important vote that we have cast in our career; certainly in my 17 years it qualifies.

Mr. Speaker, when we began this session of Congress, there were great protestations about past abuses, closed rules that did not permit open debate, and amendments of all sorts from all across the spectrum here to be offered. We talked a lot about open meetings. To quote Woodrow Wilson, it was all going to be open covenants openly arrived at. This was going to be a new era.

Mr. Speaker, I regret to tell you that what is happening to this most fundamental piece of legislation that all of us feel is so impactful on 40 million Americans in the Committee on Rules at the moment is a travesty. There are people who have yet to commit to vote for this legislation being offered by the Republicans who are angling for a little amendment that hopefully the Speaker will unilaterally without any congressional committee approval insert into an amendment offered by somebody when we get to the floor, probably the manager of the bill. Those people up there who have yet to commit to vote for this on the Republican side are struggling to get some cover so that they can vote for a piece of legislation that will be terribly destructive, not just to senior citizens, not just to rural and urban communities, but to the fabric of American life and the quality of our health care. It is a travesty because most Members who are not about to vote for something like this are going to be excluded from the process. They are not going to be put in a position to have the opportunity to offer a rule that would, for example, cut this from a $270 billion hit over the next 7 years, far more than the trustees would indicate is necessary, to something like $90 billion. We are not going to be able to repair the damage that this bill will do because we are being shut out of the process.

I know people have heard it, they are probably sick of it, but 28 days of hearings on Whitewater, 10 on Waco, 8 on Ruby Ridge. I do not mean to say these are not important issues, but it tells you something. We had 1 day of hearings in the Committee on Ways and Means, none in the Committee on Commerce, and now not a week of debate on this issue, something far less: 3 hours of general debate. Why? Because people do not want to talk about what is about to happen. Republicans offering this legislation do not really want the American people to fully comprehend the impact it is going to have on them. Otherwise we would spend a week and take 8 hours a day extolling the virtues of this legislation.

Mr. Speaker, I asked today in the Committee on Rules that we have 20 hours. I would be happy with 10. I would now take 5 based on what I expect. It is the antithesis of what we were told this Congress was going to be about when we kicked off in January and took up the vaunted Contract on America.

□ 2130

It is a great frustration to anyone who appreciates the legislative process, who thinks that, regardless of the outcome of these issues, we ought to have a full debate. We ought to be able to exchange words and language in amendment form, just as we do in committee.

The committees attempted to make some changes. Those changes were unilaterally and uniformly rejected by Republican majorities. But that does not mean that those of us who are not on those committees are shut out of the process. We ought to be able to have some of those key debates right here on the floor, not have just one alternative made in order, not the ability at all to deal with the intricacies of Medicare, a program that probably more than anything but Social Security is the hallmark of what American government is all about, what means the most to the American people.

So I am just here today to kind of let out a protest on process. I will have more to say, as many of my colleagues will, about the inherent weaknesses in this approach, this budget-driven, tax-cut-justified approach. It is not, however, my purpose today.

I am simply here to say that, from my perspective, this treatment of what is the centerpiece of the Republicans' effort to radically change the course of this country is being treated so cavalierly as to require protest by all of us simply because of the nature of the process in which it is being considered.

I hope the Committee on Rules, before it finishes tonight, will hear our words, will make in order a number of amendments and will allow for the real debate that this radical legislation demands. I doubt if we will be satisfied by their ultimate decision.

CLEVELAND TOPS SEATTLE FOR AMERICAN LEAGUE PENNANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. METCALF] is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, I made a friendly agreement with the gentleman from Ohio [Mr. HOKE] of Cleveland, regarding the recent battle between the Seattle Mariners and the tribe from Cleveland. I was really looking forward to using some of that genuine Cleveland slab steel that he promised as part of this to rebuild my 500-foot seawall at our home in Langley. Unfortunately, the Mariners were unable to pull out one more miracle finish in game six last night.

I really have to hand it to the Cleveland Indians. They played a tremendous series. Their pitching was outstanding. I wish them the best in the World Series.

Also, I know that the gentleman from Ohio will enjoy the salmon and the apples from the great State of Washington.

Even in defeat, the Seattle Mariners proved to be a team of character and unmatched resilience. Time after time they came back from what seemed to be a hopeless situation. Whether it was Randy Johnson striking out the side to preserve a win or Edgar Martinez hitting a grand slam to win the game, we are proud of them.

Mr. Speaker, we in Congress can learn a lot from both of those teams. Hard work, perseverance, and teamwork are the key to success. We need all the help possible in the weeks to come in our drive to balance the budget.

Again, congratulations to the Seattle Mariners for an amazing season and good luck to the Cleveland Indians in the World Series.

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

Mr. METCALF. I yield to the gentleman from Ohio.

Mr. HOKE. Mr. Speaker, first of all, I would like to express my gratitude as well as sympathy to the gentleman from Washington. Of course, it is easy to be magnanimous in victory, but I must say you really are a gentleman, and I appreciate the kind words with respect to our prospects in the World Series.

I have to tell the gentleman that this is a particularly special time for anybody from Cleveland. We have been in the wilderness a long, long time, and as you all know, as you well know, the last time we were in the World Series

was also the last time that the Republican party was able to take over this Congress. I think that was in 1952 when we won the Congress.

Now, the other thing that most people do not know is that in 1948 we also won the World Series when we controlled the Congress, the Republicans did, and the Indians went to the series then with the Braves again. Not the Atlanta Braves, of course, but at that time the Boston Braves. It was the Boston Braves at the time, and we won that series four games to two.

So I think that those things are extremely good omens for the Indians in this World Series.

By the way, I wanted to make sure that the gentleman from Washington, we remember what the Indians looked like here with the logo, and of course, as I understand it, people are going pretty crazy in Cleveland right now, as you can imagine, after 40 years of drought.

I wanted to say one other thing if I might on the gentleman's time, and that is that I spoke with the distinguished Speaker of the House of Representatives, the gentleman from Georgia [Mr. GINGRICH], who of course represents a part of the great city of Atlanta with whom the mighty Indians of Cleveland will be battling and what is undoubtedly going to be dubbed the most politically incorrect series of this century with the Atlanta Braves going against the Cleveland Indians.

But I have made a proposal to Mr. GINGRICH which he has accepted. He is not able to be here tonight, I have been informed, because he is trying to solve the last bits of the Medicare bill, but I made the following wager and that is that I have a beautiful tie that has Cleveland Indians on it, and he has agreed that if the Indians win he will wear that tie for an entire day that this House is in session, and he will also make a contribution of whatever special foods they have, hopefully Vidalia onions and peaches from the great State of Georgia, to a hunger center of my choice in Cleveland.

If the Braves win, I will wear a Braves tie and also make a contribution of a slew of frozen pirogies to be sent down to a hunger center in Atlanta.

I appreciate the Speaker accepting the wager.

I really do appreciate the kind words of the gentleman from Washington [Mr. METCALF]. I am looking forward to that smoked salmon, I have to tell you, and I am sorry that the season was curtailed for the great Mariners, but it could not be better for the Indians.

Mr. METCALF. I thank the gentleman, and I might comment that I would have presented their logo even without the banner, but I do appreciate the banner.

AMERICA'S VOICE MUST BE HEARD ON MEDICARE

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, the voice of the American people must be heard. Their cries and pleas cannot be ignored by those of us in Congress. We must heed their call.

I received petitions from my congressional district—hundreds and hundreds of missives from my constituents on the issue of Medicare. Here are their voices—listen to all of them—''Without Medicare, I won't have anything'' said one elderly woman. ''Do not cut Medicare * * * it is all that I have'' wrote another senior citizen.

Did the Congress, created by the Founding Fathers to be a deliberative body as it creates legislation, deliberate this issue with all due respect. Indeed, I say not. The majority insured that this governing body devoted all of a single day to this issue—integral to the health and welfare of our Nation.

The 1-day hearing conducted by the majority was to discuss their proposal to cut the Medicare Program by $270 billion.

That cut is roughly three times higher than any previous plan. My colleagues, before America or this Congress buys into the proposal to cut Medicare, there are many questions that should be asked and that must be answered.

We must ask, how they expect poor seniors, those on fixed income, to pay for the increases they must bear?

Will Medicare beneficiaries be able to choose their own doctors? True freedom and choice for seniors does not exist under the Medicare Preservation Act.

Where will the $90 billion in unspecified savings come from?

How will hospital closings be prevented, especially in rural communities?

Why is it that none of the funds from the increase Medicare premiums will be contributed to the Medicare trust fund? Where is it going—I know the answer and so should the American people—to pay for your imprudent tax cut.

Why is it necessary to insist on a tax break for the wealthy, while cutting Medicare for those least able to absorb those cuts—the elderly, the sick, and the disabled?

These and others are important questions, my colleagues.

They deserve frank answers.

The majority should not rush this legislation to the floor as part of their speeding train. We need to have more bipartisan support to protect Medicare as well as Medicaid.

We cannot ignore the impact of this $270 billion cut upon the heart and soul of our Nation—rural areas.

Citizens of rural America will certainly be jolted by these unnecessary cuts, since their incomes are 33 percent, yes one third, lower than their urban counterparts.

One third less money for everything, including health care.

Did you also know that our elderly citizens, they are 60 percent more likely to live in poverty if they live in rural areas—60 percent.

Through the Medicare Preservation Act, Medicare funds for rural Americans will be cut by at least $58 billion dollars.

That is $58 billion less for our rural health care facilities and providers. If this atrocity comes to pass, we are certain to lose more rural hospitals than we already have. I have been there, have you? I served as the chair of the Warren County Board of Commissioners, my home county, when we had to close our county hospital. Citizens of Warren County now have to drive outside the county to seek hospital care.

Twenty-five percent of rural hospitals already operate at a loss, and that is because Medicare and Medicaid alone accounts for almost 60 percent of the average hospital's net patient revenue. Can you imagine the havoc that these cuts will wreak upon rural areas. More hospitals are sure to go under, need there be more counties like Warren?

I cannot in good conscience believe that the bulk of the American people support the majority's plan to cut Medicare and Medicaid.

The $270 billion cut translates into at least $45 billion dollars less for the health care for impoverished, disabled or elderly Americans in rural areas. For Pitt County Memorial Hospital, one of the finest university medical schools in rural areas, this cut translates into $621 million dollar loss from 1996 to 2002—$621 dollars less of needed medical care. For Nash General Hospital, $234 billion dollars less in the same time period. For the Craven Regional Medical Center, $211 billion less and I could go on and on and on. I think you get my point. And I know that the senior citizens of my district as well as the nation hear me. Mr. Speaker why can't we hear the pain of these proposed cuts. I will vote against this mean-spirited legislation.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

[Mr. HORN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

AMA WRITING KEY PORTIONS OF MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, cynicism toward our political process received another boost last week, as the American Medical Association [AMA] received key concessions in return for endorsing the Republican's plan to reduce Medicare spending by $270 billion. In return for their support, the AMA is being allowed to write key portions of

this plan, molding the cuts with their own best interests in mind.

The question is, Do they have the interests of senior citizens at heart? The answer, Mr. Speaker, sadly, is no.

I have over 15,000 petitions from the senior citizens of my district opposed to the drastic cuts in Medicare. Every day I have dozens more calling my office asking me if they can sign a petition. ''How can I help, can I circulate more petitions?'' they ask. They tell me of hundreds of seniors who have not yet had a chance to have their voices heard, but who are very afraid and confused by the Republican Medicare proposal.

What started out as a need to shore up Medicare, so as to keep our sacred contract with seniors, has turned into a raid to fund a $245 billion tax cut for America's wealthiest citizens. The Republicans wave a report by the Medicare trustees saying the system is headed toward bankruptcy. But nine times in the past, we have faced the threat of the trust fund going bankrupt and have dealt with it as it should be dealt with now—without fanfare and without partisan propagandizing. The report says only $90 billion is needed to insure the solvency of the trust fund, but the Republicans insist on cutting $270 billion to pay for their tax cut.

To pay for this tax cut, Medicare recipients will pay more, but they will get less in return. By the year 2002, $1,700 less will be spent on each beneficiary. However, deductibles will be doubled and premiums will skyrocket. Seniors will pay an average of $3,300 more over 7 years and will be herded into managed care, forced to give up their own doctors. Simply said, seniors will be paying more for less.

I recently sent a letter to the presidents of the various hospitals in my district, asking them to analyze the impact of the Republican proposals for Medicare. The president of MacNeal Hospital in Berwyn, IL writes, ''The reductions, as proposed, if implemented, could force MacNeal Hospital to close. Over the 7 year period from fiscal years 1996 through 2002, Medicare reimbursements would decrease by $92 million. As an employer, it would result in the direct loss of 3,000 jobs. Needed access for the people of your district to high-quality low-cost healthcare would obviously be dramatically and negatively affected.''

The president of West Suburban Hospital in Oak Park, IL wrote an emotionally moving letter. ''None of the news I have heard sounds encouraging. In fact, the question is not how will we serve patients in spite of funding shortfalls, but how will we serve them at all.''

According to figures from the American Hospital Association, this plan will result in a reduction in reimbursement to hospitals in metropolitan Chicago totaling $2,830,000,000 in fiscal years 1996 to 2002. Clearly, the Republicans Medicare proposal will hurt not only the elderly, but hospitals too, which will cause cost shifting to the private payer.

A respected Chicago newspaper columnist recently noted the quiet silence of senior citizens on this proposal. Given the partisan rhetoric and the cynicism, it is no surprise that many are not vocally taking sides. But with these petitions, thousands have quietly sent me a message that this is too much change, much too fast.

968 pages of a bill to amend title 18 of Social Security Act to preserve and reform the Medicare Program, were delivered to me this morning. But these 968 pages are not intended to preserve and reform the Medicare Program. Rather, they are intended to destroy Medicare's security blanket for our seniors, and radically replace it with an untried system.

Mr. Speaker, Medicare was signed into law 30 years ago as a sacred commitment with the elderly of America. I will not break that commitment. I do not want to see the elderly have to choose between paying their doctor's bills and their utility or grocery bills. Republicans are big on contracts these days. Let's keep our contract with seniors and preserve the Medicare system. I urge my colleagues to oppose H.R. 2425.

□ 2145

The SPEAKER pro tempore (Mr. BUNN of Oregon). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

[Mr. DUNCAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

GOP PLAN WILL SAVE, STRENGTHEN, AND SIMPLIFY MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Idaho [Mrs. CHENOWETH] is recognized for 5 minutes.

Mrs. CHENOWETH. Mr. Speaker, tomorrow the House of Representatives will take a giant step toward putting Medicare back on sound fiscal footing and giving our seniors the same choices enjoyed by Federal employees, including Members of Congress, and citizens in the private sector when it passes the Medicare Preservation Act of 1995 [MPA]. The goal of the MPA is to preserve Medicare for current beneficiaries, protect it for future generations, and strengthen it through reforms that have been tested and proven in the private sector.

On April 3, 1995, the Medicare trustees, including three members of President Clinton's cabinet, issued the following warning: Medicare begins going bankrupt next year and unless prompt and decisive action is taken, Medicare will be completely out of money by 2002.

There is no reason to doubt the accuracy of the report or its conclusion. I urge you to obtain an official summary from my office (356–2010) and judge for yourself.

The bottomline is that if Medicare is not reformed, either seniors will be forced to accept sharply curtailed medical services or working Americans will be forced to pay sharply increased payroll taxes, estimated by the Heritage Foundation to cost the average Idaho household an additional $1,200 per year.

Under the MPA, total Medicare spending will increase 54 percent, from $161 billion in 1995 to $274 billion in 2002. On an annual per beneficiary basis, average spending will increase from $4,800 today to more than $6,700 in 2002. Obviously, not only is Medicare not being cut but at an average of about 6.5 percent per year, it will grow faster than the current 3.2 percent rate of private sector medical inflation and more than fast enough to accommodate all new entrants into the system. Only in the bizarre and convoluted world of Washington bookkeeping and partisan bickering can such an indisputable spending increase be called a cut.

The MPA will give seniors the right to choose from these:

First, if they want to, seniors can stay with the current Medicare system—exactly as it is today. And if they choose another option and decide later that they want to return to traditional Medicare, they can do that, too. No senior citizen will be forced to give up his or her current Medicare coverage, switch doctors, or be forced into a plan they don't want.

Second, seniors can opt for managed care and join a health maintenance organization [HMO], in which beneficiaries agree to receive their medical care from a defined pool of providers in exchange for lower out-of-pocket expenses and broader coverage, which could include prescription drugs, dental care, and eyewear. Many seniors, particularly those whose private physicians are already associated with the HMO they choose, will find this an attractive alternative.

Third, seniors can opt for a medical savings account [MSA] plan, which uses the beneficiary's Medicare stipend to fund both catastrophic health insurance plus an MSA, out of which seniors would pay for routine medical needs. Seniors choosing this plan would have complete control over the money they spend on medical care and any money left over in the MSA at the end of the year would belong to the senior, not the insurance company or the Government.

Fourth, seniors can join provider service networks, similar to HMO's, that are organized by doctors and hospitals themselves.

The Medicare Preservation Act also aggressively attacks the waste, fraud, and abuse that has contributed so much to Medicare's rising costs. Incredibly, the Congressional Budget Office has estimated that as much as 20 percent of Medicare spending is fraudulent.

The MPA requires the Department of Health and Human Services to identify and eliminate these huge losses, including financially rewarding Medicare recipients who report abuses. It makes doctors and hospitals accountable for their actions and imposes stiff new penalties on anyone caught defrauding Medicare.

Another important point is that the portion of Medicare part B costs paid by seniors through premiums, currently 31.5 percent, will not change. Over the past 7 years, part B premiums have nearly doubled, rising from $24.80 in 1988 to $46.10 today. Current law, the MPA, and the president's plan all assume similar increases over the next 7 years.

Let me also emphasize that every additional premium paid by Medicare recipients will go directly to Medicare part B, not, as you may have heard, to pay for middle-class tax relief. It can't. It's impossible. It's illegal. Premiums and payroll taxes paid into the Medicare trust funds can only be used for the Medicare Program.

Finally, the wealthiest 2.9 percent of seniors, those single taxpayers with incomes above $75,000 and couples with incomes above $125,000, will be required to pay higher part B premiums.

That is the Republican plan. It is innovative, responsible, and cost-effective. Unfortunately, the congressional minority and the president have embarked on a partisan mediscare campaign meant to frighten and exploit seniors for political gain. It appears they have their sights set more on the next election than the next generation. Not only is that bad policy, it's also bad politics.

One of the major factors in last November's electoral sweep was that Americans want Representatives who aren't afraid to tackle the tough issues. With our Medicare preservation plan, we have shown that we are willing to do exactly that.

This plan ends a decade-long habit of applying only band-aid solutions to Medicare's fiscal woes. It uses common sense and market forces to save Medicare and bring the program into the 21st century, giving seniors more choices and better care at lower costs. But just as important, it is one more confirmation that the era of politics as usual is over.

A DEMOCRATIC VIEW OF REPUBLICAN MEDICARE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. GEJDENSON] is recognized for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, they are back in the back room again. The last time the Republicans went in the back room, the AMA got a fat check and the seniors got left out in the cold.

I do not know how the previous speaker could define what was in the bill because it is my understanding that at this point there is no bill, that the Republican leadership is somewhere in this institution huddled away in a back room of the Committee on Rules trying to write a new bill to buy enough votes to get it on the floor and pass it tomorrow.

What are they trying to achieve? Well, if you think that the Republicans, who have opposed Medicare from its inception, have been opposed to it at every step of the process, are really trying to save it, then you can agree that they are trying to save it. But if you listen to the majority leader of the House, the gentleman from Texas [Mr. ARMEY], you will find out what they really want to do. He says if he had his way, he would not have to be part of Medicare. If you are not part of Medicare, it means seniors get to go out and choose their own program.

My father is 84 years old. Last year he had a heart attack and a stroke and a hernia operation and we are going to give him a check not enough to buy any private health care plan after he has paid for decades into the program, and wish him good luck to buy a plan in the private sector. People in their mid 40's and 50's cannot buy health care on their own. The chances of senior citizens having that freedom means that they will not be covered by health care. Mr. DOLE, the majority leader, voted against health care when it came before him when he was in Congress the first time.

If this was an honest debate, most of the people on the other side of the aisle would say they do not believe government ought to be guaranteeing health care to anybody and not even seniors, and they would be for ending the program. But rather than that, they want to bankrupt and destroy the program through subversion.

Let us ask the fundamental question. They keep quoting that the trustees said there was a problem. Indeed, the trustees did say there was a problem, and if they would bother to listen to those trustees for the other half of the sentence, the trustees will tell you that it is an $89 billion problem. How do you get from $89 billion to $270 billion in cuts? It is because you want a $245 billion tax cut.

Let us take a look at how you manage a society, how you manage a business, how would you take care of your family? Because we remember the contract that was signed on the back side of the Capitol. The contract was they were going to protect family. We now know what family it is. It is the GOPAC contributor's family. If you make $350,000, the Republican budget says that you need a $20,000 tax cut. If you live on Social Security, they say you need to spend another $1,000 and get less coverage in your Medicare.

Is that what government is supposed to be all about? Are we supposed to come here and make it more difficult for the people who fought World War II, who saved democracy for this country and the world, and as they come to the point where they need health care coverage, which we guaranteed them, that you are going to pull the rug out from under them?

Oh, yes, you are going to give them choices. You can have a medical savings account. I know a lot of seniors that can save up $26,000 to $30,000 for a 1- or 2-day visit to the hospital. If you are in the $350,000 category, yes, you can have a medical savings account. If you are living on Social Security and even a small pension, that savings account does not do anything for you. This is about taking from the needy to pay for the greedy. The honest debate here is where should this society go? This society needs to go by providing for senior citizens.

The debate here is very simple. Is this society going to take care of the needs of the greedy, those who can afford to contribute to GOPAC, those who make $350,000 a year? Are we going to go back in the back rooms as the Republicans are back there tonight trying to buy a few more votes?

Last time it was the AMA at the cost of the seniors. My doctors do not want that deal. My hospitals do not want a deal that will leave seniors further out in the cold. They want to have a health care system that protects seniors and working men and women in this country.

□ 2200

The SPEAKER pro tempore (Mr. BUNN of Oregon). Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REQUEST FOR PERMISSION TO ADDRESS THE HOUSE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes.

Mr. GEJDENSON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

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

Mr. Speaker, if the gentleman will yield, I will yield back when my time comes to repay him.

Mr. GENE GREEN of Texas. Mr. Speaker, I know there was an objection for a Member, and I hope that we do not see that because there was an agreement earlier tonight. But I would hope we would be able to proceed with the order.

If the gentleman would like to have someone to stand up over there and ask to speak now, I will wait my turn.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. Will the gentleman from Texas, Mr. GENE GREEN, yield for the purpose of a parliamentary inquiry?

It does count against his time. Will the gentleman yield for the purpose of a parliamentary inquiry?

Mr. GENE GREEN of Texas. Mr. Speaker, we need to go ahead and go forward with it because I have 5 minutes on Medicare, and it is a concern. I would be more than happy to sit back down, if the Speaker would like to recognize a Member from the other side because I think the objection has been withdrawn.

Mr. KINGSTON. Mr. Speaker, I ask unanimous consent the gentleman yield back his time without having it charged against him in the name of decorum so we can go back and forth.

The SPEAKER pro tempore. Without objection, the special order of the gentleman from Texas, Mr. GENE GREEN, is vacated without prejudice.

There was no objection.

REPUBLICAN MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, tomorrow is an historic day. It is exciting, the plan that we are going to present on Medicare tomorrow. I am proud of the plan that we are going to present to the American people tomorrow and we will vote and pass it tomorrow. And all we are hearing from the other side is fear and scare tactics. That is sad.

For the seniors of this country, it is one of the most important issues we are facing, and all we are hearing is scare tactics and fear and, oh, my gosh, the sky is falling, the Chicken Little story. This is not the case. We have a good plan with which we all agree on so many things.

There are a lot of things we agree with on this plan. We agree, for example, that Medicare is so important that we have to do something to save it. We agree that it is going bankrupt. It is the Clinton trustees that say it is going bankrupt. We agree that next year for the first time in the history of the plan, less money is coming in than is going out. And in 7 years, the total fund is bankrupt, the part A fund. So there is no disputing that fact. We agree there.

We should agree that we do not want a Band-Aid approach, that we really want to fix the problem because the problem gets really bad in the year 2010 when the baby boomers come along. In year 2010, which is 65 years after World War II, is when the whole thing explodes. And all we are going to do is a Band-Aid approach and putting it off to another day, a major problem when the rest of us start retiring.

I think we should agree that we need to fix the plan and start working on the baby boomer problem. And we should agree on choice. What is wrong with choice? As a Federal employee, all Federal employees have a choice of plans. And all they are doing over there is to ridicule the idea that seniors should have a right to choose. I have a right to choose. Every Member has a right to choose. Every member of the Department of Commerce has a right to choose. Everybody in the Department of Agriculture has a right to choose. Why should not seniors have a right to choose?

Not only do they have a right to choose, they get to stay in the plan they are in right now. They do not have to leave that plan. They keep that plan. But why not let them have a choice? If they want to choose the medical savings account, that is their right to choose. Nothing wrong with that. Why ridicule the idea that some seniors may want a medical savings account?

Why not allow local hospitals and local doctors to go together to form their own plan? Why not allow them, give a choice. Health care is a local issue. Why not allow the groups to work together?

Why not allow HMOs and managed care programs to be offered to seniors. I do not have them in my area very much. What is wrong with giving them the right to choose? Why fight the right to choose idea? It makes no sense.

Our plan has tough waste, fraud and abuse. Who can disagree with fighting waste, fraud and abuse? They cannot get mad at us that we are not increasing copayments and we are not increasing deductibles. What is wrong with that? You have to agree with us on that.

All they want to do is start these scare tactics. They say, we are cutting Medicare by $270 billion. Let us get the facts straight.

The next 7 years we are going to spend $354 billion more than we spent the last 7 years, $354 billion more than the next 7 years than the last 7 years. Let us divide that up by the number of people on Medicare. We are spending $4,800 per person on Medicare today. We are spending $6,700 per person on Medicare in 7 years. Now, to me it does not take remedial math, it does not take a Ph.D. in statistics to understand that going from $4,800 to $6,700 is an increase. It is not a cut. We are increasing spending by $354 billion over 7 years.

Where does this idea of getting beat up on the cut come from? That is fear tactics; that is trying to scare the seniors. And that is wrong.

And then we start talking about tax cuts. What is wrong with the tax cut? It is a totally separate issue. What happens if we have no tax cuts? We get rid of all the tax cuts? What happens to Medicare? It is bankrupt in 7 years. It has no impact on it.

Medicare part A is a trust fund. The only money going in is a payroll tax and the only money going out is to pay for part A. So it has nothing to do with income taxes. So if we have no tax cut at all, it still goes bankrupt. So that is a phony issue.

Let us debate the tax cut on its own merits. And it really is a tax cut for working families in this country.

Now we talk about the hearings. We have had 38 hearings and we have listened to the American people.

I think in 5 years we are going to reflect back and say, we made a great decision tomorrow to reform Medicare.

MORE ON MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, and without objection, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

There was no objection.

Mr. GENE GREEN of Texas. Mr. Speaker, let me answer my colleague's concern about the right to choose. Seniors have the best right to choose today. They can choose whatever doctor and hospital they want to. But under the plan that is going to pass tomorrow they will not have that right because they will be priced out of the market.

The cuts we have talked about. They discussed the cuts. Well, it is a cut because, if we have a growing senior population by the year 2002, and they are saying, they do not grow as fast with the improvements in that plan, then we are going to diminish the ability of seniors to be able to have access to health care.

That is what they cannot explain. Let us get down to the basics though. We will vote on a $270 billion slowing of the growth for the year 2002 to pay for a $245 billion tax cut. I have heard this for months that we paid for that in the spring. We have not paid for anything since the spring. There has not been one appropriations bill passed here. The one that passed was vetoed by the President. They are going to use $245 billion over the next 7 years to balance off the cuts in Medicare growth, because there are seniors who are going to grow into it.

My dad is 80 years old. He is the growth in Medicare because he is going to need it next year. I hope he needs it in 2002. But they are not planning for it because they want to pay for a tax cut now to pay for political promises. On Monday I visited a senior citizens center in Jacinto City, TX, just outside of Houston. I was presented over 5,000 petitions that I left here this morning on the House floor from senior citizens, working families across my district. This signed their names because they are very concerned about the broad and extreme cuts that the Republicans are talking about that we are going to vote on tomorrow.

The cuts, $270 billion, in it only fixes Medicare to the year 2006. Up until last

week they were saying they wanted to fix it to the next election. Well, our next election is long before 2006. They want to cut $270 billion when we only need $89 billion to fix it to the same year. Their numbers do not add up. That is their problem. They do not add up to the year 2002 because they are taking $245 billion as a tax cut.

In the 30 years that we have had Medicare, it was a Democratic Congress overcoming Republican opposition to enact Medicare. It has been saved eight times in the past 30 years, and hopefully we will save it again for the senior citizens, that is, until tomorrow, when we vote on the Republican Medicare reform proposal.

That is a surrender of the commitment that our government made with senior citizens in 1965. The majority feels it is so important to fulfill their campaign promise of a tax cut that busts our budget. They talk about they want a balanced budget. I want one, too, but let us get our financial house in order before we worry about $245 billion in tax cuts and throwing families back to the Dark Ages where seniors have to decide whether they want to pay for rent, utilities, food, or health care.

The worst part of their bill is that, rather than the fact that the Medicare is being cut $270 billion, again, it is to pay for that $245 billion tax cut. That is the outrage that people are saying. That is why they wanted to run this through with only one hearing in the House and arresting seniors who came over to testify. This plan had a lot less than the President's health care plan that most of the other side opposed. So I would hope that we would deal with it.

Tonight there is a vigil out on our Capitol steps by seniors who are raising their voice in opposition. I would hope that 30 years from now, when we celebrate the 60th anniversary of Medicare, it will be because we voted this down tomorrow. If we do not vote it down, then the President will veto it, and next year the voters in our country will recognize who is really concerned about health care for seniors.

Mr. Speaker, I yield to the gentleman from Ohio, [Mr. BROWN], from Cleveland, who is now the American League champion.

Mr. BROWN of Ohio. Mr. Speaker, I have had lots of town meetings in my district. I hear the anger from senior citizens and from their families about the $270 billion in Medicare cuts in order to pay for tax breaks for the wealthy and about the Republicans idea to give people the right to choose health care plans but take away their right to choose a doctor.

What I am also hearing from senior citizens is they are particularly concerned about fraud in Medicare. The inspector general said that as much as $200 billion, as much as $200 billion of fraud over the next 7 years in the Medicare plan. Yet the Republicans bill actually promotes fraud, waste, and abuse. The New York Times had an editorial called Bribes for Doctors talking about the midnight deal, that the Speaker's deal made Medicare substantially worse.

It is clear that as bad as the fraud is, it does not make sense to give tax breaks to the wealthy of $245 billion while you are cutting Medicare $270 billion and taking away the ability of government to fight fraud and investigate and prosecute fraud.

MEDICARE OVERHAUL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GREENWOOD] is recognized for 5 minutes.

Mr. GREENWOOD. Mr. Speaker, earlier this evening the gentleman from California, Mr. FAZIO, made the statement that the Republicans do not want Americans to fully understand our Medicare reform bill. I would like to challenge that assertion because in fact it has been our experience and my personal experience that what we need to do is precisely make sure that Americans, particularly America's senior citizens, understand our Medicare present reform bill. When they do, they like it. And they like it very much.

That has been my experience. It was my experience this evening. I had a letter that one of my staff members placed on my desk from a 70-year-old gentleman in my district that was very upset. He had been listening to my friends on this side of the aisle. He said he was having a hard time sleeping because he and his wife had been in and out of hospital. He heard we were going to take his Medicare away. So I said to him, let us go through it one step at a time. And I said, do you like your Medicare just as it is? He said, yes, I am very happy with it.

I said, well, under our plan, you will keep your fee-for-service Medicare just as it is. And you and your wife will be able to go into the hospital and go to the doctors next year and the year after that and the year after that just as you have been now. In fact we are going to make sure that the system is there for you.

I said, we are not going to raise your deductibles. Oh, you are not? No, we are not. We are not going to raise your co-pays. You are not? I heard them say that you are. Well, we are not. What are you going to raise? Are you going to raise the portion that I pay for my part B? I said, no, we are not going to raise the portion that you pay. You pay 31.5 percent now. And you will pay 31.5 percent next year. And your friends and neighbors will pick up the other 68.5 percent next year just as they have this year.

I said that 31.5 percent is going to go up a little bit just as it did last year, the year before that. But your COLA's, your Social Security COLA will go up by even more than that, so your Social Security check that you receive next January will be bigger than the Social Security check that you are receiving now and will receive through the end of the this year. So you are going to have more money in your pocket at the end of the day next year, when this plan takes effect, and exactly the same health care that you chose now.

We find that, when we go to focus groups, when we go to town meetings and we explain in detail this plan, the senior citizens thank us. They like it. They have nothing to fear and they know it. And if they do not know it now, they certainly will know it once the President signs the bill and it goes into effect.

Let me talk about some of the disinformation that has been difficult for us to deal with.

□ 2215

Members of the minority party have stood up all night, and they stood up for weeks and weeks and weeks, and talked about Medicare cuts, and, as we have said over and over again, no one is going to cut Medicare. We are going to increase the expenditures per capita on Medicare beneficiaries by 40 percent over the next 7 years. That is a whopping increase, it is a generous increase, and it is more than enough money to restore and preserve the system and continue the same benefits package.

So we do want Americans to understand that because when Americans understand that and they understand that we are going to spend more on them in each of the next 7 years, and not less, the are comforted, and they need to be comforted because they have been told a lot of falsehoods.

We have heard people say from the other side that we are going to take away. One of the gentlewomen from the other side of the aisle said, ''cutting health care,'' cutting health care as if a single senior citizen in this country would not have access to exactly the same health care services when our plan is in effect as it is now. Simply not true. Every senior citizen in this country will be able to stay in the fee-for-service program and get precisely the same health care benefit next year as they do this year.

Now, that is an indisputable fact that is not even subject to debate, and yet I hear Members from the other side of the aisle over and over again talk about cutting health care. I walked past the sort of ginned-up candlelight vigil outside the Capitol tonight, and I heard the minority leader of this House, the gentleman from Missouri [Mr. GEPHARDT], talk about Republicans doing away with Medicare, and I shook my head. I shook my head and thought how could a Member of the U.S. Congress utter those words knowing deep in his heart that no one in this body would ever contemplate for a moment doing that. Certainly, this Member, whose mother and father he deeply loves and whose mother and father are Medicare recipients, would never do anything to reduce their package, their benefits. We have heard

over and over again the talk about forcing seniors into managed care, forcing seniors into managed care. We do not do that. What we do is we preserve the system. We preserve it not only for this generation but the next, and I hope we all vote for it tomorrow.

VOTE ''NO'' ON THE REPUBLICAN PLAN TO RAPE MEDICARE

The SPEAKER pro tempore (Mr. BUNN of Georgia). Under a previous order of the House, the gentleman from Pennsylvania [Mr. KLINK] is recognized for 5 minutes.

Mr. KLINK. Mr. Speaker, there was a song back in the early 1970's by Janis Joplin, and the previous speaker, my colleague from Pennsylvania, kind of reminded me of it. I would like to change the words, and that is she said, ''Freedom is just another word for nothing left to lose.'' I think it is freedom is just another word for being forced to choose, and that is what the Republican Medicare plan is about. Senior citizens will be forced to choose whether or not they want to follow their doctor. That is as the Republican fail-safe, and he is right. If people want to stay in traditional Medicare as they have it today, they will be able to do it, but they may find out that their doctor does not do it because the fail-safe plan the Republicans have built into Medicare is going to squeeze the traditional medical fee for service, and so you may have to choose whether or not you stay with your doctor or whether you follow that doctor who decides to go out and get involved in HMO's or managed-care systems.

So freedom to choose is being forced to choose, to have to choose whether you want to stay with your Medicare system as it is now or you want to stay with your doctor if that doctor decides to sever himself from the system.

This Congress began the 104th Congress with very loud chanting of a Contract With America. Medicare, Mr. Speaker, is a Contract with America. It is a contract that was made 30 years ago at a time when one in three senior citizens in this Nation lived in poverty, when it was common for senior citizens to have to decide whether they were going to heat, whether they were going to eat, buy medicine, or pay the rent. It was a common problem prior to Medicare for the children of those senior citizens to have to decide what they would do with their assets, how much they would spend or how much they would sell off if mom or dad got sick. This is the 1930's, and 1940's, and 1950's, prior to Medicare that the Republican plan wants to take us back to. This is the $270 billion that they want to cut, $270 billion they want to cut, and, yes, dollars are fungible. These dollars are not going into, this $270 billion that we are cutting from growth of the program, is not going to prop up Social Security. It is not going to prop up Medicare. Dollars being fungible, it is going to pay for that $245 billion tax cut.

Now, I know that my colleagues on the other side say we are not cutting, we are not cutting. We are slowing the increase. The question is this:

Will seniors get less? Yes. Will seniors pay more? Yes. They are going to pay more and get less. That is a cut. Will the part B premium double over 7 years from $46.10 now to over $90? Yes, that part B premium will be doubling. Will it go back to prop up the part A that the trustees' report deals with and that seniors are upset with? No, it will not be used to prop up part A. Did one Republican vote for the Omnibus Budget Reconciliation Act of 1993 that at that time saved Medicare? Not one, not in this body and not in the other body, and that was in 1993 when we were told the same thing that we are being told now, that we have to make adjustments on Medicare. Not one Republican vote went up to save Medicare in 1993. Yet, now they have got all their concerns, and in fact how many Republicans voted for Medicare back in 1965 when it went into law? The fact of the matter is 93 percent of them voted against it.

The majority leader takes to the well of the House and says in a free country he would have no part of Medicare, and yet we hear Member after Member stand up saying, Trust us, trust us. We want to save Medicare. We are all for it now.

I say to my colleagues on the other side of the aisle, Your actions speak much louder than your words and speak many more volumes than your words, that in fact it is evident to us that you have not ever supported Medicare and you are not supporting Medicare now.

This whole idea of a Medicare savings account, what a joke it is. Senior citizens in my district, very poor to moderate income in coal-mining and steel towns of southwestern Pennsylvania, many of my seniors live only on Social Security, and I know Social Security was not intended to be the sole support of people in their final years, but a point of fact: For many it is. Those people cannot afford to plow in thousands of dollars that they would spend in a few moments of having major health problems. They cannot afford it, and in fact I heard from a lady just several weeks ago who said to me, ''Congressman KLINK, the fact of the matter is that after I pay the expenses that I have to pay, my rent, my utility bills, I've got $87 that's for food, that's for everything that I am going to spend for the rest of the time I'm here.''

Medicare savings accounts will not help people like that. Vote no on the Republican plan to rape Medicare.

REPUBLICAN PLAN BRINGS HEALTH CARE INTO THE NINETIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, you know we all elected 435 Members of this body on certain campaign promises and representations, and, you know, some of it is campaign rhetoric and some of it is not, some of it is righteous indignation, and some of it is accurate, some of it is not. But when you get elected, we know you do have to do the hard job of governing, and some of the job is very, very difficult, some of the decisions that you have to make.

Now one of the things that we as the new majority were faced with this year was the bankruptcy of Medicare, and that is from the chart right here where the trustees, the Medicare trust fund, said that the plan is going to go bankrupt in 7 years. We got to deal with that. We cannot hide our heads in the sand.

Now just think what would happen in a good bipartisan effort if the best ideas of the Democrat Party, the best ideas of the Republican Party, came together and said, By golly, this is—these are our moms and dads. We got to come together and save this.

You know it is very difficult to get some things established in this town, or some things passed, when you have a whole group of special interest organizations out on both sides of the aisle convincing constituencies that the sky is falling. If the Republican plan goes through, or if the Democrat plan goes through, send me your $25 check to prevent this horrible thing from happening, and yet, you know, I would think inside this body of the 435 of us would maybe be above that kind of foolishness, that we would say, you know, maybe there is something to be said for what the Democrats are saying, and maybe there is something to be said for what the Republicans are saying, and just maybe we can get our ideas together and do the best for both instead of all this that, oh, you are going to cut, you are going to throw senior citizens out on the street, you are going to do this, you are going to do that.

You know, I heard a speaker earlier tonight say we voted against the Clinton plan and we should not have voted for it. It added countless new bureaucracies and agencies in the health care system that clearly had rationing, and there were not choices of physicians. You know here is a plan that allows choice of physicians.

Now you know the Washington Post, which as my Democrat colleagues would say certainly is not exactly the Republican, you know, GOPAC brochure; you know what do they say about the Republican plan? They are saying that they are being responsible, this is credible, it is innovative, it addresses a genuine problem. That is what the Republican plan says.

Now you know on you folks it says what the Democrats do and it is scare tactics, demagogery, and it is wrong.

Now I do not believe that every member of the Democrat Party is wrong and doing scare tactics, but I would say there is a good number of you doing that, and it is kind of—I will be glad to yield to my friend from Miami who is above this and I hope would not be described by the Washington Post.

Mr. DEUTSCH. Actually could I have the last poster, please? The previous one you cite the——

Mr. KINGSTON. Reclaiming my time back, I am on this poster now, and, when we get to your plan, I will give you that poster——

Mr. DEUTSCH. Does the gentleman yield for 1 second?

Mr. KINGSTON. One second.

Mr. DEUTSCH. You know you have a quote from the trustee report up on the last poster, and would the gentleman agree with the trustee report which does not call for $270 billion in cuts?

Mr. KINGSTON. Now let me reclaim my time. As the learned gentleman from Miami knows, that they did not stipulate it. Now you guys came up with this $89 million kind of a late hit. I am sure——

Mr. DEUTSCH. Eighty-nine billion.

Mr. KINGSTON. Eighty-nine billion. I am sure they would hold it up and say what are we going to do? You know we got to get off the book deal on GINGRICH, come up with a plan this year. Well, you know, here is a program for us. We are going to go ahead and jump on Medicare.

You know, to my friend, the distinguished lawyer, I want you on the team. You have a lot to offer, and I am sure that with all the intelligent men and women on your side of the aisle and on our side of the aisle we could do what is right for mom and dad. We can give them that choice of physician. We can give them the plan that is going to be there tomorrow. We can let them have the same choices we have when we go into our insurance situation, and we would not have to tell them, you stay with that 1964 Blue Cross plan that we designed for you because you are not driving that 1964 Chevrolet Biscayne any more. We want to bring you into the nineties on health care.

That is what we are trying to do, and I think itself so irresponsible for us, and it is really just tacky, and it is not what we are sent here to do, is to say, oh, look what's happening. This is a tax cut for the wealthy and so forth. So I will be glad to yield to my friend when I get some time later on.

□ 2230

SENTIMENT AGAINST REPUBLICAN MEDICARE PLAN RUNS HIGH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, if we want to deal with the war of the newspaper clippings, let me read a few headlines: ''House GOP Medicare Bill Wins Over Doctors with Hidden Enticements, Promise of Profits,'' ''Keep Nursing Homes Standard,'' ''GOP Medicare Bill Seems to Favor Fraud.''

Washington Times, not a liberal newspaper in this town: ''Ride for Doctors,'' ''Beneath the Surface, the Health Care Plan is Offering Booms,'' ''GOP Changes May be Worth Hundreds of Millions to Doctors and Hospitals.''

Let us see what else we have here. ''Bills Would Relax Federal Controls on Nursing Homes.''

So, let us deal with it. There are lots of newspaper articles and lots of commentary about the Republican plan.

Mr. Speaker, tomorrow we will vote and the Congress will vote cut $270 billion in Medicare to pay for a $245 billion tax cut for the wealthy. I will vote against it. I will vote against it, because the people that I represent have asked me to vote against it. My constituents have sent me petitions, they have called my office, they have written heartbreaking letters, all to tell me to vote against the Republican pay-more-get-less plan.

I want to share some of their thoughts and feelings here tonight. Let me hold up this stack of Medicare questionnaires that have been collected throughout Connecticut's third district by wonderful senior volunteers.

The question put to my constituents was, would you support a plan to cut Medicare in order to finance a tax cut? The overwhelming response was no. In fact, more than 12,000 petitions were collected by our Medicare team captains in a little over 5 weeks. That is 12,000 signatures opposing the Medicare cuts.

The sentiment against the Medicare cuts runs high. Let me read a letter from Helen Patent of New Haven, CT, because I think that she speaks for so many seniors.

She writes, and I quote, ''I am very, very upset that Congress wants to put such devastating cuts in Medicare and Medicaid programs. There are so many people that rely desperately on these programs. My husband and I are both very dependent on Medicare. After raising seven children, my husband is retired. We both have had triple bypasses within the past six years and have tremendous hospital, doctor and medical bills. Without the help of Medicare, we would have lost our house and all that we have worked so hard for. Please preserve our Nation's health care system to ensure that every individual has the right to health care now and in the future.''

I say thank you kindly to Helen Patent for her letter. Helen and seniors like her all across this country depend on Medicare. They know that it works, and they do not want this Congress to destroy Medicare.

It is time for Congress to put the public interests before the special interests. Read the headline on this article.

But that is not what we have seen in this body when it comes to Medicare. In fact, in the last week, two groups came to Washington because they had concerns about the GOP Medicare bill. Members of one group were treated to a closed-door meeting with the Speaker; and members of the other group, they got arrested.

The first group was the American Medical Association. The AMA got a back-room deal worth billions of dollars.

The second group was the National Council for Senior Citizens. The National Council and the 15 seniors got a trip to jail. They closed the light in the hearing room, they put handcuffs on these senior citizens, they put them in the car, in the wagon, and they took them downtown to be arrested, and they held them for 2 hours. Yes, indeed, they did.

What was the crime of these seniors? They came to the people's House. That is where we are. We are in the people's House. They came here to ask questions about a Medicare bill that affects their lives every single day. They wanted to participate in our democracy.

Mr. Speaker, we serve at their pleasure. That is what we do, is to bring their voices here. They wanted to see the details of a proposal that has such a deep impact on their life.

Medicare cuts are not an abstract issue to American seniors, and these cuts mean pain for our Nations seniors.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2425, MEDICARE PRESERVATION ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–282) on the resolution (H. Res. 238) providing for consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program, which was referred to the House Calendar and ordered to be printed.

DEMOCRATS' FAIRY TALES REQUIRE A RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. LINDER] is recognized for 5 minutes.

Mr. LINDER. Mr. Speaker, I really did not come intending to speak on this, but I have heard so many fairy tales in the last 20 minutes that I thought it was worth responding.

Mr. Speaker, those poor seniors that came to the Committee on Commerce seeking information, only seeking information, made a phone call before they came to the police department in Washington DC and said, what must we do to get arrested? They did it, and they were arrested. They were immediately released. That is a fact, and they were sent on their way because they in fact did disrupt a committee hearing.

We have heard a lot about doctors' hidden enticements in favor of fraud.

Indeed, we even saw a previous speaker who had an ad up, or an editorial up that headlined, Bribes for Doctors. I happen to be the only person in this room tonight that was actually in the room when that discussion was held.

Doctors are given back, over 7 years in prospective revenue to doctors, $26.1 billion. The original conversion factor that the House provided for them which I believe is $24.60 was changed to the Senate conversion factor of $35.42, and that difference is $300 million. The House decided to agree with the Senate in terms of the conversion factor.

That is what they call a bribe. That is hardly what the National Council of Senior Citizens would argue that they got, those very seniors who came seeking information, which was 70-some million dollars.

Ninety percent of their entire operating budget comes from the taxpayer to come and lobby the taxpayer. In point of fact, the Republican proposal for saving Medicare has no cuts to beneficiaries. None. Every single beneficiary can choose to stay in the same system at the same service, at their same doctors.

Mr. Speaker, we do reduce revenues to providers, both hospitals and physicians, although we reduce it less than the Clinton proposal and the Democrat proposal. We do provide major, major fraud, bribery, kickback, false filing, false swearing, major fraud aprovisions, and we believe that between the provider reductions, the hospital reductions and the fraud provisions, plus those seniors who choose to opt out of current Medicare and into a Medisave account, into a high deductible and private insurance account with a medical savings account, we think, and the Congressional Budget Office believes, that 25 percent will opt out.

The Congressional Budget Office tells us that with those opting out and the savings to providers and fraud, we will save $270 billion. We are delighted with that. None of that constitutes a reduction of a single dime in terms of a provider benefit.

On part B there are some things that are slightly different. Part B is the doctor portion to pay for doctor visits. Currently the law says they pay $46 per month. It is a tax, really, off their Social Security benefit of $46 a month for part B. That constitutes them paying, our seniors paying roughly 31.5 percent of the cost of their part B. We propose to keep it there.

Most of the seniors that I talk to are not proud of the fact that their grandchildren are paying 68.5 percent of their benefit, but that is something that has been established here over the last year in the formula. The Republicans intend to keep it there, at 68.5 percent subsidy of seniors part B. We know that costs go up with increasing seniors and with inflation, and so the typical senior is going to expect to raise their part B contribution, that 31.5 percent that they choose to pay is going to raise about $7 a month over 7 years. In fact, the Democrat plan goes up nearly as fast, but from a lower base.

Mr. Speaker, it is time for us to understand that most of America now agrees with us that Medicare is going to be bankrupt in 7 years if we do not make changes. This year, this year, for the first time, we will be giving to you to spend more money on part A than we bring in.

Now, it is true, it is true that Medicare has been said to be running out of money in the past, several times in the past, and sometimes in the past running out of money in shorter than 7 years. The Democrats' proposal was to raise taxes on our children and grandchildren 23 times in 27 years. We propose not to do that.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

[Mrs. MALONEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

REPUBLICAN MEDICARE PLAN WILL DESTROY MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. NADLER] is recognized for 5 minutes.

Mr. NADLER. Mr. Speaker, before a Democratic Congress against almost total Republican opposition enacted Medicare into law in 1965, one out of every two senior citizens has no health care coverage at all. Today, with Medicare, 99 percent of senior citizens have health security. The drastic cuts the Republicans propose in Medicare, $270 billion, would savage the Medicare Program.

The Republican Medicare bill will make older Americans pay more and get less, not to prevent Medicare from going bankrupt as they falsely claim, but to finance a huge tax cut, $245 billion, for the very wealthiest Americans.

The Republican plan will, among other things, according to the Washington Times, so increase the Government's burden of proof in prosecuting Medicare fraud that the Government would lose about one-quarter of what it recovers from the crooks and the cheats today.

The Republican plan will increase out-of-pocket costs for all seniors. It will double premiums and increase deductibles. It will drastically reduce reimbursement rates to doctors and other health care provides so much so as to drive many doctors out of the Medicare system and endanger the quality of care provided to seniors. Altogether, the Republican bill would cost the average beneficiary at least $2,825 in premium and co-payment increases over 7 years, and the average couple at least $5,650.

Americans must know the truth, that the Republican Medicare cuts will go straight into the Republican's tax cut for the wealthiest Americans.

The Medicare trustees tell us Medicare needs $90 billion, not $270 billion, to remain solvent. The Republicans tell us we have ample funds to balance the budget in 7 years, and still pay for a $245 billion tax cut. If the Republicans are not lying to the American people, if their purpose is, as they say, to save Medicare, why not simply reduce the size of their tax cut for the wealthy by $90 billion and place the revenues saved in the Medicare Trust Fund? There is no need to force seniors to leave the doctors they know and to join unfamiliar managed care plans. There is no need to double part B premiums. There is no need to increase copayments and deductibles by thousands of dollars.

Mr. Speaker, to our Republican colleagues we say, simply take $950 billion from your tax cut for the wealthy and put it into the Medicare Trust Fund. You will still have a $155 billion tax cut for your wealthy friends and contributors, or is that not enough? Or is the full $245 billion gift to the very rich so important that you must destroy Medicare in order to save it?

The New York Times recently published an article detailing some individual cases, where even with the help of Medicare, medical costs are already devastating the financial stability of many seniors. Take, for example, Susie Meade, a 78-year-old woman from Florida. The Times reports, ''Out of the $6,600 she gets in Social Security a year, she pays $1,116 for supplemental insurance, $553 for Medicare, and $1,000 for prescriptions. She is left with $328 a month to pay her rent and to live on.''

How can the thousands of seniors like Mrs. Meade be free to finance a tax break for the very wealthiest Americans?

Here are just some of the many thousands of letters I have received from my constituents opposing these cuts, and there are very many stories of people who cannot possibly imagine them.

Mr. Speaker, this bill is a sneak attack on Medicare. The Republicans did not campaign last year on a platform of savaging Medicare. They did not tell the voters they would double Medicare premiums and increase copayments and cut Medicare by $270 billion. Then they kept their bill secret until last week, in the hope that the American people will not find all of the jokers hidden in the fine print until it is too late, until the bill is passed, the deed is done, the money for the $20,000 tax cut for people making $300,000 a year is provided.

□ 2245

Mr. Speaker, the American people know how to react and deal with sneak attacks. We have endured sneak attacks before. Admiral Yamamoto is reported to have said on December 7, 1941, after he received the congratulations of his subordinates for the successful sneak attack on Pearl Harbor,

''Gentlemen, I fear we have awakened a sleeping giant and filled him with a terrible resolve.''

If this sneak attack on Medicare passes tomorrow, the American people will again be filled with a terrible resolve and they will know how to repay the attackers.

RENEWING MEDICARE COMMITMENT

The SPEAKER pro tempore (Mr. BUNN of Oregon). Under a previous order of the House, the gentleman from Oklahoma [Mr. WATTS] is recognized for 5 minutes.

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

Mr. WATTS of Oklahoma. I yield to the gentleman from Georgia.

Mr. KINGSTON. We are trying to elevate this debate and I just heard that the Republican Medicare plan is the same as the Japanese attack on Pearl Harbor. I really believe you owe my father, a World War II veteran, and most Medicare recipients an apology for such a statement. I am offended by it. I think the veterans of America are offended by that.

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

Mr. WATTS of Oklahoma. No, I will not yield, Mr. Speaker. I have only got 5 minutes and I have got to get up in the morning, so I want to get my 5 minutes out of the way.

Mr. Speaker, I believe the people of the Fourth District of Oklahoma sent me here to Washington to work for what I believe in and talk about what I believe and since coming to Washington in January, I think that I have been doing just that. But tonight I would like to change pace and talk for a moment about what I do not believe.

First I do not believe that there is a single Member of this body who does not understand how important Medicare is to his or her older constituents.

Second, I do not believe there is a single Member of this body who does not understand that the Medicare system is going to run out of money if serious reforms are not enacted.

Finally, I do not believe there is a single Member of this body who would craft a bill to cast a vote that places the health care of America's senior citizens in jeopardy.

In 1965, the 89th Congress made a commitment to older Americans when it enacted the Medicare Program. At that time, health care for the elderly became part of our Nation's basic social contract with her citizens.

Today with Medicare facing bankruptcy, that commitment is in serious jeopardy. Tomorrow we have the opportunity to do something about that. We have the opportunity to renew our commitment to older Americans and an opportunity to revive a Medicare Program that is seriously in danger of default.

The plan to save Medicare that will be considered on the floor of the House tomorrow is a responsible and desperately needed measure that addresses the serious financial problems facing the Medicare Program.

The rhetoric has run high here in the Chamber on the subject of Medicare but I ask the American people to stop and think for a moment. Every single Member who has worked on drafting these reforms and every single Member who supports these reforms has constituents, family, and friends who will be affected by the actions that we take.

I have heard Members in this Chamber say the reforms that we are proposing will be cataclysmic for our constituents. I have heard these reforms will be a monumental failure. I have heard these reforms will destroy the medical care system that we have put in place for our Nation's senior citizens.

I do not believe it, Mr. Speaker. I do not believe it, because it simply is not true. The Members who support these much needed reforms represent tens of millions of senior citizens who vote, who work on our campaigns, who trust us to do what is right. More than that, many of these golden-agers are our parents. Each of us takes that trust very seriously. That is why we have crafted a bill that guarantees that older Americans will have a viable and secure Medicare Program now and in the future.

Furthermore, we also have to work to preserve Medicare to the next generation, those baby boomers who are currently watching this debate and will fund this program until their retirement. It makes no sense to do otherwise.

I urge my colleagues to support the plan to save Medicare and maintain the contract we signed 30 years ago with America's senior citizens.

VOTE AGAINST REPUBLICAN MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. MEEK] is recognized for 5 minutes.

Mrs. MEEK of Florida. Mr. Speaker, I urge my colleagues to vote against the Medicare bill tomorrow.

I am a senior citizen. I understand the issues in this bill, and I want to say to you, much of it is mendacity, in that what has happened here is that the senior citizens of this country are being sold a bill of goods and it is not right. Do not think that they are crazy. They are sophisticated. They understand that they are not getting full treatment here. They understand that they will not be able to get the high quality of care that they are getting now.

We could not bring a chart in front of every one of them here and prove to them that they are going to get the same quality of care when this bill passes, if it does, that they are getting now. So they know better.

The so-called Medicare Preservation Act of 1995 raises more questions than it answers. The Republican plan is really not tough on waste, fraud and abuse because first of all it fails to really criminalize waste and fraud in the bill, and it does not give the high quality of care that I just talked about.

The burden of proof should not be placed on the Government, but it is in this bill. In terms of knowing why the Republican leadership raises premiums for the elderly at the same time that it makes it easier to rip off the Medicare system, I cannot understand.

One of their own Members here in this article from the Washington Times, a Republican ex-prosecutor upset by handling of the program's abuse, and I quote, he said here that I support the GOP Medicare reform generally but the fraud and abuse provisions are woefully inadequate. It fails to criminalize Medicare fraud, it raises the threshold of proof necessary to convict a doctor, hospital or other care providers under Federal anti-kickback statutes.

It is important that we know, that seniors know what is going on, they are aware of these things and we must be sure to keep saying it.

My constituents want to know why the Republican leadership bill will cut Medicare payments to hospitals that serve the poor. For years and years I worked in the Florida legislature to be sure that a proportionate share was given to those hospitals who serve the poor.

My constituents want to know why the Republican leadership is cutting Medicare by $270 billion so that there can be a $245 billion tax cut. Let me tell you how the Republican leadership plans to increase Medicare premiums will affect a constituent who wrote to me last month. She is 69 years old and her husband is 67. Their monthly income is $811 from Social Security. She pays a rent of $475, utilities of $150, and insurance of $98. That leaves the couple $88 a month in cash along with $96 in food stamps for everything else, for food, for clothing and for all medical expenses that they have to pay out of their own pocket. She has cancer and her husband has diabetes and cancer. The Republican leadership bill says that the part B Medicare premium which under current law would be $43 per month next year will rise to $54 a month next year and continue to rise until it reaches $87 a month 7 years from now.

How is my constituent going to pay that? An extra $11 a month next year may not seem like a lot of money to the people getting those big tax cuts but let me tell you, it is a lot of money to an elderly person. If you do not believe it, just talk to them, that has only $88 a month for food, clothing, and prescription drugs.

Why does the Republican leadership want to raise Medicare premiums at the same time it is retreating in the war against Medicare fraud and abuse? That is what my constituents want to know. One of them called my attention

to a recent report by Citizens Against Government Waste, an organization that has 600,000 members. The report is called ''Medicare Fraud: Tales from the Gypped.'' This report gives examples of Medicare fraud from all parts of the country.

Why is it we do not strengthen these laws instead of weakening them as Republicans do in this bill? FBI Director Louis Freeh has testified that cocaine distributors in southern Florida are turning to Medicare fraud. We need to strengthen that in the Republican bill instead of weakening it. It is so important that you realize that senior citizens in Florida and in other States must be given an opportunity for quality care, not a three-tiered level of care but one level of care that everyone can make their quality of lives much better.

I could go on and on, Mr. Speaker, but there is an epidemic in this country of people who want to beat the system. Why should we make it better? Why should the Republican leadership do this?

There are a majority of Republicans who voted against Medicare, Mr. Speaker. Why is it now they are such proponents of Medicare? We should kill this bill tomorrow, Mr. Speaker.

PRESERVING MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my friend and colleague the gentlewoman from Florida bemoan what she feels to be inadequacies in the new Majority's plan for Medicare reform.

Let me point out to the gentlewoman and indeed other Members of the Minority who may share her concerns that this Majority is listening. As a matter of fact, the gentleman from New Mexico [Mr. SCHIFF] will offer an amendment tomorrow, I think more than symbolic, I think symptomatic of the fact that we address that we have a serious problem here and we are looking for legitimate ways to solve it. So be on the lookout.

Mr. Speaker, I trust the gentlewoman from Florida will join us, as will many of her colleagues on the other side, to vote for a responsible amendment to add even more fraud and waste abuse prevention.

Let us tell you what the plan is doing right now even without the Schiff amendment. Here is what we are doing in the plan to strengthen Federal efforts to combat waste, fraud and abuse in the Medicare program.

First of all, we are providing monetary incentives for individuals who report a violation that results in savings to the program. Second, we are doubling sanctions for filing false claims or committing fraud. Third, we are authorizing direct spending from Medicare trust funds for the OHS Inspector General.

Again, let us address the fact that we will deal with waste, fraud and abuse. Some steps are taken, even more steps will be forthcoming tomorrow in the amendment offered by the gentleman from New Mexico [Mr. SCHIFF].

It has been interesting to hear some of the debate tonight. While good people can from time to time disagree, and ofttimes we do in this Chamber, as is our right, being American citizens, I did listen with interest to one of the Members compare this with the Japanese attack on Pearl Harbor. That has no place in this debate. That has no place whatsoever.

The gentlewoman from Florida used the term mendacity to talk about the new majority's plan. Mendacity to those building word power—the gentleman from Ohio went and checked the dictionary—and it refers to deceit or lies.

The facts speak for themselves. The Medicare trustees' report issued by a bipartisan group said the Medicare trust fund goes broke in 7 years if we do not move to solve the problem.

Mr. Speaker, one of my friends from Pennsylvania pointed out that when this Medicare bill was passed in 1965, only 7 percent of the then minority party, the Republican Party, voted for Medicare. I guess we could play historical one-upmanship. I guess we could come in and say, which party controlled the Congress when the slaves were freed, which party controlled the Congress when women were given the right to vote. In both instances, the Republican Party controlled this Chamber.

But we are not here to play historical one-upmanship. For the question is not who created a program, the question is who is willing to step forward to protect, preserve and defend a program? The fact is, we have to move now deliberately to save this program. Band-Aid approaches will not work.

I do champion the fact that at long last our friends on the other side have offered a plan. One newspaper analysis called it ''a deathbed conversion.'' After months of saying do not do anything, things are going fine, do not change the system, the, suddenly, in the last nanosecond of the 11th hour, the new minority steps forward and says, ''Well, yeah, there has got to be a change, but not too much of a change.''

When the canard that failed to work, that these savings were somehow going to tax breaks, when that canard failed to sink in with the American people, then they said, ''Well, we have to look for a plan.'' It is a plan, regrettably, symptomatic of the politics of the past, for what it calls for is a Band-Aid approach.

Let us get through the next election and maybe, if we are lucky, a few years beyond that. Believe me, when it comes to electoral health, I think everyone's impulse would be, gee, if we did not have to deal with the problem, we would not want to, but the fact is we are elected to govern. It is our responsibility to save this program, reasonably, rationally. We passed a budget plan. We took care of the tax cuts way back in March. We have paid for the tax breaks. Even if the budget were balanced tomorrow, we would still have this problem with Medicare.

Mr. Speaker, friends on the other side, we may disagree. But it is incumbent on all of us to look to preserve a program for the future, and Medicare Plus does that and more. It offers choice. It offers freedom to the American people to choose the doctor they want and the health care plan they want. That is why I urge my colleagues to join with us in a bipartisan fashion to reform Medicare in the 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 of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

AGAINST THE MEDICARE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. OLVER] is recognized for 5 minutes.

Mr. OLVER. Mr. Speaker, tomorrow the House will consider the Republican bill to dismantle Medicare. We should be not at all surprised, because 93 percent of Republicans voted against Medicare when it was created in 1965. Even the Republican leader in the other branch, the Presidential candidate, BOB DOLE, cast one of those no votes.

□ 2300

Republicans have waited 30 years for their chance to dismantle Medicare. So who is backing them in this effort? Well, first off, private insurance companies are thrilled because they stand to make billions of dollars. It is insane to turn over billions of Medicare dollars, tax dollars, to insurance companies who will waste about 25 cents of every Medicare dollar on profits and administrative costs, when the current Medicare system only spends about 3 cents of every dollar on administrative costs. That takes senior citizens' health care dollars and gives them to insurance company profits.

Who else is with the Republicans? Well, the American Medical Association. By the way, they also opposed Medicare when it was created. But the October 12 headline in the Wall Street Journal tells the whole story there, and I quote, ''House GOP Medicare bill wins over doctors with hidden enticements, promises of profits.''

Republicans are not talking about comprehensive health care reform this year. They are cutting $270 billion out of the Medicare budget to pay for a $245 billion tax cut package. More than half of the tax cuts go to persons who make

over $100,000, hardly people who are needy, while 75 percent of the seniors covered by Medicare live on less than $24,000 a year, and they are going to be the losers.

The Republicans are going to rob middle- and low-income seniors of their choice of doctors, access to hospitals, and high quality health care to give tax cuts to a handful of wealthy Americans. It is unconscionable.

The Republican bill is bad legislation. The Republicans know it cannot stand up to scrutiny. That is why they are making a mockery of the legislative process. No opportunity for comment from the 37 million affected Americans and they will ram this through the House in just a few short hours of debate. That is why I held Medicare forums in my district so my constituents could be herd. And I did hear from seniors, their family members, hospitals, doctors, nurses, home care providers, and these wonderful people shined a very bright light on why the Republicans need to gag the public in order to ram their bill through.

Let me tell you what people have to say. Two working women with mothers in their 80's told me their mothers receive home nursing care covered by Medicare. This care allows their mothers to remain in their homes. Without this care these working women would either have to quit their jobs and become nurses or spend every penny they have to pay for a nursing home. It is not small change, because nursing home care averages about $40,000 a year.

Doctors told me that these cuts will force them to make unethical choices every day. Doctors will have the technology to alleviate pain or improve the quality of life but they will not have the money to use it. It is called rationing, and doctors will be forced to do it every day.

To their credit, the Massachusetts Medical Society has broken ranks with the AMA and does not support this bill. And the director of elder services in Berkshire County shared the following story with me and the one I want to leave you with.

In Ashley Falls, Phil and Agnes are waging a battle with her advanced Parkinson's disease. Both are determined to stay together at home, but her current care needs demand so much of Phil. Her disease prevents any movement. Through the VNA, Agnes' Medicare provided home health care aides once each day and physical therapy twice each week. Elder services provides respite for Phil twice a week. A home health aide cares for Agnes so Phil can shop and run errands and maybe even go to the doctor himself. Medicare does not cover it all. Phil does feeding, toileting, and dressing for Agnes as well as laundry, cooking, and cleaning, but assistance the Medicare-funded aide gives daily makes this huge task doable. There are no children to help.

I do not know, but how do the Republicans think this couple is going to manage? The truth is, they are not thinking about the human consequences of this enormous Medicare cut. The truth is they just do not care what happens to Agnes and Phil. And for those reasons, I intend to vote tomorrow against their bill.

SENIORS NEED NOT BE SCARED

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington [Mrs. SMITH] is recognized for 5 minutes.

Mrs. SMITH of Washington. Mr. Speaker, I have been listening tonight and listening to some of the statements I have heard. And I have worked with the elderly for years, chaired the long-term care committee in our State, have worked in the nursing homes and delivered meals to the elderly in their homes. And tonight I think there is a whole lot of calls that need to be made into our districts from 430-plus legislators telling these people the truth. We can argue over the future. We can argue over our assumptions, but we have to tell them the truth.

When I heard tonight a quote from an older lady saying, and this was from the lady from North Carolina, from a person in her district, she said, without Medicare I will have nothing. I pictured faces that I know.

I hope that women from North Carolina assured her there was nothing before Congress that took away her medical care, because what I could picture is them listening to all of this and believing their medical bills are not going to be paid next month or next year or the next year. And I think the important thing is that we all tell them, please, do not be frightened. We are trying to save this system. And it is important that you know you do not have to be frightened. Because you see, what you are saying by not calling them and telling them we are talking about systems, we are not talking about tomorrow for you, what you are doing is you are scaring them. And you need to tell them they do not have to worry. If you do anything less than that, you are using the elderly for your political gain, whether you are Republican or Democrat. And that is so shameful to these vulnerable people, sitting in their homes listening to TV night after night, listening to this.

I also heard earlier, we are going to dismantle Medicare. No. That is not true. No matter who says it. No matter who is listening, that is not true. The good thing that happens with untruths is the future proves them out. If after this vote next month you find out by a letter in the mail, a proclamation in the newspaper, that Medicare has been dismantled, then you know tonight what was said here was true. But you will find next month, time is going to show that is not true.

If next month all of a sudden you are required to have a great co-pay or you are forced into some system you do not want, then you will know what was said tonight is true. But let me tell you what you are going to find.

No one should be frightened, if you are sitting in your home, if you are just not sure, do not be frightened. The trustees report in February frightened me. I was a new legislator. I had got that Presidential report from his trustees when it said Medicare was going to be bankrupt. And I thought, I have heard every so many years Medicare is going to go bankrupt and I do not agree with it. I cannot believe it. The Federal Government has a lot of money and they will make it work. So I started going through it on a flight home. Takes me about 7 hours to fly home to the west coast.

When I got done with the actuaries, and I do know how to read these reports, I found out it was true. The amount of imbalance is not sure. It is hard to tell how long I will live and how much we will take out of it or what health care costs will be, but for sure it is not stable. Some say it is, $100 billion, some say $200 billion. It is just not stable.

One thing that is for sure is middle of next year we start draining that trust fund, the money we have put in, and we take more money out than goes in. We know that for sure. But I resolved, when I read that report, that I was going to join an effort that would stabilize it, secure it, and then I found out something else. You cannot secure it after 15 years. I am 45. When I hit Medicare, I am with the baby boomers. I blow it up.

There are two-to-one, my two, I have six grandkids and I have enough. Some people do not have enough. And they cannot sustain the number of elderly that will be on it. But for right now, I want to make a commitment.

I will tell you, do not worry. It is going to be stabilized and this is a responsible approach tomorrow. And you will have Medicare tomorrow, next week, and next year.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I yield to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Speaker, again, I appreciate it because I have asked four times for my colleagues on the other side to yield for a specific question.

In response to statements that were made from four different of my Republican colleagues, I think it is symptomatic that they refuse to yield, that they refuse to engage in a dialog on this issue because the truth is, the truth is on our side. It is the old maxim: When the truth is on your side and you have the facts, that is what you argue. When the law is on your side, that is what you argue. And when you have nothing, all you do is argue.

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

The SPEAKER pro tempore (Mr. BUNN of Oregon). The gentleman from New Jersey [Mr. PALLONE] controls the time.

Mr. DEUTSCH. Mr. Speaker, if we can focus in on this chart, the facts are that in the 30 years of the Medicare system, for 12 of those 30 years there was less of an actuarial life than there is today; less than 7 years, 12 of the 30 years. This is not a crisis that all of a sudden erupted. That is the nature of insurance programs.

Contrary to what my colleagues have said, we took some tough votes in my first year in the Congress. We took a tough vote to change some of the actuarial problems in the system. We can do that again. But we are choosing not to. This program that is going to pass this House tomorrow has nothing to do with saving Medicare. It is a flat-out lie. The $270 billion number is a flat-out lie. That has nothing to do with the trustee report.

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

Mr. DEUTSCH. Mr. Speaker, no, I will not yield.

What the Republican plan is doing is creating a false choice for Medicare beneficiaries throughout this country. What they are doing essentially is a false choice because, if the Medicare reimbursement, traditional Medicare, becomes so low and balanced billing is eliminated, which it will be, which will allow physicians to charge whatever they want, where today they cannot and protect senior citizens, over 30 million Americans, when that changes, seniors will be forced into HMO's, not by choice. It will be a false choice. They will be forced into HMO's.

Let me just conclude that seniors in this country believe that Republicans want to save Medicare probably as much as the Jewish community in this country believes that Farrakhan should be the head of the Jewish Federation. It is just not a reality. I think this chart and the outright distortions that have been made on this floor this evening and will be made tomorrow, the numbers speak for themselves.

I thank the gentleman for yielding time.

Mr. PALLONE. Mr. Speaker, let me point out that one of the major trustees, Secretary of Treasury Rubin, when he sent a letter to the gentleman from Missouri [Mr. GEPHARDT] on September 21, 1995, he said in the letter, simply said, ''No Member of Congress should vote for the $270 billion of Medicare cuts believing that reductions of this size have been recommended by the Medicare trustees or that such reductions are needed now to prevent an imminent funding crisis.

□ 2315

Basically what is happening here, and I will say it again, is that this level of cuts, $270 billion, is needed to pay for the $245 billion tax cut for the wealthy that the Republicans are going to propose next week. Our offices and my office has been flooded with calls and letters from senior citizens protesting these cuts. I know one of the previous speakers said that seniors should not be scared. They should be scared because this is going to devastate the Medicare Program, and if I could just point out, I mean I have been getting hundreds, if not thousands, of letters. Here are just some of them from my constituents complaining and concerned about these Medicare cuts the Republicans are proposing.

Mr. Speaker, I do not have a lot of time, but I just want to point out one thing that I think is really important here tonight and for tomorrow when we take the vote on this bill. These cuts in the Medicare Program, what they are going to do is squeeze Medicare so much that we will no longer be able to provide quality health care in this country for senior citizens, and the squeeze, the loss of money in the Medicare Program, is going to hurt the health care system across the board in New Jersey. We will see hospitals close. We will see services cut from hospitals and other providers because there is going to be so little money available to the Medicare system.

The reason I mention that is because today in the State legislature in the State of New Jersey in Trenton a number of the Democratic legislators took to the floor and pointed out that because of all the cuts that the Republicans are making in Medicare what is going to happen in New Jersey and probably in a lot of other States in this country is that States are going to have to raise taxes to make up for the loss in Medicare funds that we are imposing here, and that is simply not fair. It is simply not fair to the citizens of New Jersey and to a lot of other people around this country when we see this Medicare Program deteriorate and States having to make up for the funding loss.

MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HASTINGS] is recognized for 5 minutes.

Mr. HASTINGS of Florida. Mr. Speaker, as the Republicans in Congress move toward their goal of reducing the Federal deficit at any cost, they are about to approve deep, unprecedented cuts in the financing and delivery of health care to our Nation's elderly and poor. These cuts will be far deeper, and have far greater consequences than the proposed cuts in almost any other part of the budget, totaling $270 billion over 7 years while financing a tax break for the wealthy.

Since 1965, the Federal Government has provided a minimum standard of health care for all eligible citizens through the Medicare Program. Republicans in both the House and Senate want to end this national commitment by terminating the individual Federal entitlement to Medicare coverage. In my State of Florida, 2.6-million-plus older Americans will find that their health security is threatened by the GOP proposal. In fact, over the next 7 years, Florida stands to lose $28 billion from Medicare.

Mr. Speaker, I represent seven counties which cover central and south Florida. I am concerned that these draconian cuts will overwhelm my district, and the Nation. In Dade County alone, $4.8 billion in Medicare funding would be lost over a 7-year period. What does this meaning for recipients? It means that each of Dade's 285,900 beneficiaries who want to stay with the current fee-for-service Medicare Program would face an average of $5,575 in additional out-of-pocket costs over 7 years. For a couple, that figure rises to $11,150 over the same 7-year period. Obviously seven is not a lucky number for Floridians. In fact, I don't think there are any lucky numbers in this debate except, of course, the $245 billion tax cut for the wealthy.

You see, Mr. Speaker, regardless of their income or health, senior citizens who depend on Medicare will see their out-of-pocket-costs increase. This is pure egalitarianism. And in health care, there really is no such thing. No two people have exactly the same needs or need exactly the same care. The GOP proposal does not take into consideration particular merits, efficiencies, or needs of the recipients. Each senior will receive an equal share—each of which is underfunded. The majority in Congress wants to give our seniors a voucher and let them shop around. But how appealing is a market of lower reimbursement fees, higher premiums, and reduced benefits?

Perhaps we, as a nation, should be looking at needs of people instead of numbers of dollars. The bottom line should not only apply to reductions, it should also reflect the effectiveness and efficacy of our seniors' needs. Mr. Speaker, Congress should eschew expensive and frequently ineffective efforts to rescue Medicare. But I'm not at all sure that turning Medicare over to the private insurance industry is the answer. Contrary to the majority's belief, in the private sector, all that glitters is not gold. And frankly, if this proposal is implemented, I'm afraid of how quickly our golden years will turn black.

Republican cuts in Medicaid are equally disheartening. The formula used to develop the Republican plan is soaked in demographic denial—it ignores Florida's status as a growth State. Under the Republican proposal, the annual Medicaid growth rate would be capped at a percentage far below what the State would need to take care of its underserved and unserved population. The consequences of block granting Medicaid are bleak, with the combined effects being forced hospital closings and uninsured Floridians. Even worse, the determining formula is based on outdated figures which penalize growth States. Thus, in Florida, the total number of individuals on Medicaid will grow by 10 to 12 percent a year. However, the Republican proposal will only allow Medicaid to grow at a rate 6 percent—about half the current 10 percent growth rate. Governor Chiles understands that cuts of this magnitude would harm Florida and agrees that

block granting Medicaid under this formula is a terrible idea.

I strongly support efforts to improve efficiency, provide greater program flexibility and cost containment in Medicare and Medicaid proposals. However, a reasoned path toward these reforms is necessary and the Republican proposal to cut Medicare and Medicaid in order to cut taxes for affluent Americans is seriously flawed. So-called reform of this magnitude merits caution, careful debate, and deliberation. Let's not misdiagnose the financing and delivery of health care services to our Nation's elderly, disabled, and poor. The current proposal to block grant Medicaid and cap Medicare reimbursement will devastate millions of vulnerable Americans who look to the Federal Government to honor its long time commitment to public safety, security, and well-being.

WE ARE GOING TO FIX MEDICARE TOMORROW

The SPEAKER pro tempore (Mr. BUNN of Georgia). Under a previous order of the House, the gentleman from Michigan [Mr. CHRYSLER] is recognized for 5 minutes.

Mr. CHRYSLER. Mr. Speaker, the trustees' report clearly does say, and you can read it in it, that there is $140 billion that is needed for part A and $140 billion that is needed for part B. That is $280 billion. Those are the trustee numbers.

Now to come up with an irresponsible number of $90 billion, which has been done for the last nine times in order to save Medicare, is in fact just enough to save Medicare for the next election, which has been what has been going on for the last nine times and usually raising taxes to save it for those last nine times, and so Members ask why are we doing this so fast? Well, the trustees' report also says that we are going to start spending $1 billion more than what we take in next year. That means starting October 1 of, in fact, this year.

And they also say we have only had one hearing on this. Now I know of 38 hearings that we have had in the House, 18 of them in the Committee on Ways and Means. I have testified personally at three of those hearings, and in fact I remember there were at least two of those hearings out on the lawn by the people from the other side of the aisle.

One billion dollars more than what we take in next year and totally bankrupt by the year 2002. That is why we need to save, and protect, and preserve Medicare, and it is absolutely irresponsible not to put forward a plan to do that, and only in Washington, DC, will they call a $1,900 increase a 40-percent increase, going from $4,800 to $6,700, clearly that is an increase, only in Washington, DC will they call that a cut.

Now my dad used to say to me that liars have short legs, which simply means you cannot outrun the truth, and the truth will prevail.

Now you can keep your Medicare System under the better Medicare System just exactly as it is with no increase in co-pays, no increase in deductibles, and no increase in premiums. But let me tell you what the Medicare System is. It is a 1964 Blue Cross plan that has been codified into law, and senior citizens deserve better. Certainly they deserve better than the 30-year-old health program. They deserve choice, choices like managed-care-type systems, choices such as point-of-service, choices such as medical savings accounts, which is a free-market solution to the health care program in this country and puts the consumer back in the loop, which is what has been missing all of these years from health care. It has been too long that insurance companies and doctors and hospitals have been telling us what is reasonable and customary for health care, and it is time that we had the consumer back in this health care process, this health care equation.

Someone said that the seniors had choice when they have the Medicare System. Well, certainly they can still have their Medicare System, but more and more doctors are opting out of that Medicare System as it has been created in the past. What kind of a choice is that?

We also do need to do something with the waste, fraud, and abuse. Forty-four billion dollars of waste, fraud, and abuse, and this better Medicare System in fact addresses that issue.

We also appoint a commission to study the long-term solutions for the Medicare System when the baby-boomers come into this system beyond the next 7 years.

And now there has also been a lot said about tax cuts. First thing we have to understand, that we are talking about the people's money, not the Government's money, and what we are saying is that, if you have two children, that is a thousand dollars that we want you to keep, hold onto it, keep it in your pocket, do not send it to Washington. This is not money we have in Washington that we are going to send back to someone because, if you keep it, you will always make a better decision how to spend it, a much better decision than government, and also 77 percent of the tax cuts that we are talking about are for people that earn less than $75,000 a year, and it would not matter whether we had a balanced budget or not, we would still have to fix Medicare, and that is what we are going to do tomorrow when we vote to pass the better Medicare System.

MEDICARE REFORM LEGISLATION BENEFITING INSURANCE COMPANIES, NOT OUR SENIORS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. PELOSI] is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, tonight I rise to amplify the voices of my constituents in two ways. First of all, I am delivering 10,783 petitions gathered by community leaders in my district in opposition to the Republican Medicare legislation. These petitions say yes to Medicare and no to the $270 billion Republican cut in the Medicare Program in order to pay for tax cuts for corporations and the wealthiest of Americans.

In addition to that, Mr. Speaker, I have a letter from one of my constituents who is a physician who very eloquently and clearly presents the case for many physicians who oppose the actions of the AMA.

I have had serious objections to the substance of the Republican proposal and the process. By blanking out statements from my constituents and giving access to the AMA I think a disservice was paid to the Americans who depend on Medicare. I was particularly appalled by the waltzing in of the AMA and the golden handshake they received as opposed to the handcuffs the senior citizens received when they tried to make their concerns known.

My constituents, Dr. Levine, says as follows, and in the interests of time, Mr. Speaker, I will place this entire letter in the RECORD.

The letter referred to is as follows:

SEPTEMBER 27, 1995.

FAX memo to: Congressperson NANCY PELOSI.

Re Medicare ''reform'' legislation.

DEAR CONGRESSPERSON PELOSI. I am extremely concerned as the current Republican-initiated Medicare reform package goes through Congress, and I wanted to send you this letter in order to give you my perspective on the proposed legislation as a practicing physician in your district.

I have received literature recently from the AMA urging my support of the package, because they believe it to be ''doctor friendly.'' Certainly, certain portions of the proposed legislation, such as long-overdue antitrust reforms, etc., appear to be doctor-friendly. But I believe that these colleagues of mine in organized medicine are fundamentally in error. Their error derives from the relative lack of many officials in organized Medicine with actual experience with for-profit managed care. If these colleagues of mine were sufficiently so experienced, they would see the Republican proposals for what they really are—a scheme for forcing virtually all Medicare recipients into managed care.

I am not saying that managed care in principle is bad: I would be the first to agree that many of its goals in principle are wonderful. But let me share with you the reality of managed care in actual practice. First, insurance companies in California have been making a transition to for-profit managed care plans. This is because the profits they derive from these products are enormous. Basically, what managed care boils down to in practice is that the insurance company evades the basic job of an insurance company, which is assuming risk. Rather, in managed care, the insurance company simply skims off a healthy percentage of the premium dollar up front, and shifts all the financial risk of providing health care to the physicians and hospitals with which they contract. The insurance company has no downside financial risk, and in California organizations such as ''Wellpoint,'' into which

Blue Cross would like to convert all of its business, acknowledge that as much as ⅓ of the premium dollar goes to ''administration'' rather than patient care.

Faced with a diminishing piece of the premium dollar pie, physicians and hospitals dependent upon managed care dollars for survival are constrained to deny care to those in need. Primary care physicians are compensated by ''capitation,'' meaning that they receive only a fixed monthly fee for caring for each patient. This fact has resulted in California in a lot more medicine being practiced by telephone. In addition, in many plans, a significant percentage of the primary care physician's capitation payment is withheld, with all or a portion of the sum returned to the physician at year's end, depending upon the ''loss experience'' of the group. And what ''loss experience'' means is simply that the more patients referred for tests, consultations, surgery, etc., the greater the loss experience. So there are powerful financial incentives built into the system for primary care physicians who act as ''gatekeepers'' for referrals, to deny care. In addition, managed care bureaucracies keep track of each primary care physician's financial track record, and have the right to terminate a physician whose loss experience is not to their liking. Managed care organizations are under no legal obligation to inform consumers of these facts when giving them a sales pitch to join an HMO. And if you look at the situation here in California, insurance companies have been aggressively advertising Medicare HMO products with offers that seem too good to be true. But in the end, in practice, what for-profit managed care organizations really do is to siphon money away from medical care, and redirect those dollars into multimillion dollar CEO compensation packages and huge bureaucracies. Do Medicare HMO's save the Federal Government any money over the existing system? Look for any proof of that; there isn't any.

When I look at the Republican proposals for Medicare reform, what I see first is that the deductible will be made so large as to make the overwhelming majority of Medicare recipients join for-profit HMO's who promise them a ''no-deductible'' plan. The business of other options such as medical savings accounts, etc. will never amount to anything in reality. I cannot understand why my buddies in the AMA cannot see that. If the California experience with HMO's is any indicator, there will be a merger and acquisition frenzy as larger HMO's swallow up smaller ones. More and more dollars will be spent on these mergers rather than patient care (When, for example, Health Net and Qual-Med merged, certain members of their respective boards of directors shared $110,000,000 in stock and cash ''compensation''). What will result is an oligopoly of three or four huge insurance companies controlling all medical care. And the primary factor determining success or failure in any competition in this marketplace will not be quality of care, but simply the profit picture of the company, which is inversely related to expenditures on patient care.

It is for these among other reasons that I am highly wary of the Republican plan. I strongly suspect that the Republicans are primarily doing the bidding of a few huge insurance companies who plan to be the major players in the Medicare marketplace once it is ''privatized.''

From this perspective, I am also highly suspicious of the provision in the proposed legislation to limit noneconomic malpractice litigation awards. This may surprise you, coming as it does from a physician. But according to my malpractice insuror, in California the largest growth area in medical malpractice suits is in litigation against the formerly-low-risk-specialty of primary care for failure to timely diagnose and refer to specialists. Does this mean that managed care in changing practice patterns in primary care as regards the timeliness in which patients are referred for specialty care? I don't think that it takes a brain surgeon to figure that one out! Lawsuits filed against physicians are inevitably filed against the HMO's as well, and particularly after the 75+ million dollar judgment against Health Net in the marrow transplant denial malpractice case, the HMO's are quite aware that they have become the ''deep pockets.'' From this perspective, I view such malpractice reform as contained in the Republican proposals primarily as a license for HMO's to be negligent, confident in the notion that a maximum $250,000 liability in almost all cases represents a relatively small cost of doing business. As more and more doctors become virtual employees of for-profit HMO's, they will realize that malpractice reform was primarily meant to benefit their employers!

Right now Medicare works well, returning a high percentage of dollars spent in actual benefits to recipients. The increased spending on Medicare is primarily a function of the aging of the population and the fact that advances in medicine have made possible the successful treatment of many conditions not amenable to such treatment in 1964. While I would agree that the system requires reform, I would caution you that the Republican plan is simply a scheme for diverting billions of Federal dollars earmarked for Medicare recipients into the hands of a few at the expense of many. If you are unsure of this, just try to introduce some elements into the legislation that would insure that a certain percentage of Medicare dollars are to be spent on patient care, and not diverted by profiteering insurance giants. You will find that your Republican colleagues will be spouting all kinds of pure garbage in defense of their true benefactors, who would love to be an unregulated industry!

Sincerely,

MARC A. LEVINA, M.D.

Mr. Speaker, I now yield to the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. During the August recess I conducted 14 town meetings where I talked to over 3,000 of my constituents, and we in Florida understand that the $270 billion that the Republicans are cutting out of the Medicare budget to save it, we understand just what kind of savings that is, and in fact the 10 years I served in the Florida House we had a saying for it: That dog don't hunt.

Now I have a contract that I signed yesterday in Orlando, and I signed it with the people of the Third Congressional District, but let me be clear. I signed it with the people of Florida and the seniors of the United States, and my commitment is to them. We do not like that reverse Robin Hood that has been going on since the 104th have taken over. You know what I mean, robbing from the poor and working people to give a tax break to the rich, and I know that you all do not like that word ''cut.'' Well, I have got a better word for you. Try ''gut.'' You are gutting the program.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for her remarks, and I ask our colleagues to vote ''yes'' for Medicare and ''no'' for tax cuts.

The SPEAKER pro tempore. 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.]

THE FACTS OF THE REPUBLICAN MEDICARE PROPOSAL

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, the fact of the matter is, Mr. Speaker, despite the comments you may have heard tonight from others on the House floor, Republicans do care, care so much for seniors, that we, in fact, passed on the House floor earlier this year rescinding of the 1993 tax on Social Security. We now have legislation we have adopted here in the House which will allow seniors under 70 to make more funds than the $11,280 they have been capped at without having deductions from their Social Security.

Now let us look at perspective when it comes to Medicare discussion about how we got to this point. It was the President's trustees working with others who came out with a report in April which said that Medicare, if nothing happens with the program, will go bankrupt by the year 2002. You may say, well, how did we get to this point with health care going up 4 percent a year and Medicare going up about 10 or 11 percent a year? How did we get to that point? Well, the facts are we got to this point because we have $30 billion a year in fraud, abuse, and waste. We also have 12 percent of the costs of Medicare just going to paperwork.

So you say to yourselves, What's the solution? The solution is we cannot do nothing. We have to make sure the system is solvent and we have access to quality health care for our seniors. So what we have to consider is a program which would give seniors choice, continue their fee for services, if that is what they would like; the managed-care option, if they would like to have that, which would include such items as pharmaceuticals or dentures, eyeglasses, hearing aids. Also we have the possibility of the Medisave account whereby each subscriber now would get $4,800 toward their health care costs. If they do not use it all, keep the funds they do not use or roll it over until the following year.

□ 2330

One of the biggest problems has been the fraud, abuse, and waste. Under legislation which has been introduced by the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Connecticut [Mr. SHAYS], the penalties for fraud, abuse, and waste will be increased.

For the first time in the history of the Congress, we have had crime of health care fraud as an offense of the Federal Government, a 10-year maximum jail sentence. The provisions of the bill would in fact define the crime of illegal remuneration with respect to health care benefit programs. It would define the crime of willful obstruction of criminal investigations of health care offenses and would, for the first time, make sure that we get a coordinated effort of the Federal Government in stopping the fraud, abuse and waste.

If we can attack that particular problem, we will find that Medicare will be strong, it will be solvent, and it will be here for generations to come.

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

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

COMMONSENSE MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. STUPAK] is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, what I would like to do, I am on the Committee on Commerce and will be on the floor most of the day tomorrow arguing Medicare. I can go on all night about the inequities in the Republican plan, but what I would like to do tonight is submit my statement for the RECORD, and yield the balance of my time to the gentlewoman from Florida [Mrs. THURMAN].

Mr. Speaker, I include my statement for the RECORD as follows:

Mr. Speaker, a week ago, I introduced the Common Sense Medicare Reform. the new majority in Congress claims that it is necessary to cut $270 billion in order to save the Medicare Program. This is simply ludicrous. The Medicare trustees say that the Federal Government must devote $89 billion—not $270 billion. What's really going on here is the majority is attempting to steal $270 billion from the Medicare trust fund in order to keep its campaign promise by giving a $245 billion tax cut to the wealthiest 1 percent of Americans.

Actually, the Medicare trustees say that the Federal Government must devote $89 billion—not $270 billion—to save Medicare from bankruptcy. There must be changes and adjustments to Medicare, but it's irresponsible to gut a program which 37 million senior citizens depend on for health care coverage. My legislation takes the best ideas from the Republican proposal and the Democratic plan to improve the Medicare Program in a bipartisan manner.

The first thing we must do to save Medicare is to aggressively fight waste, fraud, and abuse in the Medicare Program. Ten cents of every dollar spent on Medicare is consumed by fraud and waste. Some health care providers charge the Medicare Program many times more than what these goods and services would cost on the open market. For example, Medicare rents, you can't buy it, but rent pressure reducing mattresses for approximately $650.00 per month and comparable alternate pressure reducing mattresses can be purchased for $168.95. Foam rubber egg shell mattresses can be purchased for $19.95, yet Medicare pays $29.95. The Medicare Program pays $280 for oxygen concentrate, while the Veterans Administration, another Federal agency, pays only $123 for the exact same product. Savings from the oxygen concentrate alone could save us $4.2 billion over 5 years. These three examples alone demonstrate how billions of dollars are robbed from the Medicare trust fund.

We can find the money we need to save Medicare. In 1994, more than $8 billion was recovered in fraud and waste by Medicare providers, and it is expected that $10 billion will be recovered in 1995. We can save $93.5 billion over the next 7 years by actively detecting and prosecuting waste, fraud, and abuse, and this amount is more than enough to save Medicare according to the trustees' report.

The Republican Medicare bill proposes to legalizes fraud committed by health care providers by making it more difficult to prove fraud and to recover Medicare funds. Conversely, my bill provides more and better tools to fight Medicare fraud by increasing the powers available to law enforcement. It will strengthen civil penalties for kickbacks, provide grand jury investigations, and increase subpoena authority. Both the OIG and the Justice Department endorse the fraud-fighting tools that are contained in my bill.

Currently, any money saved from Medicare is returned to the U.S. Treasury. My legislation requires that any funds recovered through cuts or savings be automatically returned to the Medicare trust fund. Your Medicare money should not go to the U.S. Treasury to pay for tax cuts for the wealthiest Americans and large corporations—it should be used to save Medicare.

I firmly believe that before we gut Medicare and implement radical and untried managed care programs, we should test the feasibility of these new programs on a voluntary basis. I propose that we look at managed care programs and health care service networks on a 5-year trial basis. We must make sure that such pilot programs will save money, provide quality care, and prolong the life of Medicare while giving seniors greater health care benefits and choices. Programs such as provider sponsor organizations [PSO's] and provider sponsor networks [PSN's] may be particularly useful and effective in rural areas. In northern Michigan, we are on the cutting edge of providing maximum benefit for our health dollar through cooperative efforts. I won't gamble with your health care. Let's make sure that the proposed changes improve Medicare, rather than destroy it.

My legislation also directs that a Baby Boomer Commission be appointed to study alternatives for the best way to address the large influx of recipients who will be eligible for Medicare beginning in the year 2010. The Commission will work with Medicare trustees to ensure there will be funds available to provide health care coverage for the baby boomer population. In addition, the Commission will hold public hearings all across the country so you will have input on any proposed Medicare changes.

Lastly, I advocate the use of a single-page Medicare claim form to increase administrative efficiency. We can simplify the Medicare system for beneficiaries and providers, while saving money from increased efficiency and cutting down on fraud.

People should not have to pay more money to receive less coverage and lose their choice of doctors. The Republican majority should not raid the Medicare trust fund to give tax cuts to the wealthiest Americans and multinational corporations. Instead of stealing money from the Medicare System, we need to put money back into the system to keep it solvent for current and future recipients. Let's not gamble with the health of our senior citizens.

You can see why the Republican majority refuses to make my bill in order because it is common sense.

Mrs. THURMAN. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, I want to do this from a different standpoint of looking at what I think is going to happen to Florida residents. First of all, I want Florida residents to understand that they are looking at the $38 billion cut between Medicaid and Medicare, and this is to pay for a tax cut for the very wealthy.

Mr. Speaker, Florida stands to lose more than $38 billion in Federal funds under the Republican plan to cut Medicare and Medicaid to finance a tax cut for the wealthy.

Now, I would like to introduce you to a wonderful couple from my district who worked hard all their lives and looked forward to retirement.

But, like many elderly, they fell ill. While the wife struggles with illness herself, she has had to care for her sick husband.

Recently, she came to me for assistance. It seems no one could help her secure a place in a nursing home for her husband. Thankfully, we were able to do that for them. But I worry about how this family will be impacted by the cuts in Medicare and Medicaid.

First, under the Republican Medicare cuts, the ill wife will lose the security of her Medicare coverage. Yes, the Republicans are promising choice to my constituents.

But the truth is, should my constituent want to stay in her current fee-for-service plan with her trusted doctor, she will be forced to pay over $1,000 a year in premiums by the year 2002.

How can a plan promising choice produce such terrible results? It is because of what the Republicans are not telling seniors.

The Republicans offered concessions to doctors, at the expense of the seniors, by allowing the creation of provider service networks. The Republicans have encouraged doctors to form their own managed care plans.

Knowing the benefits the doctors will get from these networks, how can anyone believe that there will be providers left for seniors in the fee-for-service plan?

The Republicans say there will be no cut in services, but if you cap spending for services at below the growth in private sector health plans, seniors will have to pay more. To me, that is a cut.

Make no mistake, seniors will pay more. The so-called failsafe provision looks back at the program to make sure spending targets are met. If not, payments to providers in the fee-for-service sector would be automatically reduced—but not in the Medicareplus plans.

If the Medicareplus plans don't produce the savings the Republicans promise—and we all know they will not—then the fee-for-service sector will suffer.

The promise to maintain the current Medicare option for seniors who want it is just a sham.

My constituent on a limited income is now forced into a HMO, if an HMO thinks it is profitable to come into her region. Republicans have left it up to the HMO's to decide where they choose to offer services.

There is no requirement that they serve us all. But, let us say an HMO comes to our region. My constituent is forced to leave her doctor for the plan's doctor—now that's some choice. But what if she doesn't like the plan's doctor or the coverage the plan offers?

The Republicans promise her she can come back to Medicare. Even if we pretend that Medicare would still look like she remembered it, there is no guarantee—none at all—that her Medigap insurance has to take her back.

This is a crucial issue that every senior in the country needs to understand. There is no choice. Once you enter an HMO you have absolutely no guarantee that you can return to the same level of coverage you currently enjoy in Medicare. Absolutely none.

I have painted a picture of a woman with little choice—this is a portrait of Medicare under the Republicans. But, sadly, it gets worse.

Let's talk about her husband. She finds security in knowing that he is well-cared for in a nursing home. But under the Republican plan, the Federal standards for nursing home protection will be erased. And, if he were dependent on Medicaid, as nearly two-thirds of nursing home residents are, his wife might be forced to sell their home to keep him there.

The Republicans remove the restrictions on spousal impoverishment. They allow States to decide whether the spouse's income and home can be assumed for payment of nursing home care.

Let us suppose our State does the right thing and protects the spouse from having her home and wages attached.

Now our State becomes a safe haven for seniors in need of long-term care. By opposing 24 Governors who don't want Federal rules preventing spousal impoverishment, our State would stand tall.

But in the Republicans' plan, there is always a cost for doing the right thing. If we do the right thing, and seniors come to our State in even greater numbers to benefit from our protections, we will have more people to serve.

However, our block grant numbers under the new Medicaid formula will not increase. States who go after spouses and families and scare seniors away get to reap the benefits of their block grant. Floridians suffer.

The picture for my constituents is not pretty. And I am saddened to have to deliver this message to Florida's seniors. But I won't have to if we work to expose the closed-door dealings of the Republican leadership and we bring out into the open the severity of these cuts. We must defeat these cuts for the health and security for our seniors.

MEDICARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, unlike the gentlewoman who just spoke from Florida, I support our Medicare reform proposal.

Mr. Speaker, we have heard a lot of use of the cut word. I recently had a very interesting conversation with a hospital administrator from my district who said, you are going to be cutting Medicare. We got to talking a little bit, and it seemed that his budget was about $100 million, and $65 million of that came out of Medicare. I asked him, were we going to reduce your amount coming from Medicare? No.

Mr. Speaker, the truth is, under the administration's proposal, the growth to that particular hospital in Medicare over 7 years was going to be 100 percent, that that hospital would end up getting about $130 million, and we are talking about reducing the increase to that hospital from $65 million to about $100 million over the next 7 years.

I ran on one of my platform issues being that we will never, ever be able to rein in out-of-control growth in so many of these Federal programs if we continue to call reductions in the rate of growth of a program a cut. If we are going to say a 10 percent per year increase is our base line and if you are going to lower that to 6 percent per year, that is a cut. We will never restore solvency to the Medicare Program, we will never restore solvency to Washington, DC, and we will end up in bankruptcy.

Prior to coming to this House, I was a practicing physician. Indeed, 50 percent, a half, of the people that I took care of as a doctor were Medicare patients. Indeed, I continue to see patients when time allows when I go back to my district, many of whom are senior citizens. Though 50 percent of my patients were Medicare patients, only about 45 percent of my revenue came from those. Because, you see, Medicare reimburses lower than the private sector.

But even though Medicare reimburses lower than the private sector, the rate of growth in the private sector is substantially less. Indeed, I was part of the committees that got together and drew up this Medicare plan, and one of the most amazing things we found out was that in some of these programs in the private sector they are actually reducing their premium.

You have a situation where you have health care plans in southern California where they are lowering by 1.5 percent the charges to the companies in those areas, and we have here a government-run plan that is steaming along at 10.5 percent, and we have a Medicare plan that the Medicare trustees are telling us is going to be bankrupt. So we have come up with a proposal.

There have been a number of outrageous, outlandish, inaccurate claims made by the opposition tonight. One of them is tat we are doing this is Medicare to pay for tax cuts for the rich.

Well, let me tell you about our tax program. It is a $500 per child tax reduction for families with kids. I do not know how that translates into a tax cut for the rich. We paid this spring for every single penny in those tax reductions to those working families by reducing discretionary spending.

All of the money in this plan goes to maintain the solvency of the Medicare plan. It is going to be insolvent. The administration, the Democrat administration itself has told us it is going to be insolvent.

Now, I am getting a lot of phone calls from seniors in my district, and I think they are great phone calls. A lot of them have been drummed up by AARP, and I have to say I think this is wonderful that we are having this debate, it is wonderful we are having this dialog.

One of the questions I get asked is, are you going to increase my copay? It is currently at 20 percent. Medicare pays 80 percent. I hear that you are going to increase the copay. The answer to that is in this House bill we are going to vote on tomorrow, no, we are not going to do that.

Another thing that I have seniors calling me about, they are asking me, are you going to increase the deductible? And the answer to that is, again, no. The deductible is going to stay the same. It is going to be $100.

I have seniors calling me and saying, are you going to force me into an HMO? Are you going to restrict my access to physicians' care? And the answer to that, again, is no.

If you want to choose one of these Medicare Plus plans, you can. We are

not going to force any seniors into anything they do not want to be in. This is a good plan. It waves Medicare. I recommend that all of my colleagues support it.

FACTS ARE FACTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WARD] is recognized for 5 minutes.

Mr. WARD. Mr. Speaker, tomorrow Congress will vote on the Republican plan to cut $270 billion from Medicare to pay for a $245 billion tax cut, and I would hope that the gentleman from Florida would listen to this, because the gentleman from Florida was just saying that that tax cut is just going to the families with children. Well, if that were true, it would not be $245 billion, gentlemen. It is $245 billion because there is a whole range of tax cuts in that proposal.

Fifty-two percent of it is going to the top 12 percent of income earners in this country. One out of eight taxpayers will get the benefit of that.

Mr. Speaker, facts are facts. It is not all the child, the $500 per child. Even in that case, that has not been limited to families who are working to get ahead. It has been given to families way above what it should be.

More importantly, included in that is a reduction in the very programs that help keep people off of welfare, and the $500 is not even going to go to people who are paying that much when all taxes are taken into account, not just income taxes. So it is very disappointing to hear those kinds of words spoken on this floor tonight.

I would like to yield a couple of moments to the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, we are meeting tonight at a time when the esteem of Congress and the esteem of American politics is at an all-time low. The spectacle that is about to unfold in this room in the next 24 hours will do everything to increase that cynicism and skepticism.

Mr. Speaker, at about 25 minutes to 11 tonight those watching us probably saw a brief interruption in the proceedings when there was an announcement made that the bill was actually brought forward for the first time. This is a piece of legislation that will affect the health care of over 30 million people. The bill was finished at 25 of 11 tonight.

When most people vote on this tomorrow, I doubt that very many will not have read it. All day long today there were meetings between the Republican leadership and the Republican Members to talk about what they could do to get the 218 votes, and we are going to find out tomorrow what they did, because we have not seen the bill until 25 minutes of 11 tonight.

Mr. Speaker, I would be happy to yield back to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Mr. Speaker, that brings up a point that I think is worth mentioning. I spoke today at the Committee on Rules seeking an open rule so that we could try to fix some of the things in the bill that need fixing, but we were not given that opportunity. We will not have that open rule.

But it reminds me of how I first saw this bill. Friday night a week ago, a week and a half ago when we were getting ready to go home for a week of time in our districts, that Friday night when it was expected that everybody was gone, that bill was slided under my door, or slid under my door, or as the famous sports announcer would say, slud under my door.

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I called the Democratic leader just to make sure I was talking about the right bill. Do you know what? The Democratic leader had not gotten that bill. That was done purposefully, again, after dark, under the door, so that we could not make constructive proposals to fix this bill.

Mr. ANDREWS. We do not know what deals or arrangements were made behind closed doors today, but we do know this. This plan, as it has been presented to us, will result in higher taxes on senior citizens, the choices of many seniors being taken away because they could not afford those higher taxes, layoffs at hospitals around America, and I think eventually higher premiums for those not on Medicare and Medicaid.

This is not the way to do the people's business. There should be more time to look at this. It is ridiculous for us to be voting on a bill that was literally produced at 10:35 p.m. tonight, that will affect the health care of 30 million Americans, will take the vote before 4:00 tomorrow afternoon. That is not the way to do the public's business. That is one of the reasons why the majority changed in the last Congress, and I think it is one of the reasons the majority may change in the next one.

Mr. WARD. I want to share with the Members of this body a letter that I have received just this evening that came in this week from a gentleman in Kentucky in my district. I do not want to share his name because I have not asked his permission, but what he says is he is a senior, he is a Republican and has been all his life. He is willing to pay for it, for Medicare, in order to save it. However, he thinks the Republicans are going too far.

I agree. I urge my colleagues to vote no on the bill tomorrow.

REPUBLICAN GOALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, we all feel very strongly about this issue, whether you are Republicans or Democrats, and we have our disagreements.

We, as Republicans, have 3 general goals that we intend to pursue during the course of this year and next. One is, we want to get our financial house in order and balance our Federal budget. Our second is, we want to save our trust funds, particularly Medicare. And our third is that we want to transform and change our social, corporate and farming welfare state into an opportunity society. That is what we want to do.

Addressing primarily the need to save our trust funds, our trust fund is going bankrupt in 7 years. It starts to become insolvent next year.

I know this has happened in the past. When it has happened in the past, we have sought to do it by increasing taxes, primarily in Medicare part A. It is the payroll tax. The last time around, we increased the Social Security tax from 50 percent to 80 percent of income, and that money, $29 billion over the next 7 years, is going into the Medicare part A trust fund.

We have four ways to save the trust fund. We can increase taxes. That is simply not going to happen. We can affect beneficiaries, we can affect providers or we can change this system. We are primarily saving this trust fund by affecting the providers and changing the system.

My colleagues on the other side of the aisle have made up a plan that does not exist which we then have to defend ourselves against and clarify to our constituents.

Our colleagues on the other side say there are increased co-payments, in fact new co-payments. That is simply not true.

Our colleagues on the other side of the aisle say we have invented new deductibles and increased the existing deductibles. That is simply not true.

Our colleagues on the other side of the aisle say that we have increased premiums. We are going to keep premiums at 31.5 percent. The taxpayers will continue to pay 68.5 percent.

We have made one change to the premium. It is surprising that my colleagues on the other side of the aisle do not agree this makes sense. We think the wealthiest should pay more, so we have an affluence test.

If you are single, you start to pay more for Medicare part B. From $75,000 to $100,000 you pay all of Medicare part B premium.

If you are married, from $125,000 to $150,000, you start to pay more. At $150,000, you and your spouse will pay the full Medicare part B premium. That is an increase in the premium only to those who are most wealthy.

I have to tell you, I represent one of the wealthiest parts of the entire country. I have gone to my constituents and said, if you have this kind of income I think you should be paying an increase in the premium.

But it is only the wealthy. So when I hear my colleagues on the other side of the aisle talk about how we want to have tax cuts for the wealthy, somehow they do not want to have the

wealthy paying more for Medicare part B. I think they should.

We are not affecting beneficiaries. We are changing the system. How are we changing the system? We are allowing Medicare Plus, we are allowing people to stay in Medicare as they want it now, that typical program, or they can go into any other host of other new programs. They can go into the private sector.

And they can choose to if they want to, but if they do not want to, if they are silent, they do not ask to go into the private sector. They simply remain on Medicare as it exists today, a 1960's system, inefficient, you can choose your own doctor, you can stay there, or you can be attracted over into the private sector and possibly have your premiums reduced, your co-payments reduced, your deductibles reduced and possibly eye care, dental care or prescription drugs. All of those may attract you to leave what you have now. But you can stay. But if you want to pay less, you can get into the private system.

I have heard the reference of saving $270 billion. On Medicare in the next 7 years, we are going to spend $1.6 trillion, as opposed to the last 7 years where we spent $900 billion. We are going to spend over $600 billion more in the next 7 years than we spent in the last 7 years. That is going to doctors. It is going to hospitals. It is going to, candidly, those who run the systems. It will go to a whole host of different people.

We are going to put 54 percent more into the system. We are going to have the individual payment per beneficiary go from $4,800 to $6,700. Only when you spend more and only in Washington when you spend more do people call it a cut. It is not a cut. It is a significant increase.

I just make this last point. As it relates to Medicaid, our colleagues on the other side of the aisle have pointed we need to deal with spousal impoverishment, and we are in our bill. The gentleman from New Mexico [Mr. SCHIFF] has put forward an amendment with me that deals with the criminal statutes. We are going to make it a Federal offense. It is in the rule, a self-enacting rule, and the bill of the gentleman from New Mexico [Mr. SCHIFF] and my amendment will pass, if the rule passes, that will make health care fraud a criminal Federal offense.

A VOTE AGAINST REPUBLICAN MEDICARE PLAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, reflecting the many calls and letters that our office has been getting over the past few months, I am going to be voting no tomorrow against the proposal to cut $270 billion out of the Medicare plan, much of that money to go to a $245 billion tax break essentially for the wealthiest individuals in the country. While I do support the means-testing provisions of part B, I also acknowledge to those who are in the upper income areas, they are going to get far more back in the tax cut than what they ever pay out in part B and they will be the only group so protected under this Medicare plan.

Mr. Speaker, I oppose this for a number of reasons. During my two-day Medicare-A-Van in West Virginia, I learned a lot of things. I learned, for instance, that the first cut by the hospital shows that they will lose roughly $600 million out of this, and this is just the hospital provision alone, and this does not even include the upcoming $4.4 billion Medicaid cut that they are going to get. I learned about the hospitals that derive 60 to 65 percent of their revenues from Medicare and Medicaid. I learned about the 300,000 West Virginia seniors that are going to be affected, that could be paying as much as $1,000 more out of pocket by the end of this 7–year program, by those who will see part B premiums go up and they may lose their low income protection and help in paying for them, those who could be forced into managed care. And, yes, younger families paying more for their loved elder relatives. All of that, Mr. Speaker. On top of that, a last-minute deal with the American Medical Association means that seniors no longer will be protected from doctors who want to charge more than what Medicare permits them to charge presently.

I learned, too, Mr. Speaker, that you have got to look beyond what is being said. When some people say that the trustees make them do it, the trustees said do something about Medicare in 7 years but the trustees also said you can do it with $90 billion, not $270 billion of cuts which are being proposed.

I learned, for instance, Mr. Speaker that when those people say that well, Democrats have not done anything about it, nine times since 1980 have Democrats and Republicans taken bipartisan action to save Medicare. We did it again only 2 years ago with $60 billion of reductions.

Mr. Speaker, the Speaker himself talks about the tax cut being a crown jewel of the Contract With America. Well, Mr. Speaker, this crown jewel is being bought on the installment plan. It is being paid for over 7 years and 100 percent of all senior citizens are paying for a tax cut that basically 1.5 percent of those individuals, those earning over 100,000 will get the benefit of.

This ain't home shopping, it's not cubic zirconium, it's expensive stuff and every senior citizen is going to pay for it. That is why I am voting against a Medicare cut of $270 billion to pay for a tax break of $245 billion.

Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. I thank the gentleman from West Virginia. I applaud his willingness to listen to his constituents. I clearly believe that we have a situation where a picture is worth a thousand words. I would simply say that we are now facing tomorrow, October 19, a day of infamy.

What we faced on October 11, 1995, maybe the Republicans do not understand it but Americans do. You simply look at the face of this woman, a senior citizen being locked up in the People's House, the United States Congress, locked up and taken away. Because she simply wanted to protest $270 billion going for tax cuts to people making up to $500,000. This is worth a thousand words.

Then we ask the question about whether there have been hearings. I have heard 38 hearings and 40 hearings and on and on and on. Let me tell you that tonight 900 some pages came out at 11:25 tonight, 900 some pages of a bill that is supposed to be voted on tomorrow. We have got a number of hearings for Ruby Ridge, for Waco, for White Water. But for putting senior citizens out on the street for their health care, we have got 1 day of hearing. No democracy exists in this Congress. It is a day of infamy. This is the concern we have. It is time to turn the tide.

POINT OF ORDER

Mr. HOKE. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentlewoman will suspend. The point of order will not come out of your time. The gentleman will state his point of order.

Mr. WISE. Mr. Speaker, the clock is ticking.

Mr. HOKE. Mr. Speaker, the point of order is that when there is less than 10 minutes left at the end of the hour, before the suspension of the hearings for the day, then that time is supposed to be split evenly between the minority and the majority.

The SPEAKER pro tempore. The Chair has been very diligent in going back and forth between the majority and the minority throughout the time allotted for special orders.

Mr. HOKE. Mr. Speaker, that is not the point. The point of order is that when there is less than 10 minutes remaining——

Mr. WISE. Mr. Speaker, the point is that the time is going until midnight and it is coming out of our time.

The SPEAKER pro tempore. The gentlewoman's time will be protected.

Mr. HOKE. But when there is less than full time, to be equally divided for 5 minutes on each side, the time must be equally divided on each side.

The SPEAKER pro tempore. The Chair has ruled. We have gone back and forth evenly between the majority and the minority.

Mr. HOKE. Then the time should have expired on that side.

The SPEAKER pro tempore. The time has been shared evenly all evening.

Mr. HOKE. Does that mean you are going to extend beyond the midnight hour?

The SPEAKER pro tempore. No, it does not. On the majority, all requests for the 5-minute time have been used. No other majority Member has requested a 5-minute time slot.

Mr. HOKE. I thank the Speaker.

The SPEAKER pro tempore. The gentlewoman will proceed and her time will be protected.

Ms. JACKSON-LEE. Mr. Speaker, might I conclude simply as I look at this chart, indicating that with the 930-plus-something bill that was just issued tonight, we have 1 day of hearings.

But simply, Mr. Speaker, let me say the Republican plan is going to put at least 1 million citizens in the jeopardy of losing Medicare. It is going to cause hospitals around this Nation through the Medicaid cuts to lose some $28 million. Then lastly let me say that what are we doing all this for? Why are we locking up this citizen in the U.S. Capitol? Why do we have this 1 day? To give $19,000 in tax breaks to those making over $500,000 a year, a travesty, a day in infamy. Tomorrow vote ''no'' against the Republican Medicare plan.

Mr. Speaker, I include the following statement for the RECORD:

Mr. Speaker, if I could find the words, I would tell you exactly how infuriated I am at the legislation by fiat which seems to be taking place within these noble halls. When the Founding Fathers came together and created the Government that we have today, I am positive that they did not intend to have legislation dictated by the whims and desires of a few individuals. As I recall, wasn't that the very cornerstone of the American Revolution?

I am appalled at the backroom, cloak-and-dagger shenanigans which seem to be the rule of the day. When H.R. 2425 was reported out of committee, I am sure that the members who voted in favor of the bill and its amendment thought that what they were voting on was what would be brought to the floor. I am sure that when Democrats and Republicans alike voted to improve this legislation by approving Mr. GANSKE's amendments, which would have made it more difficult for managed care organizations to deny payment services, they were doing what they were elected to do—represent their constituents to the best of their ability. How dare others within this body assume that responsibility for them.

PARTICIPATION

The Republican plan will simply put at least 1 million seniors in jeopardy of losing all health care coverage.

Premiums would increase for all seniors from $46.01 to at least $87 by 2002, which is $26 more than the current law. How many seniors will not be able to afford decent primary care because of this increase?

Deep cuts in reimbursement rates to doctors and hospitals will cause these health providers to turn seniors away—effectively limiting their choice.

The Senate plan also includes higher deductibles and copayments for services such as home health care, lab tests and nursing services.

Seniors will be paying more for less coverage. Medicare payments to beneficiaries will be cut by $1,700 in 2002, forcing spending to grow 33 percent slower than in the private sector. What kind of health care can be bought at such low rates.

Not one penny of the increase in beneficiary premiums will help the part A trust fund—all of the savings will go for a tax cut to give a $19,000 tax cut to those making $500,000.

Medicaid—The average senior citizen has an annual income of $13,000 a year and the elderly poor would lose the protection that Medicaid gives them.

Medicaid—Even if the States are able to absorb half of the proposed reductions in Medicaid funding, the system will still have to cut 8.8 million people off of the Medicaid rolls by 2002. That includes 4.4 million children; 920,000 senior citizens; and 1.4 million disabled children and adults.

SMALL HOSPITALS

Over the 7 years, a typical urban hospital will lose up to $28 million.

These reductions will drastically hurt many small hospitals which depend upon Medicaid and Medicare payments for their survival. If these important hospitals should become an endangered species, people in these neighborhoods may be without ready health care.

VOTE FOR REPUBLICAN MEDICARE PLAN

Mr. HOKE. Mr. Speaker, I ask unanimous consent to proceed for 5 minutes out of order.

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

Mr. WISE. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Without objection, the gentleman will be recognized for 30 seconds.

There was no objection.

Mr. HOKE. I thank the Speaker.

Mr. Speaker, it looks like we are batting cleanup here and that the evening is done. I think it is obvious that it is really the people of America that will make the choice as to where the truth has been spoken tonight and what the truth is with this issue. The fact is that the Democrats had 40 years to make the changes that need to be made and they refused to do it. Tomorrow we are going to vote on a plan that is going to save Medicare, it is going to preserve it. It is going to protect it, and it is going to strengthen and improve it. I urge all of my colleagues to join me in voting for that plan tomorrow.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, all time for special orders has expired as it is now midnight. The chair will entertain a motion to adjourn.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. VOLKMER (at the request of Mr. GEPHARDT), after 1:30 p.m. on Wednesday, October 18, on account of illness in the family.

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. DOGGETT) to revise and extend their remarks and include extraneous material:

Mr. BEVILL, for 5 minutes, today.
Mr. BORSKI, for 5 minutes, today.
Mr. FAZIO of California, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. LIPINSKI, for 5 minutes, today.
Mr. GEJDENSON, for 5 minutes, today.
Mr. GENE GREEN of Texas, for 5 minutes, today.
Mr. HINCHEY, for 5 minutes, today.
Mr. KLINK, for 5 minutes, today.
Ms. DELAURO, for 5 minutes, today.
Mrs. MALONEY, for 5 minutes, today.
Mr. MILLER of California, for 5 minutes, today.
Mr. NADLER, for 5 minutes, today.
Mr. OLVER, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Ms. PELOSI, for 5 minutes, today.
Mr. BROWN of Ohio, for 5 minutes, today.
Mr. STUPAK, for 5 minutes, today.
Mr. WARD, for 5 minutes, today.
Mr. WISE, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. FALEOMAVAEGA, for 5 minutes, today.
Mr. TANNER, for 5 minutes, today.
Mr. STENHOLM, for 5 minutes, today.
Mr. PAYNE of Virginia, for 5 minutes, today.
Mrs. LINCOLN, for 5 minutes, today.
Mr. PETE GEREN of Texas, for 5 minutes, today.
Mr. ORTON, for 5 minutes, today.
Ms. JACKSON LEE, for 5 minutes, today.
Mrs. THURMAN, for 5 minutes, today.
Mr. PETERSON of Florida, for 5 minutes, today.
Mrs. MEEK of Florida, for 5 minutes, today.
Ms. BROWN of Florida, for 5 minutes, today.
Mr. HASTINGS of Florida, for 5 minutes, today.
Mr. DEUTSCH, for 5 minutes, today.
Mr. JOHNSTON of Florida, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.
Mr. MARTINEZ, for 5 minutes, today.
Mr. VENTO, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Mr. WYNN, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN, for 5 minutes, today.
Mr. METCALF, for 5 minutes, today.
Mr. HORN, for 5 minutes, today.
Mr. JONES, for 5 minutes on October 19.

Mr. DUNCAN, for 5 minutes, today.
Mr. RIGGS, for 5 minutes, today.
Mr. MILLER of Florida, for 5 minutes, today.
Mr. GREENWOOD, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.
Mr. LINDER, for 5 minutes, today.
Mr. WATTS of Oklahoma, for 5 minutes, today.
Mr. HAYWORTH, for 5 minutes, today.
Mrs. SMITH of Washington, for 5 minutes, today.
Mr. LONGLEY, for 5 minutes, today.
Mr. SCARBOROUGH, for 5 minutes, today.
Mr. CHRYSLER, for 5 minutes, today.
Mr. FOX of Pennsylvania, for 5 minutes, today.
(The following Member 9at her own request) to revise and extend her remarks and include extraneous material:)
Mrs. CHENOWETH, for 5 minutes, today.
(The following Member (at his own request to revise and extend his remarks and include extraneous material:)
Mr. MILLER of Florida, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. DOGGETT) and to include extraneous matter:)
Mr. TORRES.
Ms. WOOLSEY.
Mr. COYNE.
Mr. LEVIN.
Ms. KAPTUR.
Mr. JACOBS.
Mr. TOWNS.
Mr. BERMAN.
Mrs. MEEK of Florida.
Ms. ROYBAL-ALLARD.
Mr. RUSH.
Mr. JOHNSON of South Dakota.
Mr. LIPINSKI in two instances.
Mr. PALLONE.
Mr. POSHARD.
Mr. POMEROY.
(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)
Mr. PORTMAN.
Mr. DAVIS.
Mr. GILMAN.
Mr. DORNAN.
Mr. KING.
Mr. CRANE.
Mr. WATTS of Oklahoma.
Mr. KIM.
(The following Members (at the request of Mr. WISE) and to include extraneous matter:)
Mr. YOUNG of Alaska.
Mr. HEINEMAN.
Mr. LATHAM.
Mr. BUNN of Oregon.
Mr. ARCHER.
Mr. GILLMOR.
Mr. FAZIO of California.
Mrs. MEEK of Florida.
Mr. DEFAZIO.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1976. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1996, and for other purposes.

ADJOURNMENT

Mr. HAYWORTH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock midnight), under its previous order, the House adjourned until today, Thursday, October 19, 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:

1533. A letter from the Secretary of the Treasury, transmitting a report on the Mint's numismatic public enterprise fund for fiscal year 1994, pursuant to Public Law 102–390, section 221(a) (106 Stat. 1627); to the Committee on Banking and Financial Services.

1534. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled ''Acid Deposition Standard Feasibility Study,'' pursuant to section 404, appendix B of the Clean Air Act, as amended; to the Committee on Commerce.

1535. A letter from the Vice President, American Council of Learned Societies, transmitting the Council's annual report for the year 1993–94, pursuant to 36 U.S.C. 1101(56) and 1103; to the Committee on the Judiciary.

1536. A letter from the Secretary of Transportation, transmitting the Department's report on the functions of the Interstate Commerce Commission, pursuant to Public Law 103–311, section 210(b) (108 Stat. 1689); to the Committee on Transportation and Infrastructure.

1537. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to make a disbursement for an additional program project for purposes of nonproliferation and disarmament fund [NDF] activities, pursuant to Public Law 103–306, title II (108 Stat. 1619); jointly, to the Committees on Appropriations and International Relations.

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. LEACH: Committee on Banking and Financial Services. H.R. 117. A bill to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwelling units in public housing projects designated for occupancy by elderly families, and for other purposes; with an amendment (Rept. 104–281). Referred to the committee of the Whole House on the State of the Union.

Mr. LINDER: Committee on Rules. House Resolution 238. Resolution providing for consideration of the bill (H.R. 2425) to amend title XVIII of the Social Security Act to preserve and reform the Medicare Program (Rept. 104–282). Referred to the House Calendar.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 117. A bill to amend the United States Housing Act of 1937 to prevent persons having drug or alcohol use problems from occupying dwelling units in public housing projects designated for occupancy by elderly families, and for other purposes.

H.R. 1114. A bill to authorize minors who are under the child labor provisions of the Fair Labor Standards Act of 1938 and who are under 18 years of age to load materials into balers and compacters that meet appropriate American National Standards Institute design safety standards.

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. PACKARD:

H.R. 2492. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

By Mr. EMERSON (for himself and Mr. CONDIT):

H.R. 2493. A bill to make modifications to international food aid programs; to the Committee on International Relations, and in addition to the Committee on Agriculture, 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. ARCHER (for himself Mr. LEACH, and Mrs. ROUKEMA):

H.R. 2494. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of bad debt reserves of savings associations which are required to convert into banks, and for other purposes; to the Committee on Ways and Means.

By Mr. BONO (for himself, Mr. CUNNINGHAM, Mr. MCKEON, Mr. GALLEGLY, Mr. LEWIS of California, Mr. ROHRABACHER, Mr. BILBRAY, Mr. MOORHEAD, Mr. THOMAS, Mr. COX, Mr. RIGGS, and Mr. EHRLICH):

H.R. 2495. A bill to expand the authority of the Secretary of defense to transfer excess personal property of the Department of Defense to support law enforcement activities; to the Committee on National Security, and in addition to the Committee on the Judiciary, 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. BUYER (for himself, Mr. BURTON of Indiana, Mr. HAMILTON, Mr. JACOBS, Mr. BEREUTER, and Mr. BRYANT of Tennessee):

H.R. 2496. A bill to amend the wetland conservation provisions of the Food Security Act of 1985 to assist agricultural producers in receiving prompt and fair resolution of complaints alleging producer violations of such

provisions and to limit the application of the program ineligibility sanction to the farm on which a violation of such provisions occurs; to the Committee on Agriculture.

By Mr. HOEKSTRA:

H.R. 2497. A bill to amend the National Labor Relations Act; to the Committee on Economic and Educational Opportunities.

By Ms. KAPTUR:

H.R. 2498. A bill to amend section 207 of title 18, United States Code, to further restrict Federal officers and employees from representing or advising foreign entities after leaving Government service; to the Committee on the Judiciary.

By Ms. KAPTUR:

H.R. 2499. A bill to amend the Federal Election Campaign Act of 1971 to prohibit contributions and expenditures by multicandidate political committees controlled by foreign-owned corporations, and for other purposes; to the Committee on House Oversight, and in addition to the Committee on the Judiciary, 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. OXLEY (for himself, Mr. BLILEY, Mr. SHUSTER, Mr. BOEHLERT, Mr. TAUZIN, Mr. UPTON, Mr. GILLMOR, Mr. ROEMER, Mr. BURR, Mr. HORN, Mr. PARKER, Mr. WAMP, Mr. DUNCAN, Mr. YOUNG of Alaska, Mr. QUINN, Mr. PETRI, Mr. BACHUS, and Mr. CRAPO):

H.R. 2500. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Commerce, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, 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. LEWIS of Kentucky:

H.R. 2501. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Kentucky, and for other purposes; to the Committee on Commerce.

By Mr. SCHUMER (for himself and Mr. ZIMMER):

H.R. 2502. A bill to amend various commodity research and promotion laws to make participation in such programs voluntary; to the Committee on Agriculture.

By Mr. SOLOMON (for himself, Mr. BURTON of Indiana, and Mr. MCINNIS):

H.R. 2503. A bill to clarify the authority of States to regulate national bank insurance activity, to limit the authority of the Comptroller of the Currency to authorize national banks to engage in new insurance activities, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. TAYLOR of North Carolina:

H.R. 2504. A bill to designate the Federal building located at the corner of Patton Avenue and Otis Street, and the U.S. Courthouse located on Otis Street, in Asheville, NC, as the ''Veach-Baley Federal Complex''; to the Committee on Transportation and Infrastructure.

By Mr. YOUNG of Alaska:

H.R. 2505. A bill to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes; to the Committee on Resources.

By Mr. JOHNSON of South Dakota (for himself, Mr. POMEROY, Mr. MINGE, Mr. LEACH, Mr. LIPINSKI, Mr. LIGHTFOOT, Mr. BARRETT of Nebraska, Mr. WATTS of Oklahoma, Mr. GANSKE, Mr. GEPHARDT, Mr. BEREUTER, Mr. COOLEY, Ms. KAPTUR, Mr. WILLIAMS, and Ms. DANNER):

H.R. 2506. A bill to require the President to appoint a Commission on Concentration in the Livestock Industry; to the Committee on Agriculture, and in addition to the Committee on the Judiciary, 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 Ms. KAPTUR:

H.J. Res. 114. Joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect elections for Federal and State office; 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. 123: Mr. LATHAM and Ms. RIVERS.
H.R. 172: Ms. JACKSON-LEE.
H.R. 193: Mr. DEFAZIO.
H.R. 359: Mr. HOYER.
H.R. 387: Mr. BILBRAY.
H.R. 394: Mr. BENTSEN and Mrs. MEEKS of Florida.
H.R. 534: Mr. WILSON, Mr. PICKETT, Mr. SAWYER, Mr. CLAY, Mr. STOCKMAN, Mr. EHRLICH, and Mr. FRANKS of New Jersey.
H.R. 559: Mrs. MALONEY.
H.R. 580: Ms. BROWN of Florida.
H.R. 582: Mr. LIVINGSTON and Mr. METCALF.
H.R. 733: Mr. MINGE.
H.R. 734: Mr. MINGE.
H.R. 789: Mr. CHRYSLER.
H.R. 862: Mr. FUNDERBURK, Mr. LEWIS of Kentucky, and Mr. COLLINS of Georgia.
H.R. 895: Mr. ANDREWS, Mr. TORRICELLI, Mr. MFUME, Mr. SAXTON, Mr. ROGERS, Mr. EHRLICH, Mr. BALDACCI, and Mr. SMITH of New Jersey.
H.R. 957: Mr. LAHOOD and Mr. FATTAH.
H.R. 963: Ms. KAPTUR.
H.R. 1003: Mr. THORNBERRY.
H.R. 1061: Mr. HUNTER and Mr. BUNN of Oregon.
H.R. 1136: Mr. MARTINEZ and Mr. WAXMAN.
H.R. 1226: Mr. BLUTE.
H.R. 1468: Mr. OBERSTAR.
H.R. 1488: Mr. BLILEY, Mr. MYERS of Indiana, Mr. COMBEST, and Mr. BURTON of Indiana.
H.R. 1661: Mr. CHRISTENSEN, Mr. ANDREWS, Mr. ENGLISH of Pennsylvania, Mr. ROYCE, Mr. FUNDERBURK, Mr. FOX, Mr. DOYLE, Mr. LIVINGSTON, and Mr. MONTGOMERY.
H.R. 1733: Mr. LUTHER.
H.R. 1747: Mr. BONIOR, Mr. DELLUMS, Mr. BLUTE, and Mr. STENHOLM.
H.R. 1756: Mr. ISTOOK.
H.R. 1776: Mr. DIAZ-BALART and Mr. BLUTE.
H.R. 1791: Ms. KAPTUR, Mr. BONIOR, Mr. HANCOCK, Mr. FOX, and Ms. DANNER.
H.R. 1803: Mr. CUNNINGHAM.
H.R. 1856: Mr. RICHARDSON, Ms. HARMAN, Mr. NETHERCUTT, Mr. ENGLISH of Pennsylvania, Mr. ZELIFF, Mr. WOLF, Mr. HILLEARY, Mr. FRAZER, Mr. YOUNG of Alaska, Mr. WAMP, Mr. PARKER, and Mr. COLEMAN.
H.R. 1963: Mr. HORN and Mr. CLINGER.
H.R. 2009: Ms. PRYCE.
H.R. 2144: Mr. CHRYSLER and Mr. MCINTOSH.
H.R. 2146: Mr. KLECZKA.
H.R. 2153: Mr. EVANS.
H.R. 2154: Mr. BURTON of Indiana and Mr. WELLER.
H.R. 2178: Mr. FROST and Mr. SCOTT.
H.R. 2200: Mr. BLILEY, Mr. BUNNING of Kentucky, Mr. JACOBS, Mr. DUNCAN, Mr. TAUZIN, Mr. VOLKMER, Mr. MCINNIS, Mr. QUILLEN, and Mr. MCINTOSH.
H.R. 2230: Mr. LEWIS of California, Mr. POMBO, Mr. RADANOVICH, Mr. WELDON of Florida, Mrs. THURMAN, and Mrs. SEASTRAND.
H.R. 2261: Ms. DELAURO.
H.R. 2265: Mr. CHRYSLER, Mr. PETERSON of Florida, Mr. SISISKY, and Mr. CRAMER.
H.R. 2270: Mr. HAYWORTH, Mr. DORNAN, and Mr. SALMON.
H.R. 2275: Mr. MONTGOMERY and Mr. BARRETT of Nebraska.
H.R. 2285: Mr. HUNTER, Mr. MCHUGH, and Mr. BILBRAY.
H.R. 2326: Mr. EVANS, Mr. BAKER of Louisiana, and Mr. BEILENSON.
H.R. 2337: Mr. SCHIFF.
H.R. 2342: Mr. LARGENT, Mr. THORNTON, and Mr. BREWSTER.
H.R. 2357: Mr. DURBIN, Mr. EWING, and Mr. EVANS.
H.R. 2375: Ms. WOOLSEY and Mr. TORRES.
H.R. 2417: Mr. NEUMANN, Mr. DEAL of Georgia, and Mr. KLUG.
H.R. 2419: Mr. KENNEDY of Massachusetts and Mr. OLVER.
H.R. 2422: Mr. HINCHEY, Mr. STOKES, Mr. FROST, Mr. BROWN of California, Mr. BONIOR, Ms. NORTON, Mr. THOMPSON, Mr. DURBIN, and Mr. WYNN.
H.R. 2443: Ms. SLAUGHTER, Mr. HINCHEY, and Mrs. LOWEY.
H.R. 2444: Mr. HORN, Mr. TORKILDSEN, Mr. WELDON of Pennsylvania, Mr. BOEHLERT, and Mr. GOSS.
H.R. 2463: Mr. COLEMAN and Mrs. THURMAN.
H.R. 2467: Mr. DURBIN.
H.R. 2476: Mr. BROWN of Ohio, Miss COLLINS of Michigan, Mr. HINCHEY, Mr. HOLDEN, and Ms. WOOLSEY.
H.R. 2490: Mr. SHADEGG.
H. Con. Res. 102: Mr. MILLER of California, Ms. PELOSI, Mr. SPRATT, Ms. SLAUGHTER, Mr. BATEMAN, Ms. MCKINNEY, Mr. ENGEL, Mr. ABERCROMBIE, and Mr. BROWN of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2491

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 1: Strike section 4002 of the Amendment in the Nature of a Substitute, and redesignate the succeeding sections and conform the table of contents accordingly.

H.R. 2491

OFFERED BY: MR. CLAY

AMENDMENT NO. 2: Strike section 4102 which repeals the Service Contract Act of 1965.

H.R. 2491

OFFERED BY: MR. GIBBONS

AMENDMENT NO. 3: Strike title XVII (relating to the abolishment of the Department of Commerce).

H.R. 2491

OFFERED BY: MR. WILLIAMS

AMENDMENT NO. 4: Strike section 4003 of the Amendment in the Nature of a Substitute, and redesignate the succeeding sections and conform the table of contents accordingly.

H.R. 2491

OFFERED BY: MR. WILLIAMS

AMENDMENT NO. 5: Strike section 4004 of the Amendment in the Nature of a Substitute, and redesignate the succeeding sections and conform the table of contents accordingly.

H.R. 2491

OFFERED BY: MR. WILLIAMS

AMENDMENT NO. 6: Strike subtitle A of title IV of the Amendment in the Nature of a Substitute, and redesignate the succeeding subtitles and conform the table of contents accordingly.